

Middle Class Housing Act

Senate Bill (SB) 6, the Middle-Class Housing Act of 2022, allows residential development on property that is currently designated for commercial or retail use. SB 6 was adopted the same year as Assembly Bill 2011 (AB) 2011, the Affordable Housing and High Roads Act of 2022, which also allows residential development on commercially zoned property.

While there are many similarities between the two bills, there are also distinct differences in their allowances and application, which may cause confusion. This informational bulletin is intended to help the reader better understand the specific provisions allowed under SB 6.

This bulletin is only intended to summarize many provisions of state law rather than cite them in total. Refer to Govt. Code [§65852.24](#) and [§65913.4](#) for the complete text.



PURPOSE

With changing market demands, especially following the COVID pandemic, more and more commercial and office property owners are experiencing challenges in attracting and retaining tenants, resulting in higher-than-normal commercial and office vacancy rates across the state.

To help address the need for more housing while preventing sprawling development, SB 6 incentivizes housing construction in struggling commercial corridors traditionally reserved for big-box stores or office buildings.

Documents Referenced

Middle Class Housing Act; [SB 6](#)
California Coastal Zone; [Map](#)
US Census Urbanized Area Reference; [Map](#)
Housing & High Roads Act (AB 2011); [IB-134](#)
Inclusionary Housing Program; [IB-157](#)
Density Bonus; [IB-112](#)
California Environmental Quality Act; [IB-150](#)
Objective Design Standards; [IB-302](#)
Preliminary Project Review; [IB-114](#)
Preliminary Review Request Form; [P-14](#)
Development Permit Application; [P-2](#)
SB 6 Eligibility Checklist; [P-44](#)

ELIGIBILITY REQUIREMENTS

Projects eligible under SB 6 allow residential uses beyond standard zoning so long as they meet the following requirements, including a discretionary review process.

Minimum Number of Units

- Residential housing projects must consist of five or more for-sale or rental housing units.
- Mixed-use development must have at least 50 percent of the square footage of the project dedicated to residential use.

Minimum Affordable Units

SB 6 does not include affordable housing mandates, but projects are still subject to the city's inclusionary housing requirements. Refer to Info-Bulletin [IB-157](#) to learn more about the city's Inclusionary Housing Program.

Zoning Allowances

Eligible sites under SB 6 include any zone where office, retail, or parking are the principally permitted use. A principally permitted use includes any use that may occupy more than one-third of the site's square footage without a conditional use permit.

Housing projects (residential or mixed-use) proposed on property currently zoned with one of the following designations are eligible for SB 6:

- Commercial Tourist (C-T Zone)
- General Commercial (C-2 Zone)
- Gen Comm/Qualified Develop (C-2-Q Zone)
- Local Shopping Center Zone (C-L Zone)
- Neighborhood Commercial (C-1 Zone)
- Office (O Zone)
- Planned Community (P-C Zone)
- Residential Density Multiple (RD-M Zone)
- Local Shopping Center (C-L Zone)
- Village-Barrio Zone (VB Zone)

Urban Infill

- At least 75% of the site's perimeter must adjoin parcels that are developed with urban uses. "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. Parcels that are only separated by a street or highway shall be considered adjoined.
- The property is located within an urbanized area or urban cluster pursuant to the U.S. Census Bureau. Note: Carlsbad is in an urbanized area.

Existing Uses & Tenant Relocation

The underlining purpose of SB 6 is to help owners of struggling commercial, office and retail properties by allowing an alternative use (housing) on the property, without the need to process a timely and costly rezone application. SB 6 is not intended to replace a functionally operating commercial or office use that is meeting market demands of the community.

In cases where an eligible site includes existing structures, SB 6 requires relocation assistance to certain qualifying independently owned commercial tenants if the commercial tenant's lease expired within the three years following the development proponent's submission of an application for a housing development. Eligible tenants are businesses with fewer than 20 employees and yearly sales of less than one million dollars over the last three years before their lease ends. Refer to [§65852.24\(c\)](#) for specific noticing requirements.

Site Limitations

SB 6 projects are prohibited on property within any of the following areas:

- High or very high fire hazard severity zone
- Delineated earthquake fault zone
- Habitat for protected species or wetlands
- Conservation plan/conservation easement
- FEMA designated flood plain/floodway
- Hazardous waste site
- Farmland (prime/statewide significance)
- Within the Airport Land Use Compatibility Plan Zones 1 – 5.

