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September 12, 2024

The Honorable Gavin Newsom  
Governor, State of California  
1021 O Street, Suite 9000  
Sacramento, CA 95814

**RE: AB 98 (Carrillo J., Reyes): Planning and zoning: logistic use: truck routes  
REQUEST FOR VETO (As Amended August 28, 2024)**

Dear Governor Newsom,

On behalf of the City of Brentwood, we **strongly urge your veto of AB 98** (Carrillo J., Reyes), related to warehouse and logistic use standards and truck routes.

While the bill aims to address air quality related concerns adjacent to warehouse operations, this problematic gut-and-amend includes stringent requirements that will severely impact the ability for local jurisdictions to site based on unique geographic and community characteristics, and stifles economic and workforce development in their communities.

The interests and perspectives of those most intimately involved at the local level and responsible for implementation efforts were not involved in crafting AB 98. We believe that a more robust, inclusive, and transparent process leads to more informed policy solutions and AB 98 did not meet this mark. Instead, the bill was a gut-and-amend in the 11<sup>th</sup> hour of the legislative session. The bill could not be amended due to the 72-hour in print rule, preventing substantive and meaningful public input.

For these process and procedural reasons alone, we request AB 98 be vetoed; however, the City of Brentwood has serious concerns regarding the substantive policy solution that AB 98 would mandate for all cities and counties if chaptered into law.

**1) AB 98 takes local community-based solutions completely off the table.**

We are extremely concerned that this measure overly constrains local governments by outright limiting a city's ability to site a new or expanded use of a logistic use development or warehouse that are within 900 feet of a sensitive receptors. Local decision making is essential to ensure zoning regulations are tailored to the unique needs and concerns of various communities. Cities and counties have good neighbor policies and local ordinances that make them better equipped to determine appropriate setback requirements and conditions for logistic use developments based on the specific geographic and regional factors in their communities and allows local governments the ability to engage the public. Cities are actively siting and zoning to prepare for community growth and development. Cities are already planning for housing, lowering vehicle miles traveled, updating climate action plans, zoning for open space and greenbelts, and more. We believe that local governments should retain their abilities to exercise local discretion when siting logistic use developments prior to any state-mandated conditions being required.

**2) AB 98 creates an uneven playing field for local governments, creating winners and losers based on geography, hampering employment opportunities, and limiting future economic growth.**

AB 98 establishes a tiered framework that applies different setback requirements and warehouse conditions depending on existing industrial or re-zoned sites across the state. This would make logistic use and warehouse developments in certain cities or counties more attractive compared to other cities or counties. This uneven playing field will benefit certain local governments to the detriment of others, in some cases solely based on geographic differences, hindering the ability of cities and counties to provide future job opportunities for their communities.

Additionally, several definitions in the bill would make the implementation of the measure extremely complex and remain problematic. The definition of 'logistic use' would include that the development may incidentally serve retail customers for onsite purchases and the bill also states that a logistic use development may not sell directly to consumers. This is contradictory and misleading.

Similarly, the definition of 'sensitive receptor' would include schools. Local governments are not responsible for the siting of schools and therefore would have no control should a school re-locate directly adjacent to a logistic use development or warehouse.

**3) AB 98 proposes a cart-before-the-horse approach that lacks science-based evidence for the standards imposed.**

AB 98 would require the South Coast Air Quality Management District (SCAQMD) to deploy mobile air monitoring systems within the counties of Riverside and San Bernardino beginning January 1, 2026 to January 1, 2032 and after conducting an air modeling analysis to evaluate the impact of air pollution on sensitive receptors from logistic use development operations, submit findings to the legislature by January 1, 2033. It is pre-emptive to require such stringent statewide standards, including setback distances, when sound scientific data hasn't been collected and isn't available to justify these prescriptive requirements. Further, it is unclear why the statewide setback standards would be based on air quality monitoring and analysis from only one region of the state. Therefore, the absences of air quality monitoring and modeling across the state to ensure such setback standards are in fact based on the appropriate regional data another foundation element of AB 98 that is extremely problematic.

