Resource Protection Ordinance & Grading Ordinance
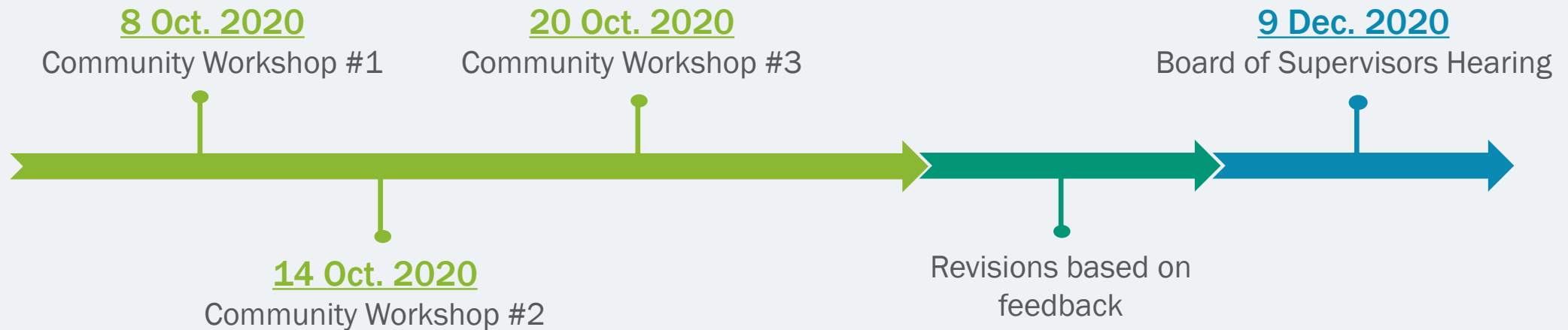
Community Workshops

October 2020

We Want to Hear from You!

Meeting Purpose

- Share information on Resource Protection Ordinance (RPO) & Grading Ordinance
- Receive feedback on proposed actions & options

