



DISCLAIMER: This document is intended solely as a technical overview of the provisions of AB 2011 (2022) and SB 6 (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 adopting an ordinance to implement the provisions of AB 2011 and/or SB 6 or when determining the applicability of these provisions to any proposed housing development project in their jurisdiction.

AB 2011 and SB 6 Summary of Key Details

Introduction

AB 2011 and SB 6 are intended to permit residential development on sites currently zoned and designated for commercial or retail uses. Both bills were signed into law by Governor Gavin Newsom on September 29, 2022, and will go into effect on July 1, 2023.

AB 2011 creates a CEQA-exempt, ministerial approval process for multifamily housing developments on sites within a zone where office, retail or parking are the principally permitted use. The law provides for slightly different qualifying criteria depending upon whether the project is (1) for 100-percent affordable projects or (2) for mixed-income projects located in "commercial corridors." AB 2011 projects must pay prevailing wages to construction workers, among other labor standards.

SB 6, on the other hand, does not create any new approval process. Rather, the legislation provides that projects meeting SB 6 criteria may invoke SB 35 and the Housing Accountability Act. A project proposed under SB 6 may be either a 100-percent residential project or a mixed-use project where at least 50 percent of the square footage is dedicated to residential uses. SB 6 projects are not exempt from CEQA but need not provide any affordable housing. SB 6 projects are required to pay prevailing wages and utilize a "skilled and trained workforce." The provisions of both laws are applicable to local jurisdictions without an implementing ordinance, although if a jurisdiction decides to adopt such an ordinance, the ordinance would be exempt from CEQA. (Government Code Sections 65852.24(h); 65912.114(o); 65912.124(o).)

The charts on the following pages present a summary of key details.

Senate Bill 6 vs. Assembly Bill 2011 (2022)

APPLICABLE ZONES

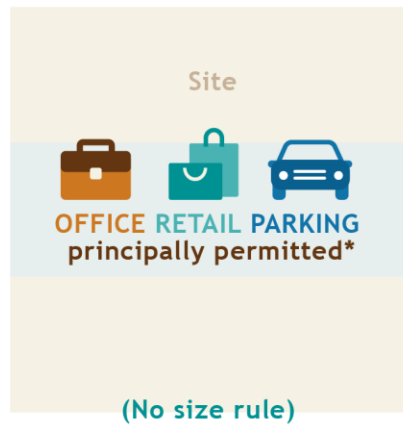
AB 2011 Mixed-income Housing Projects	AB 2011 100% Affordable Housing Projects	SB 6 Projects
<ul style="list-style-type: none"> • Zone where office, retail, or parking are principally permitted useⁱ • Project site abuts a commercial corridorⁱⁱ and has frontage along the commercial corridor of minimum of 50 feet 	<ul style="list-style-type: none"> • Zone where office, retail, or parking are principally permitted use 	<ul style="list-style-type: none"> • Zone where office, retail, or parking are principally permitted useⁱⁱⁱ

AB 2011 Mixed Income Housing Site Criteria



At least 50' frontage along a public street with 70'-150' right-of-way

AB 2011 100% Affordable Housing Site Criteria



* AB 2011 defines "principally permitted use" as a use that can occupy more than 1/3 of sf without a CUP

SB 6 Site Criteria



* SB 6 does not define "principally permitted use"

Figure 1: Comparison of Site Criteria for AB 2011 and SB 6 Projects

APPROVAL PROCESS

All AB 2011 Projects	SB 6 Projects
<ul style="list-style-type: none"> Creates new ministerial process for qualifying projects <ul style="list-style-type: none"> For projects with 150 units or less^{iv}, must be processed in 90 days For projects with more than 150 units, must be processed in 180 days Jurisdiction must identify any inconsistencies with qualifying criteria within prescribed timelines, otherwise development is deemed to be in compliance <ul style="list-style-type: none"> For projects with 150 units or fewer, must be informed within 60 days of application submission For projects more than 150 units, must be informed within 90 days of application submission May perform design review, but limited to objective standards only and within the following timelines: <ul style="list-style-type: none"> For projects with 150 units or fewer, within 90 days of submission For projects with more than 150 units, within 180 days of submission Jurisdictions may adopt an implementing ordinance (CEQA-exempt) 	<ul style="list-style-type: none"> Does not create any new approval process If the project meets all requirements (except non-compliance with zoning prohibiting residential use), then it may invoke SB 35^v and the Housing Accountability Act Jurisdictions may adopt an implementing ordinance (CEQA-exempt)

