

Implementation of AB 2011 in the Bay Area:  
Opportunities for the Housing Element and Beyond

SNOW X. ZHU

PROFESSIONAL REPORT

Submitted in partial satisfaction of the requirements for the degree of

MASTER OF CITY PLANNING

in the

Department of City and Regional Planning

of the

UNIVERSITY OF CALIFORNIA, BERKELEY

APPROVED

Professor Ben Metcalf

Professor Carolina Reid

Date: Summer 2023

# Table of Contents

Introduction.....	2
Key Findings.....	2
Background.....	3
AB 2011 Implementation Overview.....	7
Methodology.....	8
AB 2011 Implementation in the Housing Element.....	9
Conclusion.....	16
Acknowledgements.....	19
Appendix A: Housing Elements Data.....	20
Appendix B: Bibliography.....	28

# Introduction

In recent years, the State of California has been passing a high volume of laws aimed at increasing housing production in the state. Some of those laws are aimed at removing barriers to housing production, such as restrictive local zoning requirements, and others have been aimed at reforming housing elements, which California jurisdictions are required to complete every five or eight years as part of their general plan. This capstone project aims to explore the connection between housing elements and State laws that create new pathways for building housing, with a specific focus on AB 2011.

AB 2011 is a law that was passed in September 2022, which creates a pathway for residential development on sites currently zoned for commercial uses. AB 2011 went into effect on July 1, 2023. The new law is intended to address two problems in California: (1) the lack of housing, particularly affordable housing, and (2) the large amount of underutilized commercial properties. Through a combination of interviews and a review of housing elements from Bay Area jurisdictions, this capstone explores how AB 2011 is being implemented by local jurisdictions and whether there are opportunities to integrate State laws such as AB 2011 into the housing element process.

## Key Findings

1. Progress on AB 2011 implementation in the Bay Area varies greatly by jurisdiction. The vast majority of jurisdictions will not address AB 2011 until after the law is in effect on July 1, 2023, or until they receive their first AB 2011 application. Out of 106 available housing elements from Bay Area jurisdictions, 15 percent of the documents discussed AB 2011 or committed to implementing or assessing the impact of the new law. Given some of the challenges that jurisdictions face, there are opportunities to integrate State laws such as AB 2011 into housing elements and for the State to provide additional support to jurisdictions.
2. For the cities and counties that have taken steps to implement AB 2011, there are a variety of methods. Some cities have chosen to create a separate permitting process for AB 2011 applications, and others are updating their zoning code or adopting an ordinance to implement the new law. The implementation methods reflect the particular jurisdiction's political climate and needs.
3. AB 2011 is one of the most complex pieces of housing legislation passed in terms of qualifying requirements. Jurisdictions face challenges around staffing, funding, and

balancing priorities that have made it difficult to keep up with State law implementation. Many jurisdictions have outstanding questions and clarifications on the law that available guidance is unable to provide clarity on. Ultimately, these questions will go to HCD, and the interpretation of the law will likely become clear over time.

4. The labor standards specified in AB 2011 limit real estate developers to markets where residential projects with prevailing wages are feasible. Still, developers see AB 2011 as a signal of encouragement from the State, though they acknowledge it will take a few years or more for the law to become clear enough to be used more frequently.

## Background

AB 2011 was signed into law in September 2022 by Governor Gavin Newsom and creates a CEQA-exempt, ministerial pathway for residential development on sites currently zoned and designated for commercial or retail uses. The streamlined, ministerial pathway requires local governments to approve a proposed development if the local government determines that the development is consistent with the objective planning standards specified by AB 2011 (“Bill Text - AB-2011 Affordable Housing and High Road Jobs Act of 2022”). These objective planning standards are described in further detail below.

In a 2020 survey focused on California’s fifty largest cities, the Turner Center found that 59 percent of commercial zones already allow for residential development (Garcia and Romem). However, many of these commercial parcels require developers to go through an environmental review and a discretionary process with the local jurisdiction. AB 2011 would enable developers to avoid these lengthy processes for qualifying parcels and unlock additional commercial zones that currently do not allow for any residential development.

AB 2011 goes into effect on July 1, 2023, along with SB 6, another law that aims to encourage residential development on commercially zoned land.<sup>1</sup> The qualifying requirements, development standards, requirements for jurisdictions, and potential impact of the law are summarized below.

### Qualifying Requirements

---

<sup>1</sup> Unlike AB 2011, SB 6 does not create a new approval process. Instead, projects meeting the specified criteria (parcels where office, retail, or parking are the principally permitted use) can invoke SB 35 and the Housing Accountability Act. SB 35 created a streamlined, ministerial approval process applicable in cities that fail to meet state mandated housing requirements. This capstone project focuses only on AB 2011 because of its broad applicability and potential impact in all jurisdictions with commercially zoned land.