Tentative Project Schedule

8 Oct. 2020
Community Workshop #1

20 Oct. 2020
Community Workshop #3

9 Dec. 2020
Board of Supervisors Hearing

14 Oct. 2020
Community Workshop #2
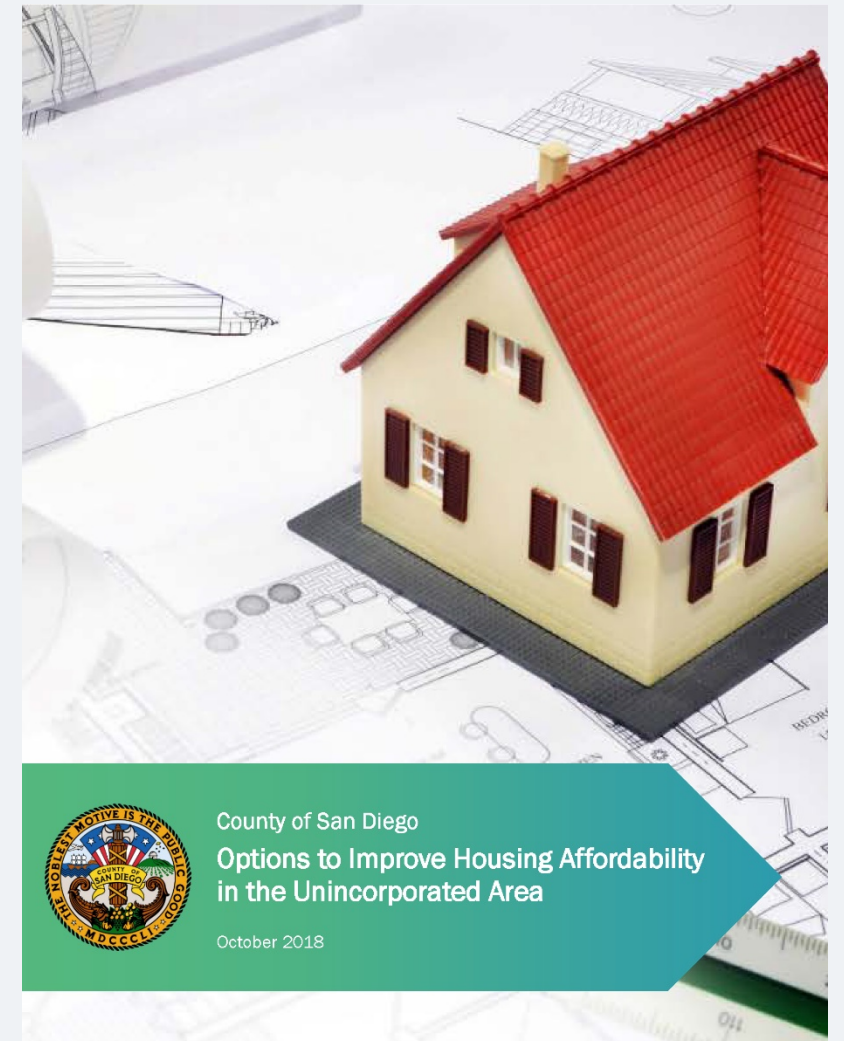
Revisions based on feedback

Submit feedback and comments by October 30, 2020

Email: PDS.AdvancePlanning@sdcounty.ca.gov
Phone Number: (858) 694-2460
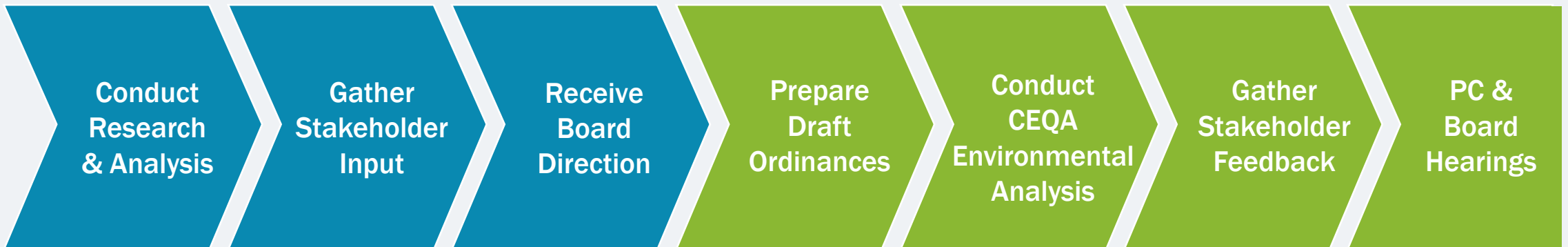
Board of Supervisor Direction

- **October 10, 2018 :** Report on Options to Improve Housing Affordability in the Unincorporated County

  - **Action RR-2:** Resource Protection Ordinance (RPO)

  - **Action LDC-1:** Grading, Clearing, and Watercourse Ordinance (Grading Ordinance)

County of San Diego
Options to Improve Housing Affordability in the Unincorporated Area

October 2018

Project Objectives & Timeline

Phase 1

Phase 2

Conduct Research & Analysis → Gather Stakeholder Input → Receive Board Direction → Prepare Draft Ordinances → Conduct CEQA Environmental Analysis → Gather Stakeholder Feedback → PC & Board Hearings

We are here!