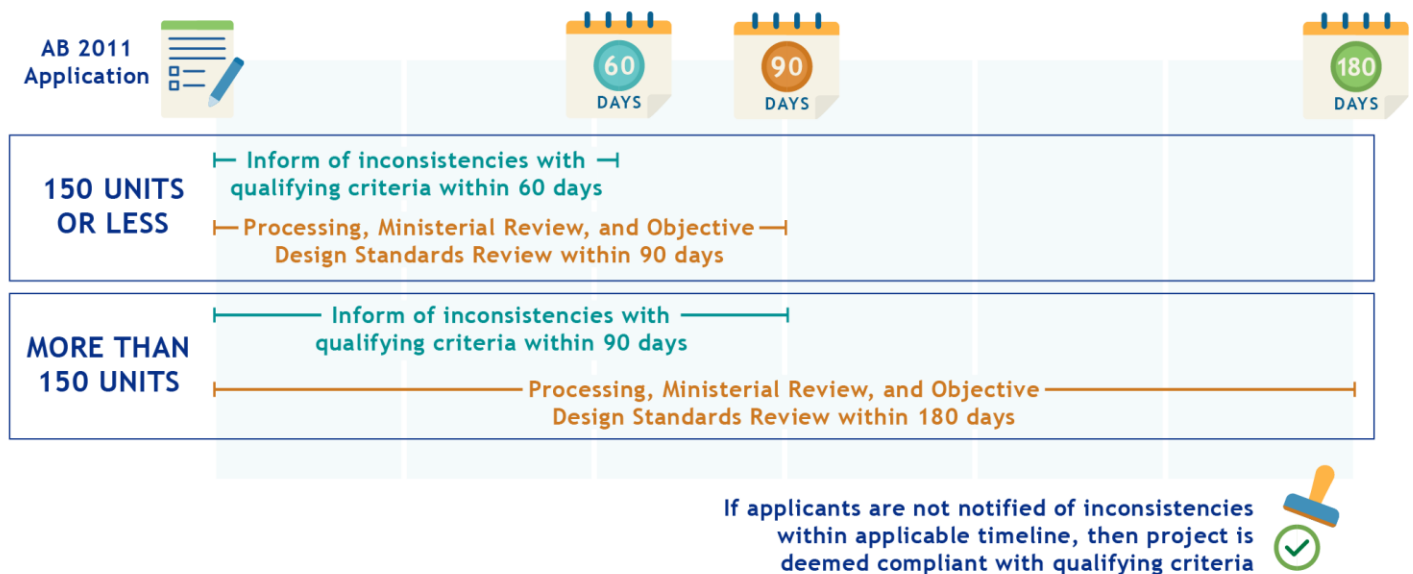


Figure 2: AB 2011 Project Review Process and Timelines

CEQA & COASTAL ACT APPLICABILITY

All AB 2011 Projects	SB 6 Projects
<ul style="list-style-type: none"> Exempt from CEQA May be used in Coastal Zone and Coastal Act applies 	<ul style="list-style-type: none"> Not exempt from CEQA May be used in Coastal Zone and Coastal Act applies (unless eligible for and invoking SB 35)

