



## Council Agenda Report

**Department Name:** Community Development  
**Cost Center:** 40400  
**For Agenda of:** January 21, 2020  
**Placement:** Study Session  
**Estimated Time:** 30 Minutes

**FROM:** Michael Codron, Community Development Director  
**Prepared By:** Cara Vereschagin, Housing Coordinator

**SUBJECT:** STUDY SESSION: SUMMARY AND UPDATE OF RECENT 2019 HOUSING LEGISLATION

### RECOMMENDATION

Receive an update on recently passed State housing legislation and discuss action items and anticipated impacts to ensure ongoing compliance with City of San Luis Obispo (City) operations.

### DISCUSSION

#### Background

The 2019 California Legislative Session ended on October 13, 2019 with over 30 new bills in response to the State's worsening housing crisis. Recently elected Governor Gavin Newsom signed several of these bills designed to increase housing production by easing development regulations and compelling jurisdictions to make fee and land information readily available to potential developers. There were also several bills passed that impose new ongoing reporting and inventory requirements for local jurisdictions.

#### Policy Context

The new State housing legislation is impactful to the City as it creates several new requirements staff will have to incorporate into City practices beginning January 1, 2020. Numerous professional organizations provided information regarding these bills, including the American Planning Association, League of California Cities, and various housing and land use law firms across the State. An initial summary collected from the opinions of the above entities, as well as any initial action items and foreseen impacts to the City, are provided in Attachment A for new State laws, pertinent for the City. Note that several other housing-related laws were passed in the 2019 Legislative Session; however, these laws are specific to regional areas and jurisdictions outside of San Luis Obispo and the Central Coast, thus they are not summarized in Attachment A.

Additionally, a summary and action items are included in relation to SB 166, which was passed as part of the 2017 Housing Package. This is because that bill contains specific requirements the City must comply with in relation to the Sites Inventory to accommodate the 6<sup>th</sup> Cycle Regional Housing Needs Allocation, which is part of the current Housing Element Update.

The following table displays the bills discussed in Attachment A and includes links to the corresponding bill text.

Category	Bill Title
Bills Removing Barriers to Boost Housing Production	<a href="#">SB 330</a> – Housing Crisis Act of 2019 and Changes to Permit Streamlining Act & Housing Accountability Act
	<a href="#">AB 1763</a> – Density Bonuses for Affordable Housing
	<a href="#">AB 1743</a> – Eligibility of Property Welfare Exemptions
	<a href="#">AB 116</a> – Enhanced Infrastructure Financing Districts
Surplus Land Databases and Reporting Requirements	<a href="#">AB 1486</a> / <a href="#">SB 6</a> / <a href="#">AB 1255</a> – Expansion of Surplus Land Act and Reporting
	<a href="#">AB 1483</a> – Housing Data Collection and Reporting
Requirements for Accessory Dwelling Units	<a href="#">AB 68</a> / <a href="#">AB 881</a> / <a href="#">SB 13</a> – Modifications to Increase Accessory Dwelling Unit Development
	<a href="#">AB 587</a> – Sale of Accessory Dwelling Units
	<a href="#">AB 670</a> – Construction of Accessory Dwelling Units in Common Interest Developments
	<a href="#">AB 671</a> – Affordable Accessory Dwelling Unit Program Creation
Established “Uses by Right”	<a href="#">AB 101</a> – Housing and Homelessness Budget and Regulations
	<a href="#">SB 234</a> – Keeping Kids Closer to Home Act
Related Housing Element Laws from 2017 Housing Package	<a href="#">SB 166</a> – “No Net Loss” Law

**Previous Council and Advisory Body Action**

Although there has not been any previous Council or Advisory Body action on these particular bills, City staff have historically held study sessions and have provided updates to the Council and Planning Commission on new State housing laws that affect local policy and regulations as applicable. Ongoing monitoring and reporting on changing State housing legislation is a task in the 2019-21 Housing Major City Goal, as well as a theme commonly referenced throughout the Housing Element.

**Public Engagement**

As this recommendation is to receive an update on recently passed housing legislation, no public engagement is required. However, as this legislation relates to updating City policies, ordinances, and standards, public engagement and outreach will be conducted, with opportunities for public to provide comments at or before any future hearings or study sessions.