Resource Protection Ordinance

Ordinance Background

Proposed Updates & Amendments Options

RPO – Background

- **Adopted in 1989** (last updated in 2012)

- **Restricts impacts to natural resources including:**
  - Wetlands & Wetland Buffers
  - Floodplains
  - Steep Slopes
  - Sensitive Habitat Lands
  - Historical Sites

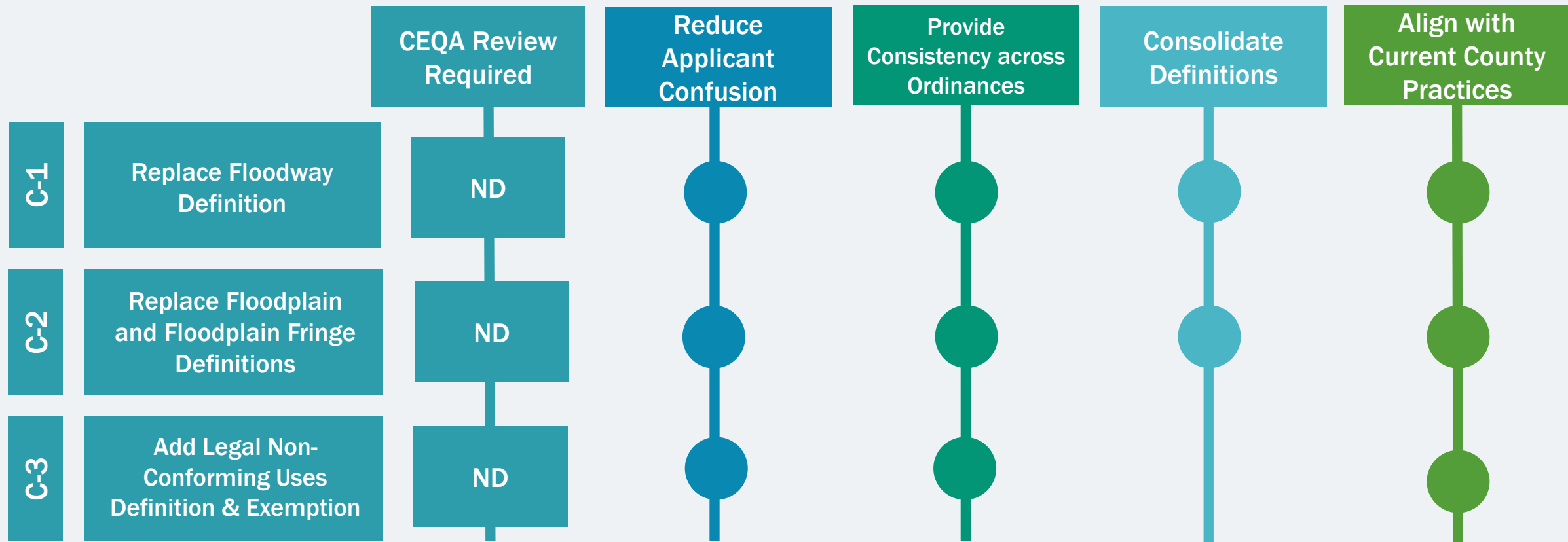- **RPO now duplicative with new local, state, and federal regulations**

RPO – Three (3) Categories of Amendments
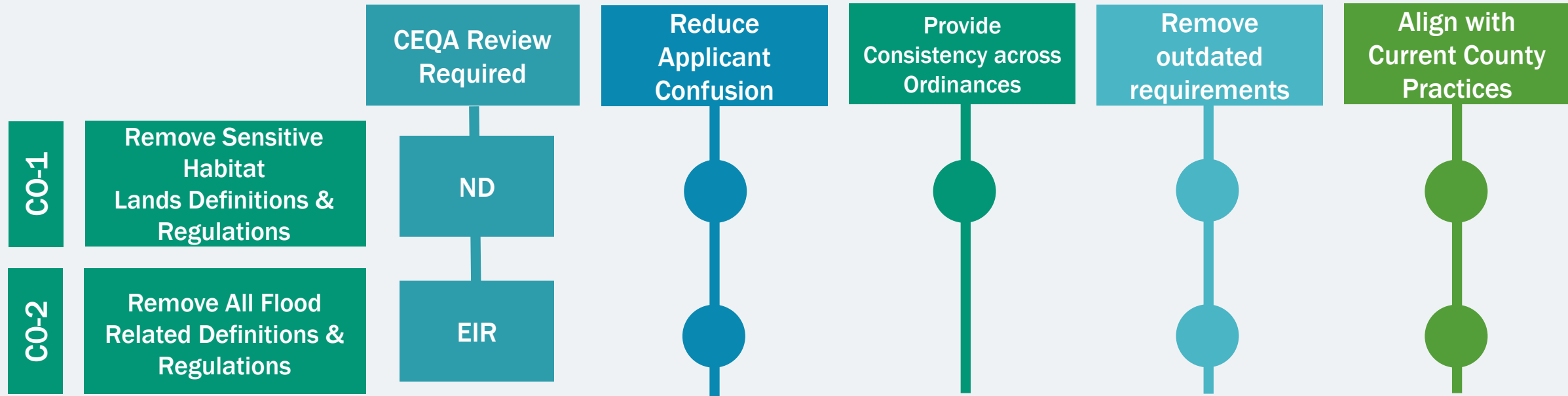
RPO – CEQA

