City of St. Helena
Special Joint City Council and Planning Commission Meeting
Tuesday, January 21, 2020 @ 6:00 PM
465 Main Street, Vintage Hall Boardroom, St. Helena

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "Oral Communication" portion of the agenda may do so, but <u>please observe the time limit of four minutes.</u>

Page

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL
   Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, David Knudsen and Mary Koberstein

   Chairperson: Lester Hardy, Vice Chair: John Ponte, Commissioners: Autumn Anderson, Daniel Hale and Bobbi Monnette

4. PUBLIC FORUM:
   Under California law, public comments at special meetings are limited to subjects on the agenda only. Therefore public comment will take place during consideration of the item. Each person's comments shall be limited to 4 minutes.

5. NEW BUSINESS

   5.1. Presentation Regarding 2019 Housing Legislation — 3 - 40

   CEQA Determination: Not a CEQA Project.
   Prepared By: Kara Ueda, City Attorney
   Recommendation:
   No action required.
   2019 Housing Legislation Presentation - Staff Report
   Public Comment.Loraine Stuart

6. ADJOURNMENT
   The next Regular City Council meeting is scheduled for January 28, 2020 and Planning Commission meeting is scheduled for February 4, 2020, at 6:00 p.m. in the Vintage Hall Board Room located at 465 Main Street.

   This agenda was posted at City Hall, 1480 Main Street, and at Vintage Hall, 465 Main Street, St. Helena, California on January 8, 2020.

   Cindy Tzafopoulos

   Cindy Tzafopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting

CHALLENGING DECISIONS OF CITY ENTITIES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of St. Helena is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing.

If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of St. Helena, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the City Clerk's Office located at 1480 Main Street, St. Helena, California, during normal business hours. In addition, such writings or documents will be made available on the City's web site at https://sthelena.civicweb.net and will be available for public review at the respective meeting.

PLANNING COMMISSION REPORT

Planning Commission Meeting of January 21, 2020

FILE NUMBER: n/a

SUBJECT: Presentation Regarding 2019 Housing Legislation

PREPARED BY: Kara Ueda, City Attorney

REVIEWED BY: Aaron Hecock, Senior Planner

APPROVED BY: Aaron Hecock, Senior Planner

APPLICATION FILED:

BACKGROUND

In 2019, the State Legislature passed several bills intended to address concerns regarding the escalating costs of housing and concerns regarding the availability of housing throughout the State. This new legislation has significant implications for cities and counties as the local planning agencies that plan for, review and approve the actual development of housing. Many of these bills will impact the manner in which cities and counties will review applications for various types of housing, and the requirements that local agencies may impose on new housing developments as conditions of approval.

PROJECT DESCRIPTION

At the January 21, 2020 Joint Meeting of the City Council and Planning Commission, we will make a presentation regarding the substance of these bills, and the implications that they may have for the City of St. Helena and the review of proposed housing development projects. A summary of the legislation to be discussed is attached to this staff report.

STAFF RECOMMENDATION

No action required.

ATTACHMENTS

Summary of 2019 Housing Legislation

St Helena Housing Legislative Update

Summary of 2019 Housing Legislation

Ethan Walsh
Best Best & Krieger LLP

I. Senate Bill 330: the "Housing Crisis Act of 2019"

Senate Bill 330 makes numerous changes to the Permit Streamlining Act and the Housing Accountability Act, many of which are in effect only until Jan. 1, 2025, and establishes the Housing Crisis Act.

Under the new rules, cities and counties will be limited in the ordinances and policies that can be applied to housing developments. "Housing development" is now defined to include residential projects, mixed-use projects with 2/3 of the square footage dedicated to residential units and transitional or supportive housing projects.

A. New Preliminary Application Process

The legislation creates a preliminary application process. A housing development will be deemed to have completed the preliminary application process by providing specified information regarding:

- site characteristics,
- the planned project,
- certain environmental concerns,
- facts related to any potential density bonus,
- certain coastal zone-specific concerns,
- the number of units to be demolished and
- the location of recorded public easements.

With limited exceptions, housing developments will only be subject to those ordinances and policies in effect when the completed preliminary application is submitted. The public agency must make any historic site determination at the time the developer has complied with the preliminary application checklist. That determination can only be changed if archaeological, paleontological or tribal cultural resources are found during development.

To facilitate the preliminary application process, all public agencies must compile a checklist that specifies what is required to complete a development application. The application checklist must now be made available in writing and on the public agency's website.

