**DISCLAIMER:** This document is intended solely as a technical overview of 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.

# **AB 2011/SB 6 Model Ordinance**

Note: Unless otherwise noted, provisions in this document reflect the provisions of AB 2011 (2022) and SB 6 (2022). If jurisdictions would like a shorter form ordinance, they may wish to reference the state statute rather than repeating the state law provisions in their local ordinance. “Recommended” Provisions are recommended to clarify ambiguities in the statute or assist in enforcement. “Policy” Provisions are optional provisions for local agencies to consider.

## ORDINANCE NO. XXXX[[1]](#footnote-1)

## AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_\_\_\_\_ AMENDING SECTIONS \_\_\_ AND ADDING SECTIONS \_\_\_ TO THE CITY OF \_\_\_\_\_\_\_\_\_\_ MUNICIPAL CODE TO COMPLY WITH SENATE BILL 6 (2022) AND ASSEMBLY BILL 2011 (2022)

 WHEREAS, on September 28, 2022, Senate Bill 6 (Chapter 659, Statutes of 2022) was approved by the Governor of the State of California and filed with the Secretary of State, amending Section 65913.4 of the California Government Code and adding to the Government Code Section 65852.24, allowing residential and mixed-use development in zones where office, retail and/or parking are a principally permitted use; and

 WHEREAS, also on September 28, 2022, Assembly Bill 2011 (Chapter 647, Statutes of 2022), was approved by the Governor of the State of California and filed with the Secretary of State, amending Sections 65400 and 65585 of the California Government Code and adding to the Government Code Sections 65912.100, et seq., allowing mixed-income and affordable residential development in zones where office, retail and/or parking are a principally permitted use; and

 WHEREAS, changes made to the Government Code by Senate Bill 6 and Assembly Bill 2011 go into effect on July 1, 2023; and

 WHEREAS, state law provides that a local agency may adopt an ordinance to implement the provisions of Senate Bill 6 and Assembly Bill 2011; and

 WHEREAS, the [City/County of \_\_\_\_\_\_\_\_\_ (the “City”/the “County”)] has implemented land use policies based on the [City’s/County’s General Plan], which provide an overall vision for the community and balance important community needs, and the [City/County] seeks to ensure that Senate Bill 6 and Assembly Bill 2011 projects are consistent with those policies; and

 WHEREAS, the proposed amendments to the [City of \_\_\_\_\_\_\_ Municipal Code/County of \_\_\_\_\_\_ County Code] implement requirements of state law and add local policies that are consistent with the state law and implement the [City’s/County’s General Plan]; and

 WHEREAS, the [City Council/Board of Supervisors] has found the provisions of this ordinance are consistent with the goals and policies of the [City’s/County’s General Plan]; and

 WHEREAS, the [City Council/Board of Supervisors] finds and determines that the proposed amendments to the [City of \_\_\_\_\_\_\_ Municipal Code/County of \_\_\_\_\_\_ County Code] are adopted pursuant to the [City’s/County’s] police power authority to protect the public health, safety and welfare.

## NOW, THEREFORE, BE IT ORDAINED BY THE [CITY COUNCIL OF THE CITY OF \_\_\_\_\_\_/BOARD OF SUPERVISORS OF THE COUNTY OF \_\_\_\_\_] AS FOLLOWS:

# **SECTION 1. Incorporation of Recitals.** The [City Council/Board of Supervisors] finds that the above Recitals are true and correct and are incorporated herein by reference.

# **SECTION 2. Amendments to Chapter \_\_\_ of [City/County] Code.** Sections \_\_\_ of Chapter \_\_\_ of the [City/County] Zoning Code is [added/amended] to read as shown in Exhibit “A” attached hereto and incorporated herein by reference.

# **SECTION 3. California Environmental Quality Act (CEQA) Considerations.** The [City Council/Board] finds that this Ordinance is exempt from the provisions of the CEQA because the amended Ordinance is intended to implement Senate Bill 6 and Assembly Bill 2011 and is not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code, as provided in Government Code Section 65852.24(h) and Government Code Sections 65912.114(o) and 65912.124(o), respectively.[[2]](#footnote-2)

# **SECTION 4. (IF APPLICABLE) Coastal Plan.** The Community Development Director, or their designee, is hereby authorized to submit this Ordinance as part of the General Plan/Local Coastal Program Amendment to the California Coastal Commission for their review and adoption.

# **SECTION 5. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of the Ordinance, or its application to any person or circumstance, is for any reason held to be invalid and unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The [City Council/Board of Supervisors] declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

# **SECTION 6. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days from and after its adoption by the [City Council/Board of Supervisors]. (***If in a Coastal Commission jurisdiction, use following alternate language*:** This Ordinance shall take effect and be in force on the date of adoption by the California Coastal Commission, regardless of whether the area is or is not within the Coastal Zone, but not sooner than thirty (30) days from and after its final passage by the City Council.)

