
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair
2025 - 2026 Regular

Bill No: AB 660
Author: Wilson
Version: 6/25/25

Hearing Date: 7/2/25
Fiscal: Yes
Consultant: Favorini-Csorba

PLANNING AND ZONING LAW: POSTENTITLEMENT PHASE PERMITS: HOUSING ACCOUNTABILITY ACT

Makes numerous changes to the postentitlement permit review process.

Background

The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

State Housing Law. Prior to 1962, the Legislature established minimum building requirements for dwellings in statutory form, and these requirements only applied to incorporated cities, unless a county voluntarily adopted them. In 1962, the Legislature enacted State Housing Law, which provides requirements and procedures for uniform statewide code enforcement to protect the health, safety, and general welfare of the public and occupants of housing and accessory buildings. Among other things, State Housing Law delegates responsibility to state administrative agencies for the adoption of building standards, applies state building codes uniformly, and directs local agencies’ administration of code enforcement.

Building codes. The California Building Standards Code (Title 24 of the California Code of Regulations) contains building standards and regulations as adopted by the California Building Standards Commission (BSC). These standards include, among other requirements, structural standards for building safety (the Building Code), fire safety standards (the Fire Code), energy efficiency standards (the Energy Code), and standards for green buildings (CalGreen). The BSC updates the Building Standards Code on a three-year cycle—the BSC published new standards that went into effect on January 1, 2023. Once adopted at the state level, cities and counties in California then enact an ordinance to adopt the codes. New construction and improvements to existing buildings must comply with the current building codes, and improvements to an existing building may trigger additional code upgrades for other parts of a building.

Administrative permit approvals. A builder may need a range of administrative permits from the local agency in order to actually complete the work to construct or modify a building. These permits can include building permits and other permits for: demolition; grading; excavation; electrical, plumbing, or mechanical work; encroachment in the public right-of-way; roofing; water and sewer connections or septic systems; fire sprinklers; and home occupations.

City and county building departments enforce the provisions of the State Housing Law, the California Building Standards Code, and local zoning codes that specify the allowable forms and uses of buildings within a city or county's jurisdiction. Within building departments, the positions responsible for evaluating building permits for compliance include building officials, inspectors, plan checkers, and civil engineers. State Housing Law also allows local agencies to hire private entities on a temporary basis to perform plan checking services. Some agencies contract out a portion of their workload during especially busy times, or certain portions of the building permit review process, such as reviewing compliance with energy efficiency requirements. Other local agencies contract out nearly all plan checking functions to a private firm.

Building permit approval requirements. Two state laws prescribe timelines for action on building permits by local agencies.

Excessive delay. State Housing Law requires local agencies to contract with a private entity on a temporary basis to perform the plan checking function, upon request of an applicant for a building permit, if there is an excessive delay in checking plans as part of a building permit application for a residential building of up to four units. An excessive delay means 30 days after submittal of a completed application, or 45 days for an application that required a resubmittal, including the days elapsed in the initial review. Similar provisions apply to building permits for non-residential buildings of up to three stories, but local agencies have 50 days for initial review and a total of 60 days if there was a resubmittal of the application. Local agencies that are required to contract out under State Housing Law can charge an applicant fees in an amount necessary to defray costs directly attributable to hiring someone to perform plan checking services.

Post-entitlement permitting. Additionally, in 2022, the Legislature enacted a framework establishing timelines and procedures for approving all local "post-entitlement permits," including building permits, needed to construct housing that had already received approval from a planning department (AB 2234, R. Rivas, 2022). AB 2234 requires cities and counties to process non-discretionary permits in an expedited manner. First, the city or county must determine whether an application is complete, and notify the applicant, within 15 business days after receiving the application. If the local agency determines an application is incomplete, the local agency must provide the applicant with a list of incomplete items and a description of how the application can be made complete, but the local agency cannot request new information that was not on the original list of needed information. After receiving a notice the application was incomplete, an applicant may cure and address those items. Upon receipt of a corrected application, the local agency must notify the applicant within 15 business days whether the additional application has remedied all incomplete items. If a local agency does not meet the timelines required for determining whether an application is complete, and the application or resubmitted application states it is for a post-entitlement phase permit, AB 2234 deems the application or resubmitted application complete.

Cities and counties must then complete review of the application within 30 business days for projects with 25 units or less, and 60 business days for projects 26 units or more, unless the city or county finds that the permit might have a specific, adverse impact on public health or safety, within the applicable time limit. If the city or county requires review of the application by an outside entity, the time limits are tolled until the outside entity completes the review.

If a city or county finds a complete application is noncompliant, it must provide the applicant with a list of items that are noncompliant and a description of how the application can be remedied by the applicant within the applicable time limit and must allow the applicant to correct the application.