The developer has 180 days from the submittal of the preliminary application to submit a development application. Under SB 330, the local agency now has additional disclosure obligations when rejecting an application as incomplete and cannot request anything that is not identified on the application checklist.

B. Streamlining Provisions

The Housing Accountability Act was amended to prohibit more than 5 hearings when reviewing a housing development that complied with the general plan and zoning code objective standards when the application was deemed complete. "Hearing" is broadly defined to include any workshop or meeting of a board, commission, council, department or subcommittee.

Additionally, a housing development cannot be required to rezone the property if it is consistent with the objective general plan standards for the property. The public agency may require the housing development to comply with the objective zoning code standards applicable to the property, but only to the extent they facilitate the development at the density allowed by the general plan.

SB 330 also shortens the timeframes for housing development approval under the Permit Streamlining Act. Local agencies now have 90 days, instead of 120 days, following certification of the environmental impact report, to approve the project. For low-income projects seeking tax credits or other public funding, that time frame is 60 days.

C. Limitations on Future Development Restrictions and Changes

The bill additionally freezes many development standards in cities and counties in U.S. Census Bureau-designated urbanized areas, starting Jan. 1, 2020. The Department of Housing and Community Development is responsible for confirming the affected cities and counties that are located in urbanized areas by June 30. HCD may revise this list after Jan. 1, 2021 to address changes in urbanized areas based upon the new census data.

Among other changes, the bill provides that where housing is an allowable use, an affected public agency, including its voters by referendum or initiative, may not change a land use designation (general plan or zoning) to remove housing as a permitted use or reduce the intensity of residential uses permitted under the general plan and zoning codes that were in place as of Jan. 1, 2018, unless the city concurrently changes the standards applicable to other parcels to ensure there is no net loss in residential capacity.

Affected public agencies are also prohibited from imposing a moratorium or similar restriction on a housing development, including mixed-use developments, except to specifically protect against imminent threats to public health and safety. Additionally, affected public agencies cannot enforce a moratorium or other similar restriction on a housing development until the ordinance has been approved by HCD. As of Jan. 1, affected cities or counties are prohibited from imposing or enforcing subjective design standards on housing developments where housing is an allowable use. Objective standards are limited to design standards that involve no personal or subjective judgment by a public official. They must be verifiable by reference to an external and uniform benchmark available to both the applicant and the public official prior to application submittal

An affected city or county is also prohibited from establishing or implementing any growth-control measure adopted by the voters after 2005 that:

- limits the number of land use approvals for housing annually,
- acts as a cap on the number of housing units that can be constructed, or
- limits the population of the city or county.

The HCA also prohibits development approvals that require the demolition of residential units unless the project will create at least as many units as are demolished. Additionally, if the project requires the demolition of affordable restricted units, the project will include at least as many affordable units as existed on the site within the previous 5 years. Existing residents are also allowed to remain until 6 months before construction begins, and displaced residents are provided relocation benefits and a right of first refusal for a comparable unit in the new project at an affordable rent.

II. **Accessory Dwelling Unit Legislation**.

In 2019 the Legislature passed several new laws that further limit local regulation of accessory dwelling units, or ADUs, with the goal of accelerating ADU development throughout the State. An ADU is usually a second small residence on the same grounds as a single-family home, such as a back house or an apartment over a garage. The new restrictions imposed by each bill or set of bills are described below.

A. AB 881, SB 13 and AB 68[1]

These bills provide the most extensive changes to the law governing ADUs. The provisions of the bills are summarized in separate categories below.

1. More Locations

- State law now clearly prohibits a city from requiring a minimum lot size as a condition of constructing an ADU.
- ADUs are now allowed on lots with multifamily dwellings (not just single-family dwellings).
- The no-setback rule is expanded beyond just nonconforming garages to include any existing structure, or any *new* structure in the same place and with the same dimensions as an existing structure.
- The most a city may require for a side or rear setback is now 4 feet.
- Before, the adequacy of water and sewer services and ADU impact on traffic flow and public safety were included in the law as examples of reasons that might justify a city in restricting ADUs in a certain area. Now, they are the only allowed reasons for restricting

[1] "When, during a calendar year, two or more bills amending the same code section become law, the bill enacted last (with a higher chapter number) becomes law and prevails over ('chapters out') the code section in the bill or bills previously enacted. Chaptering out can be prevented with the adoption of 'double jointing' amendments." (Cal. State Legisl. Glossary, s.v. chaptering out.) AB 68 was "double-jointed" with AB 881 and SB 13, and AB 881 was enacted last, so sections 1.5 and 2.5 of AB 881 are the operative provisions resulting from the passage of all three bills in the order in which they were enacted.

