



**Regular Meeting Agenda
Planning Commission**

*JOSEPH MUELLER - CHAIR
WAYNE TANDA - VICE-CHAIR
LIAM DOWNEY - PLANNING COMMISSIONER
MOHAMMAD HABIB - PLANNING COMMISSIONER
PAUL LAKE - PLANNING COMMISSIONER
MALISHA KUMAR - PLANNING COMMISSIONER
JAMES WILSON PLANNING COMMISSIONER*

Tuesday, July 11, 2023 7:00 PM

**Council Chamber Building
17555 Peak Avenue, Morgan Hill, CA 95037**

Morgan Hill Planning Commission meetings are held in person with the option for the public to attend by teleconference/video conference. Information on how the public may observe and participate in the meeting is located below.

MEETING GUIDELINES AND PUBLIC COMMENT

Planning Commission meetings will be live-streamed on Channel 17, on the City's website, and on the City's Facebook page.

Those members of the community that would like to participate in the meetings remotely may do so by joining the virtual meeting at: <https://bit.ly/PlanningCommissionMtg> or by calling: (669) 900-9128, then enter the webinar ID#: 862 0324 6251#. Public comment may be provided in the following ways:

- Provide public comment in-person
- Join the Planning Commission meeting virtually via the link above. When public comment is opened, raise your virtual hand and be called upon to speak for up to 3 minutes (YOU MUST BE RUNNING THE MOST CURRENT VERSION OF ZOOM TO BE UNMUTED)
- Join virtually by calling the number above, dial *9 to raise your hand, and be called upon to speak for up to 3 minutes
- Send public comments in writing to the Minutes Clerk at

* Please note that comments made on Facebook are not considered public comment.

CALL TO ORDER

ROLL CALL ATTENDANCE

DECLARATION OF POSTING

Pursuant to Government Code Section 54954.2

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Members of the public are entitled to address the Planning Commission concerning any item within the Morgan Hill Planning Commission's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the Commission is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ORDERS OF THE DAY

PUBLIC HEARINGS

1. MONTEREY CORRIDOR FORM-BASED CODE RECOMMENDATION - CONTINUATION

Recommendation:

1. Open/close public hearing
2. Continue to the July 25, 2023 Planning Commission meeting

OTHER BUSINESS

2. Overview of AB2011 and SB6

Recommendation:

1. Receive Presentation

DIRECTOR'S REPORT/ANNOUNCEMENTS

ADJOURNMENT

NOTICE

Any documents produced by the City and distributed to the majority of the Planning Commission less than 72 hours prior to an open meeting, will be made available for public inspection at the front counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the Planning Commission concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Planning Commission on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Planning Commission, but it is very helpful. When you are called, proceed to the podium and the Chair will recognize you. If you wish to address the Planning Commission on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the Planning Commission.

Persons interested in proposing an item for the Planning Commission agenda should contact a member of the Commission who may plan an item on the agenda for a future Commission meeting. Should your comments require Planning's action, your request may be placed on the next appropriate agenda. Planning Commission discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the Commission at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the Commission, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of Commission Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email cityclerk@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email cityclerk@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: July 11, 2023

PREPARED BY:

Jennifer Carman, Development Services Director

APPROVED BY: Jennifer Carman

MONTEREY CORRIDOR FORM-BASED CODE RECOMMENDATION - CONTINUATION

RECOMMENDATION(S)

1. Open/close public hearing
2. Continue to a the July 25, 2023 Planning Commission meeting

ATTACHMENTS:

None

PLANNING COMMISSION STAFF REPORT

MEETING DATE: July 11, 2023

PREPARED BY:
Jennifer Carman, Development Services Director
APPROVED BY: Jennifer Carman

OVERVIEW OF AB2011 AND SB6

RECOMMENDATION(S)

1. Receive Presentation

ATTACHMENTS:

1. AB2011 SB6 Presentation
2. AB-2011-SB-6-Summary-Key-Details
3. How-to-Review-AB-2011-Development-Project-Proposals



Understanding New Laws About Residential Development in Commercial Zones AB 2011 (2022) and SB 6 (2022)



AB 2011 & SB 6



- **What do the laws say?**
- **Where do they apply?**
- **What can be built?**
- **What can cities regulate?**
- **What are the rules that apply for developers?**

What do the laws say?



The laws allow developments that qualify to partially bypass local zoning rules and build a housing project on a site that is zoned for office/retail/parking and meets other rules

