

What CA Developers Need to Know About Permit Deadlines and Extensions during COVID-19 Disruption

Article By:

Barry H. Epstein

The rapid spread of COVID-19 has disrupted development across California and, with no end in sight, existing land use approvals are threatened with expiration. With the state and local response to the crisis evolving daily, any attempt to catalog such measures in this alert would undoubtedly be outdated by publication. Instead, we describe below several potential approaches for preserving and extending land use entitlements.

State Statutes

In the past, the Legislature has taken action to help developers weather times of uncertainty and economic downturn. For example, in the wake of the Great Recession, the Legislature amended the Subdivision Map Act (Map Act; Gov. Code, § 66410 *et seq.*), extending the expiration of Tentative Maps. However, with the COVID-19 outbreak necessitating a joint suspension of the Senate and Assembly until at least April 13, 2020, statutory relief seems unlikely anytime soon.

THE SUBDIVISION MAP ACT

In the absence of prompt action by the Legislature, existing provisions of the Map Act and local ordinances may apply to extend the life of a Tentative Map, providing developers with added flexibility. The applicability of these provisions is fact driven and often depends on local ordinances. If your Tentative Map is nearing expiration, options available under existing requirements should be examined to extend its validity.

AB 2913 AND THE EXPIRATION OF BUILDING PERMITS

Recent legislation extending the life of building permits may also offer relief. Added by Assembly Bill 2913 (AB 2913), Health & Safety Code (HSC) § 18938.6 provides that building permits issued by local jurisdictions **after** January 1, 2019, remain valid for up to one year provided work commences within a year of issuance. Local building officials may also grant, in writing, one or more six-month extensions of this initial period provided the permittee demonstrates "justifiable cause for the extension." (HSC, § 18938.6(b).) If the work authorized by the permit begins within the relevant period of validity, the permit will remain in effect as long as the work is not abandoned (*i.e.*, suspended for at least six months). (HSC, § 18938.6(a); Cal. Code Regs., tit. 24, part 2, § 105.5.)

Prior to AB 2913, absent an extension by the local building official, building permits expired after six months.

There does not appear to be a requirement that local jurisdictions adopt ordinances reflecting these provisions, and the California Building Standards Code remains inconsistent with the new law. Also, the legislative history suggests the law was initially intended to apply to residential construction. Consequently, confusion at the local level may exist, and we recommend confirming with each jurisdiction their understanding of the law.

Local Action

As new legislation to mitigate the outbreak's impacts seems unlikely in the near term, immediate efforts to preserve permits and entitlements will depend heavily on utilizing orders and emergency measures issued at the local level.

EXTENSION OF LAND USE TIMELINES

The City of Los Angeles issued an Emergency Order, effective until at least April 19, 2020, that:

- "toll[s]" all Los Angeles Municipal Code provisions regarding the expiration of building and other related permits and plan check applications;
- "toll[s]" all Municipal Code provisions regarding the City's time to act on filed applications;
- "toll[s] and extend[s] by six months" time limits for the use of existing entitlements and entitlements approved during the Order's effective period; and
- "toll[s]" all time limits within the City's Cultural Heritage Ordinance.

The above provisions *appear* to extend approvals that would otherwise expire **after** the Order by the number of days the Order remains in effect. Approvals set to expire **during** the Order's effective period *appear* to be extended by the difference between the approval's expiration date and March 21, 2020, the Order's date of issuance. Furthermore, entitlements, including those approved during the effective period, *appear* to be extended an **additional** six months. However, given the Order's recent issuance, its sometimes ambiguous wording, and the uncertainty surrounding its legal effect, we recommend consulting the City when determining if, and by how long, the Order will extend the expiration of a specific land use approval.

While the City of San Diego has yet to take as extensive an action, the City has granted all qualifying "building permit applications" and "issued building permits" an automatic six-month extension. Practically speaking, the extension of an application affords the applicant additional time to request issuance of a permit before the application's expiration.

CONTINUITY OF OPERATIONS

The Cities of Los Angeles, San Diego, and San Francisco have also implemented temporary measures to keep planning and permit applications moving even as the Cities are shut down. In Los Angeles, while the Planning Department no longer accepts applications in-person, they may be

submitted electronically or, when tangible documents and plans are required, may be deposited in physical drop boxes at each of the City's Development Services Centers. Appointments are **no longer required** prior to filing. Appeals may be processed in this same manner.

In San Diego, the City's Development Services Department has implemented a similar program, suspending in-person appointments and transitioning to remote appointments. Project applications and plans may be deposited at an unstaffed drop box in the Development Services Center and will be quarantined for 24 hours prior to review.

In San Francisco, developers can file electronic applications through the City's [online permit center](#). San Francisco's Board of Appeals and Board of Supervisors are accepting appeals via email despite office closures.

California Environmental Quality Act

The COVID-19 outbreak creates two issues related to the California Environmental Quality Act (CEQA; Pub. Res. Code, § 21000 *et seq.*): (i) the use of the emergency CEQA exemption for qualifying projects, and (ii) an extension of lawsuit filing deadlines.

EMERGENCY EXEMPTION

CEQA exempts from its requirements specific actions necessary to prevent or mitigate an emergency. (Pub. Res. Code, § 21080(b)(2-4); Cal. Code Regs., tit. 14, § 15269(a-c).) While emergency projects do not need to be unexpected, this exemption does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term. (*CalBeach Advocates v. City of Solana Beach* (2002) 103 Cal.App.4th 529, 537.) The emergency occurrence must also involve a "clear and imminent danger, demanding immediate action." (*Id.* at 536.) Thus, only projects that directly mitigate the COVID-19 pandemic are likely to qualify. Examples of such projects could include field hospitals or medical ventilator factories.

FILING DEADLINES

Several county Superior Courts, all State Appellate Districts, and the State Supreme Court have taken actions that have the effect of extending filing deadlines ([California Courts Newsroom](#)). These counties include Fresno, Kern, Los Angeles, Riverside, San Bernardino, Orange, San Diego and the nine Bay Area counties. (*Id.*) The time extensions vary by jurisdiction.

These extensions lengthen the statute of limitations for CEQA (a 30-day statute of limitation if lead agencies file a Notice of Determination, 35 days if they file a Notice of Exemption, and 180 days if they do not file a Notice of Determination after project approval) and Planning and Zoning Law (a 90-day statute of limitation) challenges to development projects. (Pub. Res. Code, § 21167; Gov. Code, § 65009(c)(1).) Given the short statute of limitations for CEQA and Planning and Zoning Law challenges, only developments with very recent project approvals will face the longer deadlines for filing legal challenges due to these COVID-19 extensions.

© 2010-2025 Allen Matkins Leck Gamble Mallory & Natsis LLP

Source URL: <https://natlawreview.com/article/what-ca-developers-need-to-know-about-permit-deadlines-and-extensions-during-covid>