ADUs, and cities must consult with utility providers before deciding that water and sewer services are inadequate.

2. Fewer Opportunities to Regulate Size

- Minimum size must be 220 square feet, or as low as 150 square feet if the city has adopted a lower efficiency-unit standard by local ordinance.
- Maximum size must be at least 850 square feet for attached and detached studio and one-bedroom ADUs and at least 1,000 square feet for two or more bedrooms. In practice, an ADU might be limited to less than these minimum maximums by the application of development standards, such as lot coverage and floor-area ration. But another new provision prohibits the application of any standard that wouldn't allow for at least an 800-square foot, 16-foot tall ADU with 4-foot side and rear setbacks.
- Converted ADUs may now include an expansion of the existing structure of up to 150 square feet for ingress and egress.
- Attached ADUs are no longer limited to 1,200 square feet — the only requirement is that the attached ADU may be no more than 50 percent of the existing primary dwelling.

3. Less Parking

- Cities may no longer require replacement parking when a garage is converted to an ADU.
- A city cannot require additional parking for an ADU constructed within a 1/2 mile of public transit. State law now clarifies that "public transit" includes any bus stop, which may considerably expand parking-exempt areas for many cities.

4. More Limited Review

- Whether or not a city has an ADU ordinance that is compliant with State law, it must ministerially approve a compliant ADU, and now a junior ADU[2] as well, within 60 days of receiving a complete application — a decrease from 120 days. But the city must extend that time if an applicant requests it. Cities may charge a fee to recover review costs.
- Any new primary dwelling that requires a discretionary review may still be subjected to the normal discretionary process, and consideration of an ADU on the same lot may be delayed until the primary dwelling is approved. But the ADU decision must remain ministerial.
- Cities now have to approve new detached ADUs with only a building permit (as they do for converted ADUs), without applying any standard except for 4-foot setbacks, an 800-square foot floor area maximum and a 16-foot height limit.
- Cities may not require correction of physical nonconforming zoning conditions for an ADU or junior ADU.

2 A junior ADU is an accessory dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

5. Multiple ADUs and Allowing ADUs on Multifamily Properties

- Cities must now allow both a junior ADU and either a converted ADU or a detached building-permit-only ADU on the same lot.
- A city must now allow junior ADUs even if the city doesn't have an ADU ordinance, in which case it may only impose the few standards in state law.
- Cities must now allow multiple converted ADUs on lots with a multifamily dwelling.
- Cities must now allow up to two detached ADUs on lots with a multifamily dwelling, subject only to a 16-foot height limit and 4-foot setback.

6. More Limited Fees

- Utility providers are now more limited in whether and how they can charge connection fees and capacity charges.
- Impact fees are prohibited for ADUs smaller than 750 square feet. They're allowed for large ADUs, but only proportional to the primary dwelling.

7. No Owner-occupancy

- All ADUs are exempt from owner-occupancy requirements until Jan. 1, 2025. Cities may then impose occupancy requirements, but only to ADUs created after that date.

8. No Short-term Rental of ADUs

- Cities may no longer allow short-term rentals of ADUs.

9. More Severe Consequences for Cities

- Now, a local ADU ordinance is null and void if it does not fully comply with whatever the current state law requires — not just with the 2017 amendments (which was previously the case). So cities have to proactively conform their ordinances or risk voiding their entire local ordinance.
- Cities are more accountable now to the California Department of Housing Community Development for conforming their local ordinances to the state ADU law, and HCD may refer a violation to the Attorney General.

B. AB 671 and AB 139[3]

Housing elements must now promote ADUs for affordable rent. HCD must provide financial incentives.

Every general plan housing element must now include, as part of its program to make adequate provision for the housing needs of all economic segments of the community, a "plan that incentivizes and promotes the creation of [ADUs] that can be offered at affordable rent … for

[3] AB 671 and AB 139 were double-jointed bills. Section 1.5 of AB 671 governs because it was enacted last.

very low, low, and moderate-income households." For its part, HCD is charged with developing "a list of existing state grants and financial incentives" for ADU developers and operators by the end of 2020.

In practice, cities and counties will likely need to not only discuss their ADU ordinance and report on ADU development in their housing elements, but also report on what they are doing to promote affordable rental of those ADUs. The benefit of this requirement is that affordable ADUs may count toward fulfilling regional housing needs allocations, also known as RHNA, requirements.

C. AB 670

Home Owner Associations are now limited like local agencies in restricting ADUs.