**INTRODUCED AND FIRST READ** at a regular meeting of the [City Council of the City of XX/Board of Supervisors of the County of XX] held on the on the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 202\_; and thereafter **PASSED AND ADOPTED** at a regular meeting of the [City Council of the City of XX/Board of Supervisors of the County of XX], California, on the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 202\_, by the following vote:

 AYES: [Councilmembers/Supervisors] –

 NOES: [Councilmembers/Supervisors] –

 ABSENT: [Councilmembers/Supervisors] –

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
 **[Mayor/President]**

**ATTEST:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
**[NAME]**

**[CITY/COUNTY CLERK]**

**APPROVED AS TO FORM:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
**[NAME]**

**[CITY ATTORNEY/COUNTY COUNSEL]**

# **EXHIBIT “A”**

## Chapter XX.XX

### RESIDENTIAL DEVELOPMENT IN COMMERCIAL ZONES

#### Sections

1. **Purpose.**
2. **Authority.**
3. **Definitions.**
4. **Permitted Zone.**
5. **Residential Development under Government Code § 65852.24 –**

**Qualifying Criteria.**

1. **Residential Development under Government Code § 65852.24 – Development Standards.**
2. **Residential Development under Government Code § 65852.24 – Application Procedures.**
3. **Mixed-Income Residential Development under Government Code §§ 65912.100, *et seq*. – Qualifying Criteria.**
4. **Mixed-Income Residential Development under Government Code §§ 65912.100, *et seq*. – Development Standards.**
5. **Affordable Residential Development under Government Code §§ 65912.100, *et seq*. – Qualifying Criteria.**
6. **Affordable Residential Development under Government Code §§ 65912.100, *et seq*. – Development Standards.**
7. **Residential Development under Government Code §§ 65912.100, *et seq*. – Application Procedures.**

## XX.XX.010. Purpose.

The purpose of this chapter is provide objective zoning standards for different types of residential development in zones where office, parking, and/or retail are a principally permitted use, to implement the provisions of state law as reflected in Government Code Section 65852.24 and Sections 65912.100, et seq., and to facilitate the development of new residential housing consistent with the [City’s/County’s] General Plan and ensure sound standards of public health and safety.

## XX.XX.020. Authority.

The [City Council/Board of Supervisors] enacts this ordinance under the authority granted to [cities/counties] by Article XI, Section 7 of the California Constitution and Government Code Sections 65852.24 and 65912.100, et seq.

## XX.XX.030. Definitions.

1. **[*Recommended Provision*] “**Adjoin”means the one parcel of land is (1) touching another parcel at any point; (2) separated from another parcel at any point only by a street, a highway, public right-of-way, private street or way, or public or private utility, service, or access easement; or (3) separated from another parcel only by other real property which is in common ownership or control of the property owner.
2. “Affordable Cost” shall have the same meaning as set forth in California Health & Safety Code Section 50052.5.
3. “Affordable Rent” shall have the same meaning as set forth in California Health & Safety Code Section 50053, except that the affordable rent for the rental units in a Housing Development Project proposed under Sections XX.XX.100 through XX.XX.110 shall be set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.
4. [“Board” means the Board of Supervisors of the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.]
5. **[*Recommended Provision*]** “Closest zone” or “closest parcel” means the nearest zone or parcel to the Site as measured by [*insert preferred methodology: as-the-crow-flies, walking distance, etc.*]. If more than one (1) zone or parcel is closest to the Site (i.e., within the same distance), then the [City/County] shall apply the zone in which the density permitted is most similar to that proposed by the Housing Development Project.
6. “Commercial Corridor” means a street that has a public right-of-way at least seventy (70) feet wide but not greater than one hundred fifty (150) feet wide.
7. “Common Ownership and Control” means property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.
8. [“Council” means the City Council of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.]
9. “Dedicated to Industrial Use” means any of the following: (1) square footage of the site is currently being used for industrial uses; (2) the most recently permitted use of the square footage of the site is an industrial use; or (3) site was designated for industrial use in the [City’s/County’s] latest general plan adopted before January 1, 2022. **[*Recommended Provision*]** Permitted use means that the [City/County] has issued discretionary or ministerial permits to allow the industrial use of the site.
10. “Director” means the Community Development Director of the [City/County].
11. “Freeway” means the right-of-way occupied by a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access.
12. “Housing Development Project” shall have the following meanings:
	1. A Housing Development Project proposed pursuant to the provisions of Government Code Section 65852.24 may be either of the following: (i) a project with residential units only; or (ii) a mixed-use development consisting of residential and nonresidential retail commercial or office uses, where at least 50 percent of the square footage of the new construction associated with the project is designated for residential use and none of the square footage is designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel.
	2. A Housing Development Project proposed pursuant to the provisions of Government Code Sections 65912.100, et seq. is a project consisting of any of the following uses: (i) residential uses only; (ii) mixed-use developments consisting of residential and nonresidential uses where at least two-thirds of the square footage is designated for residential use; or (iii) transitional housing or supportive housing.
13. “Industrial Use” means utilities, manufacturing, transportation station and maintenance facilities, and warehousing use. Industrial Use does not mean power substations or utility conveyance such as power lines, broadband wires, and pipes.
14. “Lower Income Household” shall have the same meaning as set forth in California Health & Safety Code Section 50079.5.
15. “Major Transit Stop” means a site containing any of the following: (i) an existing rail or bus rapid transit station; (ii) a ferry terminal served by either a bus or rail transit service; (iii) the intersection of two or more major bus routes with a frequency of service interval of fifteen minutes or less during the morning and afternoon peak commute periods; or (iv) any major transit spot included in [name of applicable regional transportation plan].
16. “Moderate Income Household” shall have the same meaning as set forth in California Health & Safety Code Section 50093.
17. “Multifamily” means a property with five (5) or more housing units for sale or for rent.
18. **[*Recommended Provision*]** **“**Neighborhood Plan” means any of the following: [*Include list of local specific plans, area plans, precise plans, urban village plan, or master plan adopted before January 1, 2022, or adopted between January 1, 2022 and January 1, 2024 if the notice of preparation was issued before January 1, 2022 and environmental review is completed before January 1, 2024.*]
19. “Planning Commission” means the Planning Commission of the [City/County].
20. “Principally Permitted Use” means a use that may occupy more than one-third of the square footage of the designated use on the site and does not require a conditional use permit, as defined in Code Section \_\_\_\_\_\_\_\_. **[*Recommended Provision*]** Principally Permitted Use shall have the same meaning regardless of whether the residential development is proposed pursuant to the provisions of Government Code Section 65852.24 or Government Code Sections 65912.100, et seq.
21. **[*Recommended Provision*]** “Site” means the parcel on which the housing development project is located or situated and adjoining parcels in common ownership or control.
22. “Side Street” means a public street that has a right-of-way of at least twenty-five (25) feet but fewer than seventy (70) feet.
23. “Urban Uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination thereof.
24. “Very Low-Income Household” shall have the same as set forth in California Health & Safety Code Section 50105.

