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Public Law Update: AB 98 Regulates Industrial Warehouses

On September 30, 2024, Governor Newsom signed into law AB 98, which regulates the construction of new and expanded logistics warehouses in California. This bill imposes specific requirements on cities and counties for processing development applications for new or expanded “logistics uses”, as that term is defined, including the requirement to update the circulation element of their general plans by January 1, 2028.

I. Overview

AB 98 will require certain proposed new or expanded [1] “logistics uses”[2] to comply with new development standards beginning January 1, 2026, including:

- New logistics uses will need to be built on arterial roads, collector roads, major thoroughfares or local roads primarily used by commercial traffic.
- Loading docks will need to be 300 feet or 500 feet away from sensitive uses, depending on project specifics (see below).
- Logistics projects will need to provide landscaping and screening buffers ranging from 50 to 100 feet (see below).
- Depending on their size, new logistics uses will have to use zero-emission technology, meet energy efficiency standards and ban trucks from idling their engines for more than 3 minutes.
- New logistics uses will need separate entrances for trucks, and those entrances will need to connect directly to main roads.
- Logistics projects that demolish housing units occupied in the last 10 years will need to replace such housing in a two-to-one ratio.

II. Applicability

AB 98 applies to projects that qualify as one or more of types (a) through (d) described in the table below:

Type	Size	Location	Zoning
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				Site zoned industrial OR "Site where an application was submitted to the jurisdiction by September 30, 2024, to rezone as industrial and the rezone to industrial was ultimately approved"
(a)	250,000 square feet or more	AND	Loading bay within 900 feet of sensitive receptor[3]	AND
(b)	Any size	AND	Loading bay within 900 feet of sensitive receptor	AND
(c)	Any size	AND	Located in the "warehouse concentration region"[4]	AND
(d)	Less than 250,000 square feet	AND	Loading bay within 900 feet of sensitive receptor	AND

There are three key exemptions for projects that would otherwise be covered by AB 98. First, AB 98 does not apply to "any logistics projects that were subject to a commenced local entitlement process prior to September 30, 2024." (Gov. Code § 65098.1.5(c).) Second, AB 98 does not apply to "logistics project[s] that received an approval by a local agency prior to the effective date of [AB 98]," which is January 1, 2025. (Gov. Code § 65098.1.5(e).) Third, AB 98 does not apply to mixed-use projects that contain both a logistics component and a residential component, as long as there are no existing sensitive receptors within 900 feet of the project. (Gov. Code § 65098.9.)

III. Mandatory Local Programs

AB 98 imposes new duties on cities and counties and, in doing so, creates a state-mandated local program. Specifically, AB 98 does the following:

1. Prohibits local governments from approving development of logistics uses that do not meet or exceed the design criteria specified in AB 98.
2. Requires local governments to condition approval of logistics uses on 2-to-1 replacement of any demolished housing unit that was occupied in the last 10 years (subject to narrow exceptions)
3. Requires local governments, by January 1, 2028, to update their circulation elements to include specified information, including identifying and establishing specific travel routes for the transport of goods, materials, or freight for storage, transfer, or redistribution to safely accommodate additional truck traffic.
4. Requires local governments to provide for posting of conspicuous signage to identify truck routes and additional truck parking and idling facility locations.
5. Requires local governments to make truck routes publicly available and share maps of the truck routes with warehouse

operators, fleet operators, and truck drivers.

IV. Conclusion

Beginning January 1, 2026, new and expanded logistics uses will need to comply with specified warehouse design standards. Pending projects and projects approved before the start of 2025 may be exempt from AB 98. Cities and counties will need to update the circulation element of their general plans by January 1, 2028. Industry spokespeople, environmental advocates, and municipal entities have all expressed opposition to the bill for a variety of reasons. The author of the bill has indicated a willingness to address concerns about ambiguities in the text of AB 98 via amendments in 2025. In the meantime, however, cities and counties will need to take steps to comply with AB 98.

Attorneys at Burke regularly advise clients on legal matters related to land use and zoning laws.

[1] “Expanded” means the expansion of an existing logistics use by 20 percent or more of the existing square footage. Office space is not included as part of the existing square footage or in the square footage for the 20-percent expansion threshold. (Gov. Code § 65098(b).)

[2] “Logistics use” means “a building in which cargo, goods, or products are moved or stored for later distribution to business or retail customers, or both, that does not predominantly serve retail customers for onsite purchases, and heavy-duty trucks are primarily involved in the movement of the cargo, goods, or products”, and does not include (1) Facilities where food or household goods are sold directly to consumers and are accessible to the public; (2) A building primarily served by rail to move cargo goods or product; or (3) A Strategic Intermodal Facility. (Gov. Code § 65098(d).)

[3] AB 98 defines “sensitive receptor” as one or more of the following (Gov. Code § 65098(e)):

1. (1) A residence, including, but not limited to, a private home, apartment, condominium unit, group home, dormitory unit, or retirement home.
2. (2) A school, including, but not limited to, a preschool, prekindergarten, or school maintaining kindergarten or any of grades 1 to 12, inclusive.
3. (3) A daycare facility, including, but not limited to, in-home daycare.
4. (4) Publicly owned parks, playgrounds, and recreational areas or facilities primarily used by children, unless the development of

the park and recreation areas are included as a condition of approval for the development of a logistics use.

5. (5) Nursing homes, long-term care facilities, hospices, convalescent facilities, or similar live-in housing.
6. (6) Hospitals, as defined in Section 128700 of the Health and Safety Code.

[4] The “warehouse concentration region” means the counties of Riverside and San Bernardino and the cities of Chino, Colton, Fontana, Jurupa Valley, Moreno Valley, Ontario, Perris, Rancho Cucamonga, Redlands, Rialto, Riverside, and San Bernardino. (Gov. Code § 65098(h).)

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