

AB 2011 Affordable Housing Developments in Commercial Zones Project Checklist

June 2023

Overview

This checklist is applicable to Affordable Housing Developments in Commercial Zones, as defined by California Government Code Section 65912.111, which establishes requirements for Affordable Housing Developments in Commercial Zones. Enabled by Assembly Bill (AB) 2011, the Affordable Housing and High Road Jobs Act of 2022, projects that meet the requirements of Section 65912.111 are eligible for the streamlined, ministerial review process provided by Section 65912.114.

A separate checklist is provided for Mixed-Income Housing Developments Along Commercial Corridors (Section 65912.121) that were also enabled by the passage of AB 2011, and for other project types that allow housing development in commercial zones through Senate Bill (SB) 6, the Middle Class Housing Act of 2022.

The checklist provides references to applicable sections of the California Government Code to assist in interpretation of specific requirements applicable to affordable housing developments in commercial zones. Note that projects eligible under Section 65912.111 may be eligible for density bonus, incentives or concessions, waivers or parking ratios pursuant to Density Bonus Law (Sections 65915 - 65918), pursuant to Section 65912.114 (f).

Purpose

The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject to CEQA requirements. This material is for general information only and should not be construed as legal advice or legal opinion.

Basic Site Information

This section of the checklist should be used to collect basic project information that may be relevant to the interpretation of specific requirements for an affordable housing development in a commercial zone.

1. *Date Submitted:*
2. *Site/property street address:*
3. *Assessor's Parcel Number (APN):*
4. *Owner/applicant Name:*
5. *Size of parcel:*
6. *Total Number of Affordable Units:*
7. *Total Square Footage of Residential:*
8. *Total Square Footage of Non-Residential:*
9. *Current zoning:*
10. *Current land use designation:*
11. *Adjacent parcel land use:*

Project Checklist - AB 2011 Affordable Housing Development in Commercial Zones

1	Gov. Code	1. Project Eligibility	Yes / No / Comment
A	65912.111 (a)	Development project is proposed to be located in a zone where office, retail, or parking are a principally permitted use. ¹	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.111 (b)	Development project is proposed to be located on a legal parcel or parcels that either: <ul style="list-style-type: none"> • Is in a city where the city boundaries include some portion of either an urban area;² or • Is in an unincorporated area, and the parcel(s) are 100% within the boundaries of an urban area.² 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
C	65912.111 (c)	At least 75% of the perimeter of the site must adjoin ³ parcels developed with urban uses ⁴ .	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
D	65912.111 (d)	Site is not on/adjoined to a parcel where more than 1/3 of the square footage on the site is dedicated to industrial use ⁵ .	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

¹ “Principally permitted use” means a use that may occupy more than one-third of the square footage of the site without conditional use permit. See Section 65912.101(n).

² Note: The terms “urbanized area” and “urban cluster” referenced in Section 65912.111(b) no longer exist. The US Census Bureau has replaced these with the term “urban area.”

³ For the purposes of Section 65912.111(c), parcels that are only separated by a street of highway shall be considered adjoined.

⁴ “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. See Section 65912.101(p).

⁵ “Industrial use” means utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses. “Industrial use” does not include power substations or utility conveyances such as power lines, broadband wires, and pipes. See Section 65912.101(f).

1	Gov. Code	1. Project Eligibility	Yes / No / Comment
E	65912.111 (e)	<p>Project satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4⁶ and is not located on land that may be subject to or includes any of the following:</p> <ul style="list-style-type: none"> • <i>Prime farmland or farmland of statewide importance</i> • <i>Wetlands</i> • <i>High or very high fire hazard severity zone</i> • <i>Hazardous waste site</i> • <i>Delineated earthquake fault zone</i> • <i>100-year Flood Zone</i> • <i>Regulatory Floodway</i> • <i>Lands identified in an adopted natural resources protection plan</i> • <i>Protected Habitat</i> • <i>Conservation easement</i> 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
F	65912.111 (f)	<p>Project is not an existing parcel of land or site governed by any of the following:</p> <ul style="list-style-type: none"> • Mobilehome Residency Law • Recreational Vehicle Occupancy Law • Mobilehome Parks Act • Special Occupancy Parks Act 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
G	65912.111 (g)	<p>For sites within a designated neighborhood plan area⁷, there is either:</p> <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. 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
H	65912.111 (h)	<p>If the site is vacant, the site must meet both of the following criteria:</p> <ul style="list-style-type: none"> • 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 21080.3.2; and • Is not located in a very high fire severity zone. 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>

⁶ Note that subparagraph (A) is omitted, which means that properties in the coastal zone are eligible under 65912.111.

