AB 130

CEQA Exemption for Infill Residential and Mixed-Use Projects

When Governor Newsom signed AB 130 on June 30, 2025, the measure reflected the growing weariness that Californian's have endured from the abuses of the California Environmental Quality Act. It has been a significant contributing factor to California's stubborn underproduction of housing and its concomitant effects of high housing costs, growing homelessness and the increased released on government subsidies.

The CEQA exemption contained in AB 130 began as AB 609(Wicks) and was turned into a budget trailer bill that became effective when it was signed. Here is a summary of the criteria needed to qualify for the exemption:

Maximum site size: 20 acres (Builder's Remedy Projects are limited to 5 acres);

Project site criteria:

1. Located in an incorporated city or within an urban area as defined by the US Census Bureau;
2. Any of the following:
    a. Site has previously been developed;
    b. 75% of the perimeter adjoins parcels developed with urban uses;
    c. 3 of 4 sides are developed with urban uses and at least 2/3 of the perimeter adjoins parcels developed with urban uses;
    d. 75% of the site is within one-quarter mile of developed urban uses;
3. Must be consistent with general plan and zoning designations;
4. Doesn't demolish structures on the national, state, or historic register;
5. Hotels can't use the exemption;
6. If hazardous materials are on the site, they must be removed or mitigated to satisfy federal and state standards.

Prohibited areas: Generally taken from SB 35 (Government Code section 65913.4(a)(6)):

Not in certain areas of the Coastal Zone;

Not on prime farmland or Farmland of statewide significance;

Not on wetlands;

Not on a hazardous waste site (on the Cortese List)

Lands under a conservation easement, covered by a Natural Community Conservation Plan; Habitat Conservation Plan, other adopted natural resource protection plan, habitat for protected species identified as a candidate, sensitive, species of special status by state or federal agencies or species protected by the federal or state endangered species act or Native Plant Protection Act.

Maximum number of units: None

Minimum density: At least half of the "Mullin densities" found in Government Code section 65583.2(c)(3)(B).

Affordability requirements: None

Proximity to transit: None

Prevailing wage requirements: Only for residential or mixed-use residential buildings exceeding 85 feet. Over 85 feet, prevailing wage and skilled & trained workers are required. 100% affordable housing projects must be built with prevailing wage. Different requirements apply in San Francisco.

Tribal Consultation: An expedited consultation process that may last up to 148 days from when an application is deemed complete. The construction site must be monitored by the tribe and paid for by the applicant. Tribal resources must be avoided if feasible. Resources discovered during construction shall be treated according to applicable law.

Enhanced labor enforcement—Opt In only:

For projects that take advantage of the CEQA exemption, the project applicant will be joint and severally liable for wage theft claims; joint labor-management cooperation committees may file an action against contractors for wage statement violations, failure to obtain workers' compensation insurance or unlicensed contractors performing work on the project.

AB 130: Major Changes to State & Local Building Code Adoption and Application

Background: CBIA has sought significant changes to the state adoption process for years. When the opportunity arose, we successfully added these to AB 306 (Schultz), part of the Speaker's sponsored package of housing reforms and response to the LA Fire Storm. After passing out of the Assembly without a single "no" vote, the provisions of AB 306 were inserted into AB 130, the budget trailer bill dealing with housing, which the Governor signed on June 30th. As an "urgency" measure, the bill's provisions take effect immediately.

Model Home Compliance Provision:

A long-sought CBIA change for production-style home construction will **allow the builder to use the same building codes that were in effect when the model homes were approved for up to 10 years or when the project is complete, whichever comes first.** The only exception is if the builder substantially changes the model home design during this period. This allows the builder to avoid costly redesigns and plan check delays triggered by a state code that changes every 18 months.

Health & Safety Code 18938.5

(d) Notwithstanding subdivisions (a) to (c), inclusive, the state and local building standards in effect at the time an application for a building permit is submitted, for a residential dwelling based on a model home design approved under those standards, shall apply to all future residential dwellings based on that approved model home design in the same jurisdiction, unless the model home design substantially changes at a later date or 10 years have passed since the building permit for the model home design was approved by the jurisdiction, whichever comes first.

Six-Year Pause: New State Amendments to Residential Codes:

As implied, a six-year pause has been put in place for new state codes affecting residential construction, with a few exceptions. This pause includes the California Energy Code changes the Energy Commission was developing for January 2029.

Commencing October 1, 2025, to June 1, 2031, the Building Standards Commission shall not consider, approve, or adopt any proposed changes to residential building standards with the following exceptions:

- Provisions required for conformity with new editions of the national model codes that are published every three years.
- Emergency building standards
- Amendments proposed by the Office of the State Fire Marshal pertaining to the Wildland-Urban Interface Fire Safety Code.
- Building standards proposed in relation to previously adopted statutes dealing with single stair exits, recycled water, and building reuse measures.
- Building standards effective on or after January 1, 2032.