SITE AND PROJECT CRITERIA

All AB 2011 Projects	SB 6 Projects
<ul style="list-style-type: none"> • Must propose a multifamily^{vi} housing development project^{vii} • Within an urbanized area or urban cluster (now designated “urban areas” by the US Census Bureau) • At least 75 percent of the site adjoins^{viii} parcels developed with urban uses • Not on or adjoined to a site where more than one-third dedicated to industrial uses^{ix} • Satisfies SB 35 environmental criteria found in Gov. Code Section 65913.4(a)(6)(B)-(K) • For sites within a neighborhood plan area^x, there is either: <ul style="list-style-type: none"> ○ (As of January 1, 2022) An applicable neighborhood plan that permits multifamily housing development on the site; OR ○ (As of January 1, 2024) An applicable neighborhood plan that permits multifamily housing on the site, the notice of preparation for the neighborhood plan was issued before January 1, 2022, the neighborhood plan was adopted between January 1, 2022 and January 1, 2024, and the environmental review for the neighborhood plan was completed before January 1, 2024. • Where the site is vacant, the site satisfies both of the following: <ul style="list-style-type: none"> ○ It does not contain any tribal resources that could be affected by the development, and the effects of which cannot be mitigated pursuant to Public Resources Code Section 21080.3.2 ○ It is not located in a very high fire severity zone • Cannot be located on a site governed by the Mobilehome Residency Law, the Recreational Vehicle Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act • Housing cannot be located within 500 feet of a freeway^{xi} • Housing cannot be within 3,200 feet of an oil or natural gas extraction or refinery • Development proponent has completed a Phase I environmental assessment and mitigated any health hazards to a level of insignificance <p>ADDITIONAL CRITERIA FOR MIXED INCOME PROJECTS ONLY:</p> <ul style="list-style-type: none"> • The site is 20 acres or less • The development would not require the demolition of: <ul style="list-style-type: none"> ○ Housing subject to recorded covenant, ordinance or law that restricts rents to levels affordable to moderate, low or very low income households ○ Housing subject to rent price control ○ Housing occupied by tenants in the last 10 years, excluding manager's units • The development would not require the demolition of a historic structure • A prior residential use was not demolished on the site in the last 10 years • The project cannot be on a property that contains one to four dwelling units • The site cannot be one zoned for housing, unless zoned for multifamily residential use (e.g., the site cannot be one zoned for single-family residential development) • Notice to commercial tenants and relocation assistance to certain qualifying independently-owned commercial tenants is required 	<ul style="list-style-type: none"> • Proposed housing development must be either: <ul style="list-style-type: none"> ○ Project that includes residential units only; OR ○ Mixed-use project with at least 50 percent of the square footage dedicated to residential use • The project site is 20 acres or less • Within an urbanized area or urban cluster (now designated “urban areas” by the US Census Bureau) • Not on or adjoined to a site where more than one-third dedicated to industrial use • Must be consistent with any applicable and approved sustainable community strategy or alternative plan (i.e., Plan Bay Area 2050)^{xii} • Notice to commercial tenants and relocation assistance to certain qualifying independently-owned commercial tenants is required

AFFORDABLE HOUSING REQUIREMENTS

AB 2011 Mixed-income Housing Projects	AB 2011 100% Affordable Housing Projects	SB 6 Projects
<ul style="list-style-type: none"> • FOR RENTAL PROJECTS: <ul style="list-style-type: none"> ○ 8 percent very-low income and 5 percent extremely low-income; OR ○ 15 percent lower income at affordable rent as defined in Health & Safety Code § 50053 • FOR OWNER-OCCUPIED PROJECTS: <ul style="list-style-type: none"> ○ 30 percent moderate income; OR ○ 15 percent lower income at affordable housing cost as defined in Health & Safety Code § 50052.5 • Units are subject to recorded deed restriction: <ul style="list-style-type: none"> ○ 55 years for rental units ○ 45 years for owner-occupied units • Affordable units must be equitably distributed, have the same bedroom/bathroom count ratios, and the same quality appliances, fixtures and finished as market-rate units • Local inclusionary requirements prevail if greater affordability required 	<ul style="list-style-type: none"> • 100 percent of the units, excluding managers' units are dedicated to lower-income households at an affordable cost^{xiii} or affordable CTCAC rent • Units are subject to recorded deed restriction: <ul style="list-style-type: none"> ○ 55 years for rental units ○ 45 years for owner-occupied units 	<ul style="list-style-type: none"> • None, unless local inclusionary requirements applicable and/or invoking SB 35