AB2011 is focused on the production of mixed-income and 100 percent affordable multifamily housing developments with varying requirements depending on whether the proposed development is mixed-income or 100 percent affordable (“Overview of AB 2011 and SB 6”). Mixed-income rental developments are required to provide 8 percent of units at very-low income and 5 percent of units at extremely low income, or 15 percent of units at low income. Owner-occupied projects are required to provide units at 30 percent moderate income or 15 percent low income.

- *Overarching Qualifying Requirements:* An overarching requirement that applies to both mixed-income and 100 percent affordable is that AB 2011 projects must adhere to certain labor standards such as prevailing wage. In addition, AB 2011 only applies to multifamily housing developments occurring in an urban area and cannot be on or adjoined to a site with more than one-third of the uses being industrial. Projects submitted to jurisdictions under AB 2011 can still be eligible for incentives, concessions, waivers, or parking ratios that apply under the density bonus law.
- *Additional Qualifying Requirements for Mixed-Income:* For mixed-income projects, additional requirements apply regarding site location, site size, and demolitions. The project site must be next to a commercial corridor and have a frontage along the commercial corridor of at least 50 feet. In addition, the site size of any proposed mixed-income project cannot be greater than 20 acres. Lastly, construction of the new mixed-income development must not require the demolition of any existing deed-restricted housing, housing subject to rent control, or housing occupied by tenants in the last ten years. For existing commercial tenants, notice and relocation assistance are required for qualifying tenants.

### **Development Standards**

AB 2011 specifies a set of development standards that vary depending on whether the proposed project is mixed-income or 100 percent affordable (“Overview of AB 2011 and SB 6”). For mixed-income projects, the AB 2011 development standards address density, height limits, and setbacks (see Table 1). There are fewer development standards for 100 percent affordable housing projects than for mixed-income projects (Table 2).

Table 1      Mixed-Income Development Standards

Density	In metropolitan jurisdictions, density requirements range from 30 units per acre for sites less than one acre to 80 units per unit for sites that are within 0.5 miles of a major transit stop. Non-metropolitan jurisdictions have slightly lower density requirements, with a range of 20 units per acre to 70 units per acre.
Height	In terms of building height, the height limit ranges from 35 feet to 65 feet, depending on the width of the site's adjacent commercial corridor.
Setbacks	There are specific setback requirements for the parking, the portion of the building that faces a commercial corridor, and the portion of the building that does not face the commercial corridor.
Parking	No parking requirements, with an exception for bicycles, electric vehicles, and parking for persons with disabilities.

**Table 2      100 Percent Affordable Housing Development Standards**

Density	AB 2011 requires that the project density meet or exceed densities for lower-income households and defers to California's Housing Element Law.
Height	The proposed development must meet objective zoning, subdivision, and design review standards. If the existing zoning does not allow for multifamily residential use, the zoning designation for the closest parcel that allows the project to meet or exceed the densities required for low-income housing applies.

**Requirements for Jurisdictions**

For jurisdictions evaluating AB 2011 project applications, there are several areas that they must pay attention to, such as timeline, exemptions, and reporting requirements (“Overview of AB 2011 and SB 6”).

- *Timeline:* The new ministerial process for qualifying projects includes specific processing timelines. If the proposed project has less than 150 units, the application must be processed in 90 days. Inconsistencies between the project application and the AB 2011 criteria must be identified within 60 days of application submission. If the proposed project has more than 150 units, the application must be processed in 180 days and inconsistencies identified within 90 days.
- *Exemptions:* Commercial parcels can be exempt from AB 2011 if the local jurisdiction makes written findings explaining that the parcel(s) will be developed at densities above applicable AB 2011 densities or heights and that the development of the parcel will not result in a loss of housing units.<sup>2</sup>
- *Reporting Requirements:* AB 2011 requires jurisdictions to include certain information about AB 2011 projects in housing element reports submitted to HCD annually; for example, the number of housing units that have been completed using AB 2011.

### **Potential Impact**

By allowing a pathway for multifamily development on commercial corridors, AB 2011 provides an opportunity for jurisdictions and developers to consider the construction of housing on commercial corridors. It is estimated that AB 2011 applies to over 100,000 acres of commercial land in the State (1.2 percent of all parcels statewide). According to an Urban Footprint analysis conducted in support of the law, the potential impact of AB 2011 ranges from 1.6 to 2.4 million market-feasible new homes (DiStefano and Calthorpe). The estimated number of new homes that could be built under AB 2011 includes up to 400,000 income-restricted affordable housing units. In addition, the analysis concluded that households living in homes created as a result of AB 2011 are anticipated to produce less greenhouse gas emissions and support more local retail and business activity on the commercial corridors.