State law has limited local agencies' ability to restrict ADUs for many years, but has not addressed private restrictions such as HOA Covenants, Conditions & Restrictions ("CC&Rs"). AB 670 makes any governing HOA document void and unenforceable to the extent that it prohibits, or effectively prohibits, the construction or use of ADUs or junior ADUs. AB 670 does permit an HOA to place "reasonable restrictions" on ADUs and junior ADUs in common interest developments, as long as the restrictions do not discourage ADU or junior ADU construction or unreasonably increase the cost to construct them. (Like cities, HOAs are bound to disagree with ADU proponents over what those standards mean in practice.) The new law does not define what sort of "restrictions" are "reasonable," but the bill does not require an HOA to follow the same exact standards that the city or county has adopted, leaving open the possibility that the HOA might still have its own "reasonable restrictions" that differ from those of the local agency.

D. AB 587

Separate sale or conveyance of ADUs is now okay in limited situations.

State law generally prohibits local ADU ordinances from allowing ADUs to be sold or otherwise conveyed separately from the primary dwelling. AB 587 creates a limited exception by allowing (though not requiring) cities to adopt ordinances authorizing ADUs to be conveyed separately from the primary dwelling if certain conditions are met. These conditions include, among others, that the property was built by a qualified nonprofit, there is an enforceable restriction on the use of the land between the nonprofit and qualified low-income buyer and the property is held in a tenancy-in-common agreement that:

- gives the low-income buyer an undivided, unequal interest in the property based on the size of the dwelling,
- gives the nonprofit a right of first refusal to buy back the property if the buyer wishes to sell,
- requires the buyer to occupy the residence as his or her principal residence, and
- contains affordability restrictions on the sale or conveyance of the property ensuring that the property will remain low-income housing for at least 45 years.

This new, narrow exception appears to be a concession aimed at a particular project or model. Note that this exception is not automatic. The local agency must choose to provide it, and it will likely be of only limited interest to most jurisdictions where there is no qualified nonprofit ready to proceed under this model.

III. Assembly Bill 101: The "Omnibus Housing Bill"

Assembly Bill 101 was approved as urgency legislation in July 2019 and took effect immediately. The bill includes a variety of new regulatory requirements to incentivize compliance with housing element law and facilitate development of new housing, as well as financial provisions to facilitate affordable housing in particular, including new grant funding.

A. Regulatory

- *Judicial Enforcement:* After the State Department of Housing and Community Development ("HCD") flags a noncompliant housing element, the Attorney General is now required to seek a court order directing the city to bring its housing element into compliance. To secure compliance, the court is directed to retain jurisdiction, hold status conferences, and impose fines, and may appoint a receiver to step in, take the process over from the city, and "bring the jurisdiction's housing element into substantial compliance."

- *Financial Enforcement:* Cities with compliant housing elements get preference in applying for housing and infrastructure programs. Cities that do not comply are ineligible for certain programs.

- *"Low Barrier Navigation Center" Now Allowed by Right in Zones Allowing Multifamily or Mixed Uses:* Supportive housing has no limit on length of stay and is already allowed as a "use by right" wherever multifamily residential and mixed uses are allowed, subject only to ministerial standards that apply to multifamily generally. This bill introduces "Low Barrier Navigation Center" as a "low-barrier, service-enriched shelter focused on moving people into permanent housing," such as supportive housing — and allows an LBNC by right wherever multifamily or mixed uses are allowed on any basis.

- *Qualifying Threshold for Streamlining Easier to Satisfy:* Before, an applicant had to show that 2/3 of the square footage of the project was residential to qualify for the streamlined development process that was originally enacted through SB 35. Now, proposed density-bonus units and area must be included in the 2/3 calculation. The bill also adds the Department of Public Health and the State Water Resources Control Board to the list of state agencies that may clear a hazardous waste site for streamlining.

B. Financial

- *HCD and Housing Finance Directors Added to Tax Credit Allocation Committee:* Before, the Committee (which allocates low income housing tax credit financing in the State of California) was just the Governor, Controller and Treasurer. The bill adds these housing directors to the Committee, potentially changing the Committee's perspective on how to allocate tax credits to housing projects.

