



Housing Legislation Update Seal Beach City Council

May 27, 2025

Presented by: Diana Varat, City Attorney's Office

Outline of Presentation

- **Housing Element**
- **The HAA & “Builder’s Remedy” Projects**
- **Streamlined / Ministerial Approval Processes**
 - Housing in Commercial Areas
 - Density Bonus Law
 - Duplexes, Urban Lot Splits, Small Lot Subdivisions, Accessory Dwelling Units (“ADUs”)
- **State Enforcement of Housing Laws**

Broad Trends in Housing Law

- **GOAL: To build more housing!**
 - Reduce Local Discretion over Housing Projects
 - Increase Residential Development Capacity
 - Encourage More Affordable / Denser Housing
 - Streamline / Expedite Housing Approvals
 - Strengthen State Enforcement



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Housing Element Update

- **Both of the following must be completed to receive HCD approval**
 - **Adopt 6th Cycle Housing Element**
 - Draft preliminarily approved by HCD
 - **Complete required rezoning (Program 1b)**
 - Adopt Mixed Commercial / Residential High Density Zone to allow housing in commercial centers at 40-46 units / acre
 - Anticipated adoption in Fall 2025



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Housing Element – Substantial Compliance (AB 1886)

- Housing element only in compliance when adopted and either HCD or a court so declares
- Housing element compliance is determined when “deemed complete” (per HAA definition)
 - Either on date of submittal of complete preliminary application, or, if no preliminary application, when project application determined to be complete or complete by operation of law



Consequences of Lack of Housing Element Certification

- **State Enforcement Actions & Litigation**
 - Fines, Attorneys' Fees, Costs
 - Loss of Local Approval Authority
- **Reduced Access to State Funding**
- **Builder's Remedy Projects**



Housing Accountability Act (HAA)

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Basics of the HAA

- **Reduces local discretion to “disapprove” housing development projects**
- **Two main provisions:**
 - “Housing for very low, low-, or moderate-income households” / emergency shelters [subd. (d)]
 - “Builder’s Remedy Projects”
 - Housing development projects that comply with applicable objective standards [subd. (j)]

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Broadly Applicable HAA Provision

- City cannot “disapprove” or lower the density of a housing development project that complies with all applicable objective planning standards in place at the time a preliminary application is submitted or a formal application is deemed complete
 - Unless city makes a “specific, adverse impact” finding

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“Builder’s Remedy Projects”

- A “housing development project” that provides “housing for very low, low, or moderate income households” and meets state law requirements
- Project avoids compliance with General Plan and Zoning Code requirements for the site if:
 - On or after the project is “deemed complete”, city fails to have a substantially compliant housing element

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“Housing for Very Low, Low, or Moderate Income Households”

- 100 % affordable for lower income
- 100 % affordable for moderate income
- Mixed-income projects with at least:
 - 7 % extremely low households
 - 10 % very low households
 - 13 % lower income households
 - Percentages based on DBL “base density”
- Project with ≤ 10 (base density) units on a site smaller than one acre with minimum density of 10 units / acre

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Maximum Density for BR Projects

- “Base Density” shall be the **greatest** of:
 - 50 % above “default density” (e.g., 45 du / acre)
 - 3 x the greatest density allowed by GP, ZC, or state law
 - Density identified in housing element
- **BUT add 35 du / acre if:**
 - Within ½ mile of “major transit stop”
 - In very low vehicle travel area
 - In High or Highest Resource Census Tract per “CTCAC/ HCD Opportunity Map”

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Minimum Density for BR Projects

- **Minimum Density must be:**

- The minimum density applicable to the site if located within ½ mile of “commuter rail” or “heavy rail” station
- Otherwise, it's the applicable minimum density for the site or half of the default density, whichever is lower

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What Applies to BR Projects?

- Only objective, quantifiable written standards can be applied to BR projects
 - Use standards from GP designation / zoning that allow density and unit type proposed by applicant
 - If no such district / zone, then applicant decides
- BR projects get two additional “concessions”
- Affordable units must have comparable numbers of bedrooms & bathrooms to market-rate units

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Avoiding the Builder's Remedy

- **Maintain Housing Element Certification (6th Cycle)**
 - Implement Housing Element programs on time
 - Submit Annual Progress Reports
 - Maintain Adequate Capacity for RHNA
- **Obtain Housing Element Certification (7th Cycle)**
 - Engage consultant / begin planning process early
 - Work collaboratively with HCD
 - Think proactively about future capacity for housing

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Density Bonus Law

Qualifying Projects

- 5 % Very Low Income Households
- 10 % Lower Income Households
- 10 % Moderate Income Persons / Families (For-Sale)
- 100 % “Affordable” Projects (80 / 20 Split)
- Senior Citizen Housing Development
 - **New:** Residential Care Facilities for the Elderly
- Student Housing (20 % Lower Income)
 - **New:** Changed Parameters / Additional Benefits

