



2019 Legislative Update

American Planning Association
Orange County Section

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Outline of Today's Update

- **Housing**
 - SB 330
 - ADUs
 - Density Bonus Law
- **Surplus Land Act**
- **Website Requirements**
- **Safety Elements**
- **Evacuation Routes**
- **CEQA**
 - Major Transit Stops
 - Interim Motel Housing Projects
 - Supportive Housing
- **Low-Barrier Navigation Centers**

SB 330

SB 330: Clear Intent

- **Declared a “statewide housing emergency”**
 - Until January 1, 2025
- **Encourage (affordable) housing development and retention of existing (affordable) housing**
 - By expediting housing approvals
 - By suspending local authority to impose certain restrictions on housing developments
 - By requiring “replacement units”

SB 330: Expediting Approvals

- **All Development Projects**

- Requires more detailed completeness checklists for all projects subject to the Permit Streamlining Act

- **Housing Development Projects**

- Creates “preliminary application” process
- Limits the number of “hearings”
- Requires up-front “historic site” designations

SB 330: Permit Streamlining Act

- **Detailed project completeness checklists**
 - Incompleteness Letter:
 - Provide applicant with an “exhaustive list” of items that were not complete
 - Agency can identify as “incomplete” only items on the agency’s submittal checklist
- **Tip: Review and update completeness checklists for all development permits**

SB 330: Housing-Specific Provisions

- **“Housing Development Project”**
 - Residential units only
 - Mixed use developments
 - With 2/3 of square footage for residential
 - Transitional and Supportive Housing

SB 330: “Preliminary Application”

- **New application for “housing development projects” to freeze standards earlier**
 - Statutorily required information
 - Payment of permit processing fees
- **Cannot apply later-enacted policies or standards to that specific project**
- **To maintain benefits, applicant must submit a complete application within 180 days**

SB 330: Changes to the HAA

- **Okay to Apply these Later-Enacted Standards:**
 - Automatic CPI adjustments of fees, etc.
 - To avoid a “specific, adverse impact”
 - To avoid / lessen a CEQA impact
 - If no construction within 2 ½ years after “final approval” of project
 - Project revised after preliminary application is submitted (if more than 20 % change in square footage or number of units)

SB 330: Limited Number of Hearings

- No more than five hearings for a “housing development project” that complies with applicable objective standards after “deemed complete”
 - Includes “continued” public hearings
 - **Does not apply to legislative approvals!**

SB 330: Housing Approval Timelines

- **Shortened timelines for housing projects:**
 - Within 90 days after EIR Certification
 - Within 60 days after EIR Certification if the development:
 - Reserves at least 49 percent of the units as Very Low or Low Income units; and
 - Receives / will receive public \$\$\$

SB 330: Housing Crisis Act of 2019

- Applies to “affected” cities and counties
- Prohibits certain local agency restrictions on housing and residential density
- Requires “replacement units” for new housing development projects on sites with existing housing
 - Government Code § 66300

SB 330: Prohibited Local Actions

- **Affected cities and counties may not:**
 - Reduce allowable intensity in any land use designation or district or downzone any specific property to a “less intensive use” below what was allowed on January 1, 2018
 - **Exception for “no net loss” compliance**

SB 330: Prohibited Local Actions

- **Impose a moratorium on housing**
- **Limit the number of approvals or construction permits for housing**
- **Cap the number of housing units**
- **Limit the jurisdiction's population**
- **Adopt subjective design standards after January 1, 2020**

SB 330: “Replacement Units”

- Prohibits affected cities and counties from approving housing development projects unless they replace all of the existing dwelling units
- Special affordability requirements for demolishing “protected units”

SB 330: “Replacement Units”

■ “Protected units”

- Units subject to a legal rent restriction in the last 5 years (including recorded covenant);
- Units subject to rent control in the last 5 years;
- Units occupied by low or very low income households in the last five years;
- Units withdrawn from the rental market in the past 10 years (Ellis Act)

SB 330: Exceptions and Caveats

- **Retain authority over housing development projects in Very High Fire Hazard Severity Zones**
- **May still adopt policies to:**
 - Allow greater density & encourage housing
 - Reduce costs to housing development project
 - Impose or implement MMs under CEQA
- **CEQA and Coastal Act remain intact**