- *New $650 Million Grant Program to Address Homelessness:* The bill establishes the Homeless Housing, Assistance, and Prevention Program and puts the Business, Consumer Services, and Housing Agency in charge of distributing $650 million in one-time grant funds for regional coordination and expanding or developing "local capacity to address homelessness challenges." *The deadline to apply for funds is Feb. 15.*

- *New $250 Million Grant Program to Accelerate Housing Production and Satisfy RHNA:* The bill establishes the Local Government Planning Support Grants Program and puts HCD in charge of allocating $250 million in one-time grants to cities, counties and councils of government (half to cities and counties, half to COGs). The funds are for technical assistance, preparation and adoption of planning documents, and "process improvements" to "accelerate housing production and … facilitate compliance with" sixth-cycle regional housing needs assessments. The amount available to a particular city depends on its population. *The deadline for cities and counties to apply for funds is July 1 (COGs have until January 2021)*.

- *HCD May Now Use CalHome Program Funds to Make Grants for ADUs and Disaster Relief:* The bill authorizes HCD to use existing, continuously appropriated CalHome Program funds to make grants to local agencies and nonprofits for the construction or rehabilitation of ADUs and junior ADUs, as well as to assist disaster victims.

- *Housing Trust Grant Funds Now Available for Native American Tribes and ADUs:* Previously, only local housing trusts were eligible for grants from the Local Housing Trust Fund Matching Grant Program. Now, Native American Tribes may receive funds from this Program. Permissible uses of the funds have also been extended to include construction or rehabilitation of ADUs and junior ADUs.

- *New $500 Million Grant Program for Infill Infrastructure:* The bill establishes the Infill Infrastructure Grant Program of 2019 and puts HCD in charge of allocating $500 million in grant funds to capital improvement projects that are needed to facilitate development of qualifying infill projects and areas. *HCD will release a notice of funding availability by Nov. 30.*

- *$500 Million in Additional Tax Credits:* The bill provides for an additional $500 million in tax credits to qualifying low-income housing projects and changes some of the criteria to qualify.

- *$500 Million Added to Self-Help Housing Fund for Special-Needs Housing:* The bill appropriates $500 million to HCD for the Self-Help Housing Fund to facilitate low- and moderate-income housing for people with intellectual or developmental disabilities.

IV. Assembly Bill 1763: Changes to Density Bonus Law for Affordable Housing Projects

Assembly Bill 1763 amends California's density bonus law to authorize significant development incentives to encourage 100 percent affordable housing projects. In response to a need for housing for low- and moderate-income households, the bill allows up to 20 percent of the units to be available for moderate income households, while the remainder of the units must be affordable to lower income households. The affordability restrictions apply to both the base units and the extra units granted through the density bonus.

These 100 percent affordable housing projects can receive an 80 percent density bonus from the otherwise maximum allowable density on the site. If the project is within 1/2 mile of a major transit stop, the city may not apply any density limit to the project. In addition to the density bonus, qualifying projects will receive four regulatory concessions. And, if the project is within 1/2 mile of a major transit stop, it will also receive a height increase of up to three additional stories, or 33 feet. The 100 percent affordable housing projects are also not subject to any minimum parking requirements.

Essentially, this bill encourages 100 percent affordable housing projects to provide as many units as possible on the site, and the limits on project size come from other standards, such as maximum height limits and setbacks (which are also subject to any allowable deviations through the four available concessions). Under existing law, cities are already required to have an ordinance that implements the state density bonus law. Cities should update their density bonus ordinances to codify this new bonus for 100 percent affordable projects.

V. AB 1255/SB 6/AB 1483: New Information and Reporting Requirements

Under existing law, counties are required to establish a central inventory of all surplus governmental property located in the county. AB 1255 amends the Government Code to extend this obligation to cities. It requires that on or before Dec. 31 of each year, each county and city create an inventory of surplus land (land no longer necessary for the agency's use) and excess land (land in excess of the agency's foreseeable needs) within its jurisdiction. Upon request, the agencies are required to make the inventory available to a citizen, limited dividend corporation or nonprofit corporation free of charge. For each site identified in the inventory, the agency must provide a description of the parcel and its present uses, and report that information to the California Department of Housing and Community Development before April 1 of each year. HCD must then report that information to the Department of General Services for inclusion in an inventory of all state-owned parcels that are in excess of state needs.

Similar to AB 1255, Senate Bill 6 requires the State Department of General Services to develop and host a publicly available database on its website that lists the "inventory sites" that local agencies have identified as suitable and available for residential development in their respective housing elements. Under existing law — including, specifically, Housing Element Law section 65583(a)(3) — these inventory sites are required to be included in each local agency's housing element. However, SB 6 obligates local agencies to prepare their respective inventory sites consistent not only with existing law, but also with standards, form, and definitions adopted by

HCD. SB 6 further authorizes HCD to adopt, amend and repeal these standards, forms, and definitions to implement Housing Element Law section 65583(a) .

