

Housing Legislation Update Seal Beach City Council

May 27, 2025

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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

Housing Element – Substantial Compliance (AB 1886)

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





Basics of the HAA

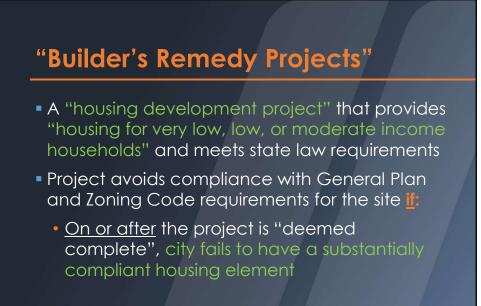
- Reduces local discretion to "disapprove" housing development projects
- Two main provisions:
 - "Housing for very low, low-, or moderate-income households" / emergency shelters [subd. (d)]
 "Builder's Remedy Projects"
 - Housing development projects that comply with applicable objective standards [subd.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



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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"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



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 1/2 mile of "major transit stop"
- In very low vehicle travel area
- In High or Highest Resource Census Tract per "CTCAC, HCD Opportunity Map"

Minimum Density for BR Projects

Minimum Density must be:

 The minimum density applicable to the site <u>if</u> located within ½ mile of "commuter rail" or "heavy rail" station

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 Otherwise, it's the applicable minimum density for the site <u>or</u> half of the default density, whichever is lower



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





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

Density Bonus Ca	lculations
(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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Number of	Required A	dable Units	
Concessions	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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 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

Waivers - "Development Standard"

A site or construction condition

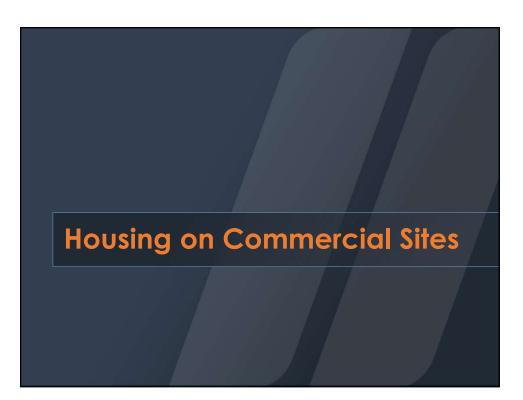
- For example, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to a residential development
 - pursuant to local planning and zoning documents and regulations
 - Including those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



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



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":

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- Wholly affordable projects
- Mixed-income housing projects along "commercial corridors"
- Development standards in state law
- Labor requirements

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

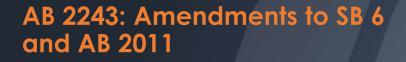


- Does not create ministerial approval process
 - Projects may invoke other streamlining (e.g., SB 35 ministerial process), or
 - Rely on processing for housing in closest zone that allows default density

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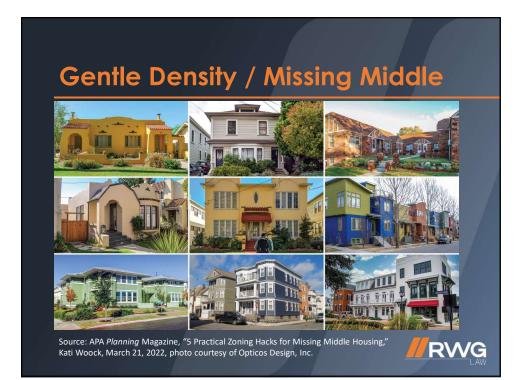
Labor requirements



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





Ministerial Approvals

Duplexes / Urban Lot Splits

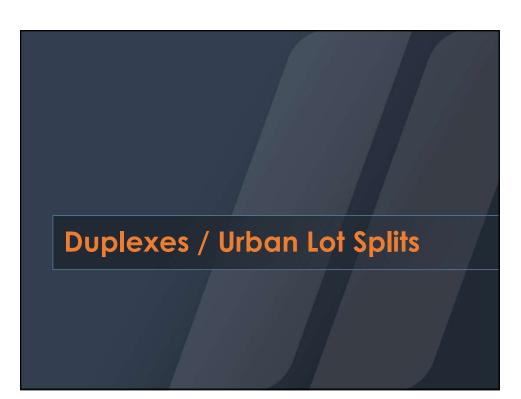
- Maximum 4 units
- Gov. Code §§ 66411.7, 65852.21 (SB 9 / SB 450)

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)



SB 450 Legislative Findings

- Housing crisis of <u>availability</u> and <u>affordability</u> requires a multifaceted, statewide approach:
 - Increase in the overall supply of housing
 - Develop housing affordable to all income levels

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- Remove barriers to housing production
- Expand homeownership opportunities
- Expand the availability of rental housing
- Applies SB 9 to charter cities (again)

SB 9 "Duplex" Projects

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



- Ok to impose objective zoning, subdivision, and design review standards
 - <u>Except</u> standards that physically preclude construction of up to two units of <u>at least 800</u> 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





 No demolition of deed-restricted or (recently) tenant-occupied housing

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- Intent to occupy one of the houses on the resulting lots for three years
- No short-term rentals of any units



- 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



Building Permit Approvals



Building Permit Approvals

Multi-Family Context

- ADUs from converted <u>nonlivable</u> 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

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- Proposed Multi-Family Structure
 - Up to 2 detached ADUs

Processing Applications

- Existing Dwellings: Approve or deny the application to create an ADU or JADU within <u>60 days</u> 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





SB 1123: Amendments to SB 684

Single-Family Zone

Multi-Family Zone

- Only if lot is "vacant"
- Existing Lot Size must be ≤ 1.5 acres
- Resulting Lot Sizes must be ≥ 1,200 sq. ft.
- N/A for sites with affordable housing or recent tenantoccupied housing
- Vacant or Redevelopment
- Existing Lot Size must be ≤ 5 acres
- Resulting Lot Sizes must be ≥ 600 sq. ft.

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Average "net habitable square feet" of units ≤ 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





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 <u>invalidity</u> 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 <u>ministerial</u> 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 <u>not</u> already dedicated for affordable housing