ADU Bills

Overview of ADU Requirements

- **Two-pronged approval process:**
 - **“Building Permit Only” Process**
 - State standards only
 - Residential or Mixed-Use Zone
 - Gov. Code § 65852.2(e)
 - **Local Ordinance Process**
 - Local ADU Standards
 - But must comply with standards in Gov. Code § 65852.2(a)

“Building Permit Only” Process

- **One ADU or JADU per lot**
 - Within proposed single-family dwelling
 - Within existing space of single-family dwelling
 - Within existing space of accessory structure (including expansion of up to 150 square feet for ingress/egress)
 - Exterior access required
 - Side and rear setbacks for fire and safety
 - JADU must comply with 65852.22

“Building Permit Only” Process

■ What is a JADU?

- An ADU contained entirely within the walls of a single-family residence
- No larger than 500 square feet
- Must have a cooking facility with food preparation area and appliances
- May have its own bathroom or share a bathroom with the main residence

“Building Permit Only” Process

- **One detached, new ADU**
 - For a lot with a proposed or existing single-family dwelling
 - Maximum size of 800 square feet
 - Maximum height of 16 feet
 - Four-foot side and rear yard setbacks
- **One detached, new ADU plus one JADU**

“Building Permit Only” Process

■ ADUs on Multifamily Property

- Must allow conversion of non-“livable space” of an existing multifamily property
 - For example, storage rooms, boiler rooms, passageways, attics, basements, or garages
 - Must comply with state building standards
 - Allow at least one ADU, and up to 25 percent of the existing number of multifamily dwelling units in the building

“Building Permit Only” Process

■ ADUs on Multifamily Property

- Up to two detached ADUs on a lot with an existing multifamily building
- Subject to 16-foot height limit
- Subject to four-foot rear / side-yard setbacks

“Building Permit Only” Process

- If the “building permit only” process applies, the city may **not**:
 - Impose any other local standards except for building code requirements
 - Require correction of nonconforming zoning conditions
- If “building permit only” process applies, the city **must** require that rental of ADU be for longer than 30 days (i.e., no short-term rentals)

“Local Ordinance” Process

- **Designate areas for ADUs, based on:**
 - Water and Sewer Services
 - Traffic Flow and Public Safety
- **Establish local standards**
 - Must comply w/ Gov. Code § 65852.2(a)

“Local Ordinance” Process

- **Ministerial Review Only**

- Must approve the ADU within 60 days, without a hearing or discretionary review
- May delay until after reviewing application for new single-family home

“Local Ordinance” Standards

- **Local ordinance may not:**

- Require minimum lot size
- Require owner-occupancy
- Require replacement parking spaces
- Impose FAR, lot coverage, or other similar requirements that do not allow an 800-square foot ADU

“Local Ordinance” Standards

- **Ordinance may limit size, but may not:**
 - Set maximum unit size below 850 square feet (or 1,000 square feet for 2+ BD ADUs)
- **Existing dwelling?**
 - Attached ADU shall not exceed 50 percent of the existing single-family home
- **Detached ADU**
 - Total floor area shall not exceed 1,200 sq. ft.

“Local Ordinance” Standards

■ Setback Limitations

- Maximum 4-foot side and rear setbacks
- No setback beyond existing for conversions of existing living space and re-construction to the same dimensions in the same location

Local Parking Standards

- Local ordinance may not require more than one parking space per ADU
- Local ordinance may **not** require parking in any of the following instances:
 - Within ½ mile **walking** distance of public transit
 - Within historic district
 - Attached ADU or converted accessory structure
 - On-street permits not offered to ADU residents
 - Car-share vehicle within one block

Impact Fees / Utility Connections

- **Fees imposed per Mitigation Fee Act**
 - No impact fees for ADUs under 750 sq. feet
 - Fees for larger ADUs are proportional to the square footage of the primary dwelling
- **Utility Connections**
 - New use only if proposed with a new SFD
 - Limited opportunity to require new utility connections

State Oversight of ADUs

- Send ordinance to California Department of Housing & Community Development (HCD) for review within 60 days after adoption
- City can use ADUs toward production of units for HCD reporting of RHNA compliance