LABOR REQUIREMENTS

All AB 2011 Projects	SB 6 Projects
<ul style="list-style-type: none"> • Prevailing wage required^{xiv} • FOR PROJECTS WITH MORE THAN 50 UNITS ONLY: Must require contractors to employ construction craft employees or let subcontracts for at least 1,000 hours to participate in an apprenticeship program and make specified health care contributions • Developer must require these standards be included in all construction contracts • Developer must certify to the local government that the labor requirements will be met in the project construction • Developer must provide local agency with monthly compliance reports 	<ul style="list-style-type: none"> • Prevailing wage required • "Skilled and trained workforce"^{xv} required <ul style="list-style-type: none"> ○ EXCEPT where, after specified bidding process, fewer than two prequalified contractors that are committed to using a "skilled and trained workforce" bid on the contract • Developer must require these standards be included in all construction contracts • Developer must certify to the local government that the labor requirements will be met in the project construction • Developer must provide local agency with monthly compliance reports

DEVELOPMENT STANDARDS

See Appendix A

OTHER NOTABLE PROVISIONS

All AB 2011 Projects	SB 6 Projects
<ul style="list-style-type: none"> • Local agency may exempt parcel if: <ul style="list-style-type: none"> ○ Exemption completed before development proponent submits application; AND ○ Local government makes written findings of all of the following: <ol style="list-style-type: none"> (1) Agency has identified one or more “substitute” parcels that meet certain specified AB 2011 criteria; (2) If these “substitute” parcel(s) would not be otherwise eligible for development under AB 2011, agency has permitted parcel to be developed at residential densities above applicable AB 2011 densities (and if mixed-income housing project, above applicable AB 2011 heights); and (3) Development of the “substitute” parcel(s) will result in (i) no net loss of the total potential residential density in jurisdiction, (ii) no net loss of the potential residential density of housing affordable to lower income households, and (iii) affirmative furthering of fair housing. • Projects may be eligible for density bonus, incentives or concessions, waivers or parking ratios pursuant to density bonus law • Local government may not apply “special” development standards to AB 2011 projects ^{xvi} • Local government must ensure project complies with SB 330 replacement housing requirements even if not in affected city or county^{xvii} • HCD has enforcement authority and must publish technical assistance • Jurisdictions must include certain specified information about AB 2011 projects in housing element annual reports 	<ul style="list-style-type: none"> • Local agency may exempt parcel if it makes written findings supported by substantial evidence of either: <ul style="list-style-type: none"> ○ Concurrently reallocated the lost residential density to other lots so there is no-net-loss; OR ○ Lost residential density can be accommodated on a site or sites allowing residential densities at or above those specified above and in excess of the acreage required to accommodate the local agency's share of housing for lower-income households • May reallocate density to site or site if those sites: <ul style="list-style-type: none"> ○ Are suitable for residential development; AND ○ Are subject to a by-right development ordinance • Prevailing wage requirements may be enforced by Labor Commissioner • Developer may be subject to civil penalty of \$10,000 per month for failure to provide monthly compliance report • Developer may be subject to civil penalty of \$200 per day for each worker employed in contravention of "skilled and trained workforce" requirement

APPENDIX A: Development Standards

Required Densities for AB 2011 Mixed-income Housing Projects

- In metropolitan jurisdictions^{xviii}, the residential density shall meet or exceed the greater of the following:
 - The existing residential density permitted;
 - For sites of less than one acre, 30 units/acre;
 - For sites of one acre or greater located on commercial corridor of less than 100 ft in width, 40 units/acre;
 - For sites of one acre or greater located on commercial corridor of 100 ft or greater width, 60 units/acre;
 - For sites within one-half mile of major transit stop^{xix}, 80 units/acre
- In non-metropolitan jurisdictions, residential density shall meet or exceed the greater of:
 - The existing residential density permitted;
 - For sites of less than one acre, 20 units/acre;
 - For sites of one acre or greater located on commercial corridor of less than 100 ft in width, 30 units/acre;
 - For sites of one acre or greater located on commercial corridor of 100 ft or greater width, 50 units/acre;
 - For sites within one-half mile of major transit stop, 70 units/acre

DENSITY SHALL MEET OR EXCEED THE FOLLOWING:

