DISCLAIMER: This document is intended solely as a template application checklist for staff to use for review of development project proposals for adherence to the provisions of AB 2011 (2022). It is not intended to serve as legal advice regarding any jurisdiction's specific policies or any proposed housing development project. Local staff should consult with their city attorney or county counsel when determining the applicability of these provisions to any proposed housing development project in their jurisdiction. Because the laws are so new, the legislative intent of major provisions is still being discussed, and this memo may change significantly.

DRAFT

# [CITY/COUNTY] OF XXXAB 2011 MIXED INCOME QUALIFYING CRITERIA CHECKLIST

# Government Code Section 65912.121: Mixed-Income Affordable Housing and High Roads Jobs Act of 2022

## Section 1: Development Proposal Preliminary Questions

To be completed by development proponent/applicant

### Project Information:

1. Development proponent/applicant name:
2. Site address(es):
3. Assessor's Parcel Number(s) (APN):
4. Project Proposal (short description):
5. Number of units proposed:
6. Number of affordable units proposed by income level:

### Site Information:

1. Parcel zoning designation (see Appendix A: Applicable zoning designations):
2. Neighborhood plan area (See Appendix B: Applicable neighborhood plan areas):
3. Residential density permitted, if allowed (DUA):
4. Zoning designation for closest parcel that allows multifamily residential use at [*insert default density for jurisdiction]*:
5. Site size (include site plan with total project site acreage):
6. Street right-of-way width, wider street if parcel fronts more than one street (include parcel maps showing right-of-way and measurements):
7. Length of parcel street frontage (include site map showing frontage):
8. Existing/prior uses (provide documentation):
9. Uses on adjacent parcels (including across the street):
10. Residential uses demolished within the last ten (10) years:
11. Number of residential units existing on the parcel:
12. Indicate whether units have been owner or renter occupied for last ten years:
13. Number of existing residential units proposed to be demolished:
	1. Income of existing tenant or last tenant in occupancy, if known:
	2. Number and size of units being proposed:
	3. Fill out SB 330 required documentation [*insert list of required forms, etc*. *See ABAG* [*Guide to Replacement Housing Requirements*](https://abag.ca.gov/technical-assistance/guide-california-state-replacement-housing-requirements)*.*]
14. Indicate if relocation assistance is required for existing commercial tenants (include information about tenants and notice to tenants as an attachment):

## Section 2: Development Proposal Checklists

### Table 1: Site and Project Criteria Checklist

| **-** | **Site and Project Criteria 65912.121** | **Meets Criteria? Yes/No/Comments** |
| --- | --- | --- |
| **A** |  **65912.121 (a)**Located in a zone where office, retail, or parking are a principally permitted use. |  |
| **B** | *[Cities use this row]***65912.121 (b)**A legal parcel(s) that is within a city where the city boundaries include some portion of an urban area[[1]](#footnote-1). |  |
| **C** | *[Counties use this row]***65912.111 (b)**A legal parcel(s) in an unincorporated area, and the parcel(s) is wholly within the boundaries of an urban area. |  |
| **D** | **65912.121 (c)**The project site abuts a street with public right-of-way between 70 and 150 feet and has at least 50 feet of frontage on the street. |  |
| **E** | **65912.121 (d)**The site is 20 acres or less. |  |
| **F** | **65912.121 (e)**At least 75 percent of the site perimeter adjoins parcels with urban uses (inclusive of parcels that are only separated by a street or highway). |  |
| **G** | **65912.121 (f)**Not on or adjoined to any site where more than one-third of the site is industrial use (inclusive of parcels that are only separated by a street or highway).  |  |
| **H** | **65912.121 (g)**Satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 regarding:* Prime farmland or farmland of statewide importance
* Wetlands
* Hazardous waste site
* Delineated earthquake fault zone
* 100-year Flood Zone
* Regulatory Floodway
* Lands identified in an adopted natural resources protection plan
* Protected Habitat
* Conservation easement
 |  |
| **I** | **65912.121 (h)**Would not require the demolition of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes. |  |
| **J** | **65912.121 (h)**Would not require the demolition of housing that is subject to any form of rent or price control through a public entity’s valid exercise of its police power. |  |
| **K** | **65912.121 (h)**Would not require the demolition of housing that has been occupied by tenants within the past 10 years (excluding any manager’s units). |  |
| **L** | **65912.121 (h)**Would not require the demolition of a historic structure. |  |
| **M** | **65912.121 (h)**The property does not contain one to four dwelling units. |  |
| **N** | **65912.121 (h)**The property is not zoned for single-family housing. |  |
| **O** | **65912.111 (h)** Parcel is not governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act. |  |
| **P** | **65912.121 (i)**For a site within a neighborhood plan, the neighborhood plan permits multifamily housing development on the site. |  |
| **Q** | **65912.121 (j)**If vacant site, satisfies both of the following:(1) No tribal cultural resources.(2) Not within a very high fire hazard severity zone. |  |