Beginning Jan. 1, 2021, all agencies that amend or adopt their housing element must deliver to HCD, along with the copy of its adopted housing element or amendment, an electronic copy of their inventory sites. HCD is responsible for then furnishing the DGS with the list of inventory sites to be included in the database. DGS' database will also include State lands determined or declared excess pursuant to Government Code section 11011.

AB 1483 creates more transparency requirements. Existing law requires public agencies to provide a development project applicant with a detailed list of the information that will be required from the applicant. Existing law also requires a local agency that establishes or increases a fee as a condition of a development project's approval to determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed. AB 1483 adds section 65940.1 to the Government Code to require that a city, county, or special district post on its website all of the following:

- a current schedule of fees, exactions and affordability requirements imposed by the agency that are applicable to a proposed housing development project (defined as a residential project, mixed used project or transitional or supportive housing project),
- all zoning ordinances and development standards, including an identification of the zoning ordinances and development standards applicable to each parcel,
- the list of information required from a development project applicant
- the current and five previous annual fee reports or annual financial reports and
- an archive of impact fee nexus studies or cost of service studies conducted by the public agency after Jan. 1, 2018.

The public agency must update this information within 30 days of any changes.

AB 1483 also amends the Health and Safety Code to add new requirements for HCD regarding its updates to the California Statewide Housing Plan, completed every 4 years. AB 1483 requires that HCD include in the next revision (due on or after Jan. 1) and each subsequent revision, a 10-year housing data strategy. This includes, among other things, an assessment of data submitted by annual reports, and a strategy to achieve more consistent terminology for housing data across the State. In establishing the data strategy, HCD is required to establish a workgroup that includes representatives from local governments, the Department of Technology and other groups.

VI. AB 1482: The "Tenant Protection Act of 2019"

AB 1482 limits landlords' ability to increase residential rents and to remove residential tenants without just cause. The limitations on rent increases and the just cause eviction provisions are each discussed separately below.

A. Limits on Residential Rent Increases

AB 1482 provides that, over the course of any 12-month period, a residential landlord cannot increase a tenant's rent by 5 percent plus the percentage change in the cost of living (set by regional Consumer Price Index) or 10 percent, whichever is less. It applies to all rent increases after March 15, 2019.

The bill exempts certain housing types from the cap on rent increases, including:

- Housing constructed in the past 15 years,
- Affordable housing subject to a deed restriction, or agreement arising from subsidies for very low-, low- or moderate-income households,
- College dormitories,
- Single family homes or condominiums rented by the owner, unless owned by a real estate investment trust, corporation or a limited liability company in which at least one member is a corporation,
- Duplexes where the owner occupies one unit and rents the other, or
- Units that are already subject to local rent control measures.

The bill also prevents landlords from increasing a tenant's rent more than twice over a 12 month period, except to set new rental rates at the start of a new tenancy.

B. Just Cause for Termination of Residential Tenancies

As with most rent control measures, AB 1482 also includes tenant protections in the form of a just cause showing for landlords wanting to terminate residential tenancies. These restrictions prevent landlords from simply evicting tenants to set new rents with their new tenants, thus avoiding avoid the rent caps established by the new law. These just cause protections apply when all the tenants in a unit have occupied the unit for 12 months or more or some of the tenants have occupied the unit for less than 12 months, but at least one tenant has occupied the unit for 24 months or more.

The bill enumerates several "at fault" just causes for eviction, including failure to pay rent, material breach of the lease and criminal or nuisance activity. It also enumerates some "no fault" just causes, including removal of the unit from the rental market or providing it to an immediate relative, substantially remodeling the unit, vacating the unit to address habitability issues, or responding to an administrative or court order.

Similar to the rent cap, the bill exempts certain housing types from the tenant protections requiring a just cause showing prior to terminating a residential tenancy. These include:

- Housing constructed in the past 15 years,
- Affordable housing that is subject to a deed restriction, or agreement that provides subsidies for very low-, low- or moderate-income households,
- Dormitories for both colleges and K-12 schools,

- Housing associated with a nonprofit hospital, religious facility, extended care or licensed residential care facility,
- Hotels,
- Individual rooms or accessory dwelling units rented out by the home owner,
- Single family homes or condominiums rented by the owner, unless they are owned by a real estate investment trust, corporation, or a limited liability company in which at least one member is a corporation or
- Duplexes where the owner occupies one unit and rents the other.

