

An Introduction to the California Coastal Act

Group 1 Alarmed that private development was cutting off public access to the shore, and catalyzed by a huge oil spill off the coast of Santa Barbara, Californians in 1972 rallied to “Save Our Coast” and passed a voter initiative called the Coastal Conservation Initiative (Prop 20).

Prop 20 created the California Coastal Commission to make land use decisions in the Coastal Zone, while additional planning occurred. Then in 1976 the State Legislature passed the Coastal Act, which made the Coastal Commission a permanent agency with broad authority to regulate coastal development.

The Coastal Act guides how the land along the coast of California is developed, or protected from development. It emphasizes the importance of the public being able to access the coast, and the preservation of sensitive coastal and marine habitat and biodiversity. It dictates that development be clustered in areas to preserve open space, and that coastal agricultural lands be preserved. It prioritizes coastal recreation as well as commercial and industrial uses that need a waterfront location. It calls for orderly, balanced development, consistent with these priorities and taking into account the constitutionally protected rights of property owners.

The Coastal Act defines the area of the coast that comes under the jurisdiction of the California Coastal Commission, which is called the “coastal zone.” The Coastal Zone extends seaward to the state’s outer limit of jurisdiction (three miles), including offshore islands. The inland boundary varies according to land uses and habitat values. In general, it extends inland 1,000 yards from the mean high tide line of the sea, but is wider in areas with significant estuarine, habitat, and recreational values, and narrower in developed urban areas. Coastal Zone boundary maps are available on the Coastal Commission website.

The Coastal Zone does not include San Francisco Bay, which is under the jurisdiction of a separate state agency, the San Francisco Bay Conservation and Development Commission.

Annotated Reading of Selected Coastal Act Sections

The following is a selection of excerpts from the Coastal Act, which contains many additional policies and procedures not addressed here. To read the entire Coastal Act, visit www.coastal.ca.gov/coastact.pdf. The quoted sections below are each referenced with their identifying section number in the Coastal Act.

The Coastal Act begins with a section (30001) on the **importance of the California coast and its ecological balance**:

The Legislature hereby finds and declares:

(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately

balanced ecosystem.

(b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

Thus, the law recognizes the importance of both the **natural** environment and **economic** development that is dependent upon the resources of the coast.

The Coastal Act (30001.5) declares that the basic **goals** of the state for the coastal zone are to:

(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

Chapter 3 of the Coastal Act contains the policies that are to guide coastal resource planning and decisions on individual development proposals. The Coastal Act recognizes that at times there will be conflicts between these policies, and states that "such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources." (30007.5)

Group 2 The Coastal Act prioritizes the **public's right to access the shoreline** (30210 to 30214):

[M]aximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal development should not impede existing rights of access:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization...

The previous statement makes reference to different ways public access rights are established. The government may establish these rights (such as by purchasing land to create a public path to the beach) or they are sometimes established through historic public use.

Acquisition through historic use is explained in the *California Coastal Access Guide*, published by UC Press:

According to court decisions, in order for the public to obtain an easement by way of implied dedication, the essential elements that must be established are that the public has used the land 1) for a continuous period of five years as if it were public land, 2) with the actual or presumed knowledge of the owner, and 3) without significant objection or significant attempts by the owner to prevent or halt such use.

The ultimate determination of prescriptive rights, if they are challenged, takes place in court. However, Section 30211 of the Coastal Act requires the Coastal Commission to make determinations as to the existence of these rights where there is evidence of historic use of a given area.

New public access is encouraged in the Coastal Act:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.

In practice, most new accessways require that an organization (public or private) first accept responsibility for maintenance and liability before being opened to the public.

The Coastal Act (30252) recognizes that it is not sufficient to provide access to the coast; sensible planning for encouraging coastal recreation includes addressing transportation needs and other considerations, such as preventing overcrowding of recreation areas:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as

high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The Coastal Act (30221) calls for **lower cost visitor and recreational facilities**, addressing the concern that coastal recreational opportunities be available to all Californians regardless of income level. In addition, “Developments providing public recreational opportunities are preferred.” Also:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Group 3 The Coastal Act (30230) also **prioritizes ecological resources**. Marine resources, such as wetlands, rocky intertidal areas, and the open ocean are addressed as follows:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

The Coastal Act (30240) includes **special protection for Environmentally Sensitive Habitat Areas**, often referred to as ESHA:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The law recognizes the importance of maintaining adequate **water quality** for coastal zone organisms and human health (30231):

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment,

controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The Coastal Act **prioritizes certain types of activities and development** over other types in the coastal zone. For instance, visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation are prioritized over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry (30222). Recreational boating and its related facilities are encouraged in the Coastal Act (30224).

The Coastal Act (30253) dictates that new development be designed and sited to minimize adverse impacts to coastal resources, both natural and visitor-serving, as follows:

New development shall do all of the following: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development. (d) Minimize energy consumption and vehicle miles traveled. (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Group 4 **Views** and local character are protected by the Coastal Act (30251):

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The Coastal Act (30235) calls for **limits on the use of shoreline armoring**:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

The issue of whether new shoreline armoring should be allowed will arise with increasing frequency as global warming causes sea level rise. In applying the Coastal Act, the Commission tries to avoid shoreline armoring by locating new development away from hazard areas if feasible.

The Coastal Act (30006) includes a statement on the importance of **public participation** in its implementation...

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

...as well as **public education** (30012):

The Legislature finds that an educated and informed citizenry is essential to the well-being of a participatory democracy and is necessary to protect California's finite natural resources, including the quality of its environment. The Legislature further finds that through education, individuals can be made aware of and encouraged to accept their share of the responsibility for protecting and improving the natural environment.

The Coastal Commission

There are 15 California Coastal Commissioners. Twelve are voting members and three are non-voting members. The voting members are appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee; each appoint four Commissioners, of which two are selected from the public at large and two are locally elected officials. The local officials on the Commission represent six coastal regions in California. The Governor's appointments must include at least one representative who resides in and works directly with communities with diverse racial and ethnic populations and communities with low-income populations burdened disproportionately by high levels of pollution and issues of environmental justice. The non-voting Commissioners are the Secretary of the Resources Agency, the Secretary of the Business and Transportation Agency, and the Chairperson of the State Lands Commission.

The Coastal Commission meets each month to hear from the public and make decisions. The meetings are held in different coastal locations and generally last three days. You can find out about these meetings on the Coastal Commission website at www.coastal.ca.gov. Meetings are open to the public as well as streamed live online, and previous meetings can be viewed in a video archive.