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Benefits for the Applicant

- **Qualifying projects entitled to receive:**
 - A **density bonus** (based on a sliding scale) plus “stackable” density bonus;
 - Specific number of “**incentives / concessions**” (based on affordability);
 - **Waivers** / reductions of development standards (where standards would “physically preclude” the development); and
 - Reductions in **parking** requirements

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Density Bonus Calculations (Low & High Ends of Sliding Scale)

Level of Affordability	Percentage Affordable	Density Bonus
Very Low	5 %	20 %
Very Low	15 %	50 %
Low	10 %	20 %
Low	24 %	50 %
Moderate	10 %	5 %
Moderate	44 %	50 %

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New “Stackable” Density Bonuses (Low & High End of Sliding Scale)

Level of Affordability	Additional Percentage Affordable	Additional Density Bonus
Very Low	5 %	20 %
Very Low	10 %	38.75 %
Moderate	5 %	20 %
Moderate	15 %	50 %

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Concessions / Incentives

Number of Concessions	Required Amount of Affordable Units		
	Very Low	Lower	Moderate
1	5 %	10 %	10 %
2	10 %	17 %	20 %
3	15 %	24 %	30 %
4	16 %	-	45 %
5	100 % Affordable (at least 80 % Lower; up to 20 % Moderate)		

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Waivers of Development Standards

- Applicant may request reduction or waiver of any **development standard** that has the effect of **physically precluding** a development meeting the affordable housing thresholds **at the densities or with the concessions or incentives permitted by state density bonus law**

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Waivers - “Development Standard”

- **A site or construction condition**

- For example, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to a residential development
 - pursuant to local planning and zoning documents and regulations
 - Including those adopted by the voters

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Reductions in Parking Requirements

- **Density bonus eligible applicants can request the following parking ratios:**
 - 0-1 Bedroom: 1 onsite parking space
 - 2-3 Bedrooms: 1.5 onsite parking spaces
 - 4+ Bedrooms: 2.5 parking spaces
- **No parking requirements for some wholly affordable projects for senior rental housing projects and special needs populations**

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Density Bonus Project Example

- Assume 1-acre site with base density of 30 du / acre
- Project proposes 20 studios & 10 two-bedroom units with 5 Very Low and 5 Moderate Income Units
 - Allowed 100 % Density Bonus (Stackable Bonus)
 - Ultimate project of 60 units with 10 affordable units
 - Allowed three concessions / incentives
 - Waivers of development standards
 - Default DBL Parking = 25 parking spaces

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Housing on Commercial Sites

Affordable Housing and High Roads Jobs Act of 2022 (AB 2011)

- Creates a ministerial approval process for two types of housing projects on sites where office, retail, or parking are “principally permitted uses”:
 - Wholly affordable projects
 - Mixed-income housing projects along “commercial corridors”
- Development standards in state law
- Labor requirements

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Middle Class Housing Act of 2022 (SB 6)

- Housing projects are an **allowable use** on sites where office, retail, or parking are principally permitted uses:
 - 100-percent residential project, or
 - Mixed-use project (at least 50 % of square footage dedicated to residential use)
- Mandatory minimum density
- No mandatory affordability requirement

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Middle Class Housing Act of 2022 (SB 6)

- **Does not create ministerial approval process**
 - Projects may invoke other streamlining (e.g., SB 35 ministerial process), or
 - Rely on processing for housing in closest zone that allows default density
- **Labor requirements**

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AB 2243: Amendments to SB 6 and AB 2011

- **More projects qualify for AB 2011 and SB 6**
 - Allowed on site of "regional mall" up to 100 acres
- **Some significant AB 2011 changes include:**
 - Parking is a "principally permitted use" even if a CUP is required
 - Now allowed within 500 feet of freeways (with air filtration for future residents)
 - Minimum density requirements
 - Additional processing requirements / deadlines

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Ministerial Approvals

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Gentle Density / Missing Middle



Source: *APA Planning Magazine*, "5 Practical Zoning Hacks for Missing Middle Housing,"
Kati Woock, March 21, 2022, photo courtesy of Opticos Design, Inc.