### Table 2: Affordability Requirements Checklist

| **-** | Affordability Requirements 65912.122 | **Meets Requirements? Yes/No/Comments** |
| --- | --- | --- |
| **A** | **65912.122 (a)**If a rental housing development, proposal includes either:(A) 8 percent very low-income units and 5 percent extremely low income units, or(B) 15 percent lower income units.AND deed restriction for these units for 55 years. | Indicate percent and number of each type of unit. |
| **B** | **65912.122 (b)**If an owner-occupied housing development, proposal includes either of the following:(A) 30 percent moderate-income units, or(B) 15 percent lower income units.AND deed restriction for these units for 45 years. | Indicate percent and number of each type of unit. |
| **C** | **65912.122 (b)**The development proponent shall agree to, and the local government shall ensure, the continued affordability of all affordable ownership. |  |
| **D** | *[Insert if jurisdiction has an inclusionary policy that requires 15% affordable or less]***65912.122(c)**The [City/County] has a local affordable housing requirement, and the housing development project shall include both of the following:1. The percentage of affordable units required by AB 2011 or the local requirement, whichever is higher;
2. The lowest income targeting in either policy
 |  |
| **D** | *[Insert if jurisdiction has an inclusionary policy that requires more than 15% affordable]***65912.122(c)**The [City/County] has a local affordable housing requirement and the housing development project shall include the following:1. 8 percent very low-income units and 5 percent extremely low-income units; and
2. A percentage of the units calculated as the difference between 15 percent and the percent required by the local policy, at the highest required affordability level.
 |  |
| **E** | **65912.122 (d)**Affordable units have the same bedroom and bathroom count ratio as the market rate units, are equitably distributed within the project, and have the same type or quality of appliances, fixtures, and finishes. |  |

### Table 3: Objective Development Standards Checklist

| **-** | Objective Development Standards 65912.123 | **Meets Requirements? Yes/No/Comments** |
| --- | --- | --- |
| **A** | **65912.123 (a)**The development is a housing development project that proposes five (5) or more units. |  |
| **B** | *[Metropolitan jurisdictions use this row]***65912.123 (b)**The proposed residential density for the development meets or exceed the greater of the following:(A) The residential density allowed on the parcel by the local government.(B) 30 units per acre for sites of less than one acre in size.(C) 40 units per acre for sites of one acre or greater and located on a commercial corridor of less than 100 feet in width.(D) 60 units per acre for sites of one acre or greater and located on a commercial corridor of 100 feet in width or greater.(E) 80 units per acre for sites within one-half mile of a major transit stop. |  |
| **C** | *[Non-metropolitan jurisdictions use this row]***65912.123 (b)**The proposed residential density for the development meets or exceed the greater of the following:(A) The residential density allowed on the parcel by the local government.(B) 20 units per acre for sites of less than one acre in size.(C) 30 units per acre for sites of one acre or greater and located on a commercial corridor of less than 100 feet in width.(D) 50 units per acre for sites of one acre or greater and located on a commercial corridor of 100 feet in width or greater.(E) 70 units per acre for sites within one-half mile of a major transit stop.  |  |
| **D** | **65912.123 (c)**The height limit applicable to the housing development is the greater of the following:(1) The height allowed on the parcel by the local government.(2) 35 feet for sites on a commercial corridor of less than 100 feet in width.(3) 45 feet for sites on a commercial corridor of 100 feet in width or greater.(4) 65 feet for sites are within one-half mile of a major transit stop, are within a city with a population of greater than 100,000 and are not within a coastal zone[[2]](#footnote-2). |  |
| **E** | **65912.123 (d)**The property meets all setback standards (rows F-I).  |  |
| **F** | **65912.123 (d) (1)**Front setbacks:* All parking must be set back at least 25 feet.
* On the ground floor, a building or buildings must abut within 10 feet of the property line for at least 80 percent of the frontage.
 |  |
| **G** | **65912.123 (d) (2)**Side setbacks:* Building(s) must abut within 10 feet of the property line for at least 60 percent of the frontage.
 |  |
| **H** | **65912.123 (d) (3)**For the portion of the property that abuts an adjoining property that also abuts the same commercial corridor as the property, no setbacks are required unless the residential use was constructed prior to the enactment of AB 2011. |  |
| **I** | **65912.123 (d) (4)**For the portion of the property line that does not abut a commercial corridor, a side street, or an adjoining property that also abuts the same commercial corridor as the property:(A) Along property lines that abut a property that contains a residential use, the following shall occur:(i) Ground floor shall be set back 10 feet.(ii) Starting with second floor, each subsequent floor shall be stepped back equal to seven feet multiplied by the floor number.(B) Along property lines that abut non-residential use, the development shall be set back 15 feet  |  |
| **J** | **65912.123 (e)**Meets local parking requirements for bicycle, electric vehicle parking spaces or parking spaces that are accessible to persons with disabilities. |  |
| **K** | **65912.123 (f)**The development proponent has completed a phase I environmental assessment and mitigated any health hazards to a level of insignificance (provide documentation as an attachment). |  |
| **L** | **65912.123 (g)**None of the housing on the site is located within 500 feet of a freeway. |  |
| **M** | **65912.123 (h)**None of the housing on the site is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas. |  |
| **N** | **65912.123 (j)** Proposal is consistent with other objective zoning standards, objective subdivision standards, and objective design review standards from the closest zone.  |  |
| **O** | **65912.123(i)**Development proponent has provided each commercial tenant on the site with a notice of pending housing development application.  |  |