**Next Steps**

City staff will continue to analyze the housing legislation for additional impacts and monitor for any amendments that arise. Staff is also working on an update to the City’s current Accessory Dwelling Unit Ordinance, in accordance with these new State laws, which is anticipated for City Council review in early February 2020.

**ENVIRONMENTAL REVIEW**

Since this item is informational in nature and involves no action by the City Council, the California Environmental Quality Act does not apply to the recommended action in this report, because the action does not constitute a “Project” under CEQA Guidelines Sec. 15378.

**FISCAL IMPACT**

Budgeted: No

Budget Year: 2019-2020

Funding Identified: No

**Fiscal Analysis**

<b>Funding Sources</b>	<b>Total Budget Available</b>	<b>Current Funding Request</b>	<b>Remaining Balance</b>	<b>Annual Ongoing Cost</b>
General Fund	N/A			
State				
Federal				
Fees				
Other:				
<b>Total</b>	<b>N/A</b>			

As of now, there is no immediate fiscal impact associated with this study session. The California Department of Housing and Community Development (HCD) has historically published technical assistance documents and hired resources to assist local jurisdictions implement new housing laws. Since these particular laws will require the City to adjust existing policies, ordinances, and standards, the City will need to utilize any future technical assistance resources HCD provides, and may also need to consider additional staffing resources to help implement the necessary changes.

**ALTERNATIVES**

*Continue consideration of the housing legislation update presentation.* Although no action is recommended in association with this report, the City Council could ask staff to return during a future meeting to present additional information. If the Council would like to hear additional information at a future meeting, specific direction should be provided to staff.

**Attachments:**

- a - Summary and Update of Recent 2019 Housing Legislation**



# Summary and Update of Recent 2019 Housing Legislation

## City Council Study Session

### BILLS REMOVING BARRIERS TO BOOST HOUSING PRODUCTION

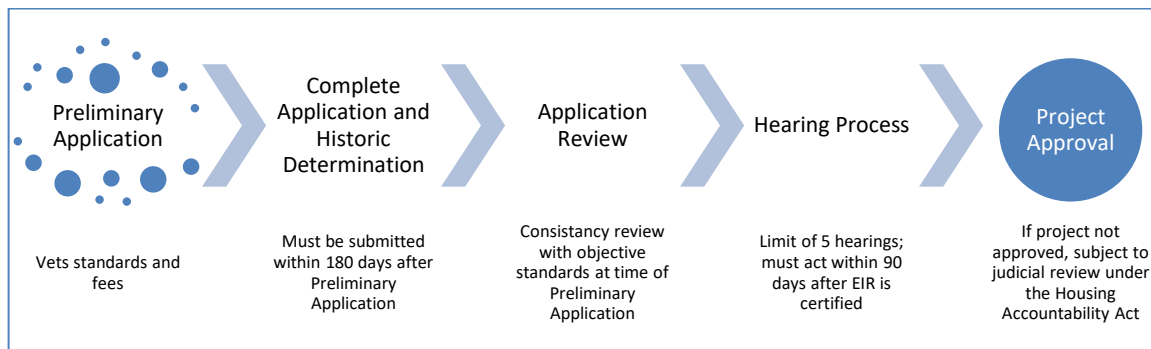
#### **SB 330 – Housing Crisis Act of 2019 and Changes to the Permit Streamlining Act & Housing Accountability Act**

Description:

This bill establishes the Housing Crisis Act of 2019, in response to the declaration of a statewide housing emergency which will be in effect until January 1, 2025. The law includes 16 sections aimed to accelerate housing production throughout California by streamlining and permitting approval processes, ensuring “no net loss” in zoning capacity and limiting fees after residential projects are approved. The bill contains provisions that apply to all jurisdictions throughout the State, as well as additional provisions limited to “affected” cities and counties. Descriptions of both new areas of provisions are described in further detail below, along with key actions and foreseeable impacts to the City:

Statewide Provisions (update to the Housing Accountability Act & Permit Streamlining Act):

Statewide, SB 330 establishes a new Preliminary Application Process for residential housing projects, as displayed in the figure below. Although the bill does not require new housing applications to submit a Preliminary Application, the law requires jurisdictions to offer the Process and to review/accept applications that comply with the terms and provisions identified in SB 330, should an applicant choose to utilize this new Preliminary Application Process.