## XX.XX.040. Permitted Zone(s).

**[*Recommended Provision*]** Unless on a site that has been exempted from the provisions of this Chapter XX.XX pursuant to a resolution of the [City Council/Board of Supervisors], a Housing Development Project pursuant to this Chapter XX.XX of the Code shall be a permitted use in any of the following zones: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

## XX.XX.050. Residential Development under Government Code § 65852.24 – Qualifying Criteria.

The Director shall determine if a Housing Development Project meets all of the following requirements:

1. The Housing Development Project is proposed within one of the zones in Section XX.XX.040 and is not proposed on as site in that zone that has been exempted from residential development pursuant to prior [Council/Board] resolution. [*For counties: must be located within the boundaries of an urbanized area or urban cluster (“urban area” under new census definition).*]
2. The Housing Development Project is not proposed on a site that is larger than twenty (20) acres.
3. The Housing Development Project is not proposed to be on or adjoined to a site where more than one-third of the square footage is dedicated to industrial use.
4. The Housing Development Project is consistent with [*applicable and approved sustainable community strategy or alternative plan, as defined in Government Code Section 65080*].

## XX.XX.060 Residential Development under Government Code § 65852.24 – Development Standards.

The Housing Development Project shall comply with all of the following:

1. **Density**. The Housing Development Project shall propose a residential density that meets or exceeds XX dwelling units per acre. [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*.]
2. **Other Development Standards.** All other objective zoning standards, objective subdivision standards, and objective design review standards, including parking standards, applicable to the Housing Development Project shall be either:
	1. The objective zoning standards, objective subdivision standards, and objective design review standards for the existing zoning designation for the site if the existing zoning allows residential use at a density greater than XX dwelling units per acre [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*.]; or
	2. The objective zoning standards, objective subdivision standards, and objective design review standards for the closest parcel to the site that allows residential use at XX dwelling units per acre. [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*.
3. **[*Recommended Provision*]** [*If applicable local inclusionary housing policy*]**Affordable Housing.** The Housing Development Project shall comply with theaffordable housing requirements in [City/County] Code Section XX.
	1. **[*Recommended Provision*]** Notwithstanding the foregoing, if a Housing Development Project is proposed utilizing the provisions of both Government Code Section 65852.24 and Government Code Section 65913.4, the Housing Development Project shall comply with the affordable housing requirements of the latter.
4. **Commercial Tenant Notice and Relocation Assistance Requirements**. If the Housing Development Project is proposed on a site where there are commercial tenants at the time of submission of the application for the Housing Development Project, the development proponent shall comply with all applicable requirements of subdivision (c) of Government Code Section 65852.24.
5. **Labor Requirements.** The development proponent for the Housing Development Project shall comply with all applicable requirements of paragraphs 8 and 9 of subdivision (b) of Government Code Section 65895.24.[[3]](#footnote-3)
6. **[*Recommended Provision*]** **No Short-Term Rentals.** The development proponent for the Housing Development Project shall record a restrictive covenant and agreement in the form prescribed by the [city attorney/county counsel], which shall run with the land and provide for a requirement that any dwelling units on the property may be rented or leased only for a period longer than thirty (30) days. The [City Manager/County Administrator] or designee is authorized to enter into the covenant and agreement on behalf of the [City/County] and to deliver any approvals or consents required by the covenant.