Three sets of standards and rules and requirements

- AB 2011 Mixed Income
- AB 2011 Affordable
- SB 6

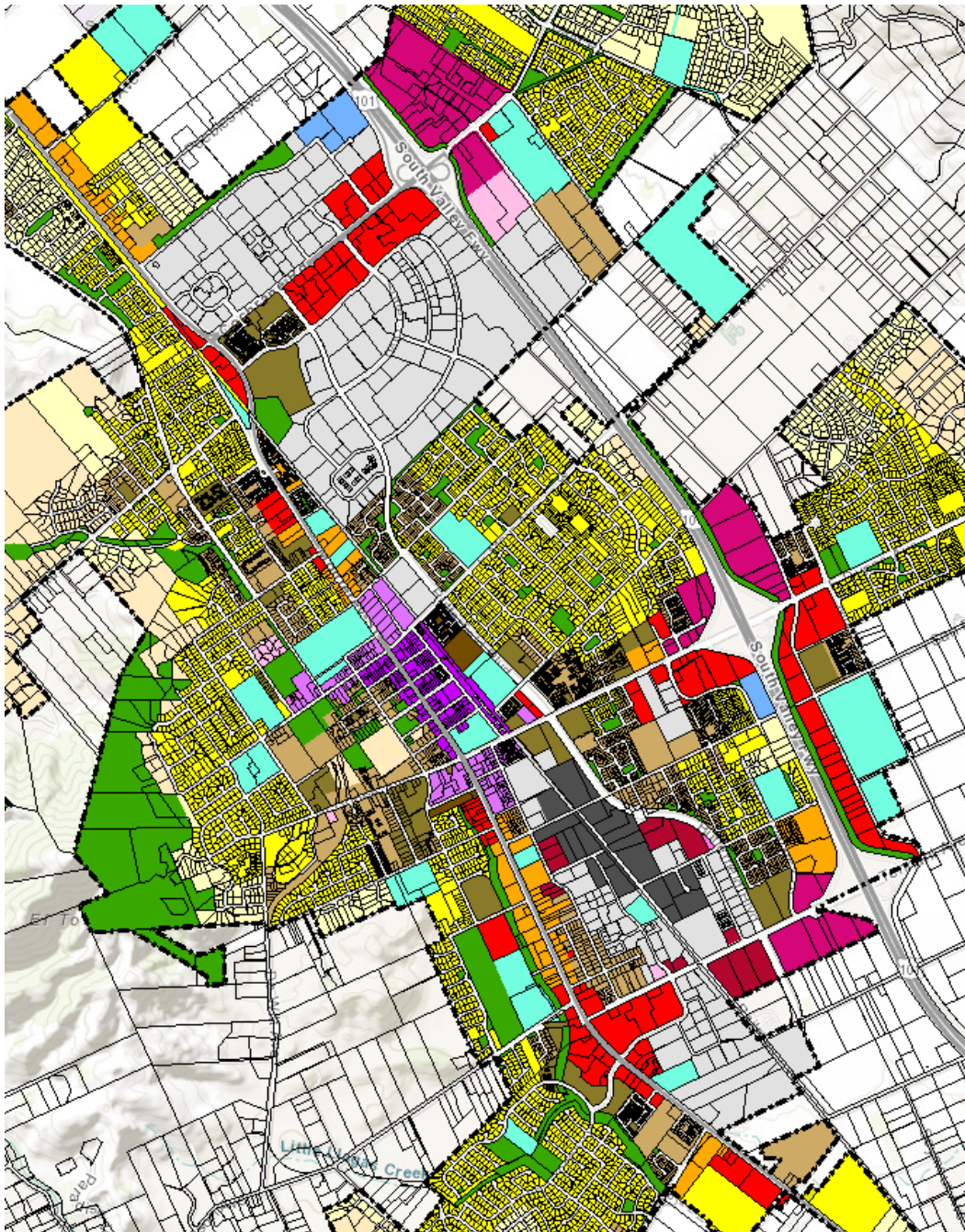
Went into effect July 1, 2023

Prevailing Wage and other labor standards are required

Where do the laws apply?



- Generally, in zones where office, retail or parking are principally permitted uses
- AB 2011 “principally permitted use” means a use that may occupy more than one-third of the square footage of the site without conditional use permit (CUP)
- SB 6 does not define “principally permitted use”
- Different criteria apply for sites to qualify depending on the law



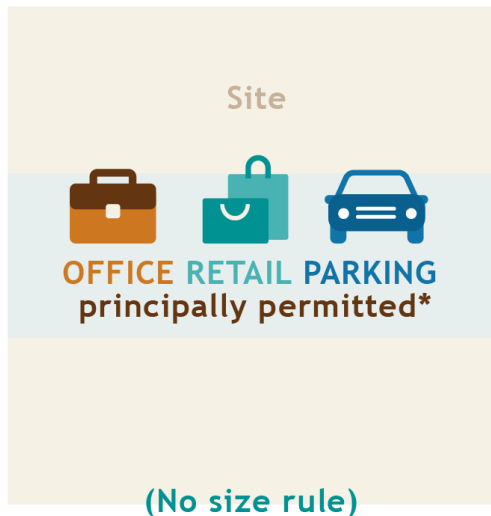
**Portion of
City Zoning
Map that
includes all
commercially
zoned land**

What are the site criteria?

AB 2011 Mixed Income Housing Site Criteria



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"

Many other requirements apply

What can be built?



- Affordable multi-family housing
- Mixed income multi-family housing
- Mixed use with multi-family housing

What can be built? (Comparison)



AB 2011 Mixed Income

Density, height and setbacks based on lot size, street width, adjacent uses, access to transit, population

No maximum density

At least 2/3 residential

AB 2011 Affordable

Project density must be at or above 30 dwelling units to the acre

No maximum density

At least 2/3 residential

SB 6

Project density must be at or above 30

No maximum density

At least 50% residential

AB 2011 Mixed-income Housing Projects

Density and Height

DENSITY SHALL MEET
OR EXCEED THE FOLLOWING:

	Site Site size less than 1 acre	Right of Way <100' Site Site size 1 acre or more	Right of Way >100' Site Site size 1 acre or more	w/in 1/2 mile of major transit stop Site 
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

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

Other Project Considerations



- Eligible for density bonus, incentives, concessions, waivers or parking ratios
- Must comply with SB 330 (Gov. Code § 663300) replacement housing requirements even if not in an affected city/county

What can cities regulate?