### Definitions 65912.101

1. “Commercial corridor” means a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 70 and not greater than 150 feet.
2. “Development proponent” means a developer who submits a housing development project application to a local government under the streamlined, ministerial review process pursuant to this chapter.
3. “Extremely low income households” has the same meaning as defined in Section 50106 of the Health and Safety Code.
4. “Health care expenditures” include contributions under Sections 501(c) or (d) or 401(a) of the Internal Revenue Code and payments toward “medical care” as defined under Section 213(d)(1) of the Internal Revenue Code.
5. “Housing development project” has the same meaning as defined in Section 65589.5.
6. “Industrial use” means utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses. “Industrial use” does not include power substations or utility conveyances such as power lines, broadband wires, and pipes.
7. “Local affordable housing requirement” means either of the following:
	1. A local government requirement, as a condition of development of residential units, that a housing development project include a certain percentage of units affordable to, and occupied by, extremely low, very low, lower, or moderate-income households as a condition of development of residential units.
	2. A local government requirement allowing a housing development project to be a use by right if the project includes a certain percentage of units affordable to, and occupied by, extremely low, very low, lower, or moderate-income households as a condition of development of residential units.
8. “Local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.
9. “Lower income households” has the same meaning as defined in Section 50079.5 of the Health and Safety Code.
10. “Major transit stop” has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.
11. “Moderate-income households” means households of persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.
12. “Multifamily” means a property with five or more housing units for sale or for rent.
13. “Neighborhood plan” means a specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3, or an area plan, precise plan, urban village plan, or master plan that has been adopted by a local government.
14. “Principally permitted use” means a use that may occupy more than one-third of the square footage of designated use on the site and does not require a conditional use permit.
15. “Side street” means a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 25 and fewer than 70 feet.
16. “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.
17. “Use by right” means a development project that satisfies both of the following conditions:
	1. The development project does not require a conditional use permit, planned unit development permit, or other discretionary local government review.
	2. The development project is not a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.
18. “Very low income households” has the same meaning as defined in Section 50105 of the Health and Safety Code.

### Appendix A: List of Applicable Zoning Designations

*[Jurisdiction insert list of zoning designations that allow office, retail or parking as principally permitted use (1/3 of square footage without a conditional use permit). Refer to map if available.]*

### Appendix B: List of Application Neighborhood Area Plans

*[Jurisdiction insert list of neighborhood plan areas that meet legally required deadlines.]*

## **Section 3: Internal Review and Approval**

To be completed by [City/County] staff

### Staff Approval for Code Sections

|  |  |
| --- | --- |
| Code Section | Staff approval/signature |
| **Site and Project Criteria 65912.121**The development project satisfies all of the site and project criteria listed in Table 1 above. |  |
| **Affordability Criteria 65912.122**The development proposal meets all of the affordability criteria listed in Table 2 above. |  |
| **Objective Development Standards 65912.123**The development proposal meets all of the required objective development standards listed in Table 3 above and adheres to other standards from zoning code for the closest zone. |  |
| **Notice to Commercial Tenants 65912.123**Written notice of the pending application to each commercial tenant on the parcel when the application is submitted. |  |

### Project Details to Determine Review Timeline

|  |  |
| --- | --- |
| **Number of units** |  |
| **Date to Inform development proponent of inconsistencies** |  |
| **Date to complete objective planning standards review**  |  |

### Development Proposal Review Timelines 65912.114

If it is determined that the development submitted is in conflict with any of the objective planning standards, the [City/County] shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframes:

* Within 60 days of submittal of the development proposal if the development contains 150 or fewer housing units.
* Within 90 days of submittal of the development proposal if the development contains more than 150 housing units.

If it is determined that the development is consistent with the objective planning standards, the development shall be approved:

* Within 90 days of submittal of the development proposal if the development contains 150 or fewer housing units.
* Within 180 days of submittal of the development proposal if the development contains more than 150 housing units.

It has been determined by [City/County] staff that the project meets all criteria and requirements of AB 2011 sections governing mixed income housing projects:

Signature: Date:

1. Previously defined as an urbanized area or urban cluster, as designated by the United States Census Bureau. [↑](#footnote-ref-1)
2. As defined in Division 20 (commencing with Section 30000) of the Public Resources Code. [↑](#footnote-ref-2)