## XX.XX.070 Residential Development under Government Code § 65852.24 – Application Procedures.

1. **[*Recommended Provision*]** **Application Requirements.** An application for a Housing Development Project shall include all of the following information and materials required for an application, as applicable:
	1. Design review and tentative map (if applicable) for a multifamily residential development proposed pursuant to the existing zoning designation for the site if the existing zoning allows residential use at a density greater than XX dwelling units per acre [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*.]; or
	2. Design review and tentative map (if applicable) for a multifamily residential development proposed pursuant to the zoning designation for the closest parcel to the site that allows residential use at XX dwelling units per acre. [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*].
	3. **[*Recommended Provision*]** If a Housing Development Project is proposed utilizing the provisions of both Government Code Section 65852.24 and Government Code Section 65913.4, the application for the Housing Development Project shall also include all of the information and materials required by Chapter XX of the [City/County] Code.[[4]](#footnote-4)
	4. **[*Recommended Provision*]** **Density Bonus.** If the Housing Development Project is requesting any density bonus, incentives, concessions, waivers or parking reductions pursuant to Chapter XX.XX of the [City/County] Code, the Housing Development Project shall demonstrate compliance with all of the requirements of Chapter XX.XX, including submission of a density bonus report.
2. **Application Processing and Review.** The Director shall process, review and make a final determination on an application for a Housing Development Project in accordance with the procedures applicable to either:
	1. The existing zoning designation for the site if the existing zoning allows residential use at a density greater than XX dwelling units per acre [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*.]; or
	2. The zoning designation for the closest parcel to the site that allows residential use at XX dwelling units per acre. [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*].
	3. **[*Recommended Provision*]** Notwithstanding paragraphs 1 and 2 of this subdivision (B), if a Housing Development Project is proposed utilizing the provisions of both Government Code Section 65852.24 and Government Code Section 65913.4, the application for the Housing Development Project shall be processed in accordance with the requirements of Chapter XX of the [City/County] Code.[[5]](#footnote-5)

## XX.XX.080. Mixed-Income Residential Development under Government Code §§ 65912.100, *et seq*. – Qualifying Criteria.

The Director shall determine if a Housing Development Project meets all of the following requirements:

1. The Housing Development Project is proposed within one of the zones in Section XX.XX.040 and is not proposed on a site in that zone that has been exempted from residential development pursuant to prior [Council/Board] resolution or where a neighborhood plan does not allow multifamily residential development.
2. The Housing Development Project is not proposed on a site that is larger than twenty (20) acres.
3. The site on which the Housing Development Project is proposed abuts a commercial corridor and has a frontage along the commercial corridor of a minimum of fifty (50) feet.
4. The Housing Development Project is proposed on a site where at least seventy-five percent (75%) of the site adjoins parcels developed with urban uses.
5. The Housing Development Project is not proposed to be or adjoined to a site where more than one-third of the square footage of the site is dedicated to industrial use.
6. The Housing Development Project is proposed on a Site that satisfies the requirements of Government Code Section 65913.4(a)(6)(B) through (K).
	1. Notwithstanding the foregoing, under no circumstances shall a Housing Development Project proposed pursuant to this Section XX.XX.080 be permitted on a site located within a very high fire hazard severity zone where that site is vacant at the time that the application for the Housing Development Project is submitted.
7. The Housing Development Project is not proposed on a site that is currently or was previously governed by any of the following:
	1. Mobilehome Residency Law (codified at California Civil Code Sections 798, *et seq.*);
	2. Recreational Vehicle Occupancy Law (codified at California Civil Code Sections 799.20, *et seq.*);
	3. Mobilehome Parks Act (codified at Health & Safety Code Sections 18200, *et seq.*); or
	4. Special Occupancy Parks Act (codified at Health & Safety Code Sections 18860, *et seq.*).
8. The Housing Development Project is not proposed on a site that would require the demolition of any of the following:
	1. Housing subject to recorded covenant, ordinance or law that restricts rents to levels affordable to moderate-, low-, or very low-income households;
	2. Housing that is subject to any form of rent or price control through a public entity’s valid exercise of its police power[[6]](#footnote-6);
	3. Housing that has been occupied by tenants in the last ten (10) years, excluding manager’s units; or
	4. A historic structure that was placed on a national, state, or local historic register.
9. The Housing Development Project is not proposed on a site that was previously used for permanent housing that was occupied by tenants, excluding any manager’s units, that was demolished within ten (10) years before the application for the Housing Development Project is submitted.
10. The Housing Development Project is not proposed on a site that currently contains one (1) to four (4) dwelling units or on a site that is vacant and zoned for four (4) or fewer units.
11. For a Housing Development Project proposed on a site in a neighborhood plan, the neighborhood plan shall permit multifamily housing development on the site.
12. For a Housing Development Project proposed on a site that is vacant that the time that the application is submitted, the site shall not contain tribal resources, as defined in California Public Resources Code Section 21074, that could be affected by the Housing Development Project that were found pursuant to a consultation as described in Public Resources Code Section 21080.1 and the effects of which cannot be mitigated pursuant to the process in Public Resources Code Section 21080.3.2.