- Implementing ordinances
- Parcels to exempt (must make findings and reallocate density)
- Monitoring labor requirements
- Enforcing relocation assistance

Affordability



- AB 2011 projects have specified affordability requirements
- SB 6 projects only need to provide affordability as required by local standards (or by SB 35, if applicable)
- City may impose higher affordability standards

ABAG AB 2011 & SB 6 Resources



[Understanding AB 2011 SB 6](#)

[AB 2011 SB 6 Summary of Key Details](#)

[Webinar: Overview of AB 2011 SB 6](#)

[AB 2011 How-to Review Development Proposals](#)

[AB 2011 Affordable Project Application Checklist](#)

[AB 2011 Mixed Income Project Application Checklist](#)

[Guide to California State Replacement Housing Requirements](#)

What are the differences between the laws?



SB 6 is much less prescriptive than AB 2011

SB 6 has stricter labor standards than AB 2011

SB 6 has no specified approval process (unless invoking SB 35)

- No prescribed review timelines
- No ministerial process
- CEQA applies

Developers will likely use SB 6 if the project doesn't qualify for AB 2011

SB 6 Projects



- The project's proposed density must be at or above 30 dwelling units per acre
- City cannot apply a maximum density
- Must comply with other development standards from existing zoning for the site or closest parcel that allows 30 dwelling units per acre whichever is higher density
- Must comply with all other objective standards for the site
- Must be at least 50% residential

Applying Standards: SB 6 Project



32 Moon Ct

- Proposed density 40 DUA
- Site zoning allows 20 DUA



Objective Standards

- Closest parcel that allows 40 DUA is 123 Main St
- Apply zoning, parking, design and ordinances from 123 Main St
- Comply with all other standards from 32 Moon Ct



If no zone in city allows 40 DUA,
apply standards from zone with the
highest residential density

AB 2011 100% Affordable Projects



- The project's proposed density must be at or above 30 dwelling units per acre
- City cannot apply a maximum density
- Must be at least 2/3 residential
- Must comply with other development standards from existing zoning for the site or closest parcel that allows 30 dwelling units per acre or whichever is higher density

Applying Standards: 100% Affordable Project

52 Moon Ct

- Proposed density 40 DUA
- Site zoning allows 20 DUA



Objective Standards

- Closest parcel that allows 40 DUA is 123 Main St
- Apply zoning, parking, design and ordinances from 123 Main St



Other Objective Standards:

Applied from closest zone that allows project density or higher

AB 2011 Mixed Income Projects



- The density, height and setbacks are prescribed based on multiple factors (lot size, street width, adjacent uses, access to transit, population)
- City cannot apply a maximum density
- Proposed density must meet or exceed
 - 30-80 dwelling units per acre
 - Height limit is 35-65 feet
- No parking minimums other than for bicycle, EV or spaces available to persons with disabilities
- Setbacks are complicated
- Must be at least 2/3 residential

Applying Standards: AB 2011 Mixed Income Project



17 Moon Ct:

- Proposed density 50 DUA
- Current zoning (commercial) allows 20 DUA, 40 feet
- 75-foot-wide street



Law Defines Density, Height, Parking & Setbacks:

- Density: Proposal must have a minimum of 40
- Height Limit: 35 feet (current zoning allows 40 feet)



Other Zoning/Objective Standards:

- Closest parcel that allows 50 DUA is 123 Main St
- Apply other standards from 123 Main St
- If no zone allows 50 DUA, apply standards from zone with the highest residential density

What are the rules that apply for developers?



Developers must:

- Meet all site and project criteria (see handouts)
- Conduct environmental assessment
- Provide defined levels of affordability
- Adhere to legally prescribed or existing objective standards
- Provide notice and relocation assistance for qualified tenants
- Pay prevailing wage

What is staff preparing?



- Development project applications and review processes that meet legally required timelines (eligibility checklists available on City website)
- Define “project site”
- Clarify how “closest parcel” will be determined
- Develop review process for projects that may invoke SB 35

What do you do when you get an application?