Homeowners' Associations

- Homeowners associations may not prohibit or “unreasonably restrict” construction of ADUs and JADUs on single-family lots
- “Reasonable restrictions” are okay

Density Bonus Law

Density Bonus Law: An Overview

- **Qualifying projects entitled to receive:**
 - A density bonus;
 - Specific number of “incentives & concessions” based on the type of housing development;
 - Waivers or reductions of development standards (where standards would “physically preclude” the construction of the development); and
 - Reductions in minimum parking requirements

Existing Qualifying Projects

- 10 percent Lower Income HHs (or Students)
- 5 percent Very Low Income HHs
- Senior Citizen Housing Development
- 10 percent Moderate Income (Condos)
- 10 percent Transitional Foster Youth, Disabled Veterans, or Homeless Persons

AB 1763: New Qualifying Project

- **To Be Eligible: 100 Percent “Affordable”**
 - At least 80 % for Lower Income HHs
 - Remaining units must be reserved for either Lower or Moderate Income HHs
- **Benefits for Eligible Projects**
 - An 80-percent Density Bonus
 - Four Incentives / Concessions
 - Reductions in Parking Requirements

Benefits for TOD Affordable Projects

- **If a 100-percent affordable project is located within ½ mile of a Major Transit Stop:**
 - Height increase of 3 more stories or 33 feet
 - Waiver from “maximum controls on density”
 - But no other “waivers” under 65915(e)

Surplus Land Requirements

Determining “Surplus Land”

- Identifying “surplus land” and exempt “surplus land”
 - Land owned ... by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use
 - New expanded list of local agencies
 - New explicit definition of “agency’s use”

Disposing of “Surplus Land”

- **Before disposal (or engaging in negotiations to dispose) of surplus land, agency must:**
 - Notice of availability to designated entities
 - Good faith negotiations w/ designated entities
 - Priority for low / moderate income housing, unless property already used for park
 - Notice to HCD of proposed terms

Surplus Land Inventory

- Annual inventory of “surplus land”
- Send HCD list of “surplus land”
- HCD to publish a statewide inventory

Website Requirements

AB 1483: Website Requirements

- Current “Fees, Exactions, and Affordability Requirements” for Housing
- Zoning, Design & Development Standards
- All Application Completeness Checklists
- Current (and five prior) annual fee reports
- Impact fee nexus studies (or cost of service studies) conducted *after* January 1, 2018

CEQA – Minor Changes

Definition of “Major Transit Stop”

- **CEQA exemption for certain residential projects within ½ mile of “major transit stop”**
- **AB 1560 expanded that definition to include bus rapid transit with:**
 - Full-time dedicated bus lanes w/ defined stations
 - Headways ≤ 15 minutes during peak commutes
 - Transit signal priority
 - All door boarding
 - Fare system promoting efficiency

Interim Motel Housing Projects

- **SB 450 adds a new statutory exemption for interim motel housing (through January 1, 2025)**
 - Exempts certain conversions of a motel, hotel, hostel, or residential hotel to supportive or transitional housing
- **Conversion must not:**
 - Expand floor area of any living unit by > 10 %
 - Result in significant effects to traffic, noise, air quality or water quality
- **Notice of Exemption must be filed with OPR**

Supportive Housing: Existing Law

- **“By right” supportive housing meeting certain criteria must be processed ministerially**
 - So they’re not “projects” under CEQA
- **Prior legislation (AB 2162) made supportive housing “by right” in zones where mixed-use or multifamily housing is a permitted use**
- **Cap of 50 units to get “by right” process for jurisdictions < 200,000 population with 1,500 or fewer people experiencing homelessness**
 - Cities / Counties can increase the cap

Supportive Housing: New Law

- Adopting a local policy to allow “by right” approval of supportive housing projects larger than 50 units is exempt from CEQA
- Authorizes imposition of fees / exactions to provide necessary public services and facilities **BUT CANNOT** be based:
 - Solely or partially on being permanent supportive housing
 - On basis that it’s a ministerial approval

Supportive Housing & CEQA

- **Notice of Exemption for “No Place Like Home” funded supportive housing projects**
 - If not exempt, file Notice of Determination with OPR
 - Filings must be within **two working days** rather than 5 days from approval
 - 30-day CEQA challenge period
 - If DON'T file on time – 30 days from late filing, or 90 days after NOE/NOD filing deadline.

