



Association of Bay Area Governments



Technical Assistance
for Local Planning

HOUSING

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.

Overview of AB 2011 and SB 6

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 (1) for 100-percent affordable projects and (2) for mixed-income projects located "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 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 such an ordinance is exempt from CEQA.

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



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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 use

EFFECTIVE DATE

All AB 2011 Projects	SB 6 Projects
July 1, 2023	July 1, 2023

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 lessⁱⁱⁱ, 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^{iv} and the Housing Accountability Act • Jurisdictions may adopt an implementing ordinance (CEQA-exempt)

CEQA & COASTAL ACT APPLICABILITY

AB 2011 Mixed-income Housing Projects	AB 2011 100% Affordable Housing Projects	SB 6 Projects
<ul style="list-style-type: none"> • Exempt from CEQA • Not permitted in coastal zones so Coastal Act would not apply 	<ul style="list-style-type: none"> • Exempt from CEQA • Coastal Act may apply 	<ul style="list-style-type: none"> • Not exempt from CEQA • Coastal Act may apply



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SITE AND PROJECT CRITERIA

All AB 2011 Projects	SB 6 Projects
<ul style="list-style-type: none"> • Must propose a multifamily housing development project^v • Within an urbanized area or urban cluster (designated by US Census Bureau) • At least 75 percent of the site adjoins^{vi} parcels developed with urban uses • Not on or adjoined to a site where more than one-third dedicated to industrial uses^{vii} • Satisfies SB 35 environmental criteria found in Gov. Code Section 65913.4(a)(6)(B)-(K) • Cannot be on a property that contains one to four dwelling units • For sites within a neighborhood plan area^{viii}, 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^{ix} • 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 • Notice to commercial tenants and relocation assistance to certain qualifying independently-owned commercial tenants is required • ADDITIONAL CRITERIA FOR MIXED INCOME PROJECTS ONLY: <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 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) 	<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 (designated by 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^x • Notice to commercial tenants and relocation assistance to certain qualifying independently-owned commercial tenants is required



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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 • FOR OWNER-OCCUPIED PROJECTS: <ul style="list-style-type: none"> ○ 30 percent moderate income; OR ○ 15 percent lower income • 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 req'd 	<ul style="list-style-type: none"> • 100 percent of the units, excluding managers' units are dedicated to lower-income households at an affordable cost^{xi} 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

LABOR REQUIREMENTS

All AB 2011 Projects	SB 6 Projects
<ul style="list-style-type: none"> • Prevailing wage required^{xii} • 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"^{xiii} 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



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OTHER NOTABLE PROVISIONS

All AB 2011 Projects	SB 6 Projects
<ul style="list-style-type: none"> • Projects may be eligible for density bonus, incentives or concessions, waivers or parking ratios pursuant to density bonus law • Local government must ensure project complies with SB 330 replacement housing requirements even if not in affected city or county^{xiv} • 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



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APPENDIX A: Development Standards

AB 2011 Mixed-income Housing Projects

- In metropolitan jurisdictions^{xv}, 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^{xvi}, 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

- 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.

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

- 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^{xvii}, 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



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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

- 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



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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. The same definition is used in both AB 2011 and SB 6.

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 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.

^{iv} Government Code Section 65913.4 outlines the approval process for SB 35 projects.

^v "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.

^{vi} Parcels separated only by a street or highway are considered adjoined.

^{vii} "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.

^{viii} "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.

^{ix} "Freeway" has the same definition as in Vehicle Code Section 332.

^x Sustainable community strategies and alternative plans are outlined in Government Code Section 65080.

^{xi} "Affordable cost" is defined by Health and Safety Code Section 50052.5.

^{xii} "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.

^{xiii} "Skilled and trained workforce" has the same meaning as in Public Contract Code Sections 2600, et seq.

^{xiv} 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](#).

^{xv} A "metropolitan jurisdiction" is determined pursuant to Government Code Section 65583.2(d)-(e).

^{xvi} "Major transit stop" has the same definition as in Public Resources Code Section 21155(b).

^{xvii} "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.