Cities and counties must also establish an appeals process. If an applicant appeals, the local agency must make a final determination on the appeal within:

- 60 business days of the appeal for a project of 25 units or fewer; or
- 90 business days of the appeal for a project of 26 units or more.

AB 2234 also requires cities and counties to compile one or more lists of information that will be required from any applicant for a post-entitlement permit. Cities and counties can revise these lists, but revised lists cannot apply to pending permit reviews. The city or county must post an example of a complete set of post-entitlement permits for at least five types of housing projects. Cities and counties had to post these lists and examples by January 1, 2024.

Finally, AB 2234 requires cities and counties to process permits online. As of January 1, 2024, all local agencies in the County of Los Angeles, and all other cities and counties with populations of 75,000 or greater must process permits online, but can get a two-year extension if they make specified findings. All other cities and counties must comply by January 1, 2028, but may extend this deadline by five years if they make specified findings.

Although data since the enactment of AB 2234 is limited, as of December 2023, the timelines for projects to receive a building permit following entitlement range from 82 days for single-family homes to 277 days for apartment buildings of 5 or more units, according to the Department of Housing and Community Development's (HCD's) Annual Progress Report Dashboard. Homebuilders want the Legislature to expedite the building permit process.

Proposed Law

Post-entitlement permit processing changes. Assembly Bill 660 limits a local agency to two rounds of plan check and specification reviews while reviewing a building permit for a housing development proposal, unless the local agency's requirement or request for additional review is accompanied by written findings based on substantial evidence in the record that the additional review is necessary to address a specific, adverse impact on public health or safety. The bill also repeals the provision that tolls the approval timeframes for post-entitlement permits if a local agency requires review by an outside entity.

AB 660 makes various changes to the process and requirements that apply if a postentitlement phase permit is determined to be incomplete or denied, or determined to be noncompliant. Specifically, it requires any appeals of a permit to be to the city council or board of supervisors and reduces the amount of time within which a local agency must provide a final written determination after receipt of an applicant's written appeal, specifically:

- 30 business days (instead of 60) of the appeal for a project of 25 units or fewer; or
- 45 business days (instead of 90) of the appeal for a project of 26 units or more.

Other changes. AB 660 allows the applicant for a post-entitlement permit to seek a writ of mandate to compel approval of the application if the applicant's appeal is unsuccessful. The court must grant the writ of mandate if there is substantial evidence in the record that a reasonable person could find that the application is complete and compliant with the applicable standards.

AB 660 also prohibits a local agency from requesting or requiring any action or inaction as a result of a building inspection that would represent a deviation from a previously approved plan or similar approval for the project, unless the local agency's requirement or request is accompanied by written findings based on substantial evidence in the record that both of the following apply:

- A reasonable person could not interpret the previously approved plan or similar approval as being compliant with the applicable standards; and
- The deviation is necessary to address a specific, adverse impact on public health or safety.

AB 660 also makes a number of technical and conforming changes, including a conforming change to the Housing Accountability Act's definition of disapproval, and states that its changes to the writ of mandate process and the building inspection process are declaratory of existing law.

Comments

1. **Purpose of the bill.** According to the author, "While California has taken many steps to address the housing crisis, there is still much work to be done. AB 660 aims to build on AB 2234 by closing gaps in existing law regarding the timelines for local agencies to review applications and act on post-entitlement permits and applications. The post-entitlement process has become a significant cog in the housing process, delaying construction and advancement across the state. AB 660 aims to ensure that our housing projects are approved and built on time, avoiding delays during the plan check process that often derail housing development. This legislation ensures that the standards we put on our local agencies are truly binding by empowering developers to seek legal action when these agency 'shot clocks' are violated. AB 660 moves to continue the streamlining of housing production in California, removing unnecessary plan checks and assuring that our local agencies abide by established deadlines."

2. **Give me one reason.** In land use disputes, courts tend to give a great deal of deference to a local government when determining whether a project is consistent with the local government's own standards. Courts generally uphold a local government's determination on consistency unless the court determines the local government has acted arbitrarily, capriciously, or without evidentiary basis.¹ In other words, a local government's decision will be upheld unless no reasonable person could have made the same decision. AB 660 instead requires a court to grant a writ of mandate compelling a local agency to issue a post-entitlement permit if there is substantial evidence in the record that a reasonable person could find that the application is complete and compliant with the applicable standards. Instead of deferring to a local

¹ For example, "[a] city's findings that [a] project is consistent with its general plan can be reversed only if [they are] based on evidence from which no reasonable person could have reached the same conclusion." (*A Local & Regional Monitor v. City of Los Angeles* (1993) 16 Cal.App.4th 630, 648, as cited by *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 677).

government's decision on a post-entitlement permit, like whether a building permit application complies with the building code, the court must side with the applicant for the permit so long as their position wasn't unreasonable—even if there was evidence to the contrary. Supplanting a trained building official's judgment with that of the applicant is particularly concerning for post-entitlement permits like building permits that deal with direct life safety issues: building officials may refrain from pointing out issues of noncompliance with a building permit if they think they might lose in court, potentially leading to less safe buildings. The Committee may wish to consider amending AB 660 to remove the provision of AB 660 that requires a court to grant a writ of mandate if a reasonable person could find the post-entitlement permit compliant.