## XX.XX.090. Mixed-Income Residential Development under Government Code §§ 65912.100, *et seq*. – Development Standards.

The Housing Development Project shall comply with all of the following:

1. **Multifamily Residential Development.** The Housing Development Project must propose to construct at least five (5) residential dwelling units.
2. **Location of Housing.** The units in the Housing Development Project shall not be located within five hundred (500) feet of a freeway or within three thousand two hundred (3,200) feet of a facility that actively extracts or refines oil or natural gas.
3. **Density.** The Housing Development Project shall propose a residential density that meets or exceeds the density in Table 1 below.

Table 1: Project Density [*insert for Metropolitan Jurisdictions*]

|  |  |
| --- | --- |
| **SITE** | **DENSITY** |
| Site < one (1) acre | 30 dwelling units/acre |
| Site > one (1) acre and Commercial Corridor right-of-way < 100 feet | 40 dwelling units/acre |
| Site > one (1) acre and Commercial Corridor right-of-way > 100 feet | 60 dwelling units/acre |
| Site within one half-mile of Major Transit Stop | 80 dwelling units/acre |

Table 1: Project Density [*insert for Non-Metropolitan Jurisdictions*]

|  |  |
| --- | --- |
| **SITE** | **DENSITY** |
| Site < one (1) acre | 20 dwelling units/acre |
| Site > one (1) acre and Commercial Corridor right-of-way < 100 feet | 30 dwelling units/acre |
| Site > one (1) acre and Commercial Corridor right-of-way > 100 feet | 50 dwelling units/acre |
| Site within one half-mile of Major Transit Stop | * + 1. welling units/acre
 |