---

<sup>2</sup> On July 10, 2023 AB 129 became effective. AB 129 clarifies how cities can exempt parcels from AB 2011. The parcels that a city is seeking to exempt must be replaced by alternative parcels that would “not otherwise be eligible for development pursuant to AB 2011.” In addition, alternative parcels must be suitable for residential development and developed ministerially at higher residential density than what is required under AB 2011.

# AB 2011 Implementation Overview

This capstone project focuses on the implementation of AB 2011 in the Bay Area due to the particularly high cost of rental housing in the region. A 2023 study by the National Low Income Housing Coalition found that four out of the top five most expensive counties in California are located in the Bay Area (“Out of Reach: The High Cost of Housing”).<sup>3</sup> Interviews with Bay Area planners and ABAG-MTC technical assistance staff suggest that AB 2011 is one of the most complex housing laws to be passed, particularly in its development standards and processing timelines.

In looking at other recently passed housing laws, one planner indicated several implementation methods that they had observed: creating a new land use type, a new application type, a standalone set of regulations, or taking no action (i.e., operating under the state law without local implementation steps). The only place AB 2011 text discusses implementation is when it specifies that jurisdictions may adopt an implementing ordinance (“Bill Text - AB-2011 Affordable Housing and High Road Jobs Act of 2022”). In these cases, jurisdictions may review their objective standards and zoning criteria to determine if modifications or updates are necessary.

Many cities in the Bay Area, such as Emeryville and Walnut Creek, have already taken significant steps in the last few decades to encourage housing development in commercial areas. These cities do not need to designate significant staff time for the implementation of laws such as AB 2011 and SB 6 because some of their zoning regulations supersede the requirements of the laws (e.g., residential use is already allowed in commercially zoned parcels). For many other Bay Area jurisdictions, though, residential development on commercial corridors will be relatively new.

For some cities and counties, due to limited staffing capacity or lack of current development activity (and uncertain future activity), they will not implement AB 2011 until they receive an AB 2011 development application. However, the processing timelines will put these jurisdictions in a difficult position as they will have limited time to respond to the application while considering AB 2011 implementation for the first time. In a way, the processing timelines required by AB 2011 encourages cities and counties to begin thinking about AB 2011 implementation earlier. Due primarily to resources being used for the 6th Cycle Housing

---

<sup>3</sup> The study takes into account both wages and rental housing costs in the region to calculate a “housing wage” required to afford a typical 2-bedroom apartment. San Diego County and Los Angeles County were the 12th and 15th most expensive respectively.



Element Update though, interviewees confirmed that the vast majority of Bay Area jurisdictions have not taken any action to implement AB 2011.

Given the timing of the 6th Cycle Housing Element Update and the passage of AB 2011, one area to explore is whether there is an opportunity for better integration between housing elements and State law implementation. To better understand the relationship, an analysis was conducted to determine how many Bay Area jurisdictions addressed AB 2011 in their 6th Cycle Housing Element Update. For the jurisdictions that did address AB 2011 in their housing element, the analysis allowed for a better understanding of which implementation methods jurisdictions are using.

## Methodology

The analysis of AB 2011 and its implementation in the 6th Cycle Housing Element in Bay Area jurisdictions uses both interviews with housing experts and draft or approved (by a city council or HCD) housing element documents from each jurisdiction.

### Interviews

Interviews were conducted between January and May 2023 with eleven individuals working in a range of housing-related positions, including city planner, residential real estate developer, and housing consultant. The interviews were unstructured, with a few questions grouped by organization type or area of expertise. For example, each city planner for a public agency interviewed was asked whether the jurisdiction had considered the implementation of AB 2011 and, if so, whether they had feedback on the law. Interviews were conducted with staff working in jurisdictions that had begun thinking about AB 2011 implementation and staff working in jurisdictions that had not yet begun addressing AB 2011. Notes from the interviews informed the background and context used to frame the analysis of AB 2011 and housing elements.

### Housing Elements Data Analysis

The analysis also uses available housing element documents from all Bay Area cities and counties. The housing element documents were sourced from the Metropolitan Transportation Commission (MTC) Box folder in early April 2023 (“Housing Elements and Comment Letters”). The complete list of jurisdictions, along with an indication of whether an adopted or unadopted draft housing element was used, can be found in **Appendix A**. Some jurisdictions may have adopted housing elements since the documents were uploaded by MTC and downloaded for this capstone project. In addition, several of the housing element drafts made available are

dated before the passage of AB 2011 in September 2022. In these cases, it is assumed that jurisdictions did not include AB 2011 as part of their housing element process. Lastly, several cities and counties did not have a housing element draft ready. In these cases, the unavailability was confirmed with planning staff through email. Jurisdictions with incomplete housing element drafts are marked as “n/a” under the AB 2011 column in **Appendix A**.