	Site size less than 1 acre	Site size 1 acre or more Right of Way < 100'	Site size 1 acre or more Right of Way > 100'	Site w/in 1/2 mile of major transit stop
Density Metropolitan Jurisdictions	30 du/acre	40 du/acre	60 du/acre	80 du/acre
Density Non-Metropolitan Jurisdictions	20 du/acre	30 du/acre	50 du/acre	70 du/acre

Figure 3: Required Densities for AB 2011 Mixed-Income Housing Project

Height Limits AB 2011 Mixed-income Housing Projects

- Height limit applicable shall be the greater of the following:
 - Height currently permitted on the parcel;
 - For site on commercial corridor of less than 100 feet in width, 35 feet;
 - For sites on commercial corridor of 100 feet or more, 45 feet;
 - For sites within one-half mile of a major transit stop in a city with a population of greater than 100,000, 65 feet.

	Site	Right of Way <100'	Right of Way >100'	pop > 100k & w/in 1/2 mi. of major transit stop
HEIGHT LIMIT SHALL BE THE GREATER OF THE FOLLOWING:	Currently permitted height	35'	45'	65'

Figure 4: Height Limits for AB 2011 Mixed Income Housing Project

Parking Requirements for AB 2011 Mixed-income Housing Projects

- No parking may be required except requirements related to bicycle parking, electric vehicle parking spaces or parking spaces accessible to persons with disabilities

Setback Requirements AB 2011 Mixed-income Housing Projects

- Meets following setback standards:
 - For portion of property that fronts commercial corridor, no setbacks may be required
 - All parking must be set back at least 25 feet
 - On ground floor, building must abut within 10 ft of the property line for at least 80% of frontage
 - For portion of property that fronts side street^{xx}, building must abut within 10 ft of property line for at least 60% of frontage
 - For portion of property that abuts adjoining property that also abuts same commercial corridor, no setbacks may be required UNLESS adjoining property contains residential use that was constructed prior to enactment of AB 2011
 - For portion of property that does not abut commercial corridor, side street or adjoining property that abuts same commercial corridor
 - Along property lines that abut residential use:
 - Ground floor shall be set back 10 feet
 - Starting with second floor, each floor shall be stepped back in amount equal to 7 ft multiplied by the floor number
 - Along property lines that abut non-residential use, the development shall be set back 15 ft

Other Objective Zoning, Subdivision, and Design Review Standards AB 2011 Mixed-income Housing Projects

- Project proposal shall apply objective standards for the closest zone that allows multifamily residential density required for the project (see the Mixed Income Project Required Density chart on page 5 above). If no zone exists that allows the required residential density, the applicable objective standards shall be those for the zone that allows the greatest density within the city, county, or city and county.

Development Standards AB 2011 100% Affordable Housing Projects

- Project density meets or exceeds applicable density deemed appropriate to accommodate lower-income households pursuant to housing element law

- Development must meet objective zoning, subdivision and design review standards for the zone that allows greater residential density between the following:
 - Existing zoning designation for the parcel if it allows multifamily residential use, OR
 - Zoning designation for the closest parcel that allows residential use at density that is appropriate to accommodate lower-income households pursuant to housing element law
- Development shall be deemed consistent with objective zoning standards related to housing density if compliant with maximum density allowed within the land use designation and regardless of any specified maximum unit allocation that may result in fewer units of housing being permitted

SB 6 Projects Development Standards

- Project density meets or exceeds applicable density deemed appropriate to accommodate lower-income households pursuant to housing element law
- Must comply with local zoning, parking, design and other ordinances, local code requirements and procedures applicable to the processing and permitting of a housing development in zone that allows for housing with above described density
 - If more than one zoning designation allows for above-described density, the applicable zoning standards shall be those for the zoning designation for the closest parcel that allows residential use at density that is appropriate to accommodate lower-income households pursuant to housing element law
 - If existing zoning designation for the parcel allows residential density that exceeds housing element law density, the existing zoning designation applies
- Must comply with all other objective local requirements for a parcel (except those that prohibit residential use or allow residential use only at a lower density) including impact fee and inclusionary housing requirements