Ministerial Approvals

- **Duplexes / Urban Lot Splits**

- Maximum 4 units
- Gov. Code §§ 66411.7, 65852.21 (SB 9 / SB 450)

- **ADUs / JADUs**

- Maximum differs (SF v. MF lots)
- Gov. Code §§ 66310 *et seq.*

- **Small Lot Subdivisions**

- Maximum 10 Units
- Gov. Code §§ 66499.41, 65852.28 (SB 684 / SB 1123)

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Duplexes / Urban Lot Splits

SB 450 Legislative Findings

- Housing crisis of availability and affordability requires a multifaceted, statewide approach:
 - Increase in the overall supply of housing
 - Develop housing affordable to all income levels
 - Remove barriers to housing production
 - Expand homeownership opportunities
 - Expand the availability of rental housing
- Applies SB 9 to charter cities (again)

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SB 9 “Duplex” Projects

- Must ministerially approve a housing development with two units on one single-family zoned lot
 - Possibly results in 4 units on original lot

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Duplexes: Objective Local Standards

- Ok to impose objective zoning, subdivision, and design review standards
 - Except standards that physically preclude construction of up to two units of at least 800 square feet each
- **New:** Cannot impose standards that “do not apply uniformly to development within the underlying zone”
 - SB 9-specific standards okay if they're “more permissive” than standards for underlying zone

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SB 9 “Urban Lot Splits”

- City must ministerially approve parcel maps for urban lot splits of single-family zoned lots that meet the following:
 - No more than two parcels created
 - The new parcels must be approximately equal in size, with one parcel being no smaller than 40% of the original parcel size
 - Each parcel must be at least 1,200 sq. ft

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SB 9 Urban Lot Splits

- No demolition of deed-restricted or (recently) tenant-occupied housing
- Intent to occupy one of the houses on the resulting lots for three years
- No short-term rentals of any units

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Processing SB 9 Applications

- **New:** Must approve or deny within 60 days from receiving a “complete application”
 - Otherwise, application is deemed approved
 - If denial, must return “full set” of written comments with a “list of items that are defective or deficient” and description of how application can be remedied

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ADUs and JADUs

Building Permit Approvals

- **Building Permit Only Approvals**
 - Subject only to the standards in state law
- **Single-Family Context**
 - Conversion of existing space / accessory structure on a lot with a SFR into one ADU and one JADU
 - New construction of detached ADU with SFR

Building Permit Approvals

■ Multi-Family Context

- ADUs from converted **nonlivable** space
 - up to 25 % of existing number of units
- Detached ADUs
 - Existing Multi-Family Structure
 - **Up to 8 detached ADUs**
 - But no more than existing units onsite
 - Proposed Multi-Family Structure
 - Up to 2 detached ADUs

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Processing Applications

- **Existing Dwellings:** Approve or deny the application to create an ADU or JADU **within 60 days** from the date it receives a completed application if there is an existing dwelling
- **Proposed Dwellings:** City may delay review for the ADU / JADU until it approves or denies the application to create the new single-family or multifamily dwelling

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Small Lot Subdivisions

Small Lot Subdivision (SB 684)

- Must **ministerially** approve residential subdivisions of 10 legal lots and related units if they meet state law standards
 - Cannot impose requirements for minimum lot size, width, frontage, or depth
- Approve within 60 days
- Specific, adverse impact finding for denial

SB 1123: Amendments to SB 684

Single-Family Zone

- Only if lot is “vacant”
- Existing Lot Size must be ≤ 1.5 acres
- Resulting Lot Sizes must be $\geq 1,200$ sq. ft.
- N/A for sites with affordable housing or recent tenant-occupied housing

Multi-Family Zone

- Vacant or Redevelopment
- Existing Lot Size must be ≤ 5 acres
- Resulting Lot Sizes must be ≥ 600 sq. ft.



Residential Developments

- Average “net habitable square feet” of units $\leq 1,750$
- Apply objective zoning, subdivision, design standards, but limits on local requirements:
 - Cannot physically preclude project at default density
 - Setbacks:
 - No setback between units
 - 4-foot rear / side yard (but none for existing)
 - Parking:
 - No enclosed / covered parking requirement
 - One space per unit (but none near transit / car share)
 - FAR limits:
 - At least 1.0 for 3-7 units
 - At least 1.25 for 8-10 units



Residential Developments

- Okay to impose height limit on developments on SF zoned sites but must be at least the height limit of the underlying zone
- Cannot impose objective standards that:
 - “Imposes any requirement that applies to a project solely or partially on the basis that the subdivision or housing development receives approval” under this section

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Processing Applications

- Must approve or deny **within 60 days** from receiving a “complete application”
 - Otherwise, application is deemed approved
 - If denial, must return “full set” of written comments with a “list of items that are defective or deficient” and description of how application can be remedied

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State Enforcement

Housing Element – Presumptions (AB 2023)

- Previously, there was a “rebuttable presumption of compliance” if HCD certified a housing element
 - AB 2023 created a rebuttable presumption of invalidity if HCD makes such a finding
- Also creates a rebuttable presumption of invalidity in legal actions if HCD finds that a city’s **action or failure to act** does not substantially comply with its adopted housing element or housing element law

Enforcement Actions (SB 1037)

- Allows additional penalties if AG or HCD enforce housing element compliance or any law requiring ministerial housing approval
 - Civil penalty of \$10,000 to \$50,000 per month
 - Cost of investigating / prosecuting action (includes attorney's fees)
- Payment only may be made from funds not already dedicated for affordable housing

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Thank you! Questions?