To assess whether a jurisdiction addressed AB 2011 in its housing element, a search was conducted in the housing element document for the phrase “AB 2011.” If the phrase was found in the document, relevant text was extracted and organized by jurisdiction. Based on the text from the housing elements, categories were created to organize the types of implementation methods found (Assessing Impact, Providing Guidance on Interpretation or Processing, No Action). In addition, several jurisdictions mentioned AB 2011 but not in the context of implementation. These cases, along with additional detail on the categories, can be found in the next section, **AB 2011 Implementation in the Housing Element**. Since the passage of AB 2011, it is possible that there are cities or counties that have moved to allow residential development on commercially zoned land that did not mention AB 2011 in their housing element. The analysis does not take these jurisdictions into account.

## **AB 2011 Implementation in the Housing Element**

Out of 106 available housing element documents from Bay Area jurisdictions, 16 documents discussed AB 2011 or included steps for implementing or assessing the impact of the new law (15 percent). For these cities or counties that discuss AB 2011 in their housing element, **Table 3** summarizes their intended efforts and lists each jurisdiction along with details on how they are taking steps to discuss and plan for implementation of AB 2011. The implementation methods are sorted into three main categories as defined below. Cities and counties discussed one or more methods in their housing element.

- **Assessing Impact:** The jurisdiction has conducted or plans to conduct an analysis to determine how many housing units could be built in the jurisdiction under AB 2011 given eligible commercial parcels.
- **Providing Guidance on Interpretation or Processing:** The city or county is providing guidance to developers. For example, the jurisdiction has committed to creating a separate project approval process for AB 2011 applications, updating its zoning code, or establishing an overlay zone to implement AB 2011.
- **No Action:** The city or county has not discussed a plan for implementing AB 2011 in their housing element. Note that the vast majority of jurisdictions fall in this category.

Table 3 only shows jurisdictions that mention AB 2011 in a context other than implementation. For example, to meet new housing requirements as defined by the RHNA, the city or county is attributing a number of housing units to AB 2011 in its housing element site inventory.

As shown in Table 3, each jurisdiction is addressing AB 2011 in a slightly different way. In summary, eleven cities plan to provide guidance on interpreting the new law or processing development applications filed under AB 2011. Three jurisdictions are only conducting analysis on AB 2011 without specifying actions beyond the analysis, and two separate jurisdictions mention AB 2011 in the content of their site inventory but are taking no action. None of these jurisdictions is enacting a local policy that is more favorable than AB 2011, though there may be jurisdictions that are taking such action without mentioning AB 2011 in their housing element.

The method of implementation varies based on the specific context of the jurisdiction. For example, the City and County of San Francisco has resources to dedicate staff time to prepare for the implementation of AB 2011. In the last few months, group readings across departments were organized to reach a common understanding of the law and coordinate consistent implementation across departments. To implement AB 2011, San Francisco is issuing a Planning Director Bulletin, which will describe San Francisco's interpretation of the law and create a dedicated process for AB 2011 development applications.

Cities and Counties also vary in how they think of AB 2011 in the context of their site inventory. For instance, the City of Menlo Park defines several of their site inventory locations as "carveout" sites that involve locating housing on large (> 10 acres) parcels that mostly consist of other uses. In this context, AB 2011 is discussed as a potential tool that could allow residential units to be built on these sites.

On the other hand, Belvedere and Pacifica have listed commercial sites in their site inventory and described the sites as being eligible for residential development because of the passage of AB 2011. In the Housing Element Site Inventory Guidebook, HCD requires that cities including nonresidential sites in a site inventory must also include a program to rezone the site to permit residential use (Kirkeby). It is unclear whether the cities that have cited AB 2011 in their site inventory are meeting HCD's requirements.

**Table 3 Bay Area Jurisdictions with AB 2011 Implementation in Housing Element**

Jurisdiction	Category	Description
Belvedere	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● Belvedere commits to Program 3.11: Develop Standards for Zoning AB 2011 Projects. <ul style="list-style-type: none"> <li>○ The goal of this program is to develop objective standards for AB 2011 units and to facilitate new residential projects along commercial corridors. The city aims to initiate the effort by FY 2023-2024.</li> </ul> </li> <li>● Belvedere attributes 34 percent of their projected housing units to AB 2011. Specific commercial sites are listed and noted as being eligible for residential development without changing the use or density specified in the zoning ordinance.</li> </ul>
Campbell	Assessing Impact	<ul style="list-style-type: none"> <li>● Conducted a preliminary analysis on how many additional housing units could be built as a result of AB 2011 and SB 6.</li> </ul>
Colma	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● Colma commits to creating a Housing Element Overlay zone that allows for land use flexibility in commercial zones. The overlay will also allow for greater housing densities and support mixed-use developments on opportunity sites. The development standards will reflect recent State legislation (AB 2011).</li> <li>● The town also plans to add multifamily residential to its zoning code (there is currently no multifamily zoning).</li> </ul>
Fremont	Assessing Impact	<ul style="list-style-type: none"> <li>● Fremont commits to Program 90, which will identify and publish sites made available for housing under SB 6 and AB 2011.</li> <li>● Although the current housing element was</li> </ul>