Additional Resources

- [AB 2011 SB 6 Council Presentation Elected Officials](#)
- [AB 2011 Staff Workplan](#)
- [AB 2011 How-to Review Development Proposals](#)
- [AB 2011 Affordable Project Application Checklist](#)
- [AB 2011 Mixed Income Project Application Checklist](#)
- [AB 2011 SB 6 Model Ordinance](#)
- [Understanding AB 2011 and SB 6](#)
- [AB 2011 SB 6 Summary of Key Details](#)
- [Webinar: Overview of AB 2011 and SB 6](#)
- [Guide to California State Replacement Housing Requirements](#)

Endnotes

- ⁱ "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. "Principally permitted use" is defined only in AB 2011.
- ⁱⁱ "Commercial corridor" means a highway, as defined in Vehicle Code Section 360, that is not a freeway, as defined in Vehicle Code Section 332, and that has a right-of-way, as defined in Vehicle Code Section 525, of at least 70 feet but not greater than 150 feet.
- ⁱⁱⁱ SB 6 uses the term "principally permitted use" but does not define it. Rather, it defines "office and retail commercial zone" which means "any commercial zone, except for zones where office uses and retail uses are not permitted, or are permitted only as an accessory use." Government Code Section 65852.24(l)(3).
- ^{iv} For the purposes of calculating the total units in a development, the development project includes (1) all projects developed on a site regardless of when those developments occur and (2) all projects developed on adjacent sites that were subdivided from the subject site after January 1, 2022.
- ^v Government Code Section 65913.4 outlines the approval process for SB 35 projects.
- ^{vi} "Housing development project" has the same definition as in Government Code Section 65589.5(h)(2), and means a use consisting of any of the following: (A) residential uses only; (2) mixed use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use; or (3) transitional or supportive housing.
- ^{vii} "Multifamily" means a property with five or more housing units for sale or for rent. There is no requirement that the housing units be attached.
- ^{viii} Parcels separated only by a street or highway are considered adjoined.
- ^{ix} "Dedicated to industrial use" means any of the following: (1) square footage is currently being used as industrial use; (2) more recently permitted use of the square footage is an industrial use; or (3) site was designated for industrial use in local government's latest general plan adopted before January 1, 2022.
- ^x "Neighborhood plan" means a specific plan adopted pursuant to Government Code Sections 65450, et seq., an area plan, precise plan, urban village plan, or master plan that has been adopted by a local government.
- ^{xi} "Freeway" has the same definition as in Vehicle Code Section 332.
- ^{xii} Sustainable community strategies and alternative plans are outlined in Government Code Section 65080.
- ^{xiii} "Affordable cost" is defined by Health and Safety Code Section 50052.5.
- ^{xiv} "Prevailing wage" means at least the general prevailing rate or per diem wages for the type of work and the geographic area as determined by the Director of Industrial Relations pursuant to Labor Code Sections 1773 and 1773.9, except apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. The same definition is used in both AB 2011 and SB 6.
- ^{xv} "Skilled and trained workforce" has the same meaning as in Public Contract Code Sections 2600, et seq.
- ^{xvi} Government Code Sections 65912.114(l); 65912.124(l).
- ^{xvii} An "affected city" means a city, including a charter city, that the Department of Housing and Community Development determines is in an urbanized area or urban cluster, as designated by the U.S. Census Bureau, but does not include any city that has a population of 5,000 less and is not located within an urbanized area, as designated by the U.S. Census Bureau. Government Code Section 66300(a)(1). An "affected county" means a census designated place, based on the 2013-2017 American Community Survey 5-year Estimates, that is wholly located within the boundaries of an urbanized area, as designated by the U.S. Census Bureau. Government Code Section 66300(a)(2). HCD has published a list of affected cities and affected counties.
- ^{xviii} A "metropolitan jurisdiction" is determined pursuant to Government Code Section 65583.2(d)-(e).
- ^{xix} "Major transit stop" has the same definition as in Public Resources Code Section 21155(b).
- ^{xx} "Side street" means a highway, as defined in Vehicle Code Section 360, that is not a freeway, as defined in Vehicle Code Section 332, and that has a right-of-way, as defined in Vehicle Code Section 525, of at least 25 and fewer than 70 feet.