

ASSEMBLY BILL

No. 2117

Introduced by Assembly Member Achadjian

February 20, 2014

An act to amend Section 65302 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 2117, as introduced, Achadjian. Land use: general plan: noise element.

The Planning and Zoning Law requires the legislative body of a city or county to adopt a comprehensive, long-term general plan that includes various elements, including, among others, a noise element that identifies and appraises noise problems in the community. Existing law requires the noise element to recognize the guidelines established by the Office of Noise Control and to analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for specified sources.

This bill would eliminate the requirement that the noise element recognize the guidelines established by the Office of Noise Control.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65302 of the Government Code is
- 2 amended to read:
- 3 65302. The general plan shall consist of a statement of
- 4 development policies and shall include a diagram or diagrams and

1 text setting forth objectives, principles, standards, and plan
2 proposals. The plan shall include the following elements:

3 (a) A land use element that designates the proposed general
4 distribution and general location and extent of the uses of the land
5 for housing, business, industry, open space, including agriculture,
6 natural resources, recreation, and enjoyment of scenic beauty,
7 education, public buildings and grounds, solid and liquid waste
8 disposal facilities, and other categories of public and private uses
9 of land. The location and designation of the extent of the uses of
10 the land for public and private uses shall consider the identification
11 of land and natural resources pursuant to paragraph (3) of
12 subdivision (d). The land use element shall include a statement of
13 the standards of population density and building intensity
14 recommended for the various districts and other territory covered
15 by the plan. The land use element shall identify and annually
16 review those areas covered by the plan that are subject to flooding
17 identified by flood plain mapping prepared by the Federal
18 Emergency Management Agency (FEMA) or the Department of
19 Water Resources. The land use element shall also do both of the
20 following:

21 (1) Designate in a land use category that provides for timber
22 production those parcels of real property zoned for timberland
23 production pursuant to the California Timberland Productivity Act
24 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1
25 of Division 1 of Title 5).

26 (2) Consider the impact of new growth on military readiness
27 activities carried out on military bases, installations, and operating
28 and training areas, when proposing zoning ordinances or
29 designating land uses covered by the general plan for land, or other
30 territory adjacent to military facilities, or underlying designated
31 military aviation routes and airspace.

32 (A) In determining the impact of new growth on military
33 readiness activities, information provided by military facilities
34 shall be considered. Cities and counties shall address military
35 impacts based on information from the military and other sources.

36 (B) The following definitions govern this paragraph:

37 (i) “Military readiness activities” mean all of the following:

38 (I) Training, support, and operations that prepare the men and
39 women of the military for combat.

1 (II) Operation, maintenance, and security of any military
2 installation.

3 (III) Testing of military equipment, vehicles, weapons, and
4 sensors for proper operation or suitability for combat use.

5 (ii) “Military installation” means a base, camp, post, station,
6 yard, center, homeport facility for any ship, or other activity under
7 the jurisdiction of the United States Department of Defense as
8 defined in paragraph (1) of subsection (e) of Section 2687 of Title
9 10 of the United States Code.

10 (b) (1) A circulation element consisting of the general location
11 and extent of existing and proposed major thoroughfares,
12 transportation routes, terminals, any military airports and ports,
13 and other local public utilities and facilities, all correlated with the
14 land use element of the plan.

15 (2) (A) Commencing January 1, 2011, upon any substantive
16 revision of the circulation element, the legislative body shall
17 modify the circulation element to plan for a balanced, multimodal
18 transportation network that meets the needs of all users of streets,
19 roads, and highways for safe and convenient travel in a manner
20 that is suitable to the rural, suburban, or urban context of the
21 general plan.

22 (B) For purposes of this paragraph, “users of streets, roads, and
23 highways” mean bicyclists, children, persons with disabilities,
24 motorists, movers of commercial goods, pedestrians, users of public
25 transportation, and seniors.

26 (c) A housing element as provided in Article 10.6 (commencing
27 with Section 65580).

28 (d) (1) A conservation element for the conservation,
29 development, and utilization of natural resources including water
30 and its hydraulic force, forests, soils, rivers and other waters,
31 harbors, fisheries, wildlife, minerals, and other natural resources.
32 The conservation element shall consider the effect of development
33 within the jurisdiction, as described in the land use element, on
34 natural resources located on public lands, including military
35 installations. That portion of the conservation element including
36 waters shall be developed in coordination with any countywide
37 water agency and with all district and city agencies, including
38 flood management, water conservation, or groundwater agencies
39 that have developed, served, controlled, managed, or conserved
40 water of any type for any purpose in the county or city for which

1 the plan is prepared. Coordination shall include the discussion and
2 evaluation of any water supply and demand information described
3 in Section 65352.5, if that information has been submitted by the
4 water agency to the city or county.

5 (2) The conservation element may also cover all of the
6 following:

7 (A) The reclamation of land and waters.

8 (B) Prevention and control of the pollution of streams and other
9 waters.

10 (C) Regulation of the use of land in stream channels and other
11 areas required for the accomplishment of the conservation plan.