Jurisdiction	Category	Description
		<p>prepared without consideration of SB 6 and AB 2011, the city plans to add the additional sites made available under AB 2011 and SB 6 to the City’s site inventory as needed.</p> <ul style="list-style-type: none"> <li>● The city commits to identify and publicize the AB 2011 and SB 6 housing opportunity sites within 24 months of housing element adoption.</li> </ul>
Larkspur	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● Larkspur commits to Program H1., which amends zoning code to implement AB 2011 and SB 6.</li> <li>● The city will update the zoning code by the end of 2024.</li> </ul>
Martinez	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● Martinez commits to Program 10, which will monitor recent State laws such as AB 2011 and SB 6 and identify, address, and remove constraints to housing.</li> <li>● The city plans to update zoning code and project application documents to reflect AB 2011 and SB 6 by the end of 2024.</li> </ul>
Menlo Park	No Action	<ul style="list-style-type: none"> <li>● Menlo Park describes AB 2011 as a planning tool that would allow for additional residential units in carveout sites. <ul style="list-style-type: none"> <li>○ The city defines “carveouts” as sites where housing can be located adjacent to other uses on the same parcel (“horizontal mixed-use”).</li> <li>○ The city has included 10 carveout sites in the site inventory.</li> </ul> </li> </ul>

Jurisdiction	Category	Description
City of Napa	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● The City of Napa housing element discusses AB 2011 and commits to a program to address changes in state law. While none of the listed programs explicitly mention AB 2011, several programs are relevant: <ul style="list-style-type: none"> <li>○ The city commits to Program H2-2.1, which will update zoning code to address changes in state law by the end of 2023. AB 2011 is not specifically listed.</li> <li>○ The city commits to Program H3-2.1, which will incentivize mixed-use and high-density development patterns in corridor focus areas. Criteria and incentives will be developed by 2026.</li> <li>○ The city commits to Program H4-2.2, which involves reevaluating the use of shopping centers or other commercial sites if a property owner initiates redevelopment of the site (ongoing). If residential or mixed-use developments are considered, the city has provided a list of criteria (availability of public services, minimization of impact on adjacent single-family homes, etc.)</li> </ul> </li> </ul>
Pacifica	No Action	<ul style="list-style-type: none"> <li>● Pacifica attributes some of their required housing units to AB 2011. Two vacant and several non-vacant commercial sites are listed and noted as being eligible for residential development without changing the use or density specified in the zoning ordinance.</li> </ul>
Palo Alto	Providing Guidance on	<ul style="list-style-type: none"> <li>● Palo Alto commits to Program 6.3 to amend zoning code to expand affordable housing production in commercial districts. The program</li> </ul>

Jurisdiction	Category	Description
	Interpretation or Processing	<p>has multiple components:</p> <ul style="list-style-type: none"> <li>○ Palo Alto will support the development of 2,629 housing units on existing office sites (ongoing).</li> <li>○ The city will amend zoning code to reduce incentives for commercial development in strategic locations by the end of 2025.</li> <li>○ Lastly, Palo Alto will amend zoning code to expand affordable housing production in commercial districts consistent with State law by the end of 2023.</li> </ul>
Pittsburg	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● Pittsburg commits to Program 15 to ensure that zoning code is consistent with recent State law by the end of 2023 (AB 2011, SB 330, SB 35, SB 9).</li> </ul>
San Francisco	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● San Francisco is preparing a Planning Director Bulletin ahead of July 1, 2023 that will specify the city’s interpretation of AB 2011 and provide guidance for interested developers. It is expected to be published in June 2023.</li> <li>● As part of the implementation process, the city is preparing updated application materials and written procedures for projects processed under AB 2011.</li> </ul>
San Rafael	Assessing Impact, Providing Guidance on	<ul style="list-style-type: none"> <li>● San Rafael commits to Program 24 which would allow by-right residential development along commercial corridors consistent with AB 2011.</li> <li>○ A number of the city’s current housing</li> </ul>