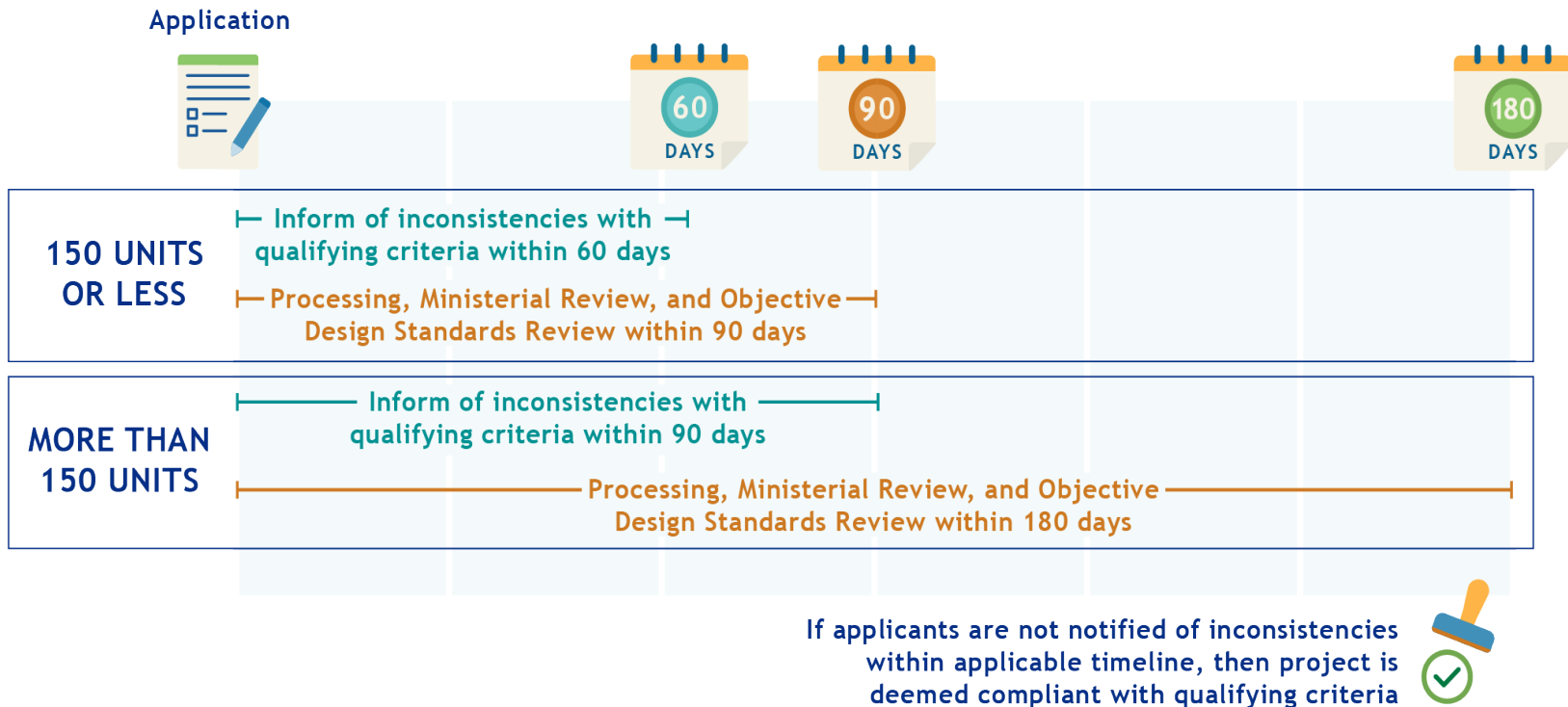
AB 2011

- Review and inform developer of inconsistencies with site and project criteria within 60 or 90 days
- Process and review for objective standards within 90 or 180 days
- Exempt from CEQA

SB 6

- If project invokes SB 35, adhere to that process

AB 2011 Ministerial Review Process



AB 2011 vs. SB 6



	AB 2011	SB 6
Location	+ Permits residential development in commercial zone	+ Permits residential development in commercial zone
Project Type	- Multifamily residential projects only	+ May be a mixed-use project so long as 50% residential
Affordable Housing	- Must provide some affordable housing	+ No requirement to provide affordable housing*
CEQA	+ Exempt from CEQA	- Not exempt from CEQA*
Labor Requirements	+ Prevailing wage required	- Prevailing wage and “skilled and trained workforce” required
Approval Process	+ Streamlined, ministerial process	- No streamlined, ministerial process*

*Unless applicant is eligible for and invokes SB 35

AB 2011 vs. SB 35



	AB 2011	SB 35
Location	+ Permits residential development in commercial zone	- Must be zoned or planned for residential or mixed-use development
Project Type	- Multifamily residential projects only	+ May be a mixed-use project so long as 2/3 residential
Affordable Housing	- Must provide some affordable housing	- Must provide at least 10, 20 or 50% affordable housing
CEQA	+ Exempt from CEQA	+ Exempt from CEQA
Labor Requirements	- Prevailing wage required	- Prevailing wage required
Approval Process	+ Streamlined, ministerial process	+ Streamlined, ministerial process
Other	+ No required tribal consultation	- Required tribal consultation process

SB 6 Expansion of SB 35



	SB 35	SB 6
Location	- Urbanized infill site - Residential or mixed-use zone - Must comply with Gov. Code Sec. 65914.3(a)(6)(A)-(K)	Site where office, retail or parking are principally permitted use
Project Type	100% residential; or - Mixed-used projects with at least 2/3rd residential	100% residential; or - Mixed-use project with at least 50% residential
Labor Requirements	Prevailing wage required	Prevailing wage and “skilled and trained workforce” required
Affordable Housing	Must provide at least 10, 20 or 50% affordable housing	Must provide at least 10, 20 or 50% affordable housing
Approval Process	Same as AB 2011 except tribal consultation required	Same as AB 2011 except tribal consultation required

Questions?