3. Let's be clear. The Committee may wish to consider the following amendments to AB 660 to improve clarity in the bill's provisions:

- AB 660 prohibits a local agency from requiring more than two submittals of plans and specifications, except as specified. However, the bill is silent on what occurs if a permit application remains incomplete or noncompliant following those two submissions. The Committee may wish to consider amending AB 660 to explicitly allow a local agency to deny an incomplete or noncompliant permit and to allow an applicant to request additional submittals in the case of a permit that would be denied.
- AB 660 contains provisions that limit the ability of building officials to require deviations from approved plans as a result of inspections in the field and states that this provision is declaratory of existing law. While this provision is reasonable, existing law does not directly speak to this. The Committee may wish to consider amending AB 660 to remove the statement that this provision is declaratory of existing law.

4. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because AB 660 imposes new duties on local officials, Legislative Counsel says that it imposes a new state mandate. AB 660 disclaims the state's responsibility for providing reimbursement by citing local governments' authority to charge for the costs of implementing the bill's provisions.

5. Charter city. The California Constitution allows cities that adopt charters to control their own "municipal affairs." In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define "municipal affairs," the courts determine whether a topic is a municipal affair or whether it's an issue of statewide concern. AB 660 says that it applies to all cities, including charter cities. To support this assertion, the bill includes a legislative finding and declaration that its provisions address a matter of statewide concern.

6. Related legislation. The Legislature is considering several measures that address the local plan check process, including the following:

- AB 253 (Ward), which the Committee will also hear at its July 2nd meeting, allows an applicant for small residential building permits to contract with or employ a private professional provider to check plans and specifications if specified time periods elapse.
- AB 671 (Wicks), which the Committee will also hear at its July 2nd meeting, requires a local building or permitting department to allow a qualified professional certifier to certify compliance with applicable building, health, and safety codes for a tenant improvement plan relating to a restaurant.

- AB 1276 (Carrillo), which has also been referred to the Committee, deems housing projects compliant with state and local standards if a reasonable person could find them in compliance, including post-entitlement phase permits.
- AB 1308 (Hoover), which the Committee will also hear at its July 2nd meeting, allows an applicant for small residential building projects, under specified conditions, to hire a private licensed professional to inspect permitted work for compliance with states housing laws and building codes.

7. Coming and going. The Senate Rules Committee has ordered a double referral of AB 660: first to the Committee on Local Government, which has jurisdiction over local permitting, and second to the Committee on Housing.

Assembly Actions

Assembly Local Government Committee:	10-0
Assembly Housing and Community Development Committee:	11-0
Assembly Appropriations Committee:	14-0
Assembly Floor:	76-0

Support and Opposition (6/27/25)

Support: California Building Industry Association (Sponsor)
 Abundant Housing LA
 Associated General Contractors
 Associated General Contractors of America, San Diego Chapter
 Bay Area Council
 Boma California
 California Apartment Association
 California Association of Realtors
 California Builders Alliance
 California Business Properties Association
 California Housing Consortium
 California Housing Partnership
 California Retailers Association
 California Yimby
 Circulate San Diego
 El Dorado County Chamber of Commerce
 El Dorado Hills Chamber of Commerce
 Elevate California
 Elk Grove Chamber of Commerce
 Folsom Chamber of Commerce
 Housing Action Coalition
 Housing California
 Housing Leadership Council of San Mateo County
 Housing Trust Silicon Valley
 Inner City Law Center
 Institute for Responsive Government Action
 Leadingage California
 Lieutenant Governor Eleni Kounalakis

Lincoln Area Chamber of Commerce
Midpen Housing
Naiop California
Rancho Cordova Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Sacramento Regional Builders Exchange
Shingle Springs/cameron Park Chamber of Commerce
South Pasadena Residents for Responsible Growth
Southern California Leadership Council
Spur
United Chamber Advocacy Network
Yuba Sutter Chamber of Commerce

Opposition: City of Murrieta
City of Thousand Oaks
County of Santa Barbara
League of California Cities

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