1. **Height.** The height for the proposed Housing Development Project shall not exceed the greater of the following:
	1. The maximum height permitted by the current zoning designation for the site, regardless of whether that height limit is applicable to residential, commercial, or other type of development.
	2. For a site on a commercial corridor with a right-of-way of less than 100 feet, 35 feet.
	3. For a site on a commercial corridor with a right-of-way equal to or greater than 100 feet, 45 feet.
	4. [*Appliable to sites not within a coastal zone in any city with a population of greater than 100,000 people*] For a site within one-half mile of a major transit stop, 65 feet.
2. **Setbacks.** The site shall meet the following setbacks:
	1. For the portion of the site that fronts the commercial corridor, no setbacks shall be required except that any parking which is provided must be set back at least twenty-five (25) feet. Notwithstanding the foregoing, on the ground floor of the Housing Development Project, any building or buildings must abut the commercial corridor within ten (10) feet of the property line for at least eighty percent (80%) of the frontage.
	2. For any portion of the site that fronts a side street, any building or buildings must abut the side street within ten (10) feet of the property line for at least sixty percent (60%) of the frontage.
	3. For any portion of the site that abuts an adjoining property that also abuts the same commercial corridor, no setbacks shall be required unless the adjoining property contains a residential use that was constructed prior to September 28, 2022, in which case the requirements of paragraph (4) below shall apply.
	4. For any portion of the site that does not abut the commercial corridor, a side street, or an adjoining property that also abuts the same commercial corridor as the site, but abuts a property that contains a residential use, the ground floor of the Housing Development Project shall be set back ten (10) feet. Starting with the second floor of the Housing Development Project, each subsequent floor shall be stepped back in an amount equal to seven (7) feet multiplied by the floor number. For the purposes of this paragraph, the ground floor is the first floor.
	5. For any portion of the site that does not abut the commercial corridor, a side street, or an adjoining property that also abuts the same commercial corridor as the site, but abuts a property that does not contain a residential use, the Housing Development Project shall be set back fifteen (15) feet.
3. **Parking.** No vehicle parking shall be required. However, the Housing Development Project shall comply with any applicable bicycle parking requirements, electric vehicle supply equipment-installed parking spaces, or parking spaces that are accessible to persons with disabilities for new multifamily residential or nonresidential development as imposed by the existing zoning designation for the Site.
4. **Affordable Housing Requirement**.[[7]](#footnote-7)[[8]](#footnote-8)
	1. **Rental Housing.[[9]](#footnote-9)** A Housing Development Project that proposes to construct rental units shall, for a period of fifty-five (55) years, provide either:
		1. Eight percent (8%) of the units in the Housing Development Project at an affordable rent for very low-income households and five percent (5%) of the units in the Housing Development Project at an affordable rent to extremely low-income households; or
		2. Fifteen percent (15%) of the units in the Housing Development Project at an affordable rent to lower-income households.
	2. **Owner-Occupied Housing.** A Housing Development Project that proposes to construct owner-occupied units shall, for a period of forty-five (45) years, offer either:
		1. Fifteen percent (15%) of the units in the Housing Development Project at an affordable housing cost to lower-income households; or
		2. Thirty percent (30%) of the units in the Housing Development Project at an affordable housing cost to moderate-income households.
	3. **Deed Restriction**. The [City/County] shall require the applicant for a Housing Development Project pursuant to this Section to record a deed restriction ensuring that the required affordable units are rented to eligible households at affordable housing cost or affordable rent for the length of the applicable term.
	4. **Characteristics of Affordable Units.** The affordable units in the Housing Development Project shall have the same proportion of units of each bedroom and bathroom type as the market-rate units, shall be equitably distributed within the Housing Development Project, and shall have the same type or quality of appliance, fixtures, and finishes as the market-rate units.
		1. **[Recommended Provision]** The occupants of the affordable units in the Housing Development Project shall have the same access to the common entrances and common areas and amenities, including common open space, parking, storage, and other facilities, of the Housing Development as the occupants of the market-rate units.
5. **Hazardous Materials Review.** The development proponent for the Housing Development Project shall complete a phase I environmental assessment (as defined in Health & Safety Code Section 25319.1) and any subsequent environmental review and remediation required by subdivision (f) of Government Code Section 65912.123.
6. **Commercial Tenant Notice and Relocation Assistance Requirements**. If the Housing Development Project is proposed on a site where there are commercial tenants at the time of submission of the application for the Housing Development Project, the development proponent shall comply with all applicable requirements of subdivision (i) of Government Code Section 65912.124.
7. **Labor Requirements.** The development proponent for the Housing Development Project shall comply with all applicable requirements of Government Code Section 65912.130.[[10]](#footnote-10)
	1. **Projects of 50 Units or More.** In addition to the foregoing, a Housing Development Project that proposes to construct at least fifty (50) units shall comply with the requirements of Government Code Section 65912.131, including, but not limited to, the requirement that the development proponent for the Housing Development Project submit to the Director, or their designee, on a monthly basis while construction contracts on the Housing Development Project are being perform, a report demonstrating compliance with the requirements of subdivisions (b) and (c) of Government Code Section 65912.131.
8. **Compliance with Housing Crisis Act**. Where applicable, the development proponent for the Housing Development Project shall comply with the requirements of subdivision (d) of Government Code Section 66300.
9. **[*Policy Provision*]** **Ground Floor Retail.** At least one-half of the square footage of the ground floor of the Housing Development Project shall be dedicated to retail uses, as defined in Section XX of the [City/County] Code.[[11]](#footnote-11)
10. **Other Development Standards.** All other objective zoning standards, objective subdivision standards, and objective design review standards applicable to the Housing Development Project shall be either:
	1. The objective zoning standards, objective subdivision standards, and objective design review standards for the closest zone to the site that allows multifamily residential use at the residential density applicable to the Housing Development Project pursuant to subsection (C) above; or
	2. If no zone exists in the [City/County] that allows residential development at the density determined pursuant to subsection (C), then the objective zoning standards, objective subdivision standards, and objective design review standards for the zone in the [City/County] that allows the greatest density prior to the grant of any applicable density bonus.

## XX.XX.100 Affordable Residential Development under Government Code §§ 65912.100, *et seq*. – Qualifying Criteria.

The Director shall determine if a Housing Development Project meets all of the following requirements:

1. The Housing Development Project is proposed within one of the zones in Section XX.XX.040 and is not proposed on a site in that zone that has exempted from residential development pursuant to prior [Council/Board] resolution.
2. The Housing Development Project is proposed on a site where at least seventy-five percent (75%) of the site adjoins parcels developed with urban uses.
3. The Housing Development Project is not proposed to be or adjoined to a site where more than one-third of the square footage is dedicated to industrial use.
4. The Housing Development Project is proposed on a site that satisfies the requirements of Government Code Section 65913.4(a)(6)(B) through (K).
	1. Notwithstanding the foregoing, under no circumstances shall a Housing Development Project proposed pursuant to this Section XX.XX.080 be permitted on a site located within a very high fire hazard severity zone where that site is vacant at the time that the application for the Housing Development Project is submitted.
5. The Housing Development Project is not proposed on a site that is currently or was previously governed by any of the following:
	1. Mobilehome Residency Law (codified at California Civil Code Sections 798, *et seq.*);
	2. Recreational Vehicle Occupancy Law (codified at California Civil Code Sections 799.20, *et seq.*);
	3. Mobilehome Parks Act (codified at Health & Safety Code Sections 18200, *et seq.*); or
	4. Special Occupancy Parks Act (codified at Health & Safety Code Sections 18860, *et seq.*).
6. For a Housing Development Project proposed on a site in a neighborhood plan, the neighborhood plan shall permit multifamily housing development on the site.
7. For a Housing Development Project proposed on a site that is vacant at the time that the application is submitted, the site shall not contain tribal resources, as defined in California Public Resources Code Section 21074, that could be affected by the Housing Development Project that were found pursuant to a consultation as described in Public Resources Code Section 21080.1 and the effects of which cannot be mitigated pursuant to the process in Public Resources Code Section 21080.3.2.