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.

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).)

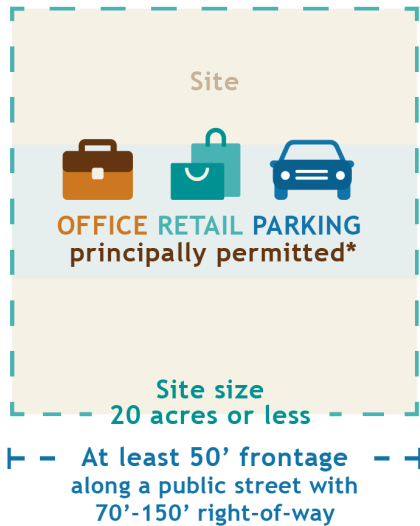
The charts on the following pages present a summary of key details.

Senate Bill 6 vs. Assembly Bill 2011 (2022)

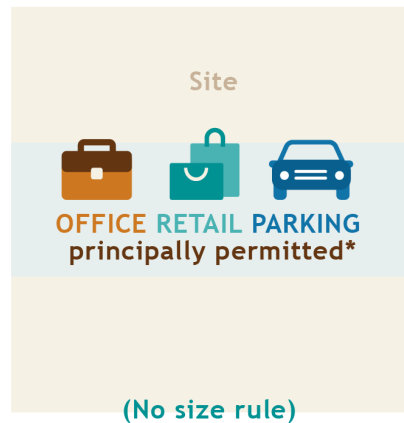
APPLICABLE ZONES

AB 2011 Mixed-income Housing Projects	AB 2011 100% Affordable Housing Projects	SB 6 Projects
- 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	Zone where office, retail, or parking are principally permitted use	Zone where office, retail, or parking are principally permitted useⁱⁱⁱ

AB 2011 Mixed Income Housing Site Criteria



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
- Creates new ministerial process for qualifying projects - 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 - 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: - 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)	- 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)

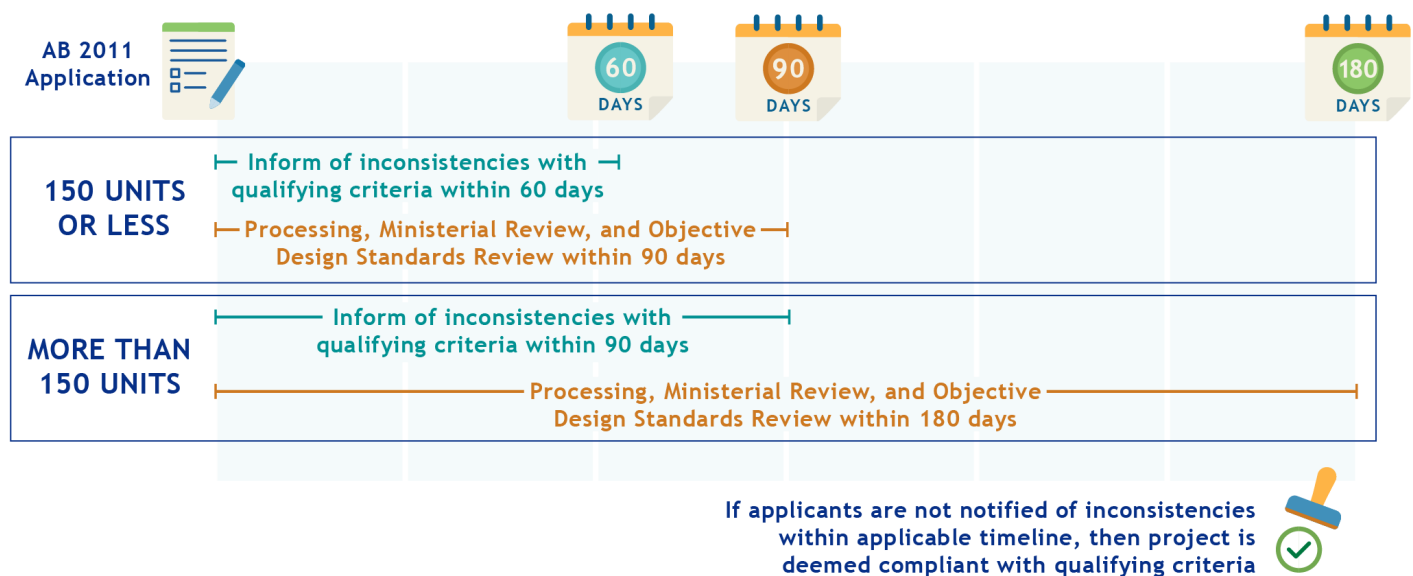


Figure 2: AB 2011 Project Review Process and Timelines

CEQA & COASTAL ACT APPLICABILITY

All AB 2011 Projects	SB 6 Projects
- Exempt from CEQA - May be used in Coastal Zone	- 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
• 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: ○ (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: ○ 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 ADDITIONAL CRITERIA FOR MIXED INCOME PROJECTS ONLY: • The site is 20 acres or less • The development would not require the demolition of: ○ 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	• Proposed housing development must be either: ○ 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
• FOR RENTAL PROJECTS: ○ 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: ○ 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: ○ 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	• 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: ○ 55 years for rental units ○ 45 years for owner-occupied units	• None, unless local inclusionary requirements applicable and/or invoking SB 35

