



# Housing & Land Use Laws: A 2020 Update

City of Manhattan Beach

Planning Commission

June 24, 2020

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# Overview of Presentation

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- Housing Element Law (§ 65583 *et seq.*)
- No Net Loss (§ 65863)
- Housing Crisis Act (§ 66300)
- Housing Accountability Act (§ 65589.5)
- Accessory Dwelling Units (§ 65852.2)
- Density Bonus Law (§ 65915)

# Housing Element Update

# Context of Housing Element Law

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- **General Plan – Housing Element**
  - City Must Update the Housing Element Every 8 Years (“Cycles”)
- **Regional Housing Needs Assessment (“RHNA”)**
  - Establishes City’s Allocation of the Region’s Housing Need – By Income Level
- **City Must Identify Adequate Residential Capacity to Meet RHNA Allocation**
  - Housing Element “Site Inventory”

# Timeline for the 6<sup>th</sup> Cycle

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- **May 7, 2020**
  - SCAG Regional Council delayed adoption of Draft RHNA Allocation Plan
- **September 2020 – January 2021**
  - RHNA Appeals Process?
- **October 2021**
  - Cities to adopt Housing Element updates

# Preparing for the 6<sup>th</sup> Cycle

## City of Manhattan Beach

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
<b>6<sup>th</sup> Cycle <u>Estimated</u> RHNA</b>	<b>321</b>	<b>164</b>	<b>155</b>	<b>133</b>	<b>773</b>

# Identifying “Adequate Capacity”

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- **Strategic Decision-Making about Planning and Zoning for Housing**
  - Where is additional housing (especially, multifamily housing) most appropriate?
  - Where are realistic sites for development or redevelopment (if limited vacant sites)?

**No Net Loss**



# No Net Loss – Maintaining Unit Capacity

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- Cities must maintain, at all times during the planning period, adequate sites to meet their unmet share of the RHNA
- Cities generally may not take any action that would allow or cause the sites identified in its Site Inventory to be insufficient to meet its remaining unmet share of the City's RHNA for lower and moderate-income households
  - Government Code § 65863

# No Net Loss – Two Scenarios

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- Downzoning – i.e., reducing allowed density – for any site in the Site Inventory
- Approving a specific project on a site included in the Site Inventory, either:
  - With fewer units than were indicated in the Site Inventory, or
  - With fewer units **at the income level** than were indicated in the Site Inventory, or
  - At a “lower residential density” (as defined by statute)

# No Net Loss – Maintaining Unit Capacity

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- A city may reduce the density or approve development of a parcel at a “lower residential density” **only if** it makes the following **findings**:
  - Reduction consistent with General Plan and Housing Element; **and**
  - Remaining sites in the Site Inventory are adequate to meet the City’s RHNA share **at all income levels**
    - Must **quantify** the unmet RHNA need and the remaining capacity of sites identified in the Site Inventory to accommodate the City’s RHNA **at each income level**

# No Net Loss – Duty to "Up-Zone" Other Sites

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- If the remaining sites are not adequate, the City must identify “additional, adequate, and available sites” so there is no net loss in unit capacity!
  - Rezoning must occur simultaneously if triggered by downzoning
  - Rezoning must occur within 180 days of the initial project approval

# Housing Crisis Act (SB 330)

# The Purpose of SB 330

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- 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: Housing Crisis Act of 2019

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- Enacts Gov. Code § 66300
- Applies to “affected” cities and counties
- Two primary provisions:
  - Prohibits certain legislative actions regarding housing and residential density
  - Requires replacement units if housing project requires demolishing units



# **SB 330: Legislative Actions**



# SB 330: Prohibited Local Standards

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- Where housing is an allowable use, “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: no net loss in capacity

# SB 330: Prohibited Local Standards

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- Where housing is an allowable use, “affected” cities and counties may not:
  - Impose a moratorium on housing
    - Exception requires HCD approval

# SB 330: Prohibited Local Standards

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- Where housing is an allowable use, “affected” cities and counties may not:
  - Adopt subjective design standards after January 1, 2020

# SB 330: Prohibited Local Standards

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- **Where housing is an allowable use, “affected” cities and counties may not:**
  - Limit the number of approvals or construction permits for housing;
  - Cap the number of housing units that can be approved or constructed annually or in a specific time period; or
  - Limit the City’s population

# **SB 330: Project Approvals**

# SB 330: “Replacement Units”

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- Prohibits affected cities and counties from approving housing development projects that do not replace all of the existing dwelling units
- Special requirements for demolishing occupied or vacant “protected units”
  - Cross-reference to Gov. Code § 65915

# SB 330: “Replacement Units”

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## ■ “Protected units”

- Units subject to a legal rent restriction in the last 5 years (including recorded covenant);
- 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);
- Units subject to rent control in the last 5 years



# SB 330: “Replacement Units”

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- Local agencies may impose objective provisions that:
  - Restrict demolition / conversion to be **more protective** of lower income households
  - Require a **greater number** of lower income units be provided
  - Require **greater relocation assistance** to displaced households



# SB 330: Exceptions and Caveats

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

# **SB 330: Permit Streamlining Act**

# SB 330: “Preliminary Application”

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

# SB 330: Limited Number of Hearings

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- 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 Accountability Act**

# The Purpose of the HAA

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- “...to significantly increase the approval and construction of new housing for all economic segments of California’s communities by ... curbing the capability of the local governments to deny, reduce the density of, or render infeasible housing development projects.”

# HAA Applicability

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- All “housing development projects”:
  - Residential units only
  - Mixed use developments w/ at least 2/3 of the square footage for residential use
  - Transitional housing or supportive housing
- Both affordable **and** market-rate projects
- Additional provisions for emergency shelters and affordable projects



# Basic Standard under the HAA

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- If a housing development project complies with “**objective**” general plan, zoning, and subdivision standards and criteria, including design review standards, ... the City can only **lower the density** or **deny the project** if there is “specific, adverse impact” to public health and safety that cannot be mitigated in any other way...
  - Government Code § 65589.5(j)



# HAA – “Specific, Adverse Impact”

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- A significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health and safety standards, policies, or conditions as they existed on the date the application was deemed complete.

- **Difficult standard to meet!**



# HAA: Judicial Remedies

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- **Potential (Severe) Judicial Remedies**
  - Also, now if the local agency requires, or attempts to require, a housing development project to comply with a policy adopted after submittal of a preliminary application
- **Court Order to Take Action in 60 days**
- **Attorney's Fees and Costs**
- **Possible Fines**

# Accessory Dwelling Units (ADUs)

# Overview of ADU Requirements

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

# State Oversight of ADUs

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- 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

# Density Bonus Law

# Density Bonus Law: An Overview

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- **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

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- 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

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- **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

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- **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)



**Thank you!**