- All amendments must ensure environmental impacts are avoided or mitigated in accordance with state and federal law.

- Require preparation of subsequent environmental analysis under CEQA:
  - CEQA Exemption (Exemption),
  - Negative Declaration (ND),
  - Mitigated Negative Declaration (MND), or
  - Environmental Impact Report (EIR)

RPO – Consistency

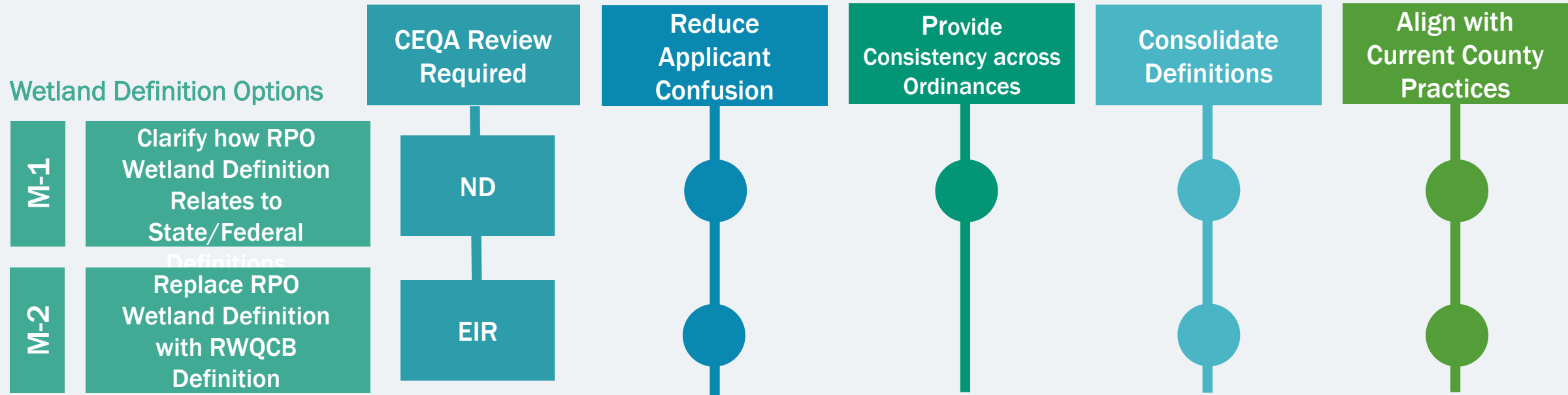|		CEQA Review Required	Reduce Applicant Confusion	Provide Consistency across Ordinances	Consolidate Definitions	Align with Current County Practices
C-1	Replace Floodway Definition	ND	●	●	●	●
C-2	Replace Floodplain and Floodplain Fringe Definitions	ND	●	●	●	●
C-3	Add Legal Non-Conforming Uses Definition & Exemption	ND	●	●		●

- Reduce applicant confusion by providing definition consistency across County ordinances
- Align definitions and regulations to meet current County practices and terminology covered under other County ordinances