Source: APA California, SB 330 Housing Crisis Act of 2019 Webinar, December 13, 2019.

Specific Provisions for “Affected” Cities and Counties (The Housing Crisis Act):

SB 330 also outlines specific housing provisions in which “affected” cities and counties throughout the State must comply. Although the California Department of Housing and Community Development (HCD) has until June 1, 2020 to officially publish these jurisdictions, it is anticipated that the City will be identified as an “affected city” subject to these provisions of SB 330. Provisions for these areas include the following:

- No residential downzoning or any adoption of standards that reduce residential capacity from what was in place as of January 1, 2018, unless if there is a “no net loss” exemption finding that allows up zoning to compensate for lost residential capacity as approved by HCD.
- No adoption or enforcement of housing moratorium, except to protect against an imminent threat to the health and safety of persons with HCD approval.
- No newly adopted design standards, unless they are objective.
- No growth control measures from levels that were in place on January 1, 2018, except for jurisdictions in predominately agricultural counties with voter-approved measures in place before 2005.

Although there are several changes to permit processing under SB 330, there are still allowable things the City can enforce, which include:

- Prohibition of commercial uses (including short-term occupancy bans) of land designated for residential
- New standards that increase density, reduce cost, or “facilitate” housing
- Housing Crisis Act does not apply to a housing development project located within a “very high fire hazard severity zone” as designated by the Director of Forestry and Fire Protection
- CEQA still applies, and mitigation measures are not limited

SB 330 also states that “affected” cities and counties may not approve housing development projects that would demolish dwelling units unless the proposed project both creates at least as many units as would be demolished **and** replaces all occupied or vacant “protected units.” The bill states that “protected units” include:

- Units subject to recorded affordability restrictions for lower income households (or below) within the past five years
- Units that are occupied by lower income households (or below) within the past five years
- Units subject to local rent or price control
- Units withdrawn from the market via the Ellis Act within the past 10 years.

The bill also includes tenant protections for those tenants existing in units that are to be demolished.

#### Actions Items for the City

The City currently offers various “application checklists” for what is required in new development applications, which are publicly available on the City website. City staff will need to review the current application checklists to insure they are compliant with the 17 new items identified in the Permit Streamlining Process SB 330. City staff will also need to be educated and aware of the new Permit Streamlining provisions, to ensure compliance of review times, vested standards and fees, and public hearing requirements. Since it is also anticipated that the City will be identified as an “affected” jurisdiction, staff will need adhere to new demolition restrictions and replacement obligations as set forth by SB 330.

**AB 1763 – Density Bonuses for Affordable Housing**Description:

AB 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. Qualifying projects will be able to receive an 80 percent density bonus from the otherwise allowable density on the site, along with up to 4 development incentives, and no parking requirements.

Actions and Impacts to the City:

The City will need to update Chapter 17.140 (Affordable Housing Incentives) of the Zoning Regulations for consistency with AB 1763. It is anticipated that this change, along with the changes outlined by SB 330, will allow for non-profit housing developers to increase the number of affordable units in 100 percent affordable projects.

**AB 1743 – Eligibility of Property Welfare Exemptions**Description:

This bill expands properties that are exempt from community facility district taxes, to include properties that qualify for the property tax welfare exemption. The bill also limits the ability of local governments to reject housing projects qualifying for the exemption.

Impacts to the City:

Limited impact to the City at this time is perceived since historically, the City has not rejected housing projects that have qualified for welfare exemptions. Welfare exemptions must be submitted to the County Assessor, and are only available to non-profit organizations that are religious, hospital, scientific, or charitable in nature.

**AB 116 – Enhanced Infrastructure Financing Districts**Description:

AB 116 removes the requirement for Enhanced Infrastructure Financing Districts (EIFDs) to receive voter approval, prior to the issuance of any bonds.

Impacts to the City:

Limited impact to the City at this time is perceived but will be beneficial to the City for future housing developments to be EIFDs, since voter approval is no longer required to create these Districts.