The stringent standards in the bill are new and compounding on existing laws and regulations that local governments are already complying with. Without sound science backing the need for additional requirements, AB 98 would simply provide greater constraints that will hurt local communities. As noted, cities are already addressing environmental impacts by complying with existing regulatory frameworks such as 1) implementing the California Environmental Quality Act (CEQA), 2) developing regional transportation and land use plans through regional council of governments, 3) implementing the Advanced Clean Fleet (ACF) regulations promulgated by the California Air Resources Board, and 4) meeting existing rules related to air quality standards, such as by the SCAQMD, which has established regulations to limit emissions from certain types of businesses, including logistics and warehouse facilities. Ultimately, this bill would set a precedent of usurping local control without a sound scientific basis.

**4) The required circulation element update is extensive and triggers existing statutorily required updates to the circulation element to now meet the deadlines included in AB 98.**

AB 98 would require all local governments to update their circulation element with truck routing information by either January 1, 2028 or, if located in San Bernardino and Riverside counties, by January 1, 2026. This would require a local government to make these updates within several years and for the Inland Empire region, within one year of the statute coming into effect. The circulation element update would be required, even if a local government is not approving warehouse or logistic use development and would result in costly fines, if the element update is not completed within the deadline. The bill thrusts these extensive provisions onto local governments with no regard to the actual development of logistic uses and warehouses in their communities, which is a fundamental flaw in the bill.

An unintended consequence of AB 98 would trigger that, based on the deadlines in the bill, existing statute that requires cities and counties to update their circulation element with protective safety measures for bicyclists and pedestrians must also meet the January 1, 2026 and January 1, 2028 deadlines, as prescribed in the bill. This would double down on the requirement for local governments to complete both updates in the circulation element in this time frame, otherwise the enforcement provisions and costly fines would apply.

The circulation element update would also require that truck traffic avoid residential areas and sensitive receptors. The bill would limit trucks traveling from highways to industrial zoned areas to only use major and minor collector streets and roads that predominantly serve commercially oriented uses. Communities are uniquely situated and not all regions and roadway networks look the same and certainly many cannot meet these restrictive requirements. Further understanding of the potential implications in small to mid-size communities, and suburban, rural and urban communities must be a first step taken to further analyze unintended consequences before imposing such one-size-fit-all restrictions.

**5) The requirements of AB 98 will impose costly, unfunded mandates on local governments.**

AB 98 would require local governments to comply with the extensive standards included in the bill and does not offer any form of cost reimbursement based on these mandates. Local governments work hard to comply with existing statute and regulations, such as CEQA, ACF, among many other state-mandated requirements. By adding new and complicating requirements, without including a mechanism for local governments to receive reimbursement for such mandated costs is unreasonable. This would make it more challenging for local governments to meet the demands in

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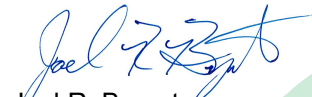
the bill which should ultimately be the intent of the legislation, should be to encourage local governments to achieve the proposed requirements, not make it harder with greater unfunded mandates.

Cities and counties estimate the circulation element update alone would be an additional cost on local governments, outside of their existing general plan updates, of approximately \$54 million to \$749 million for all 58 counties and 483 cities to comply, roughly anywhere between \$100,000 to the low millions for each city or county to comply. Some cities will have greater costs due to the complexities of incorporating traffic patterns and fewer choices to de-conflict freight movement with residential traffic on a city's road network. AB 98 disregards the enormous local costs that would likely be quadrupled from additional legislation this year that will require a safety element update, a conservation element update, and bicycle safety update, along with the circulation element in AB 98.

**6) The enforcement provisions are overly harsh, aiming to punish all local governments.**

AB 98 would authorize the Attorney General to impose a fine of \$50,000 every six months on local jurisdictions that do not complete their circulation element updates. Other legislation that has included similar fines, have been contingent upon a court order or litigation prior to such fines being imposed. With a 'no-questions-asked' approach to enforcement, local governments are being targeted with this punitive provision. Furthermore, this provision singles out local governments based on the completion of their circulation element update, rather than focusing on the implementation of all of the standards included in the bill. It should be noted that there are no other enforcement provisions in the bill for any of the other standards that are proposed.

For these reasons, the City of Brentwood **strongly request your veto** on AB 98 (Carrillo, J., Reyes).



Joel R. Bryant,  
Mayor

Cc: The Honorable Juan Carrillo via Legislative Position Letter Portal  
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