

CITY OF HAYWARD PLANNING DIVISION

Frequently Asked Questions on AB 2011 and SB 6

BACKGROUND

On September 28, 2022, Assembly Bill (AB) 2011 and Senate Bill (SB) 6 were signed into law by Governor Gavin Newsom to permit residential development on sites currently zoned and designated for commercial and retail uses. On July 1, 2023, both AB 2011 and SB 6 went into effect.

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.

The legislation provides that projects meeting SB 6 criteria may invoke Senate Bill 35 (SB 35) and the Housing Accountability Act (Government Code section 65589.5) for a more streamlined process. 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, unless required by a local affordable housing ordinance. SB 6 projects are required to pay prevailing wages and utilize a "skilled and trained workforce".¹

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¹ As defined in Chapter 2.9, Section 2601 of the Public Contract Code:

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PCC§ionNum=2601.

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GENERAL QUESTIONS

What is the purpose of these two pieces of legislation?

Many cities in California have limited housing options. Neighborhoods are commonly zoned for single unit homes, the most expensive housing type to own or rent. This legislation was passed to provide more housing supply by requiring jurisdictions to permit multi-family or mixed-use development on lots currently zoned for commercial or retail uses and to ministerially process additional units for all AB 2011 projects and eligible SB 6 projects.

Does State law require the City of Hayward to comply with AB 2011 and SB 6?

Yes, both AB 2011 and SB 6 impose State-mandated sets of regulations which apply to all cities. Given the housing crisis in the State of California, this law overrides the local city codes related to land use and density.

Both pieces of legislation went into effect on July 1, 2023 and remain in effect until January 1, 2033.²

Where can I find the AB 2011 and SB6 legislation?

The Assembly Bill 2011 legislation can be found here:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2011

The Senate Bill 6 legislation can be found here:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB6

² Section 65852.24 (m)(1) and (2) and section 65912.105 of the Government Code.

Where are AB 2011 and SB 6 projects allowed?

AB 2011	SB 6
<p>Both AB 2011 and SB 6 projects are allowed in zones where office, retail, or parking are allowed as a principally permitted use (without a Use Permit), but the rules are different. There is one set of standards in SB 6 and there are two sets of standards in AB 2011, for mixed Income Housing and 100 percent affordable projects.</p>	
<p>AB 2011 projects are allowed in zones that allow office, retail, or parking as a principally permitted use. Mixed income housing projects are only allowed on sites of 20 acres or less with at least 50 feet of frontage on public street with a right-of-way between 70 and 100 feet. There is no site size limit or street criteria that must be met for 100 percent affordable housing projects.</p>	<p>SB 6 projects are allowed on sites of 20 acres or less in zones that allow office, retail, or parking as a principally permitted use.</p>

For further eligibility criteria, please take a look at the eligibility checklist, which can be found at <https://www.hayward-ca.gov/services/permits/ab-2011-and-sb-6>. You may also visit the City’s maps website at <https://www.hayward-ca.gov/discover/maps> or contact a City Planner at (510) 583- 4216 or planning.division@hayward-ca.gov.

How can I find what density is allowed on my property currently?

For properties located in the MB-CC, MB-CN, and MB-NN zoning districts refer to the density range specified for that specific [Mission Boulevard zoning district](#).

For all other zoning districts, refer to the density range allowed in the underlying Land Use designation in the [City of Hayward’s 2040 General Plan](#).

Do AB 2011 and SB 6 projects require a public hearing for approval?

AB 2011	SB 6
<p>No, AB 2011 eligible projects are reviewed through an administrative process not involving public hearings. Specifically, projects with 150 units or less will be processed in 90 days. Projects with more than 150 units will be processed in 180 days.</p>	<p>Potentially. SB 6 projects may qualify for Senate Bill 35 (SB 35) ministerial approval if applicable criteria are met. SB 6 projects that meet the criteria of the Housing Accountability Act will be subject to the streamlined review process contained in the Act, which typically includes a public hearing.. For more information, see the City’s SB 35 webpage and the State of California Housing and Development Department (HCD)’s Housing Accountability Act Technical Assistance Advisory.</p>

Are AB 2011 and SB 6 projects exempt from CEQA requirements?

AB 2011	SB 6
Yes, all AB 2011-eligible projects are exempt from CEQA.	No, SB 6 projects are not exempt from CEQA (unless they invoke SB 35).

Are AB 2011 and SB 6 required to provide affordable housing?

AB 2011	SB 6
Yes, all AB 2011-eligible projects must be either 100 percent affordable, or mixed-income.	No, SB 6 projects do not need to provide any affordable housing unless required by the City’s Affordable Housing Ordinance through the provision of on-site units.

What constitutes a moderate income, low income, very low income, and extremely low-income household?

- Extremely low income: Up to 30% of Area Median Income (AMI)
- Very low income: 30% to 50% of AMI
- Low income: 50% to 80% of AMI
- Moderate income: 80% to 120% of AMI

For more information, visit the California Department of Housing and Community Development: <https://www.hcd.ca.gov/grants-and-funding/income-limits> or contact the City of Hayward Housing Division at housing@hayward-ca.gov or 510-583-4454 or 510-583-5547 (Español).

Are AB 2011 and SB 6 projects eligible for the City’s Density Bonus Ordinance?

AB 2011	SB 6
Yes, all AB 2011 projects may be eligible for City’s Density Bonus Ordinance.	Yes, if the SB 6 project includes affordable on-site units.

What are the parking requirements for AB 2011 and SB 6 projects?