**SURPLUS LAND DATABASES AND REPORTING REQUIREMENTS****AB 1486 / SB 6 / AB 1255 – Expansion of Surplus Land Act and Reporting****Description:**

These three bills expand the Surplus Land Act requirements for local jurisdictions, thus requiring cities and counties to include specified information relating to surplus lands in their housing elements and annual progress reports (APRs). The package also requires the HCD to establish and maintain a database of these surplus lands and public inventory of sites suitable for residential development.

**Impacts to the City:**

Staff will need to update the inventory of City surplus land (land no longer necessary for the City's use) and City excess land (land in excess of the City's foreseeable needs), and provide this inventory in the 2019 Housing APR, which is due to HCD by April 1<sup>st</sup>, 2020. Additionally, the City will need to actively manage and digitally publish the Sites Inventory, currently being created as part of the Housing Element Update, that identifies suitable/available parcels for residential development.

**AB 1483 – Housing Data Collection and Reporting****Description:**

This bill requires local jurisdictions to publicly share information about zoning ordinances, development standards, fees, exactions, and affordability requirements. It also requires HCD to develop and update a 10-year housing data strategy. Specifically, law requires jurisdictions to post the following on their websites:

1. 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)
2. All zoning ordinances and development standards, including an identification of the zoning ordinances and development standards applicable to each parcel
3. The list of information required from a development project applicant
4. The current and five previous annual fee reports or annual financial reports
5. An archive of impact fee nexus studies or cost of service studies conducted by the public agency after January 1, 2018.

**Impacts and Actions to the City:**

The City currently publishes all of the current and active information identified in the bill on its website. However, to comply with state law, the City will need to publish all annual fee schedules and reports dating back to Fiscal Year 2014-15. The City should also consider organizing its' online archive of fee nexus studies or any cost of service studies conducted after January 1, 2018.

**REQUIREMENTS FOR ACCESSORY DWELLING UNITS****AB 68 / AB 881 / SB 13 – Modifications to Increase Accessory Dwelling Unit Development**Description:

These three bills are designed to reduce barriers to, and facilitate the development of, accessory dwelling units (ADUs), which are anticipated to increase the supply of affordable housing in California. The package enacts several new provisions, which include restrictions on local jurisdictions' permitting criteria, such as owner-occupancy and replacement parking requirements, mandates shorter approval timeframes, and creates a process in which HCD ensures local ordinances follow these statutes.

Impacts to the City:

These new provisions took effect on January 1, 2020, and all existing local ordinances are now null and void if not consistent with the new provisions. In response to these changes, and to retain some local parameters on ADU development, staff is currently working on an update to the City's ADU Ordinance, which is anticipated for Council review early February 2020.

**AB 587 – Sale of Accessory Dwelling Units**Description:

This bill establishes a new narrow exemption for affordable housing organizations to sell deed-restricted land to eligible low-income homeowners. Under this legislation, local agencies are able to adopt an ordinance to allow the separate sale or conveyance of ADUs from a primary residence, as if it was constructed by a nonprofit housing developer.

Impacts to the City:

This bill will be beneficial to the City for future affordable housing development, as it gives nonprofit housing developers (i.e. HASLO, Peoples' Self-Help Housing) options in housing types to develop for lower income households.

**AB 670 – Construction of Accessory Dwelling Units in Common Interest Developments**Description:

AB 670 voids existing Covenants, Conditions & Restrictions (CC&Rs) that prohibits or unreasonably restricts ADUs or junior accessory dwelling units (JADUs) in existing common interest developments.

Impacts to the City:

The City currently has many existing neighborhoods in which this new provision is applicable. However, development of these structures will be subject to the provisions in the updated ADU Ordinance, currently underway by City staff.



**AB 671 – Affordable Accessory Dwelling Unit Program Creation**Description:

This bill requires local governments to include a plan in their Housing Elements to incentivize and promote the creation of ADUs that can be offered at affordable rents to very-low, low, and moderate-income households. It also requires the State to develop a list of grants and financial incentives for affordable ADUs.

Impacts to the City:

This requirement only applies to jurisdictions with housing element revisions either due on or after January 1, 2021. The City's Housing Element is due December 2020, making it exempt from the provisions of this bill.