RPO – Consolidation

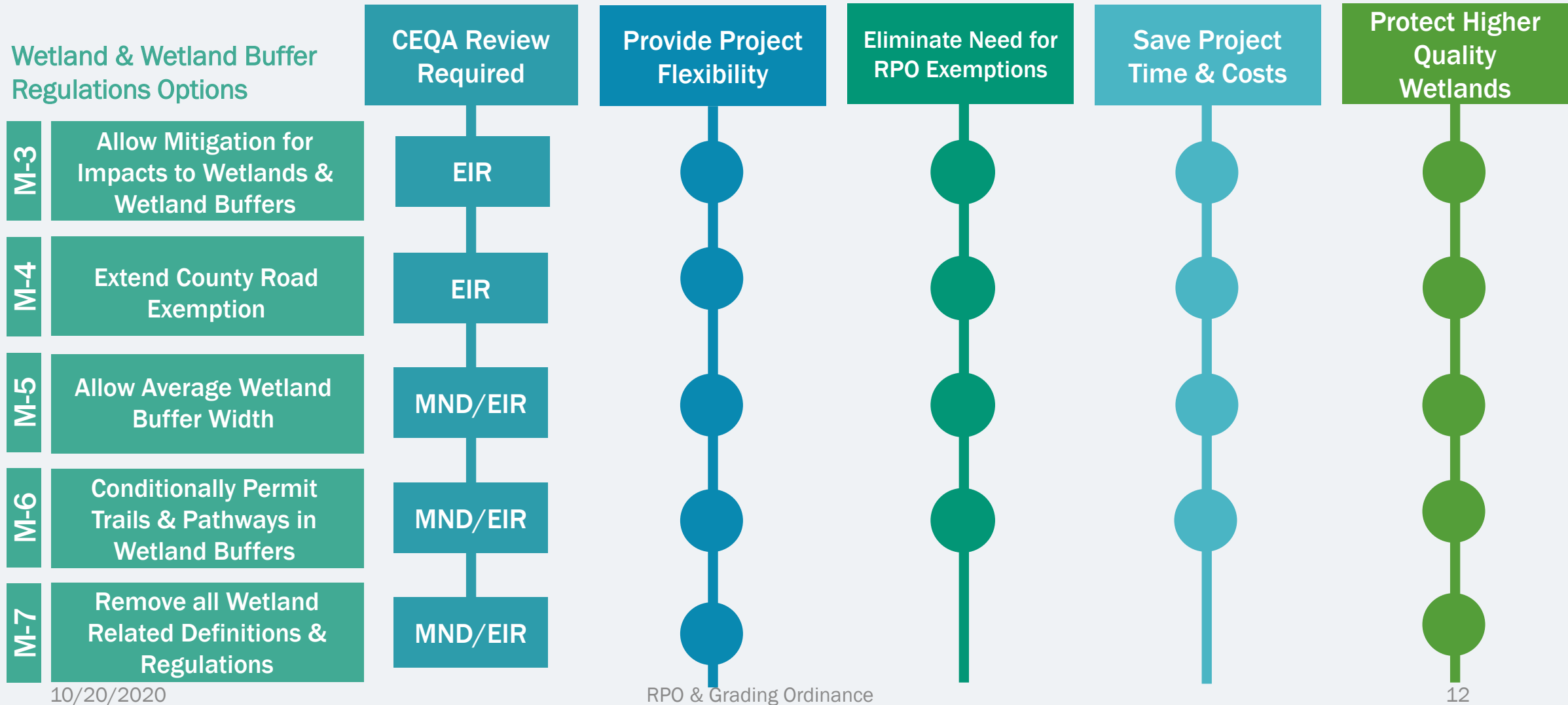|		CEQA Review Required	Reduce Applicant Confusion	Provide Consistency across Ordinances	Remove outdated requirements	Align with Current County Practices
CO-1	Remove Sensitive Habitat Lands Definitions & Regulations	ND	●	●	●	●
CO-2	Remove All Flood Related Definitions & Regulations	EIR	●		●	●