LABOR REQUIREMENTS

All AB 2011 Projects	SB 6 Projects
• 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	• Prevailing wage required • "Skilled and trained workforce"^{xv} required ○ 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
- Local agency may exempt parcel if: - Exemption completed before development proponent submits application; AND - Local government makes written findings of all of the following: - Agency has identified one or more “substitute” parcels that meet certain specified AB 2011 criteria; - 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 - 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	- Local agency may exempt parcel if it makes written findings supported by substantial evidence of either: - 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: - 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 Site size less than 1 acre	Right of Way <100' Site Site size 1 acre or more	Right of Way >100' Site Site size 1 acre or more	w/in 1/2 mile of major transit stop Site
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.

		Right of Way <100'	Right of Way >100'	 pop > 100k & w/in 1/2 mi. of major transit stop
	Site	Site	Site	Site
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

AB 2011 100% Affordable Housing Projects Development Standards

- 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

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.



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). It is not intended to serve as legal advice regarding any jurisdiction's specific policies or any proposed housing development project. These are basic instructions meant to help staff review development project proposals. 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.

How to Review AB 2011 Development Project Proposals

Instructions

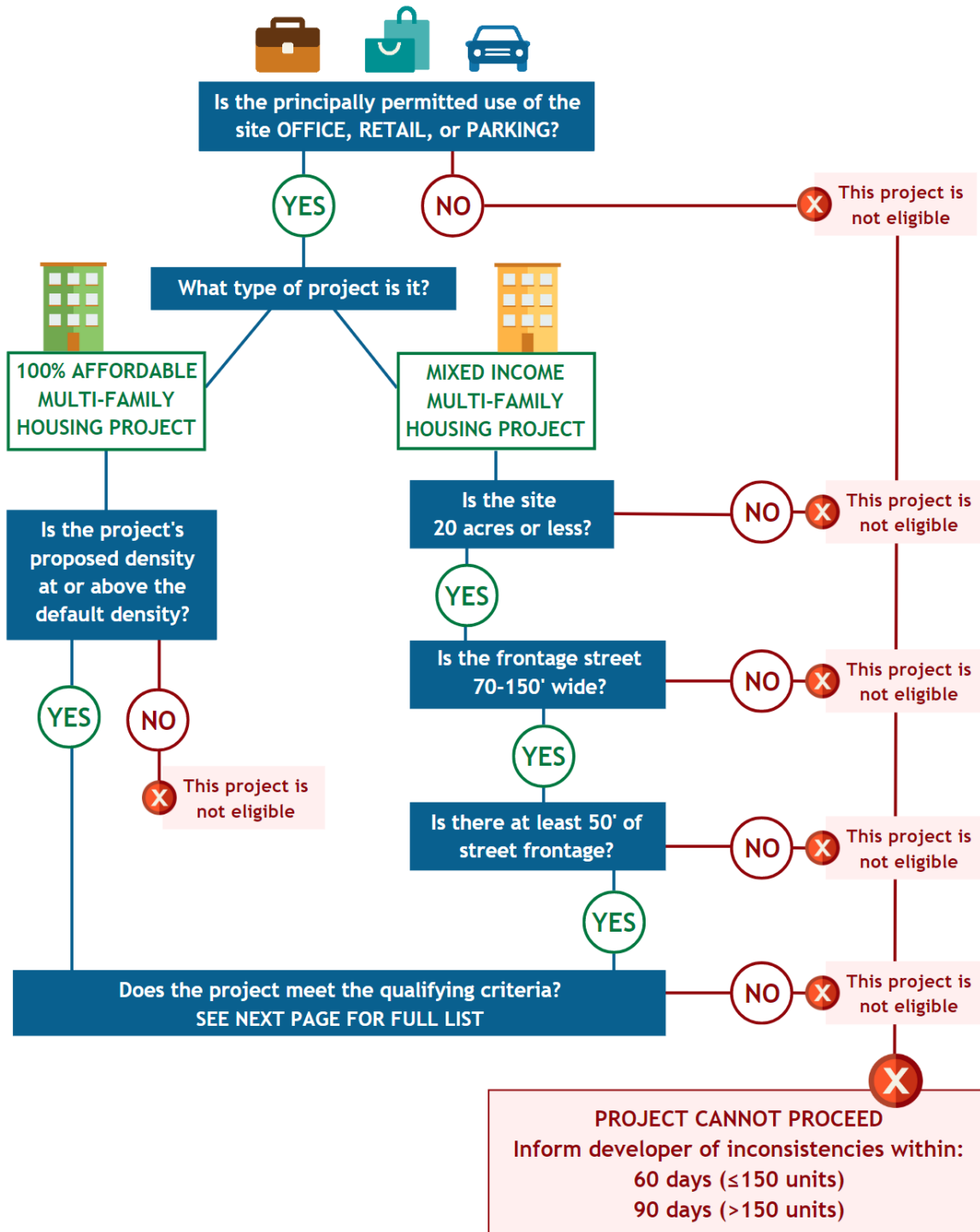
This guide is meant to assist staff with the review of AB 2011 development proposals. This law is complicated, and many of the components of the law have been simplified to lay out a straightforward review process. Additional review and confirmation of the criteria, zoning requirements and development standards will be necessary. Use the steps outlined below to create your own internal review process for AB 2011 development project proposals, and consult with your city attorney or county counsel to ensure your process aligns with the components of the law.