The new bill does not preempt existing local just cause eviction protection ordinances. Instead, it allows local jurisdictions to adopt more protective just cause ordinances.

The Legislature declares in AB 1482 that these restrictions are needed for a limited time to address the statewide housing crisis and, in particular, concerns with residential rent gouging. As a consequence, these protections will expire on Jan. 1, 2030.

V. AB 1486: Changes to the Surplus Land Act

AB 1486 expands the number of agencies subject to Surplus Land Act requirements. The definition of "local agency" was revised to include not only every city, county, city and county, and district, including school districts, but also specifically covers sewer, water, utility, and local and regional park districts, among others.

Revisions to existing law will include, but are not limited to:

- Requiring legislative bodies to take formal action in a regular public meeting to declare land surplus. That declaration must be supported by written findings.
- Prohibiting the negotiations between a disposing agency and interested entities from including deal terms that would reduce or disallow residential use of the site.
- Requiring a disposing agency to send a notice of availability to housing sponsors that have notified the Department of Housing and Community Development of their interest. HCD is also required to maintain a listing of all notices of availability throughout the State on its website.
- Requiring a disposing agency, prior to agreeing to the terms for the disposition of surplus land, to provide specified information about its disposition process to HCD. HCD then has 30 days to review the information and submit written findings to the disposing agency if HCD determines the proposed land disposal will violate requirements of this new law. Violations would be subject to monetary penalties or enforcement action. HCD is required to implement these provisions beginning Jan. 1, 2021.
- Adding a requirement that the planning agency of a city or county include a listing of specified sites owned by the city or county that have been sold, leased or otherwise disposed of in the prior year. The list must include the entity to whom each site was transferred and the intended use for the site.


Housing and Land Use
BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

Overview: Housing Legislation

- Presentation will cover:
  - New laws related to:
    - Local review of housing developments
    - Streamlining for housing developments
    - Accessory dwelling units (ADUs)
    - Enforcement of housing elements
    - Density bonuses
  - Other housing-related legislation

SB 330 – Restrictions on Local Control of Housing Developments

- **Overview**:
  - Limits cities' and counties' ability to regulate "housing developments"
    - Residential
    - Mixed-use with 2/3 sf for residential
    - Transitional/supportive housing
  - Makes changes to Permit Streamlining Act and Housing Accountability Act; adds the Housing Crisis Act

SB 330

New Preliminary Application Process

- **"Freezes" Development Standards in Effect at Time of Pre-Application**
  - Housing developments will only be subject to those development ordinances in effect when a preliminary application is submitted

SB 330

New Preliminary Application Process

- **Contents of preliminary application:**
  - Project description
  - Site characteristics
  - Certain environmental concerns
  - Potential density bonus
  - Coastal zone concerns,
  - Number of units to be demolished
  - Location of recorded public easements.

SB 330

Streamlining Provisions

- **Hearing limitation**
  - No more than 5 hearings if project complied with GP and zoning objective standards when application deemed complete
  - "Hearing" includes meeting and workshops
- **Rezoning limitation**
  - Cannot require rezoning if consistent with objective GP standards
  - Can only comply with objective zoning standards to extent they facilitate density allowed by GP
- **Approval timeframes**
  - Shortened from 120 days to 90 days following EIR certification
  - 60 days for low-income projects seeking tax credit or public funding

SB 330

Housing Crisis Act

- **Applies to “urbanized areas”**
- **Applies starting January 1, 2020**
- **No rezoning**
    - If housing is a permitted use under either GP or zoning, cities may not change designation to remove housing
- **No reduction of density**
    - GP/zone densities for housing cannot be reduced below January 2018 numbers
    - Exception if concurrent change resulting in no net loss
    - No approval of projects demolishing residential units unless equal number are replaced

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SB 330
Housing Crisis Act

- **No moratoriums or similar restrictions on housing development**
  - Only exception for imminent threats to public health and safety, if approved by HCD
  - No growth control measures limiting housing
- **No moratoriums or similar restrictions on housing development**
- **Cities prohibited from imposing <u>subjective</u> design standards**

- Preliminary application checklist required
- City may only impose objective zoning standards
- City should review potential inconsistencies between zoning and GP densities

Accessory Dwelling Units

Accessory Dwelling Units

Highlights: AB 881

- **Several bills enacted**

(not all take effect)