- Reduce applicant confusion by removing outdated regulations covered by other County ordinances
- Provide consistency across County ordinances by removing conflicting requirements
- Remove language to align regulations to meet current County practices covered under other County ordinances

RPO – Modification

Wetland Definition Options

		CEQA Review Required	Reduce Applicant Confusion	Provide Consistency across Ordinances	Consolidate Definitions	Align with Current County Practices
M-1	Clarify how RPO Wetland Definition Relates to State/Federal Definitions	ND	●	●	●	●
M-2	Replace RPO Wetland Definition with RWQCB Definition	EIR	●		●	●

- Reduce applicant confusion by clarifying wetland definition to align with State and Federal regulations
- Provide definition consistency across County ordinances
- Consolidate definitions for reduction of conflicting terms and definitions
- Align definitions to meet current County practices and terminology covered under other County ordinances

RPO – Modification Amendment Options

Wetland & Wetland Buffer Regulations Options	CEQA Review Required	Provide Project Flexibility	Eliminate Need for RPO Exemptions	Save Project Time & Costs	Protect Higher Quality Wetlands
M-3 Allow Mitigation for Impacts to Wetlands & Wetland Buffers	EIR	●	●	●	●
M-4 Extend County Road Exemption	EIR	●	●	●	●
M-5 Allow Average Wetland Buffer Width	MND/EIR	●	●	●	●
M-6 Conditionally Permit Trails & Pathways in Wetland Buffers	MND/EIR	●	●	●	●
M-7 Remove all Wetland Related Definitions & Regulations	MND/EIR	●			●

Grading Ordinance

Ordinance Background & Potential Options

Grading Ordinance – Background

- **Adopted in 1996 to regulate:**
  - Movement of earth (grading) and removal of vegetation (clearing)
- **Includes limitations to address impacts to:**
  - Sensitive habitat and other biological resources
  - Archaeological resources
  - Aesthetics
  - Erosion control
- **2001**
  - Limited scope of exemptions for agricultural grading and clearing to enhance stormwater protections
- **2003**
  - Consolidated Grading, Clearing and Watercourse Ordinances
  - Established streamlined approval processes for agricultural grading
- **2008**
  - Addressed watershed protection and stormwater requirements
- **Must comply with state and federal requirements**

Grading Ordinance – Administrative Permit

- **Requires Administrative Permit for brushing, clearing, and grading**
  - Single Family Residential: Can clear up to 5 acres by right
  - Typical cost ranges from $20,000 to $50,000
- **Since 2012:**
  - 53 applications submitted
  - 23 applications withdrawn

Grading Ordinance – Options

1 Waiver

2 Exemption

3 Clarifications

Grading – CEQA

- All options must ensure environmental impacts are avoided or mitigated in accordance with state and federal law.
- Options 1 and 2 require preparation of Programmatic Environmental Impact Report (PEIR) under CEQA to:
  - Identify impacts and mitigations
  - Prepare findings and overrides for significant impacts that cannot be mitigated
- Mitigation could include:
  - Setting land aside to mitigate impacts to habitats
  - Future programs to mitigate grading impacts
  - Habitat Conservation Programs
- Option 3 would either be exempt from CEQA, or require a Negative Declaration

Grading Ordinance & MSCP

South County Plan

Adopted in 1997

- Agricultural Clearing Exemption if:
  - Not within Pre-Approved Mitigation Area or Floodplain
  - Consistent with BMO
- Agricultural clearing allowed for up to 3,000 acres total