In addition to the limitations specified above, SB 6 projects shall also comply with the following site limitations.

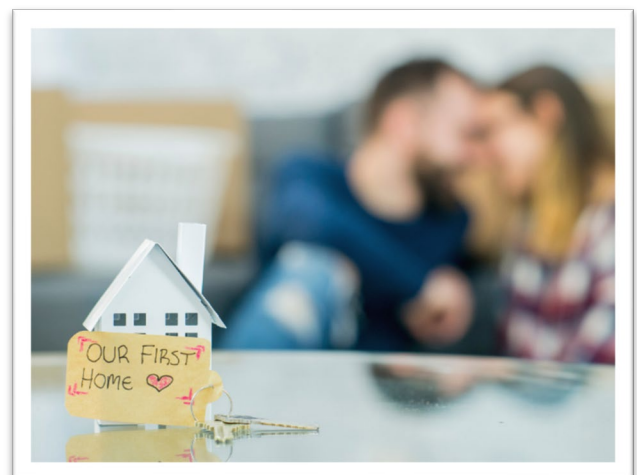
- The site must be less than 20 gross acres.
- The property does not include, nor adjoined to a parcel that includes more than 1/3 of the square footage is dedicated to industrial uses.

Rental Period Limits

Eligible projects must be rented for a term longer than 30 days. In other words, housing units under SB 6 are prohibited from being rented as a short-term vacation rental --- this applies to citywide, including properties within the Coastal Zone.

Prevailing Wage

All construction workers must be paid prevailing wages, as defined by Labor Code [§1720](#), which says all construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area. Refer to Govt. Code [§65913.4\(a\)\(8\)\(A\)](#) for additional details.



Skilled & Trained Workforce Provisions

A skilled and trained workforce, as defined in Govt. Code [§65913.4\(a\)\(8\)\(B\)\(i\)\(III\)](#), must complete the development.

DEVELOPMENT STANDARDS

All Projects

Eligible residential or mixed-use development projects must meet all relevant general plan, zoning, subdivision, and design review standards in effect at the time the application is submitted. For more information on how to process your application using the city's objective design standards for multifamily and mixed use development, please review the city's informational bulletin [IB-302](#).



APPLICATION SUBMITTAL

Preliminary Review Application Process

Early consultation with the city is strongly recommended since codes, standards, and housing requirements may apply to your project that affect the scope of a project. Although it is not required, staff recommends applicants informally discuss their preliminary review application with staff ([P-14](#)) to obtain input prior to submitting. Refer to Info-bulletin [IB-114](#) for more information on the preliminary review process.

How To Submit

Eligible projects must complete a development permit application ([P-2](#)), accompanied with a completed eligibility checklist form ([P-44](#)). Please

contact the Planning Division to schedule an intake appointment. Refer to the section "Options for Service" for contact info.

ENVIRONMENTAL REVIEW

SB 6 projects are subject to the California Environmental Quality Act (CEQA). Refer to the info-bulletin [IB-150](#) to learn more about CEQA.

The city can only require an applicant to abide by objective planning standards that were in effect at the time the SB 6 application was submitted. If an objective planning standard requires certain studies to be performed and there are objective standards to address the preparation and results of those studies, then the applicant would be required to prepare and implement those requirements.

PROPERTIES IN THE COASTAL ZONE

Development projects located within the [California Coastal Zone](#) requires a Coastal Development Permit (CDP) consistent with Carlsbad Municipal Code (CMC) [Chapter 21.201](#).

Pursuant to the California Coastal Act, the city may impose other types of conditions to ensure projects and the city's Local Coastal Program (LCP) are consistent with the public access and recreation policies of the California Coastal Act (Chapter 3) and certified Carlsbad LCP. These other types of conditions may assist the city in making the necessary findings to approve a required CDP ([§21.201.080\(C\)](#)).

DENSITY BONUS

SB 6 projects can utilize all the benefits offered under the State Density Bonus Law, which includes density bonus and the granting of concessions, incentives, and waivers of development standards to housing developments. Please refer to the city's informational bulletin [IB-112](#) for additional information on density bonus allowances.

OPTIONS FOR SERVICES

To schedule an appointment or to learn more about this process, please contact the Planning Division at 760-602-4610 or via email at Planning@carlsbadca.gov.