⁷ "Neighborhood plan" means a specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3, or an area plan, precise plan, urban village plan, or master plan that has been adopted by a local government. See Section 65912.101(m).

2	Gov. Code	2. Affordable Housing Requirements	Yes / No / Comment
A	65912.112 (a)	Are 100% of the units (excluding managers units) dedicated to lower-income households at an affordable cost or affordable California Tax Credit Allocation Committee rent. ⁸	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.112 (b)	Recorded deed restriction: - 55 years for rental units - 45 years for owner-occupied units	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

3	Gov. Code	3. Project Criteria	Yes / No / Comment
A	65912.113 (a)	The development has five or more housing units for sale or for rent. ⁹	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.113 (b)	Does the project meet or exceed the applicable density deemed appropriate to accommodate lower-income households pursuant to housing element law? ¹⁰	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
C	65912.113 (c)	Development proponent has completed a Phase I Environmental Assessment and mitigated any health hazards to a level of insignificance.	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
D	65912.113 (d)	None of the housing on the site is located within 500 feet of a freeway, as defined in Vehicle Code Section 332. ¹¹	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
E	65912.113 (e)	None of the housing on the site is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

⁸ <https://www.treasurer.ca.gov/ctcac/2022/supplemental.asp>

⁹ “Multifamily” means a property with five or more housing units for sale or for rent. See 65912.101(l).

¹⁰ Default Density Standard Option – 2020 Census Update. California Department of Housing and Community Development. <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/defaultdensity2020censusupdate.pdf>

¹¹ “Freeway” is a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access. (Section 332 of the California Vehicle Code).

3	Gov. Code	3. Project Criteria	Yes / No / Comment
F	65912.113 (f-g)	Does the project meet objective zoning, subdivision and design review standards, for the zone that allows residential use at a greater density between the following: <ul style="list-style-type: none"> - The existing zoning designation for the parcel if it allows multifamily residential use - The zoning designation for the closest parcel that allows residential use at a density that is appropriate to accommodate the lower-income households (pursuant to housing element law) 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
G	65912.113 (g)(1)	Does the project comply with maximum density allowed with the land use designation and regardless of any specified maximum unit allocation that may result in fewer units of housing being permitted?	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

4	Gov. Code	4. Approval Process ¹²	Yes / No / Comment
A	65912.114	Does the project have 150 units or less ? If so, then: <ul style="list-style-type: none"> • Applicant must be informed of any inconsistencies within 60 days of submission. [65912.114 (a)(2)(A)]; and • Project must be processed in 90 days. Jurisdiction may perform design review, but limited to objective standards only. [65912.114 (e)(1)]. 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.114	Does the project have 150 units or more ? If so, then: <ul style="list-style-type: none"> • Applicant must be informed of any inconsistencies within 90 days of submission. [65912.114 (a)(2)(B)]; and • Project must be processed in 180 days. Jurisdiction may perform design review, but limited to objective standards only. [65912.114 (e)(2)]. 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

5	Gov. Code	5. Labor Requirements	Yes / No / Comment
A	65912.130 (b)	Has the project proponent committed to the prevailing wage requirements and labor standards of Article 4?	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

¹² Jurisdiction may adopt an implementing ordinance (CEQA-exempt). If jurisdiction doesn't identify inconsistencies in prescribed timelines, development is deemed to be in compliance.

5	Gov. Code	5. Labor Requirements	Yes / No / Comment
B	65912.131	<p>Does the project include more than 50 units? If so, then: All contractors that employ construction craft employees or let subcontracts for at least 1,000 hours [65912.131(a)] must:</p> <ul style="list-style-type: none"> • Require in contracts and certify to the local government that the labor requirements will be met: [65912.131 (a)]; • Participate in an apprenticeship program [65912.131 (b)]; • Make specified health care contributions. [65912.131 (c)]; and • Developer must provide local agency with monthly compliance reports. [65912.131 (d)]. 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>