12 (D) Prevention, control, and correction of the erosion of soils,
13 beaches, and shores.

14 (E) Protection of watersheds.

15 (F) The location, quantity and quality of the rock, sand, and
16 gravel resources.

17 (3) Upon the next revision of the housing element on or after
18 January 1, 2009, the conservation element shall identify rivers,
19 creeks, streams, flood corridors, riparian habitats, and land that
20 may accommodate floodwater for purposes of groundwater
21 recharge and stormwater management.

22 (e) An open-space element as provided in Article 10.5
23 (commencing with Section 65560).

24 (f) (1) A noise element that shall identify and appraise noise
25 problems in the community. The noise element shall ~~recognize the~~
26 ~~guidelines established by the Office of Noise Control and shall~~
27 analyze and quantify, to the extent practicable, as determined by
28 the legislative body, current and projected noise levels for all of
29 the following sources:

30 (A) Highways and freeways.

31 (B) Primary arterials and major local streets.

32 (C) Passenger and freight online railroad operations and ground
33 rapid transit systems.

34 (D) Commercial, general aviation, heliport, helistop, and military
35 airport operations, aircraft overflights, jet engine test stands, and
36 all other ground facilities and maintenance functions related to
37 airport operation.

38 (E) Local industrial plants, including, but not limited to, railroad
39 classification yards.

1 (F) Other ground stationary noise sources, including, but not
2 limited to, military installations, identified by local agencies as
3 contributing to the community noise environment.

4 (2) Noise contours shall be shown for all of these sources and
5 stated in terms of community noise equivalent level (CNEL) or
6 day-night average level (L_{dn}). The noise contours shall be prepared
7 on the basis of noise monitoring or following generally accepted
8 noise modeling techniques for the various sources identified in
9 paragraphs (1) to (6), inclusive.

10 (3) The noise contours shall be used as a guide for establishing
11 a pattern of land uses in the land use element that minimizes the
12 exposure of community residents to excessive noise.

13 (4) The noise element shall include implementation measures
14 and possible solutions that address existing and foreseeable noise
15 problems, if any. The adopted noise element shall serve as a
16 guideline for compliance with the state's noise insulation standards.

17 (g) (1) A safety element for the protection of the community
18 from any unreasonable risks associated with the effects of
19 seismically induced surface rupture, ground shaking, ground
20 failure, tsunami, seiche, and dam failure; slope instability leading
21 to mudslides and landslides; subsidence; liquefaction; and other
22 seismic hazards identified pursuant to Chapter 7.8 (commencing
23 with Section 2690) of Division 2 of the Public Resources Code,
24 and other geologic hazards known to the legislative body; flooding;
25 and wildland and urban fires. The safety element shall include
26 mapping of known seismic and other geologic hazards. It shall
27 also address evacuation routes, military installations, peakload
28 water supply requirements, and minimum road widths and
29 clearances around structures, as those items relate to identified fire
30 and geologic hazards.

31 (2) The safety element, upon the next revision of the housing
32 element on or after January 1, 2009, shall also do the following:

33 (A) Identify information regarding flood hazards, including,
34 but not limited to, the following:

35 (i) Flood hazard zones. As used in this subdivision, "flood
36 hazard zone" means an area subject to flooding that is delineated
37 as either a special hazard area or an area of moderate or minimal
38 hazard on an official flood insurance rate map issued by the Federal
39 Emergency Management Agency (FEMA). The identification of
40 a flood hazard zone does not imply that areas outside the flood

- 1 hazard zones or uses permitted within flood hazard zones will be
2 free from flooding or flood damage.
- 3 (ii) National Flood Insurance Program maps published by
4 FEMA.
- 5 (iii) Information about flood hazards that is available from the
6 United States Army Corps of Engineers.
- 7 (iv) Designated floodway maps that are available from the
8 Central Valley Flood Protection Board.
- 9 (v) Dam failure inundation maps prepared pursuant to Section
10 8589.5 that are available from the Office of Emergency Services.
- 11 (vi) Awareness Floodplain Mapping Program maps and 200-year
12 flood plain maps that are or may be available from, or accepted
13 by, the Department of Water Resources.
- 14 (vii) Maps of levee protection zones.
- 15 (viii) Areas subject to inundation in the event of the failure of
16 project or nonproject levees or floodwalls.
- 17 (ix) Historical data on flooding, including locally prepared maps
18 of areas that are subject to flooding, areas that are vulnerable to
19 flooding after wildfires, and sites that have been repeatedly
20 damaged by flooding.
- 21 (x) Existing and planned development in flood hazard zones,
22 including structures, roads, utilities, and essential public facilities.
- 23 (xi) Local, state, and federal agencies with responsibility for
24 flood protection, including special districts and local offices of
25 emergency services.
- 26 (B) Establish a set of comprehensive goals, policies, and
27 objectives based on the information identified pursuant to
28 subparagraph (A), for the protection of the community from the
29 unreasonable risks of flooding, including, but not limited to:
- 30 (i) Avoiding or minimizing the risks of flooding to new
31 development.
- 32 (ii) Evaluating whether new development should be located in
33 flood hazard zones, and identifying construction methods or other
34 methods to minimize damage if new development is located in
35 flood hazard zones.
- 36 (iii) Maintaining the structural and operational integrity of
37 essential public facilities during flooding.
- 38 (iv) Locating, when feasible, new essential public facilities
39 outside of flood hazard zones, including hospitals and health care
40 facilities, emergency shelters, fire stations, emergency command

1 centers, and emergency communications facilities or identifying
2 construction methods or other methods to minimize damage if
3 these facilities are located in flood hazard zones.