- ~~AB 68 / SB 13 /~~ **AB 881 § 1.5 (2.5)**
- ~~AB 139 /~~ AB 671, § 1.5
- AB 670
- AB 587

Accessory Dwelling Units

Highlights: AB 881

- **Multi-Family Residential** lots
- **Multiple** ADUs on one lot
- Max **4-foot** setbacks
- No **replacement** parking
- No **owner-occupancy** (until 2025)

Accessory Dwelling Units

Highlights: AB 881 (cont'd)

- **Building Permit-only** expands (not just converted)
- **Nonconforming** okay (no corrections, can replace)
- Any inconsistency **voids** the whole (not just 2017)

Accessory Dwelling Units

Highlights: Other Bills

AB 671, § 1.5:

- **Housing Elements** must promote ADUs for affordable rent

AB 587:

- **Separate conveyance** of ADUs in limited circumstances (developed by nonprofit as deed-restricted low-income housing)

AB 670:

- **HOAs** limited like cities

Housing Omnibus Bill (AB101)

- **Two key components**:
  - The stick: more stringent enforcement of housing element compliance
  - The carrot: targeted grant programs

Housing Omnibus Bill
Housing Element Compliance

- **Judicial Enforcement**
  - Attorney General to seek court orders against cities for HE compliance: Court retains jurisdiction
    - Status conferences
    - Imposition of fines
    - Appointment of receiver

- **Access to Funding**
  - Compliant cities have preference in grant funding

Housing Omnibus Bill
Summary

- **Key takeaways:**
  - Housing Element compliance is even more critical in light of AB 101's enforcement provisions
  - There may be funding available for certain housing-related projects, but be aware of application windows and eligibility requirements

Density Bonus (AB 1763)

Density Bonus (AB 1763)

- **Applies to**:
  - 100% affordable housing projects
    - Up to 20% may be moderate income units
    - At least 80% must be low income

- **Density Bonus**:
  - Up to 80% of the otherwise maximum allowable density
  - If within $^1/_2$ mile of a major transit stop, then no density limit

Density Bonus (AB 1763)

- **Regulatory Concessions**
  - Projects will receive at least four
  - No minimum parking requirements
  - If within $^{1}/_{2}$ mile of major transit stop, then given a height increase of up to three stories or 33 feet

Density Bonus (AB 1763)

- **Key Takeaways:**
  - Review and update existing density bonus ordinance to incorporate new provisions for 100% affordable housing projects

Other Significant Housing Laws

- Surplus Land Act (AB 1486)
    - Extends surplus rules to some special districts and new rules related to property disposition

NAPA VALLEY
COMMUNITY FOUNDATION

January 23, 2020

Dear City Council and Planning Commission:

First, I would like to say thank you again to staff, City Council and Planning Commission for focusing on the new housing legislation at the start of the new year.

At your joint meeting on Tuesday I was asked to provide you with the information I presented regarding the Napa Valley Community Foundation's (NVCF) developing ADU program.

NVCF sees ADUs as one important piece of new workforce housing in Napa County.

Over the last couple years NVCF has been researching, partnering and raising funds to develop an ADU program that all municipalities may use as a blueprint. Our intent is to encourage and expedite ADU opportunities.

This year we are investing nearly $500K to create a joint Napa - Sonoma ADU Center that will:

- Conduct outreach and education to encourage more homeowners to build or purchase pre-fab ADUs
- Host periodic workshops to encourage homeowners, along with providing technical assistance, including no-cost site assessments, to speed the pace of ADU adoption
- Experiment with various incentives -- such as tenant screening and placement; and grants or loans – to encourage homeowners to rent to our workforce at affordable rates
- Partner with local jurisdictions to reduce the time you spend helping (mostly inexperienced) homeowners move through the permitting process.

Last year, Noah Housch, former City Planner, attended a meeting of planners in the County to learn about what we are doing and to provide input to this effort. NVCF wants to do what will help the cities address the new housing legislation and, most importantly, add to our housing options.

3299 Claremont Way, Suite 2 • Napa, CA 94558 • www.napavalleycf.org • P 707.254.9565 • F 707.254.7955

If you'd like to learn more about our work in this area, NVCF staff would be happy to present what we have learned over the last few years as well as our developing plan for ADUs. Please contact:

Terence Mulligan, President
terence@napavalleycf.org
707-254-9565
Julia DeNatale, Vice-President of Community Impact
julia@napavalleycf.org
707-254-9565

Thank you again for bringing your attention to this important opportunity to create more housing inventory in our Valley.

As we all know, the health of our economy and the strength of our community depend critically on progress in this area!

Sincerely,

Loraine Stuart

Loraine Stuart
22 Crane Avenue
St. Helena
707-963-0293