Six-Year Pause: Limitations on Local Amendments to State Codes with BSC Oversight

Like the restriction on state code changes, AB 130 places a six-year pause on local building code ordinances with some exceptions.

Commencing October 1, 2025, to June 1, 2031, the Building Standards Commission may reject a local modification to the state code affecting residential buildings and filed by a local governing body of a city or county, unless one of the following conditions is met:

The changes or modifications are substantially equivalent to changes previously filed by the governing body and were in effect as of September 30, 2025.

- The Commission finds the changes necessary as emergency standards to protect health and safety.
- The changes relate to home fire hardening.
- The changes are necessary to implement a local code amendment that is adopted to align with a general plan approved on or before June 10, 2025, and that permits mixed-fuel residential construction consistent with federal law while also incentivizing all-electric construction as part of an adopted greenhouse gas emissions reduction strategy.
- The changes are necessary to continue local administrative practices, cost efficiency measures, enforcement programs, and existing entitlement measures.

Limitations on State Code Changes during Intervening Code Adoption Cycle:

Another long-sought amendment to the state adoption process is a limitation on the changes the state can make during the 18-month adoption proceeding that follows the publication of a new edition of the state code, which happens every three years. Decades ago, the "Intervening Cycle" changes were limited to editorial and clarification "clean-up" changes needed for the previously adopted Triennial Editions. However, over the past 15 years, there has been a growing trend by environmental groups to make significant changes to the Green Building Code every 18 months, something that has created a significant design and compliance headache for builders, architects, and code enforcement personnel. AB 130 stops this practice and places strict limitations on what the state can consider during this Intervening Code Adoption Cycle.

Health & Safety Code 18942(a)(2)

(2) Changes adopted during the intervening period described in paragraph (1) shall be limited to only the following:

(A) Technical updates to existing code requirements only to the extent necessary to effectuate support or facilitate the incorporation or implementation of those existing code

requirements. The updates shall be limited to clarifying, conforming, or coordinating changes that do not materially alter the substance or intent of the existing code provisions.

(B) Emergency building standards.

(C) Amendments by the State Fire Marshal to building standards within the California Wildland-Urban Interface Code (Part 7 of Title 24 of the California Code of Regulations).

(D) The building standards are necessary to incorporate errata or emergency updates to the national model codes specified in Section 18916, along with any necessary and related state amendments supporting or facilitating the incorporation of errata or emergency updates to the model codes.

(E) Changes or modifications made pursuant to paragraph (6) of subdivision (b) of Section 17958, paragraph (6) of subdivision (c) of Section 17958.5, or paragraph (6) of subdivision (c) of Section 17958.7.

(F) Building standards necessary to incorporate updates to accessibility requirements that align with minimum federal accessibility laws, standards, and regulations.

These changes will not only bring greater consistency and predictability to the code adoption process but are also expected to result in significant cost savings for homebuilders over the coming decade—reducing the frequency and complexity of costly design and compliance changes.

AB 130: Elimination of the Sunset Date contained in SB 330 –

The Housing Crisis Act of 2019

In SB 330 (Skinner – 2019), CBIA obtained what may be the most significant vested rights protection in California. Upon submission of a minimal preliminary application, the rules that apply to processing applications for housing development projects are frozen (with certain exceptions). One of the most frustrating experiences for homebuilders and land developers in California is the fact that local agencies can constantly change the rules making a moving target very hard to hit. SB 330 provided protections against this practice.

However, in obtaining those protections, a 2030 sunset date was imposed on them. AB 130 removed the sunset date, so the law is now permanent.

AB 130: Vehicle Miles Traveled Mitigation Bank Fees

Unfortunately, AB 130 also included a provision that could drive up housing costs by up to $320,000 per home according to a state sponsored study. AB 130 created a mitigation scheme that allows a homebuilder to mitigate a project's VMT impacts by funding or facilitating affordable housing on infill sites or related infrastructure. AB 130 tasks the Governor's Office of Land Use and Climate Innovation (LCI) with developing a methodology for (1) determining the amount of money that needs to be contributed to the fund, (2) a definition of location efficient areas and VMT efficient affordable housing consistent with a sustainable communities strategy, (3) a process for validating a project's VMT funding contribution designed to provide certainty to the lead agency and project applicant that the contribution satisfies the applicable mitigation, and (4) a methodology to estimate anticipated reductions in VMT associated with affordable housing or related infrastructure projects. Once that guidance has been adopted, local governments have the option to adopt a VMT mitigation bank fee. If they do adopt it, an applicant cannot refuse to use it as a mitigation measure. There are no limits on the amount of the fee and there is a significant chance that the fee will kill many housing projects. While CBIA designated this measure a Housing Killer, it was passed by the Legislature and signed by the Governor. We will be working with the Administration to prevent this mechanism from being used as another housing killer tool.