



ASSEMBLY BILL 2011 AFFORDABLE HOUSING DEVELOPMENTS IN COMMERCIAL ZONES CALIFORNIA GOVERNMENT CODE §65912.110 TO §65912.114

INTRODUCTION

California Assembly Bill 2011 (AB 2011) was signed into law by Governor Gavin Newsom on September 28, 2022, and became operative on July 1, 2023. AB 2011 was authored by Assemblymember Buffy Wicks (D – Berkeley) and co-authored by Senator Mark Weiner (D – San Francisco). Former Assemblymember Marc Levine (D – San Rafael) and current Senator Mike McGuire (D – Healdsburg), both representing Novato, voted in favor of AB 2011.

AB 2011 establishes multi-family housing as a “by right” use in commercial zoning districts and expedites the permitting process for housing projects pursuant to prescribed statutory deadlines. AB 2011 applies to cities and counties in California designated as an “urbanized area” by the United States Census Bureau. Novato is an urbanized area.

AB 2011 authorizes a developer to apply for entitlements to develop multi-family housing in commercial zoning districts based on specific eligibility criteria and subject to only a streamlined, ministerial¹ approval process and compliance objective development standards amongst other statutory requirements. A city must approve a project meeting the eligibility requirements of AB 2011. Otherwise, the city is subject to litigation and significant monetary penalties.

ELIGIBILITY

The following is a summary of key eligibility criteria for affordable housing developments proposed under AB 2011. A complete listing of criteria is provided in California Government Code Sections 65912.111 to 65912.114.

Zoning: The property is in a zoning district where office, retail, and/or parking is allowed as a principally permitted land use. AB 2011 defines principally permitted to mean “a use that

¹“Ministerial processing” or “ministerial approval” means a process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” in effect at the time that the application is submitted to the local government but uses no special discretion or judgment in reaching a decision.

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may occupy more than one-third of the square footage of designated use on the site and does not require a conditional use permit.” The following zoning districts in Novato allow office, retail, and/or parking as principally permitted land uses: Mixed Use (MU), Neighborhood Commercial (CN), General Commercial (CG), Downtown Core Business (CDB), Downtown Core Retail (CDR), Commercial/Industrial (CI), Business and Professional Office (BPO), and Light Industrial Office (LIO).

Urban Uses: At least 75 percent of the perimeter of the subject property adjoins parcels that are developed with urban uses.

Industrial Uses: The project is located on a legal parcel where less than 1/3 of any existing building square footage on the site is dedicated to industrial uses and is not adjacent to a lot where more than 1/3 of the square footage on the site is dedicated to industrial uses. AB 2011 defines industrial use to mean, “utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses.”

Site Conditions: The subject property does not contain prime farmland or wetlands nor is it classified as a high fire hazard severity zone, hazardous waste site, a delineated earthquake fault zone, a flood plain or floodway, a community conservation plan area, habitat for protected species, or is subject to a conservation easement.

Cultural Resources: For vacant property, the subject property does not contain tribal cultural resources.

Multi-Family Housing: The project must be a multi-family development.

Housing Affordability: One hundred percent of the dwellings in the project, excluding manager’s units, must be dedicated to lower income housing for a minimum period of 55-years.

Density: A project’s density must meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households as specified in State law. Novato is subject to a minimum density level of 20 dwelling units per acre.

Hazardous Materials: The developer must complete an environmental assessment of the project site to determine the potential presence of hazardous substances. If a hazardous substance is found to exist, then the developer must address the contamination in compliance with state and federal requirements.

Highways & Refineries: Housing cannot be located within 500-feet of a freeway and must be beyond 3,200-feet from a facility for refining natural gas and oil.

Objective Development Standards: The project must comply with a city’s objective development standards applicable at the time the AB 2011 application is filed. However, State density bonus law can be applied to obtain relief from objective development standards.

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ENVIRONMENTAL REVIEW

AB 2011 exempts qualifying projects from environmental review under the California Environmental Quality Act (CEQA).

TIME FRAMES

AB 2011 includes specific deadlines for assessing a project's consistency with objective standards and completion of any public oversight procedure:

Project Size	Objective Standards Compliance	Agency Decision
150 units or fewer	60-days from submittal	90-days from submittal
More than 150 units	90-days from submittal	180-days from submittal

If a city fails to timely provide the documentation identifying conflicts with any objective standard, the project is by default deemed to satisfy all objective standards. Thereafter, the city must approve the project assuming all other criteria of AB 2011 has been satisfied.

STATE DENSITY BONUS LAW

AB 2011 eligible projects can utilize the procedures and benefits offered under state and local density bonus laws to the extent that a project is qualified for such treatment. State density bonus law is codified in California Government Code Section 65915. Such benefits include the potential to construct additional housing units above a city's otherwise applicable density limits and the ability to obtain relief from objective standards under specified circumstances.