## XX.XX.110 Affordable Residential Development Under Government Code §§ 65912.100, *et seq.* – Development Standards.

1. **Multifamily Residential Development.** The Housing Development Project must propose to construct at least five (5) residential dwelling units.
2. **Location of Housing.** The units in the Housing Development Project shall not be located within five hundred (500) feet of a freeway or within three thousand two hundred (3,200) feet of a facility that actively extracts or refines oil or natural gas.
3. **Affordable Housing.** One hundred percent (100%) of the units, excluding any manager’s unit or units in a Housing Development Project proposed pursuant to this Section shall be dedicated to for rent to lower-income households at an affordable rent or for sale to lower-income households at an affordable cost.
4. **Deed Restriction**. Any rental units in the Housing Development Project shall be subject to a recorded deed restriction for a period of fifty-five (55) years. Any owner-occupied units in the Housing Development Project shall be subject to a recorded deed restriction for a period of forty-five (45) years.
5. **Density.** The Housing Development Project shall propose a residential density that meets or exceeds XX dwelling units per acre. [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*.]
6. **Hazardous Materials Review.** The development proponent for the Housing Development Project shall complete a phase I environmental assessment (as defined in Health & Safety Code Section 25319.1) and any subsequent environmental review and remediation required by subdivision (c) of Government Code Section 65912.113.
7. **Labor Requirements.** The Housing Development Project shall comply with all applicable requirements of Government Code Section 65912.130.[[12]](#footnote-12)
	1. **Projects of 50 Units or More.** In addition to the foregoing, a Housing Development Project that proposes to construct at least fifty (50) units shall comply with the requirements of Government Code Section 65912.131, including, but not limited to, the requirement that the applicant for the Housing Development Project submit to the director, or their designee, on a monthly basis while construction contracts on the Housing Development Project are being performed, a report demonstrating compliance with the requirements of subdivisions (b) and (c) of Government Code Section 65912.131.
8. **Compliance with Housing Crisis Act**. Where applicable, the development proponent for the Housing Development Project shall comply with the requirements of subdivision (d) of Government Code Section 66300.
9. **Other Development Standards.** All other objective zoning standards, objective subdivision standards, and objective design review standards applicable to the Housing Development Project shall be either:
	1. The objective zoning standards, objective subdivision standards, and objective design review standards for the existing zoning designation for the site if the existing zoning allows multifamily residential use; or
	2. The objective zoning standards, objective subdivision standards, and objective design review standards for the closest parcel to the site that allows residential use at XX dwelling units per acre. [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*.]