Jurisdiction	Category	Description
	Interpretation or Processing	<p>opportunity sites are on commercial corridors.</p> <ul style="list-style-type: none"> <li>○ By 2025, San Rafael aims to publish a list of commercial corridors and sites that could be development opportunities under AB 2011.</li> <li>○ By 2031, San Rafael hopes to construct at least 1,000 units on these corridor sites.</li> </ul>
Sausalito	Assessing Impact	<ul style="list-style-type: none"> <li>● Sausalito is studying whether AB 2011 (or SB 6) would increase the capacity of residential units on sites listed in their site inventory and prevent the need for voter initiative on eligible sites.</li> </ul>
City of Sonoma	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● The City of Sonoma commits to Program 15D, which addresses many new State laws (AB 2011, SB 330, SB 35, SB 9) by updating zoning code to reflect provisions in these new laws by the end of 2023.</li> <li>● The City of Sonoma also plans to prepare updated application materials and written procedures for projects processed under State requirements for ministerial or streamlined projects (AB 2011, SB 330, SB 35, SB 9).</li> </ul>
South San Francisco	Providing Guidance on Interpretation or Processing	<ul style="list-style-type: none"> <li>● South San Francisco commits to Policy CRT-9.1, which creates an affordable housing overlay zone that is consistent with AB 2011 (and SB 6) that permits 100 percent affordable housing developments in as many appropriate zones as possible.</li> <li>○ The city will also explore the potential to include provisions in the affordable housing overlay zone that requires less than 100 percent</li> </ul>



Jurisdiction	Category	Description
		<p>affordable units.</p> <ul style="list-style-type: none"> <li>• South San Francisco plans to update their zoning code to reflect AB 2011 (and SB 6) by the end of 2023.</li> </ul>

## Conclusion

State laws such as AB 2011 provide a pathway for developers to build more housing without cities or counties having to make significant changes to existing zoning codes. Changing zoning code is a complex and long process in many jurisdictions. City planners are constrained by the political climate and their city councils, which often results in very incremental changes. In addition, many local jurisdictions prefer to evaluate developments on a project-by-project basis and retain a localized level of control.

As State laws aimed at increasing housing production are passed, there are more and more additional pathways being created, which could potentially result in much more housing, but also creates more complexity. Planners will need to track each of those pathways to ensure that any proposed developments comply with the particular pathway. For AB 2011, if applicants are not notified of inconsistencies within a certain timeline, the proposed project is automatically deemed as compliant with the qualifying criteria (“Overview of AB 2011 and SB 6”).<sup>4</sup>

The following are challenges and opportunities around the effective local implementation of State laws such as AB 2011:

- The housing element presents an opportunity to integrate new housing legislation. The housing element is already a place where housing policies, programs, and goals are discussed and can be used by planners regardless of election cycles. In the housing element process, cities and the State are in direct dialogue, and this is an opportunity to

---

<sup>4</sup> For projects of 150 units or less, the project applicant must be informed of inconsistencies with qualifying criteria within 60 days and the processing, ministerial review, and objective design standards review must occur within 90 days of receiving the application. For projects of greater than 150 units, the project applicant must be informed of inconsistencies with qualifying criteria within 90 days and the processing, ministerial review, and objective design standards review must occur within 180 days of receiving the application.

build relationships between the State and cities. It is also an opportunity for the State to receive feedback as the balance between local and State authority over land use continues to play out. Successful implementation of housing laws such as AB 2011 could make it easier for cities to reach their RHNA goals.

- Due to the timing of the passage of AB 2011, many cities devoted their resources to the housing element rather than determining implementation steps for AB 2011. City planners, especially in smaller cities, expressed that they have been overwhelmed by the Housing Element process and the need to address the new housing laws. The overwhelm was not necessarily in opposition to the laws, but frustration at not having enough resources or time to be able to properly communicate the new policies with city leadership.
- Through the 6th Cycle Housing Element Update, many jurisdictions are interacting with HCD at this level of detail for the first time. City planners indicate that HCD can sometimes provide conflicting directions or lack an understanding of the particular geographies and development patterns within a city. It may make sense for HCD to work more closely with regional planning bodies such as ABAG-MTC who do have a more detailed understanding of the regions they plan for and are already providing technical assistance on housing elements and State laws.
- These challenges are also an opportunity for high-level guidance. So far, HCD has not provided written guidance on AB 2011.<sup>5</sup> In June 2023, ABAG published an AB 2011/SB 6 model ordinance and an example project application checklist (“AB 2011/SB 6 Model Ordinance”). The available models for implementation are very vague by design (e.g., the ABAG model ordinance) or hyper-specific (e.g., looking to another city for precedent). It could be worthwhile for HCD or regional planning authorities like ABAG-MTC to provide a variety of implementation examples to local governments so that local jurisdictions are aware of the possibilities. This could be sample text that a city or county would include in their housing element (e.g., programs that address state law implementation) or ordinances that would comply with the new law.
- Beyond interpretation of AB 2011, there is also room for additional high-level guidance on how cities can communicate and navigate the implementation process more broadly for all the recent housing laws, not just AB 2011. For example, the creation of an example presentation deck that planners could use to explain AB 2011 to their city councils and planning commissions would be useful. In particular, it is helpful to highlight ways that cities can use these laws to achieve citywide goals around housing, economic vitality, or sustainability. Implementation focus groups of jurisdictions of a

---

<sup>5</sup> HCD has authority to enforce state housing laws, but typically only publishes formal guidelines if a statute gives HCD guideline authority.

similar size or facing similar challenges is another idea that would allow jurisdictions to discuss implementation solutions.