Low-Barrier Navigation Centers

Low Barrier Navigation Centers

- **Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing (Govt. Code §§ 65660 et seq.)**
- **Temporary living**
- **Has case management connecting homeless to public benefits, health services, shelter and housing**
 - May include partners, pets, storage of possessions
- **Must meet certain federal service-related standards**

Low Barrier Navigation Centers

- **Allowed by right in areas zoned for mixed use and residential zones permitting MF uses**
- **Criteria:**
 - Offers services to connect people to permanent housing; services plan with identifying staffing
 - Linked to coordinated entry system designed for intake, assessment, and referrals
 - Complies with certain Welfare & Institutions codes
 - Has system for entering information re: client stays, demographics, income, and exit destinations through Homeless Management Information System

Safety Elements

AB 65 – Natural Infrastructure

- **Safety Elements already need to include info on Climate Adaptation & Resiliency Strategies**
- **Must identify “Natural Infrastructure”**
- **AB 65 updates definition – referencing**
 - Sustainable management of aquatic or terrestrial vegetated open space
 - Systems / practices that use or mimic natural process, incl. engineered systems (e.g. levees)
- **Consider in next Safety Element update**

Evacuation Routes

SB 99: Emergency Evacuation Routes

- **Review / update Safety Element to identify residential developments in hazard areas with less than two emergency evacuation routes**
- **Deadline:**
 - Next update of Housing Element on/after January 1, 2020

AB 747: Evacuation Route Updates

- **Expands requirement for Safety Element to identify evacuation routes and their:**
 - Capacity / Safety / Viability
 - In a range of emergency scenarios
- **Update tied to next update of Local Hazard Mitigation Plan after January 1, 2022**
 - If agency has not adopted LHMP, then by January 2022

Miscellaneous

Licensed Family Daycare Homes

- **Goal of SB 234**
 - Reduce costs & improve access to childcare
- **Treat large family daycare homes like small family daycare homes**
 - Permitted use like other residences in the zone; can no longer require special zoning permit

Licensed Family Daycare Homes

- **Cities / counties may not:**
 - Impose spacing / concentration standards
 - Impose traffic / parking / noise controls
 - Require a business license
- **But can impose generally applicable height, setback, and lot standards on same terms as residential development**

Licensed Family Daycare Homes

- **Must allow small and large family daycare in a variety of multi-family residences including:**
 - SF in a MF zone
 - Townhomes
 - Dwelling unit within a dwelling (ADU?)
 - MF dwellings in zones allowing residential use

Photovoltaic Req'ts & Disaster Repairs

- **AB 178: Residential reconstruction / repair after disaster (fire / flood) in areas of declared state of emergency only need to comply with solar photovoltaic requirements that were in effect when the damaged or destroyed structure was originally constructed if:**
 - Owner's income \leq below county median income
 - Square footage of residence does not exceed size when damaged
 - No code upgrade insurance at time of damage
 - New construction is on the same site

Warehouse – Economic Subsidies

- **AB 485: New reporting requirements and procedures related to subsidies for distribution centers**
 - Subsidies over \$100,000 to warehouse distribution centers
 - Cannot require nondisclosure agreement as part of negotiations

Warehouse – Economic Subsidies

- **New reporting requirements:**

- Estimated number of temp agency workers
- Info re: benefit packages offered to employees
- Outreach, training and hiring plans, including disadvantaged workers (as defined in the statute)
- Total state / fed subsidies applied for / received
- Accountability measures if contract goals not met
- Net job loss / replacement due to AI, automation, or other technologies

Land Use Approvals & COVID-19

- **Effect of Emergency Orders?**
- **Tolling of Deadlines?**
 - Permit Streamlining/Subdivision Map Acts
 - Housing Accountability Act
 - Accessory Dwelling Units
 - Streamlined Housing (“SB 35”) Approvals
 - Wireless Facility Shot Clocks



Thank you! Questions?

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