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CEQA REFORM LEGISLATION AND THE IMPACT OF AB 130 AND SB 131

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AGENDA



CEQA Updates

Statutory Infill Exemption

Near Miss Rule

Other CEQA Updates

Niche Exemptions



Housing Law Updates

Extension of Key Provisions

The Permit Streamlining Act

Coastal Development

Small Housing Projects

Building Code

CEQA UPDATES

A low-angle, upward-looking photograph of several modern skyscrapers with glass facades. The buildings are arranged in a way that creates a sense of height and architectural complexity. The sky is a pale, clear blue.

STATUTORY INFILL EXEMPTION



SIZE LIMITATIONS



Up to 20 Acres

Exceptions

- Builder's Remedy Projects
- Housing Opportunity Sites

SITE CRITERIA



City or Urban Area of County



Urban Infill – Meet Any of the Following

- Previously Developed with Urban Use
- 75% of Perimeter Adjoins Urban Uses
- 75% of Area within ¼ Mile Developed with Urban Uses
- 3 of 4 Sides are Developed with Urban Uses and 2/3 of Perimeter of Site Adjoins Parcels Developed with Urban Uses



General Plan/Zoning Consistency

- Reasonable Person Standard – No Discretion to Agency
- If General Plan and Zoning are inconsistent, a project is deemed consistent with both if consistent with either the General Plan or the Zoning
- Density Bonus Exception

Minimum Density Requirement



5 du/ac – unincorporated area in a nonmetropolitan county



7.5 du/ac – Incorporated city within a nonmetropolitan county; or nonmetropolitan county that has a metropolitan area



10 du/ac – Suburban Jurisdiction



15 du/ac – Metropolitan County



Coastal Limitations

Ocean Front
Developments

Protected Areas

Outside of LCP
or Certified
Land Use Plan

Area Vulnerable
to 5 feet of Sea
Level Rise

Not Zoned for
Multifamily

Prime
Agricultural
Land

OTHER SITE LIMITATIONS



Farmland



Wetlands



Conservation
Areas



Protected
Habitat



Historical
Structures

SAFETY CONSTRAINTS

VHFHSZ or SRAs

- Exception – Project adopts fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development

Hazardous Waste Sites on Cortese List

- Exception – Site is an underground storage tank site that received a uniform closure letter
- Exception – Agency (state or local) has determined the site is suitable for residential use

Delineated Earthquake Fault Zones

- Exception – Project complies with applicable seismic protection building code standards

SAFETY CONSTRAINTS



Special Flood Hazard Area (1% chance of 100-year flood)

Exception – Site has been subject to a Letter of Map Revision prepared by FEMA and issued to the local jurisdiction
Exception – Site meets FEMA flood plain management criteria



FEMA Regulatory Floodway

Exception – Received a no-rise certification



Phase 1 Report

If condition is found, development must complete a preliminary endangerment assessment
Any impacts discovered must be mitigated



Housing Within 500 Feet of Freeway

Centralized heating, ventilation, and AC
Air filtration requirements
Orientation requirements

TRIBAL CONSULTATION



Consultation Required



Timing

- 14 Days – Solicit Consultation
- 60 Days – Tribal Response
- 14 Days – Initiate Consultation
- 45-60 Days – Consultation
- 30 Days – Approve or Disapprove



Required Conditions

- Enforceable Agreements
- Tribal Monitoring
- TCR Avoidance, Where Feasible.
- Others (e.g., records search)

LABOR REQUIREMENTS



Prevailing Wages

100% affordable projects

Projects over 85 Feet



Liability for Unpaid Wages

Developer is liable (along with GC) for unpaid wages, fringe benefits, and related penalties and liquidated damages owed by subcontractors

“NEAR MISS” RULE

Housing projects that would otherwise be exempt but for a single condition

In such “near miss” instances, it limits CEQA review to those environmental effects caused solely by that condition, and waives the need for analysis of project alternatives and growth-inducing effects



APPLICABLE EXEMPTIONS



- All statutory exemptions adopted before January 1, 2026
- Categorical exemptions 1-5, 12, 15, 20, 27, 30, and 32 adopted before January 1, 2026

KEY DEFINITIONS



A “condition” means: (1) a physical feature; (2) a regulatory feature; (3) the Project’s setting; or (4) an effect upon the environment caused by the project



A “housing development” means at least 2/3 residential (same as HAA)