4 (v) Establishing cooperative working relationships among public
5 agencies with responsibility for flood protection.

6 (C) Establish a set of feasible implementation measures designed
7 to carry out the goals, policies, and objectives established pursuant
8 to subparagraph (B).

9 (3) Upon the next revision of the housing element on or after
10 January 1, 2014, the safety element shall be reviewed and updated
11 as necessary to address the risk of fire for land classified as state
12 responsibility areas, as defined in Section 4102 of the Public
13 Resources Code, and land classified as very high fire hazard
14 severity zones, as defined in Section 51177. This review shall
15 consider the advice included in the Office of Planning and
16 Research's most recent publication of "Fire Hazard Planning,
17 General Technical Advice Series" and shall also include all of the
18 following:

19 (A) Information regarding fire hazards, including, but not limited
20 to, all of the following:

21 (i) Fire hazard severity zone maps available from the Department
22 of Forestry and Fire Protection.

23 (ii) Any historical data on wildfires available from local
24 agencies or a reference to where the data can be found.

25 (iii) Information about wildfire hazard areas that may be
26 available from the United States Geological Survey.

27 (iv) General location and distribution of existing and planned
28 uses of land in very high fire hazard severity zones and in state
29 responsibility areas, including structures, roads, utilities, and
30 essential public facilities. The location and distribution of planned
31 uses of land shall not require defensible space compliance measures
32 required by state law or local ordinance to occur on publicly owned
33 lands or open space designations of homeowner associations.

34 (v) Local, state, and federal agencies with responsibility for fire
35 protection, including special districts and local offices of
36 emergency services.

37 (B) A set of goals, policies, and objectives based on the
38 information identified pursuant to subparagraph (A) for the
39 protection of the community from the unreasonable risk of wildfire.

1 (C) A set of feasible implementation measures designed to carry
2 out the goals, policies, and objectives based on the information
3 identified pursuant to subparagraph (B) including, but not limited
4 to, all of the following:

- 5 (i) Avoiding or minimizing the wildfire hazards associated with
6 new uses of land.
- 7 (ii) Locating, when feasible, new essential public facilities
8 outside of high fire risk areas, including, but not limited to,
9 hospitals and health care facilities, emergency shelters, emergency
10 command centers, and emergency communications facilities, or
11 identifying construction methods or other methods to minimize
12 damage if these facilities are located in a state responsibility area
13 or very high fire hazard severity zone.
- 14 (iii) Designing adequate infrastructure if a new development is
15 located in a state responsibility area or in a very high fire hazard
16 severity zone, including safe access for emergency response
17 vehicles, visible street signs, and water supplies for structural fire
18 suppression.
- 19 (iv) Working cooperatively with public agencies with
20 responsibility for fire protection.

21 (D) If a city or county has adopted a fire safety plan or document
22 separate from the general plan, an attachment of, or reference to,
23 a city or county's adopted fire safety plan or document that fulfills
24 commensurate goals and objectives and contains information
25 required pursuant to this paragraph.

26 (4) After the initial revision of the safety element pursuant to
27 paragraphs (2) and (3), upon each revision of the housing element,
28 the planning agency shall review and, if necessary, revise the safety
29 element to identify new information that was not available during
30 the previous revision of the safety element.

31 (5) Cities and counties that have flood plain management
32 ordinances that have been approved by FEMA that substantially
33 comply with this section, or have substantially equivalent
34 provisions to this subdivision in their general plans, may use that
35 information in the safety element to comply with this subdivision,
36 and shall summarize and incorporate by reference into the safety
37 element the other general plan provisions or the flood plain
38 ordinance, specifically showing how each requirement of this
39 subdivision has been met.

1 (6) Prior to the periodic review of its general plan and prior to
2 preparing or revising its safety element, each city and county shall
3 consult the California Geological Survey of the Department of
4 Conservation, the Central Valley Flood Protection Board, if the
5 city or county is located within the boundaries of the Sacramento
6 and San Joaquin Drainage District, as set forth in Section 8501 of
7 the Water Code, and the Office of Emergency Services for the
8 purpose of including information known by and available to the
9 department, the agency, and the board required by this subdivision.

10 (7) To the extent that a county's safety element is sufficiently
11 detailed and contains appropriate policies and programs for
12 adoption by a city, a city may adopt that portion of the county's
13 safety element that pertains to the city's planning area in
14 satisfaction of the requirement imposed by this subdivision.

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