

AB 2011 Mixed-Income Housing Developments Along Commercial Corridors Project Checklist

June 2023

Overview

This checklist is applicable to Mixed-Income Housing Developments Along Commercial Corridors, as defined by California Government Code Section 65912.121 which establishes requirements applicable to Mixed-Income Housing Developments Along Commercial Corridors. Enabled by Assembly Bill (AB) 2011, the Affordable Housing and High Road Jobs Act of 2022, projects that meet the requirements of Section 65912.121 are eligible for the streamlined, ministerial review process provided by Section 65912.124.

A separate checklist is provided for Affordable Housing Developments in Commercial Zones (Section 65912.111) 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 65912.121 may be eligible for density bonus, incentives or concessions, waivers or parking ratios pursuant to Density Bonus Law (Sections 65915 - 65918), pursuant to Section 65912.124(f).¹

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.

¹ Per Section 65912.124, concessions may not be used to reduce a local government requirement, if applicable, that up to one-half of the ground floor of the housing development project be dedicated to retail use as specified in Section 65912.123(j)(3).

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:*

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I	Gov. Code	1. Project Eligibility	Yes / No / Comment
A	65912.121 (a)	Development project is proposed to be located in a zone where office, retail, or parking are a principally permitted use. ²	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.121 (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;³ 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	65912.121 (c)	Project site abuts a commercial corridor ⁴ , and has a minimum of 50 feet frontage along the commercial corridor.	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
D	65912.121 (d)	Site is 20 acres or less.	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
E	65912.121 (e)	At least 75% of the perimeter of the site must adjoin ⁵ parcels developed with urban uses ⁶ . Parcels that are only separated by a street or highway shall be considered adjoined.	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
F	65912.121 (f)	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 ⁷ .	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

² A "principally permitted use" is a use that may occupy more than one-third of the square footage of the site without conditional use permit.

³ 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."

⁴ "Commercial corridor" means a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 70 and not greater than 150 feet.

⁵ Parcels that are only separated by a street or highway shall be considered to be adjoined.

⁶ "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)

⁷ "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).

I	Gov. Code	1. Project Eligibility	Yes / No / Comment
G	65912.121 (g)	<p>It satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.48 and is not located on land that may be subject to or includes any of the following:</p> <ul style="list-style-type: none"> • Prime farmland or farmland of statewide importance • Wetlands • High or very high fire hazard severity zone • Hazardous waste site • Delineated earthquake fault zone • 100-year Flood Zone • Regulatory Floodway • Lands identified in an adopted natural resources protection plan • Protected Habitat • Conservation easement 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
H	65912.121 (h)(1), 65912.121 (h)(2), & 65912.121 (h)(3)	<p>The proposed development does not require demolition of any of the following:</p> <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 that is subject to rent price control • Housing occupied by tenants in the last 10 years, excluding manager's units • Any historic structure • A prior residential use that has been on the stie for the last 10 years 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
I	65912.121 (h)(4)	<p>The project is not on a property that contains one to four dwelling units.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
J	65912.121 (h)(5)	<p>The project is not on a property that is vacant and zoned for housing but not for multifamily residential use.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
K	65912.121 (h)(6)	<p>Is not on 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>
L	65912.121 (i)	<p>For sites within a designated neighborhood plan area, there is either:</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

⁸ Note that subparagraph (A) of 65913.48 is omitted from this reference, which means that properties in the coastal zone are eligible under 65912.121.

1	Gov. Code	1. Project Eligibility	Yes / No / Comment
		<ul style="list-style-type: none"> (Effective January 1, 2022) An applicable neighborhood plan that permits multifamily housing development on the site; OR (Effective 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. 	Comment: Click or tap here to enter text.
M	65912.121 (j)	If the site is vacant, the site must meet both of the following criteria: <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. 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

2	Gov. Code	2. Affordable Housing Requirements	Yes / No / Comment
A	65912.122 (a)	<p><u>Rental Projects</u> Does the project propose to provide one of the following:</p> <ul style="list-style-type: none"> 8% very-low income and 5% extremely low income; or 15% lower income <p>Must have a recorded deed restriction of 55 years.</p>	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.122 (b)	<p><u>Owner-Occupied Projects</u> Does the project propose to provide one of the following:</p> <ul style="list-style-type: none"> 30% moderate income; or 15% lower income <p>Must have a recorded deed restriction of 45 years.</p>	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

2	Gov. Code	2. Affordable Housing Requirements	Yes / No / Comment
C	65912.122 (c)	<p>If the project is subject to a local affordable housing requirement, the project shall:</p> <ul style="list-style-type: none"> • Include the percentage of affordable units required by this section or the local requirement, whichever is higher. • Meet the lowest income targeting in either policy • If the local requirement is greater than 15 percent of the units to be dedicated for lower income units affordable to very low and extremely low income households, than it must include: <ul style="list-style-type: none"> ○ 8 percent of units for very low income households and 5 percent of the units for extremely low income households; ○ 15 percent of units affordable to lower income households shall be subtracted from the percentage of units required by the local policy at the highest required affordability level. 	
D	65912.122 (d)	Affordable units must be equally distributed and have the same bedroom/bathroom count ratios & same quality finishes as market rate units. ⁹	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	65912.123 (a)	The development includes five or more housing units for sale or for rent. ¹⁰	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.123 (f)	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.
C	65912.123 (g)	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.

⁹ This is typically demonstrated on a tentative map or site plan that shows where the affordable units will be located and materials to be used, and may include a recorded regulatory agreement or restrictive covenant.

