

RELATED PRACTICES

Public Law

RELATED PEOPLE

Leila Moshref-Danesh

SB 6 – The Middle Class Housing Act of 2022

SB 6, also known as the Middle Class Housing Act of 2022, deems a housing development project allowable in commercial zones without the need for rezoning. The bill goes into effect on July 1, 2023 and sunsets on January 1, 2033 unless extended, and is intended to serve as both a response to the increasing closure rate of brick-and-mortar commercial retailers as well as an additional measure to combat California's ongoing housing challenges.

SB 6 adds a new section 65852.24 to the Government Code that deems a housing development project allowable in commercial zones without the need for rezoning. Housing development projects include 100% residential projects as well as mixed-use projects with at least 50% of the square footage dedicated to residential use.

Unlike its companion bill, AB 2011, SB 6 does not provide a ministerial approval pathway for housing development projects, but does allow residential uses on commercially zoned property without requiring a rezoning. To invoke the law, however, applicants must commit both to prevailing wages for workers and to "skilled and trained workforce" requirements, as well as relocation assistance for certain commercial tenants, making it potentially less advantageous in most situations if AB 2011 is an option.

Eligibility

To invoke SB 6, a housing development project must be located on a parcel 20 acres or less in size, and in a zone where retail, office, or parking uses are principally permitted. The parcel must be located in a city with an urban area, or in an urban unincorporated area. The parcel cannot adjoin a site with more than 1/3 of the square footage dedicated to industrial use.

In addition, the project must meet or exceed the applicable density deemed appropriate to accommodate lower-income housing (as identified in the RHNA Housing Element site provisions in Gov. Code. 65583.2(c)(3)(B)), and must satisfy all permitting and procedural requirements of the zone that allows for that higher residential density (determined either by the existing or closest parcel that meets the standard). The permitting standards can include discretionary considerations, such as design standards. There are no below market rate (BMR) unit requirements under SB 6, only density considerations; however, local inclusionary requirements may still be applied.

© 2025 Burke, Williams & Sorensen, LLP. All rights reserved.

Developers must provide written notice of a pending SB 6 application to all commercial tenants on the proposed project site, and provide relocation assistance to commercial tenants who meet certain criteria. Developers must also certify to the local agency that the project will pay prevailing wages either entirely or partially as a public work, and must also certify to the local agency that a "skilled and trained workforce" will be used to perform all construction work on the project.

Limitations, Exemptions

SB 6 projects are still subject to the Coastal Act, the California Environmental Quality Act (CEQA), the Housing Accountability Act (HAA), Density Bonus Law, obligations to affirmatively further fair housing (Gov. Code Section 8899.50), state or local affordable housing and tenant protection laws, and all local demolition ordinances. SB 6 projects are also subject to any discretionary approvals required for higher-density residential development in the applied zone.

A local agency can exempt a parcel from SB 6 if it makes either of the following findings supported by substantial evidence:

1. The local agency has concurrently reallocated the lost residential density from the SB 6 parcel so that there is no net loss in residential density in the jurisdiction; or
2. The lost residential density from each exempted parcel can be accommodated on a site allowing the higher residential densities discussed above to accommodate the local agency's share of lower income housing. The reallocated sites must be suitable and allow for residential development within the meaning of housing element sites.

Local agencies may adopt an ordinance to implement SB 6, the adoption of which would be exempt from CEQA. Since SB 6 provides a way for local agencies to exempt certain parcels from its provisions, it may be beneficial for local agencies to consider adopting an ordinance implementing this process and be prepared to make findings to exempt any parcels of concern.

© 2025 Burke, Williams & Sorensen, LLP. All rights reserved.