EXCLUSIONS



Not similar in kind to the projects listed in the exemption



Ineligible due to two or more conditions

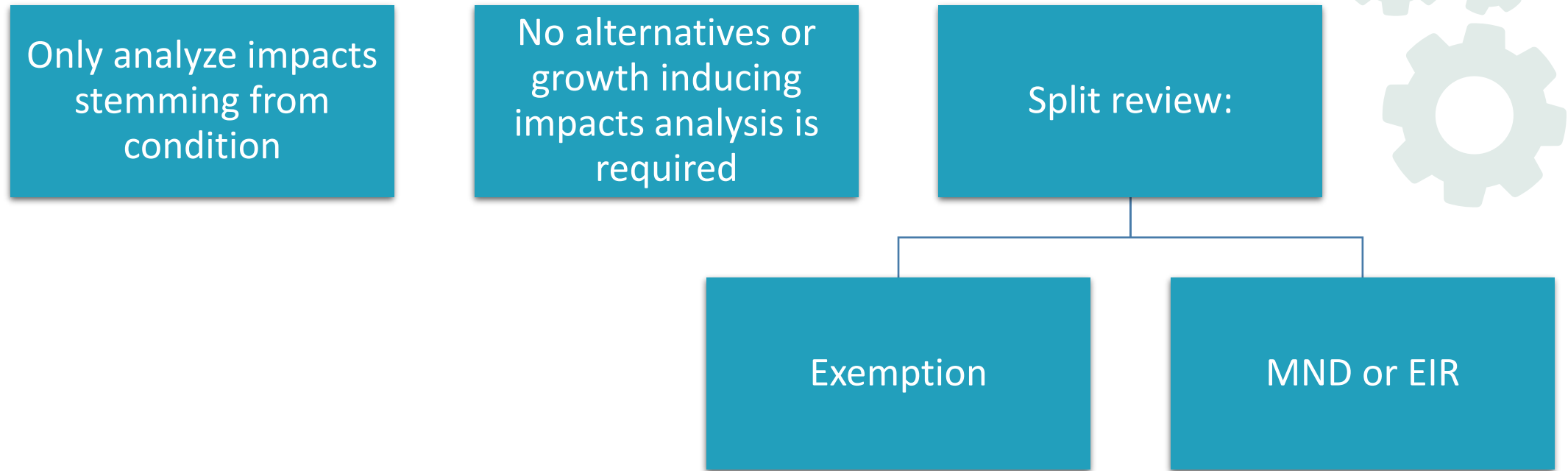


Project includes a distribution center or oil and gas infrastructure



Located on “natural and protected lands,” excluding VHFHSZs and SRAs

MECHANICS



AMBIGUITIES

- Factual Determination on Conditions
- Determining Impacts Arising from Condition
- Determining if Project is “similar in kind”
- Exemptions Modified After January 1, 2026





OTHER CEQA UPDATES

VMT MITIGATION BANK



Provides option to mitigate VMT impacts by paying a fee



Funds go into Transit-Oriented Development Implementation Fund



Funds used for “efficient affordable housing or related infrastructure projects”



LCI will develop initial guidelines by July 1, 2026, with updates every 3 years



Like all mitigation measures, VMT Impact Fee will need to comply with Constitutional limitations and the MFA

REZONING HOUSING ELEMENT SITES



- Exempts rezoning necessary to implement schedule of actions contained in approved housing element
- Exceptions
 - Rezoning allows for a distribution center or oil and gas infrastructure
 - Rezoning allows for construction within a natural and protected area (other than farmland)

ADVANCED MANUFACTURING



Required Criteria

- Facility exclusively used for advanced manufacturing
- Property is zoned exclusively for industrial uses
- Property does not qualify as a “natural or protected land”

“Advanced Manufacturing” Defined

- Manufacturing processes that improves existing or creates new materials, products, and processes in any of the following technology areas:
 - Microelectronics and nanoelectronics, including semiconductors
 - Advanced materials
 - Integrated computational materials engineering
 - Nanotechnology
 - Additive manufacturing
 - Industrial biotechnology

NICHE EXEMPTIONS

- Specified Agricultural housing
- Specified community water and sewer systems
- Specified wildfire risk reduction projects
- Specified broadband deployment projects
- Updates to State Climate Adaptation Strategy
- Specified parks and recreational trails
- Specified day care centers not located on natural or protected land
- Rural health clinics and federally qualified health centers not located on natural or protected land
- Specified food banks
- Specified maintenance facilities for electrically powered high-speed rail projects

OTHER CEQA UPDATES

Streamlined Administrative Record

- Exclude Staff Notes
- Exclude Internal Agency Communication

Exception

- Distribution Centers and Oil and Gas projects do not qualify
- Emails Presented to Final Decision Maker
- Communications and Documents Reviewed by Administrative Official

OTHER CEQA UPDATES

- Map urban infill sites by July 1, 2027
- Update the CEQA Guidelines by January 1, 2027, and every 2 years
 - Specific focus on incentivizing affordable and smart infill housing
 - Address rigid requirements, lack of clarity, and the potential for excessive exposure to frivolous litigation
- CEQA now declares it “should not be used primarily for economic interests, to stifle competition, to gain competitive advantage, or delay a project for reasons unrelated to environmental protection”

HOUSING LAW UPDATES



KEY HOUSING LAWS EXTENDED INDEFINITELY



SB 330 Preliminary
Application

Deemed Complete
Definition

Objective Definition

Remedy Against
Agency for
Preliminary
Application Violations

The Five
Hearing Rule

Early Historic
Determination Rule

Housing Crisis Act
of 2019

PERMIT STREAMLINING ACT



Applies to Ministerial Projects



Ministerial Projects – 60 Days from
Receiving a Completed Application

subject to limited exceptions



Projects Using Statutory Infill Exemption – 30 days from Tribal
Consultation Process



Removes Notice Condition Required to Trigger Deadlines



Subjects Coastal Commission to Resource Agency Timelines

COASTAL DEVELOPMENTS



Coastal Appeal Jurisdiction

- No Appeal Jurisdiction for Multi-Family Projects in:
 - Sensitive Coastal Resource Areas,
 - Coastal County Where Zoning Does Not Principally Permit Multi-Family

Coastal Commission Reporting

- Number of Multi-Family Projects Appealed
- Developer Waived Hearing Deadline on Appealed Project
- Appealed Projects Approved, Conditionally Approved, Denied, or Withdrawn

SMALL HOUSING DEVELOPMENTS



- Accessory Dwelling Units
 - No more old local agency standards
- 10-Lot Subdivision
 - Allows for a remainder parcel

BUILDING CODE

Pause

Freeze Building Code

- October 1, 2025 – June 1, 2032
- Freeze state law updates
- Freeze local amendments

Freeze

Freeze Building Code When building permit is submitted, for a residential dwelling based on a model home design

- Lasts for 10 years

Model

New Model Code

- International Wildland-Urban Interface Code

SPEAKERS



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