¹⁰ “Multifamily” means a property with five or more housing units for sale or for rent. See 65912.101(l).

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.

3	Gov. Code	3. Project Criteria	Yes / No / Comment
D	65912.123 (h)	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.
E	65912.123 (i)	Development proponent shall provide to each commercial tenant on the parcel: <ul style="list-style-type: none"> • Notice of pending application; • Provide relocation assistance, as specified. 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

4	Gov. Code	4. Minimum Density Standards	Yes / No / Comment
A	65912.123 (b)(1)	For Metropolitan Jurisdictions¹²: Residential density for the development shall meet or exceed the greater of the following: <ul style="list-style-type: none"> • Residential density allowed on the parcel by the local government • 30 du/ac for sites less than one acre. • 40 du/ac for sites greater than one acre and located on a commercial corridor less than 100 ft in width. • 60 du/ac for sites greater than one acre and located on a commercial corridor greater than 100 ft in width. • 80 du/ac for sites within ½ mile of a major transit stop 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.123 (b)(2)	For Non-Metropolitan Jurisdictions¹³: Residential density for the development shall meet or exceed the greater of the following: <ul style="list-style-type: none"> • Residential density allowed on the parcel by the local government. • 20 du/ac for sites less than one acre. • 30 du/ac for sites greater than one acre and located on a commercial corridor less than 100 ft in width. • 50 du/ac for sites greater than one acre and located on a commercial corridor greater than 100 ft in width. • 70 du/ac for sites within ½ mile of a major transit stop 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

¹² 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>

¹³ *Ibid.*

5	Gov. Code	5. Height Standards	Yes / No / Comment
A	65912.123 (c)	The height limit applicable to the housing development shall be the greater of the following:	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.123 (c)(1)	The height allowed on the parcel by the local government.	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
C	65912.123 (c)(2)	Is the site located on a commercial corridor of less than 100 ft in width? • Height limit of 35 ft	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
D	65912.123 (c)(3)	Is the site located on a commercial corridor greater than 100 ft in width? • Height limit of 45 ft	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
E	65912.123 (c)(4)	<u>For jurisdictions with a population greater than 100,000:</u> Is the site located within ½ mile of a major transit stop, and located outside the coastal zone ¹⁴ ? • Height limit of 65 ft	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

6	Gov. Code	6. Setback Standards	Yes / No / Comment
A	65912.123 (d)(1)	For the portion of the property that fronts a commercial corridor, the following setbacks apply: • No building setbacks shall be required. • All parking must be set back at least 25 feet. • On the ground floor, a building or buildings must abut within 10 feet of the property line, for at least 80% of the building frontage.	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.123 (d)(2)	For the portion of the property that fronts a side street, the following setbacks apply: • A building or buildings must abut within 10 feet of the property line, for a minimum of 60% of building frontage.	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

¹⁴ Site must not be located within a coastal zone, as defined in Division 20 of the Public Resources Code.

6	Gov. Code	6. Setback Standards	Yes / No / Comment
C	65912.123 (d)(3)	<p>For the portion of the property abutting an adjoining property along the same commercial corridor: the following setbacks apply:</p> <ul style="list-style-type: none"> No setback shall be required from the portion of the property that abuts an adjoining property, <u>unless</u> adjoining property contains residential uses that was constructed prior to enactment of AB 2011. 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
D	65912.123 (d)(4)(A)	<p>For the portion of the property line that does not abut a commercial corridor, a side street, or an adjoining property that also abuts the same commercial corridor as the property, the following setbacks apply along property lines that contain a residential use:</p> <ul style="list-style-type: none"> Ground floor of development project shall be set back 10 ft. May be decreased by local government. Starting with the second floor, each floor shall be stepped back in the amount equal to 7 ft. multiplied by the floor number. 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>
E	65912.123 (d)(4)(B)	<p>For the portion of the property line that does not abut a commercial corridor, a side street, or an adjoining property that also abuts the same commercial corridor as the property, the following setbacks apply along property lines that do not contain residential use:</p> <ul style="list-style-type: none"> Setback of 15 ft required 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>

7	Gov. Code	7. Parking Standards	Yes / No / Comment
A	65912.123 (e)	<p>No parking may be required except requirements related to:</p> <ul style="list-style-type: none"> Bicycle parking; Electric vehicle parking spaces; or Parking spaces accessible to persons with disabilities. 	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Comment: Click or tap here to enter text.</p>

8	Gov. Code	8. Approval Process ¹⁵	Yes / No / Comment
A	65912.124	Does your project have 150 units or less ? <ul style="list-style-type: none"> Applicant must be informed of any inconsistencies within 60 days of submission. [See 65912.124(a)(2)(A)] Project must be processed in 90 days. Jurisdiction may perform design review, but limited to objective standards only. [See 65912.124(e)(1)] 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.
B	65912.124	Does your project have 150 units or more ? <ul style="list-style-type: none"> Applicant must be informed of any inconsistencies within 90 days of submission. [See 65912.124(a)(2)(B)] Project must be processed in 180 days. Jurisdiction may perform design review, but limited to objective standards only. [See 65912.124(e)(2)] 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

9	Gov. Code	9. 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.
B	65912.131	<p>Does the project include more than 50 units? If so, then:</p> <p>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)]. 	Yes <input type="checkbox"/> No <input type="checkbox"/> Comment: Click or tap here to enter text.

¹⁵ Jurisdiction may adopt an implementing ordinance (CEQA-exempt). If jurisdiction doesn't identify inconsistencies in prescribed timelines, development is deemed to be in compliance.