Currently, the State assumes that cities will be the first level of interpretation for AB 2011. Once cities implement the law or in cases where cities take no action, the process plays out with development applications using the AB 2011 pathway, policymakers will write additional legislation to amend the law and clarify what is needed. For example, AB 129, the 2023 Budget Act, included clarification on AB 2011 exemptions. The clarification was needed as some cities may try to use the exemptions as a way to circumvent the new housing laws.<sup>6</sup> Other cities are learning about AB 2011 and considering an implementing ordinance that can be used to achieve other city goals, such as encouraging EV and bicycle parking, or ground-floor retail in mixed-income buildings (Henry).

With more case studies and precedents, AB 2011 will become stronger over time. Recently, San Francisco received its first AB 2011 application, a 20-unit condo project that was previously rejected due to the inclusion of a Starbucks on the ground floor (Dineen). With vacant commercial space now more of a concern, there is now less community opposition to the project, and thanks to AB 2011, the project will be built much faster — it will not have to go through environmental review or planning commission approval. This is just one of the many housing projects that stand to benefit from AB 2011.

AB 2011 is a strong signal from the State that housing production is a high priority. Local jurisdictions are feeling pressure to respond to these priorities, and the implementation process has highlighted challenges that must be addressed for these laws to be effective.

---

<sup>6</sup> At its July 18, 2023 City Council meeting, the City of Santa Ana agreed to move forward with a second reading of a new ordinance that would exempt a large number of parcels from AB 2011 and SB 6 (“Agendas and Minutes - City of Santa Ana”). The second reading was approved despite opposition letters the city had received from both HCD and the Attorney General’s Office.

# Acknowledgements

I would like to acknowledge the following individuals for sharing their time and knowledge:

Kate Conner, Housing Implementation Program Manager, City of San Francisco

Miroo Desai, Planning Manager, City of Emeryville

Sam Dolgoff, Project Manager, Community Planning Collaborative

Eli Kaplan, Regional Planner, ABAG-MTC

Jeremy Levine, Policy Manager, Housing Leadership Council of San Mateo County

Andrew Mogensen, Community Development Director, City of Millbrae

Jason Moody, Managing Principal, Economic & Planning Systems

Alex Schafran, Schafran Strategies

Andrew Smith, Senior Planner, City of Walnut Creek

Josh Switzky, Deputy Director of Citywide Planning, City of San Francisco

Nathan Tuttle, Senior Vice President of Development, Quarterra

Steve Wertheim, Principal Consultant, California State Assembly Committee on Housing and Community Development

David Zisser, Assistant Deputy Director for Local Government Relations and Accountability, California Department of Housing and Community Development

## Appendix A: Housing Elements Data<sup>7</sup>

Jurisdiction Name	HE Adopted	HE Draft	HE Not Ready	AB 2011
Alameda County			x	n/a
Alameda	x			
Albany		x		
Berkeley	x			
Dublin		x		
Emeryville	x			
Fremont	x			x
Hayward	x			
Livermore		x		
Newark		x		
Oakland		x		
Piedmont		x		

<sup>7</sup> Files downloaded on April 2, 2023 from MTC Box folder, "Housing Elements and Comment Letters": <https://mtcdrive.app.box.com/s/rn34iqzf81et28glz65763f51p1louq3/folder/166888777277>

Jurisdiction Name	HE Adopted	HE Draft	HE Not Ready	AB 2011
Pleasanton	x			
San Leandro	x			
Union City		x		
<b>Contra Costa County</b>		x		
Antioch	x			
Brentwood		x		
Clayton		x		
Concord		x		
Danville	x			
El Cerrito		x		
Hercules		x		
Lafayette	x			
Martinez		x		x
Moraga	x			

Jurisdiction Name	HE Adopted	HE Draft	HE Not Ready	AB 2011
Oakley		x		
Orinda	x			
Pinole		x		
Pittsburg		x		x
Pleasant Hill		x		
Richmond	x			
San Pablo	x			
San Ramon	x			
Walnut Creek		x		
<b>Marin County</b>	x			
Belvedere		x		x
Corte Madera		x		
Fairfax		x		
Larkspur		x		x