AB 2011	SB 6
For AB 2011 Mixed-income Housing Projects there are no parking requirements except those related to bicycle parking, electric vehicle parking spaces* or parking spaces accessible to persons with disabilities.	All SB 6 projects* must comply with all regulations included in the Hayward Municipal Code (HMC) Off-Street Parking Regulations .

All AB 2011 projects may be eligible for density bonus, incentives, or concessions, waivers, or parking ratios pursuant to density bonus law. See the City's Density Bonus User Guide here .	
* Per Assembly Bill (AB) 2097, effective since January of 2022, development projects located within ½ mile of a major transit stop are not required to provide automobile parking spaces. A major transit stop means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods". ³	

Is neighborhood notification required for AB 2011 or SB 6?

AB 2011	SB 6
No, as it is a ministerial process.	Yes, the City will send notices to property owners and tenants within a 300-foot radius from the project site when an SB 6 application is received, prior to a public hearing, and when a decision is made.

For AB 2011 and SB6 projects, what are the noticing and relocation assistance requirements for commercial tenants?

For both AB 2011 and SB 6 projects, the applicant shall provide written notice of the pending application to each commercial tenant on the project site when the application is submitted. Furthermore, the applicant shall provide relocation assistance upon lease expiration of eligible commercial tenant(s) as specified below:

Years of Operation	Relocation Assistance Equal to
1-5	6 Months' Rent
5-10	9 Months' Rent
10-15	12 Months' Rent
15-20	15 Months' Rent
20+	18 Months' Rent

There are specific criteria for eligibility for relocation assistance outlined in Gov. Code Section 65852.25 (c)(4) and 65912.123 (i)(4).

For AB 2011 and SB6 projects, what are the prevailing wage and labor requirements?

³ https://california.public.law/codes/ca_pub_res_code_section_21064.3

The project shall include or comply with the following labor requirements.

- All construction workers employed for the project's construction shall be paid prevailing wages.
- Contractors shall employ construction craft employees or let subcontractors participate in an apprenticeship program and make specified health care contributions (Only for AB 2011 Projects with 50+ Units)
- A "skilled and trained workforce" shall be used for the project's construction expect where after the bidding process, fewer than two prequalified contractors committed to using a "skilled and trained workforce" bid on the contract (Only for SB 6 Projects).
- All applicable labor requirements shall be included in all construction contracts.
- Monthly compliance reports for all applicable labor requirements shall be submitted to the City.

For more information regarding the prevailing wage and labor requirements, please see [Gov. Code Sections 65852.24 \(b\)\(8\) to \(b\)\(9\)](#) and [65912.130](#).

ONLY APPLICABLE TO ALL AB 2011 PROJECTS

Are there any requirements for projects on vacant sites?

A vacant site must not contain any tribal cultural 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](#).

ONLY APPLICABLE TO AB 2011 MIXED-INCOME PROJECTS

Can I demolish housing in correlation with my project?

An AB 2011 mixed-income project shall not include the demolition or alteration of housing if the property contains:

- 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; or
- A historic structure listed on a national, state, or local register. For more information see Table 1-2 in the Hayward 2040 General Plan Background Report here: https://www.hayward-ca.gov/sites/default/files/General_Plan_Update_Background_Report_1-31-14.pdf.

PERMITTING PROCESS

Where should I start?

If interested in AB 2011, SB6 or both contact the Planning Division at (510) 583-4216 or planning.division@hayward-ca.gov to determine whether a property is eligible for this development.

Are permits required for an AB 2011 and SB 6 project?

Yes, there is a permitting process AB 2011 and SB 6 eligible projects. Contact the Planning Division at (510) 583-4216 or planning.division@hayward-ca.gov to get started.

ASK US MORE QUESTIONS!

Have more questions on Planning and Zoning?

No problem! Visit our website first then feel free to contact the Planning Division at (510) 583-4216 or planning.division@hayward-ca.gov during normal City Hall hours.

Additional Resources:

- Building Division: Questions on the building permit process, including plan check fees, site inspections, timeframes, submittal requirements and address assignments? Please contact the Building Division at (510) 583-4005 or visit <https://www.hayward-ca.gov/services/permit-center>. In addition, please review the link below for all permit fees within the City's Master Fee Schedule including, but not limited to, applicable plan check, inspection, administration, impact fees, and building construction taxes:
 - **Permit Fees**: www.hayward-ca.gov/content/permit-fees
- Fire Department: Questions on fire sprinkler or fire code requirements? Contact the City's Fire Prevention Office at (510) 583-4900.
- Utilities (Water and Sewer): Questions on water meter connections and new sewer connection fees? For more information, visit the City's website at www.hayward-ca.gov/water-service or contact the City's Development Review Specialist Michelle Tran at (510) 583-4722 or michelle.tran@hayward-ca.gov.
 - **Important Note**: Most of Hayward is served by the City's water and sewer services, but some portions of Hayward are served by the East Bay Municipal Utilities District (EBMUD) for water and Oro Loma Sanitary District. If you are in EBMUD's or Oro Loma's service area, please contact them for questions on water and sewer services. The City of Hayward does not have jurisdiction over gas and electricity, please contact your local PG&E office for questions on development and utility connections.
- Encroachment Permits: Will your project involve work within the public right-of-way such as the sidewalk, curb/gutter, driveway apron? Contact Assistant Civil Engineer Claudia Moran-Garcia at (510) 583-4212 or claudia.moran-garcia@hayward-ca.gov.