## XX.XX.120 Residential Development Under Government Code §§ 65912.100, *et seq.* – Application Procedures.

1. **Ministerial Review**. An application for a Housing Development Project proposed pursuant to the provisions of Government Code §§ 61912.100, *et seq*. and Sections XX.XX.080 through XX.XX.110 of this Chapter shall be reviewed ministerially by the Director without a hearing, except as provided in subsection (C) below, and shall be approved if all of the criteria in this chapter are met.
2. **Application Requirements.** The application for a Housing Development Project shall include the required fee and the following minimum information:
	1. **Design Review and Tentative Map.** Design review and tentative map for one of the following, as applicable:
		1. For multifamily residential development proposed pursuant to the zoning designation for the closest zone to the site that allows multifamily residential use at the residential density applicable to the Housing Development Project pursuant to subsection (C) of Section XX.XX.090 above;
		2. For multifamily residential development proposed pursuant to the zoning designation for the zone in the [City/County] that allows the greatest residential density;
		3. For a multifamily residential development proposed pursuant to the existing zoning designation for the site if the existing zoning allows multifamily residential use; or
		4. For a multifamily residential development proposed pursuant to the zoning designation for the closest parcel to the site that allows residential use at XX dwelling units per acre. [*Insert default density for jurisdiction, as determined by Government Code Section 65583.2(c)(3)*].
	2. **[*Recommended Provision*]** **Past and Existing Uses.** A description of any existing uses on the property, including information regarding any current residential or commercial tenancies, the date on which such tenancies commenced, and the name and contact information of the existing tenants.
		1. In addition, a description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units. if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying the dwelling units when the site contained the maximum number of dwelling units, if known.
		2. A description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low- or lower-income households in the five-year period preceding the date of submittal of the application.
	3. **[*Policy Provision*]** **Affordable** **Housing Plan and Monitoring.** An affordable housing plan consistent with Chapter XX.XX of the [City/County] Code describing how the project will satisfy the [City’s/County’s] local affordable housing requirements. The affordable housing plan shall include an explanation of the proposed mechanism by which the development proponent will fund ongoing monitoring and compliance with the affordability requirements for the affordable units in the Housing Development Project throughout the term of affordability.
	4. **[*Recommended Provision*]** **Tribal Resources.** If the site is vacant, documentation sufficient to demonstrate that site does not contain tribal resources that could be affected by the Housing Development Project that were found pursuant to a consultation and the effects of which cannot be mitigated.
	5. **Additional Requirements for Mixed-Income Projects.**
		1. **[*Recommended Provision*]** **Covenant.** A commitment to record, prior to the issuance of the first building permit, a land use restriction or covenant for the required affordable units providing that the housing shall remain affordable, pursuant to the specifications of subdivision G of Section XX.XX.090 of this Chapter, for either (1) fifty-five (55) years for rental units or (2) forty-five (45) years for owner-occupied units.
		2. **[*Recommended Provision*]** **Affidavit.** If any existing housing is proposed to be altered or demolished, the owner of the property proposed for the Housing Development Project shall sign an affidavit, in the form approved by the [city attorney/county counsel], stating that none of the conditions listed in subsections H and I of Section XX.XX.080 exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past ten (10) years, on a form prescribed by the director.
	6. **[*Recommended Provision*]** **Density Bonus.** Whether the Housing Development Project is requesting any density bonus, incentives, concessions, waivers, or parking reductions pursuant to Chapter XX.XX of the [City/County] Code. If so, the Housing Development Project shall demonstrate compliance with all of the requirements of Chapter XX.XX, including submission of a density bonus report.
3. **[*Policy Provision*]** **Design Review.** The Housing Development Project shall require design review approval by the planning commission prior to a final determination on the application by the director. Design review shall be objective and be strictly focused on assessing compliance with the criteria required for streamlined, ministerial review of projects and with any reasonable objective design standards in effect at the time of the submittal of the application for the Housing Development Project.
1. Local agencies should consult with their legal counsel prior to the use or implementation of this model ordinance, conformance with standard ordinance formats, and any provisions outlined herein. . *[There are issues about whether an urgency ordinance would be legal, so don’t want to imply that one is OK.]* [↑](#footnote-ref-1)
2. Note that these Government Code Sections are not effective until July 1, 2023. Cities and counties adopting ordinances before that date should include additional exemptions. [↑](#footnote-ref-2)
3. To qualify as an eligible project, the project must meet the state law labor requirements.  However, state law is silent as to the local jurisdiction’s role in enforcing those standards, except to receive labor compliance reports.  Some jurisdictions may prefer to address labor requirements through an administrative policy, instead of through an implementing ordinance.  [↑](#footnote-ref-3)
4. Cross-reference City’s or County’s SB 35 ordinance or procedures, if the jurisdiction has either one. [↑](#footnote-ref-4)
5. Cross-reference City’s or County’s SB 35 ordinance or procedures, if the jurisdiction has either. [↑](#footnote-ref-5)
6. If there is a local law applicable, should cite to City or County Code or charter section. State law now subjects many apartments to rent controls. [↑](#footnote-ref-6)
7. If the City or County has a local inclusionary housing ordinance that requires a greater percentage of affordable units, the City or County may wish to use this alternate provision:

*“The Housing Development Project shall comply with the affordable housing requirements in [City/County] Code Section XX.”* [↑](#footnote-ref-7)
8. If the City or County has a local inclusionary ordinance that requires greater levels of affordability or a longer period of affordability, then the City or County should enumerate those requirements rather than the statutory requirements of AB 2011. [↑](#footnote-ref-8)
9. If the City or County inclusionary housing ordinance requires a greater percentage of affordable rental units but the local policy does not require inclusion of rental units affordable to very low- or extremely low-income households, the City or County may wish to use this alternate provision:

 “*The Housing Development Project shall, for a period of fifty-five (55) years, do both of the following:*

*Provide eight percent (8%) of the units in the Housing Development Project at an Affordable Rent for Very Low-Income Households and five percent (5%) of the units in the Housing Development Project at an Affordable Rent to Extremely Low-Income Households; and*

*Provide XX percent [percentage of affordable rental units required by local policy minus fifteen percent] of the units in the Housing Development Project at an Affordable Rent for Lower-Income Households.*” [↑](#footnote-ref-9)
10. See footnote 3.   [↑](#footnote-ref-10)
11. Government Code Section 65912.123(j)(3) provides as follows: “The applicable objective standards may include a requirement that up to one-half of the ground floor of the housing development project be dedicated to retail use.” [↑](#footnote-ref-11)
12. See footnote 3.   [↑](#footnote-ref-12)