North County Plan

In Process

- Lengthy and complex effort
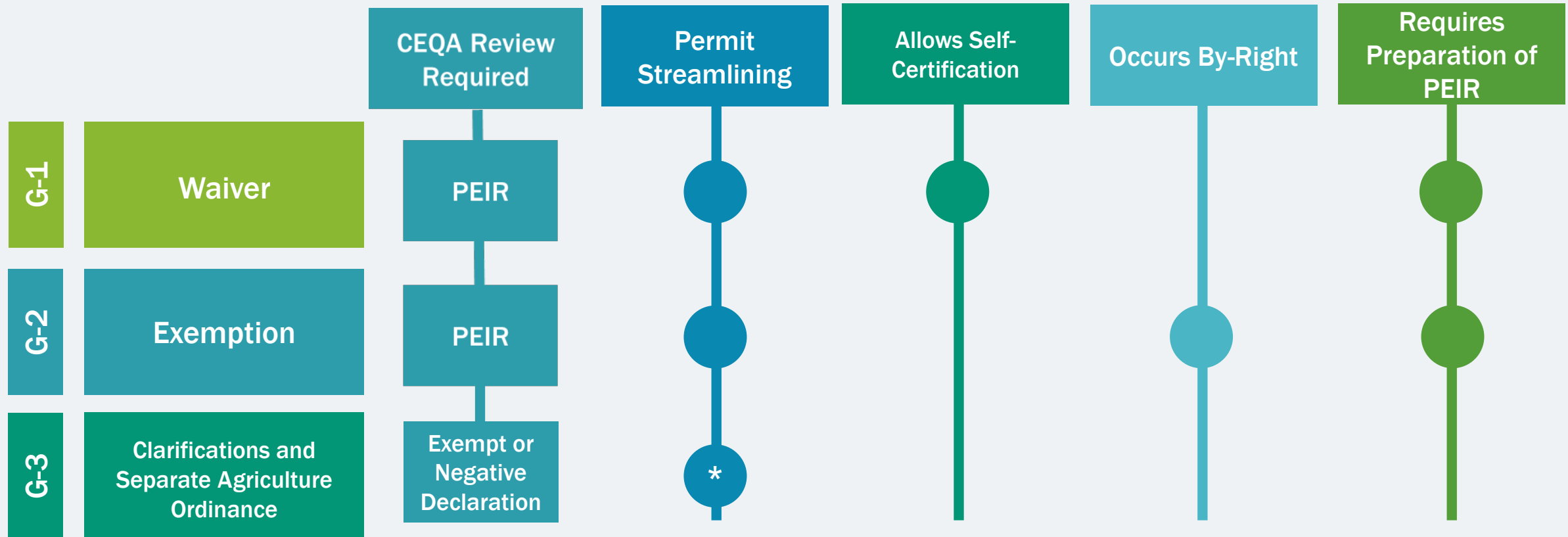- Competing priorities
- Changing legislation and guidelines

East County Plan

Future

- Budget and Staffing constraints

Grading Ordinance Options are consistent with MSCP and will identify mitigations which will save time and costs to future applicants

Grading Ordinance – Options

		CEQA Review Required	Permit Streamlining	Allows Self-Certification	Occurs By-Right	Requires Preparation of PEIR
G-1	Waiver	PEIR	●	●		●
G-2	Exemption	PEIR	●		●	●
G-3	Clarifications and Separate Agriculture Ordinance	Exempt or Negative Declaration	*			

* G-3 permit streamlining would be minor until the MSCP is completed and mitigations are identified.

RPO & Grading Ordinance – Potential Options

RPO:

- Floodway/Floodplain Definitions Consistency & Nonconforming Uses

- Remove All Sensitive Habitat Lands and Flood Definitions & Regulations

- Wetland & Wetland Buffer Options

Grading Ordinance:

- Waiver

- Exemption

- Clarifications and Separate Agriculture Ordinance

Questions?

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- Phone: (858) 694-2460

Resource Protection Ordinance & Grading Ordinance

RPO Amendment Options Website

https://www.sandiegocounty.gov/content/sdc/pds/advance/RPOUpdate.html

Grading Ordinance Amendment Options Website

https://www.sandiegocounty.gov/content/sdc/pds/advance/GradingOrdUpdate.html