Jurisdiction Name	HE Adopted	HE Draft	HE Not Ready	AB 2011
Mill Valley		x		
Novato		x		
Ross		x		
San Anselmo		x		
San Rafael		x		x
Sausalito		x		x
Tiburon		x		
<b>Napa County</b>		x		
American Canyon		x		
Calistoga		x		
Napa		x		x
St. Helena		x		
Yountville		x		
<b>San Francisco City and County</b>	x			x



Jurisdiction Name	HE Adopted	HE Draft	HE Not Ready	AB 2011
<b>San Mateo County</b>		x		
Atherton	x			
Belmont	x			
Brisbane	x			
Burlingame		x		
Colma	x			x
Daly City			x	n/a
East Palo Alto		x		
Foster City		x		
Half Moon Bay			x	n/a
Hillsborough		x		
Menlo Park		x		x
Millbrae		x		
Pacifica		x		x

Jurisdiction Name	HE Adopted	HE Draft	HE Not Ready	AB 2011
Portola Valley		x		
Redwood City		x		
San Bruno	x			
San Carlos	x			
San Mateo	x			
South San Francisco	x			x
Woodside		x		
<b>Santa Clara County</b>		x		
Campbell		x		x
Cupertino		x		
Gilroy		x		
Los Altos	x			
Los Altos Hills	x			
Los Gatos	x			

Jurisdiction Name	HE Adopted	HE Draft	HE Not Ready	AB 2011
Milpitas		x		
Monte Sereno	x			
Morgan Hill	x			
Mountain View		x		
Palo Alto		x		x
San Jose		x		
Santa Clara	x			
Saratoga		x		
Sunnyvale		x		
<b>Solano County</b>		x		
Benicia	x			
Dixon		x		
Fairfield	x			
Rio Vista		x		

Jurisdiction Name	HE Adopted	HE Draft	HE Not Ready	AB 2011
Suisun City		x		
Vacaville		x		
Vallejo			x	n/a
<b>Sonoma County</b>		x		
Cloverdale		x		
Cotati		x		
Healdsburg		x		
Petaluma		x		
Rohnert Park	x			
Santa Rosa	x			
Sebastopol	x			
Sonoma	x			x
Windsor		x		

## Appendix B: Bibliography

“AB 2011 Affordable Project Application Checklist.” *Association of Bay Area Governments*, 12 June 2023,

<https://abag.ca.gov/technical-assistance/ab-2011-affordable-project-application-checklist>.

“AB 2011/SB 6 Model Ordinance.” *Association of Bay Area Governments*, June 2023,

<https://abag.ca.gov/tools-resources/digital-library/ab-2011-sb-6-model-ordinance0docx>.

“Agendas and Minutes - City of Santa Ana.” *City of Santa Ana*, 18 July 2023,

<https://www.santa-ana.org/agendas-and-minutes/>.

“Bill Text - AB-2011 Affordable Housing and High Road Jobs Act of 2022.” *California Legislative Information*, 29 Sept. 2022,

[https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB2011](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2011).

Dineen, J. K. “S.F. Rejected a Condo Development Years Ago Because of Plans for a Starbucks. Now, It’s Making a Comeback.” *San Francisco Chronicle*, 16 July 2023,

<https://www.sfchronicle.com/sf/article/s-f-rejected-condo-starbucks-now-it-s-back-18201729.php>.

DiStefano, Joe, and Peter Calthorpe. “Can Commercial Corridors Solve California’s Housing Crisis? .” *UrbanFootprint*, 3 Aug. 2022, <http://urbanfootprint.com/blog/policy/ab2011-analysis/>.

Garcia, David, and Issi Romem. “Residential Redevelopment of Commercially Zoned Land in California .” *Terner Center*, 21 Dec. 2020,

<http://ternercenter.berkeley.edu/research-and-policy/commercial-zoning-december-2020/>.

Henry, Barbara. “New State Laws Could Result in High-Density Housing along Encinitas Commercial Corridors - Encinitas Advocate.” *Encinitas Advocate*, 23 June 2023,

<https://www.encinitasadvocate.com/news/story/2023-06-23/new-state-laws-could-result-in-high-density-housing-along-encinitas-commercial-corridors>.

“Housing Elements and Comment Letters.” *Metropolitan Transit Commission*, 5 July 2022,

<https://mtcdrive.app.box.com/s/rn34iqzf81et28qlz65763f51p1louq3/folder/166888777277>.

Kirkeby, Megan. “Housing Element Site Inventory Guidebook Government Code Section 65583.2.” *State of California Department of Housing and Community Development*, 10 June

2020,

[https://www.hcd.ca.gov/community-development/housing-element/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf).

“Out of Reach: The High Cost of Housing.” *National Low Income Housing Coalition*, 2023, <https://nlihc.org/oor>.

“Overview of AB 2011 and SB 6.” *Association of Bay Area Governments*, 18 May 2023, <https://abag.ca.gov/technical-assistance/overview-ab-2011-and-sb-6>.