Step 1: Determine Project Eligibility

Use the "Project Eligibility" flow chart to determine if a development proposal is eligible as an affordable or mixed income project.

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PROJECT ELIGIBILITY



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Step 2: Check Qualifying Criteria

- Confirm project proposal meets criteria in Table 1 for all projects.
- Confirm projects proposal meets additional criteria in Table 2 if the proposal is for a mixed income project.
- Refer to the [AB 2011 SB 6 Summary of Key Details](#) and [AB 2011 Affordable Project Application Checklist](#) or [AB 2011 Mixed Income Project Application Checklist](#) to confirm project meets all required criteria.

Table 1: Criteria for AB 2011 Projects	Meets Criteria Y/N?
Within an “urban area” (as defined by the US Census Bureau)	
Within an “urban area” (as defined by the US Census Bureau)	
At least 75 percent of the site adjoins parcels with urban uses	
Not on or adjoined to a site where more than one-third dedicated to industrial uses	
Satisfies SB 35 environmental criteria found in Gov. Code Section 65913.4(a)(6)(B)-(K)	
For sites within a neighborhood plan area, there is an applicable neighborhood plan that permits multifamily housing development on the site (certain deadlines apply)	
For vacant sites, satisfies both of the following: - 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 - Not located in a very high fire severity zone	
Not 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 not located within 500 feet of a freeway	
Housing not located within 3,200 feet of an oil or natural gas extraction or refinery	
Has a completed Phase I environmental assessment and mitigations	

Table 2: Additional Criteria for AB 2011 Mixed Income Projects	Meets Criteria Y/N?
The site is 20 acres or less	

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Table 2: Additional Criteria for AB 2011 Mixed Income Projects	Meets Criteria Y/N?
Would not require the demolition of: - 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	
No prior residential use was demolished on the site in the last 10 years	
Not on a property that contains one to four dwelling units	
Cannot be zoned for housing, unless zoned for multifamily residential use	
Notice given to qualifying commercial tenants	

If the development project proposal does not meet all of these criteria, staff must inform the developer of inconsistencies with the criteria within 60 days of receiving the application for projects with 150 units or less, or within 90 days for projects with more than 150 units.

Step 3: Apply Development Standards

Pick the project type, either 100 percent affordable or mixed income:

- For 100 percent affordable projects, go to the Affordable Project Development Standards section to find and check development standards.
- For mixed income projects, go to Mixed Income Project Development Standards section to determine required density, height limit, parking and setbacks, and find and check other development standards.

To ensure that a project proposal meets the requirements of the law, check the [AB 2011 SB 6 Summary of Key Details](#), [AB 2011 Affordable Project Application Checklist](#) or [AB 2011 Mixed Income Project Application Checklist](#) and the law itself.

Affordable Project Development Standards

Use the information below to check that the development proposal meets the required development standards for mixed income projects.

Density

Project proposal must meet or exceed 20/30 DUA (default density under housing element law).

Other Standards

The project proposal must meet objective zoning, subdivision and design review standards for the zone that allows greater residential density between the following:

- The existing zoning designation for the parcel if it allows multifamily use; or



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B) The zoning designation for the closest parcel that allows residential use at 20/30 DUA (default density).

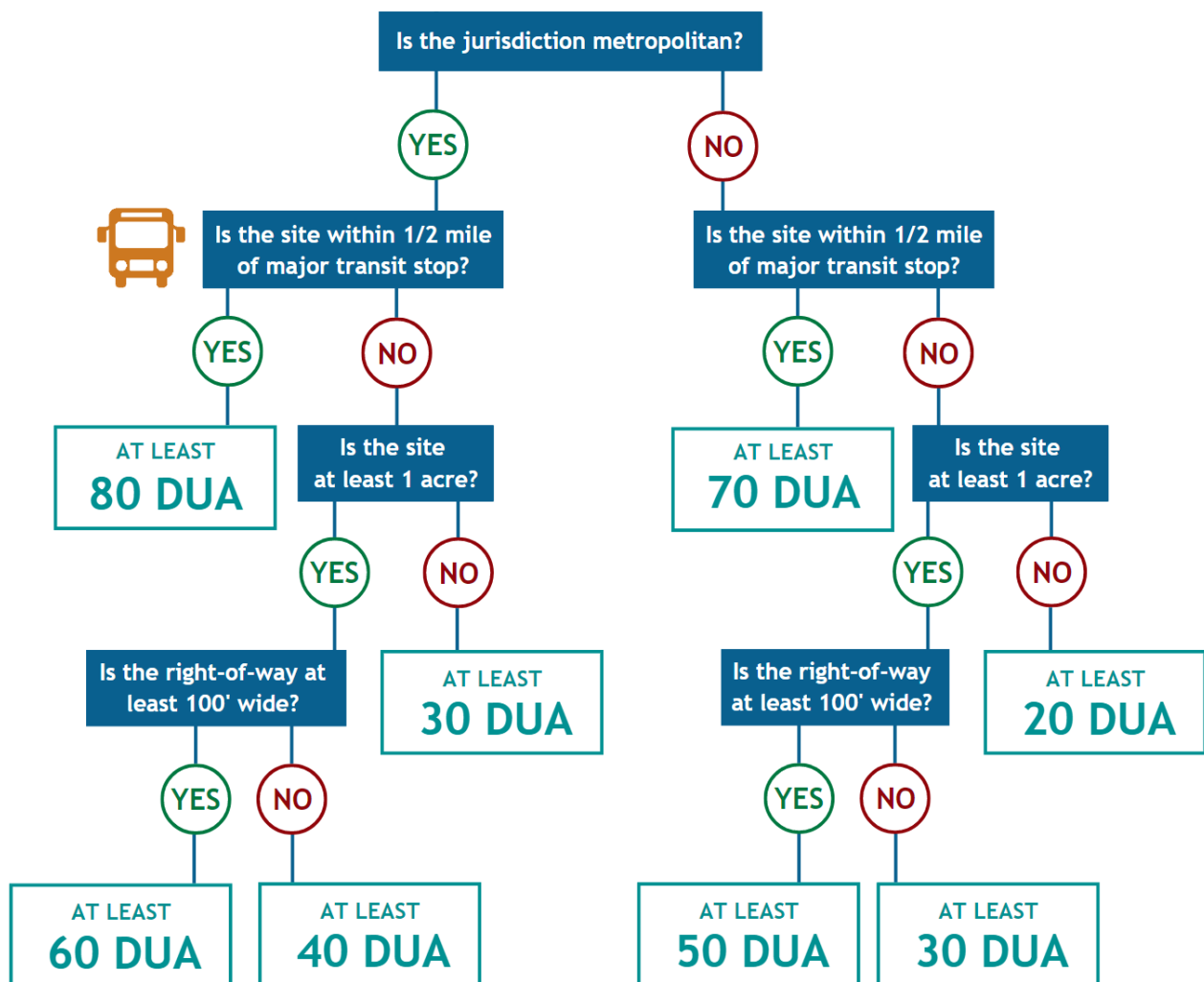
Mixed Income Project Development Standards

Use the charts and standards information below to check that the development proposal meets the required development standards for mixed income projects.

Density

Project proposal must meet the minimum density based on distance from transit, site size, and right-of-way width.

MIXED INCOME PROJECT REQUIRED DENSITY

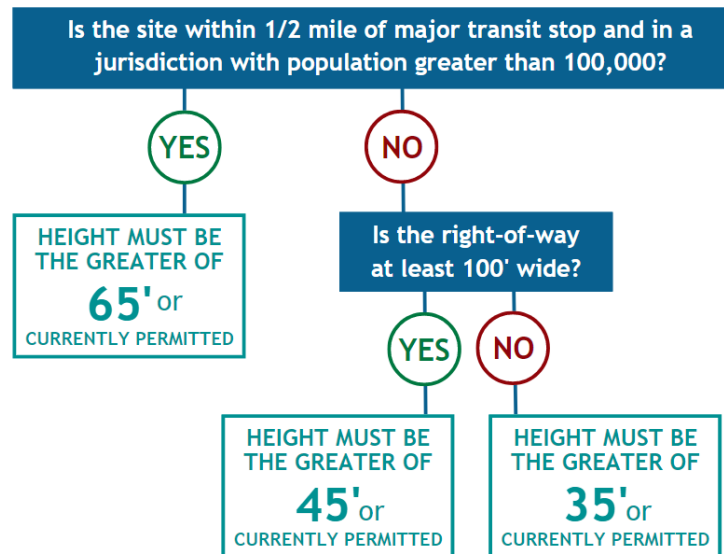


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Height Limit

Project proposal must allow height limits based on distance from transit, population and street right-of-way width if greater than the site's currently permitted height.

MIXED INCOME PROJECT HEIGHT LIMIT



Parking

City cannot require parking except for bicycle, electric vehicle, or parking accessible to persons with disabilities.

Setbacks

Project proposal must meet following setback standards:

Front Setbacks:

- City cannot require building to be set back from the front property line
- Parking must be set back at least 25 feet from the front property line
- Building ground floor must be within 10 feet of the property line for at least 80% of the site

Side Setbacks:

- Side street:
 - Building must be within 10 feet of the property line for at least 60% of the site
- Neighboring properties:
 - City cannot require setbacks adjacent to non-residential properties
 - Building must be set back at least 10 feet from adjacent residential properties



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Other Objective Zoning Standards, Subdivision and Design Review Standards

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.

Step 4: Check Other Resources

Check the [AB 2011 SB 6 Summary of Key Details](#), [AB 2011 Affordable Project Application Checklist](#) or [AB 2011 Mixed Income Project Application Checklist](#) or internal processing documents, and the law itself to confirm that the development project proposal adheres to the requirements of the law. Additional resources that can be used to develop your application and processing material include:

- [AB 2011 Staff Workplan](#)
- [AB 2011 SB 6 Model Ordinance](#)
- [Webinar: Overview of AB 2011 and SB 6](#)
- [Guide to California State Replacement Housing Requirements](#)