**ESTABLISHED “USES BY RIGHT”****AB 101 – Housing and Homelessness Budget and Regulations**

Descriptions and Actions for the City: The complex bill establishes new funding sources and regulations around six categories, described in detail below. Actions and any foreseen impacts to the City are also provided for each category:

Housing Element Compliance:

AB 101 requires that the HCD annually publish a list of jurisdictions that have failed to adopt a State-certified housing element. If a jurisdiction's housing element is found to be noncompliant with state law, the bill then enacts the procedure to which the jurisdiction and HCD must follow to achieve compliance, as well as establishes grounds and consequences for legal challenges. The City currently has an HCD-certified Housing Element and fully intends on achieving compliance in the 6<sup>th</sup> Cycle Housing Element Update currently underway.

Local Government Planning Support Grants Program:

AB 101 requires the HCD to make available \$250,000,000 to regions, cities, counties, and councils of governments (COG) for technical assistance with the preparation and adoption of planning documents and process improvements to accelerate housing production and facilitate compliance with the 6<sup>th</sup> Regional Housing Needs Allocation (RHNA) Cycle.

City staff will continue to participate in discussions with the San Luis Obispo Council of Governments (SLOCOG) on how best to allocate the portion of financial support our COG will receive in relation to the allocated 6<sup>th</sup> Cycle RHNA funding.

*Infill Infrastructure Grant Program of 2019:*

AB 101 makes available \$500 million of competitive grant funding for “qualifying infill projects” or “qualifying infill areas.” The bill defines a qualifying infill project as a residential or mixed-use project located in an urbanized area within a city with an HCD-compliant housing element. These grant funds are allowed to be used for capital improvement projects to facilitate the development of a qualifying infill project or area, including water, sewer, or other utility improvements; streets, roads, transit; project site preparation; and sidewalk or streetscape improvement. The City will continue to monitor the grant guidelines and future Notice of Funding Availabilities published by HCD.

*Homelessness Funding and Programs:*

AB 101 makes \$650 million available for one-time grants to cities, counties, and continuums of care (CoCs) to support regional coordination, expand or develop local capacity, and address immediate homelessness challenges. Awards will be based on applicants’ proportionate shares of the state’s total homeless population. The City participates in the local CoC overseen by the SLO County Department of Social Services and will continue its involvement in discussions and provide input on allocating the future funding to be received by our CoC.

*Low Barrier Navigation Centers:*

This bill establishes the term *Low Barrier Navigation Centers* as a “Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.” The law states that these Low Barrier Navigation Centers and other supportive housing uses be a “use by right” allowed in residential and mixed-use zones. No discretionary approvals, with the exception of design review, are permitted under this law. The bill states that within 30 days of receiving an application for a center, a jurisdiction must notify the applicant whether the application is complete; and within 60 days of a completed application, the jurisdiction must act on the application.

Since this piece of legislation created a new term, the City will need to include and define “Low Barrier Navigation Center” in the Zoning Regulations which allows for the development of homeless shelters in a majority of zoning districts, upon receiving approval of a Conditional Use Permit. The City will need to amend the Zoning Regulations to allow for no Conditional Use Permit requirement in certain zones for homeless shelters, thus allowing homeless shelters, Low Barrier Navigation Centers, and supportive housing developments to be an allowed “use by right” in areas zoned for mixed uses and nonresidential zones permitting multifamily uses. The City staff will also need to be aware of the 30 and 60 day review time for these developments, to ensure compliance with the new statute.

*State Low Income Housing Tax Credits:*

AB 101 increased the state low income housing tax credit program to \$500 million for 2020. This is great news for the City, as this is a primary funding source our local non-profit housing developers utilize to build affordable housing in the community.

## SB 234 – Keeping Kids Closer to Home Act

### Description:

This bill established the “Keeping Kids Closer to Home Act” which aims to expand childcare opportunities for California families. This legislation allows large family childcare homes that provide care for up to 14 children in multifamily units, meaning these large family daycare homes are now to be treated as a residential use of property in local ordinances. The bill also prohibits a property owner or manager from refusing to sell or rent a dwelling unit to a person that is a daycare provider. The law prohibits local jurisdictions from imposing a business license, fee, or tax for the privilege of operating both small and large daycare homes as well.

### Actions for the City:

The City currently requires large child daycare facilities to obtain approval by the Community Development Director via a Director’s Action to operate; thus the City will need to amend the Zoning Regulations to allow for these large daycare facilities to be an allowed use by right, with no requirement to obtain a business license for operation. The current Zoning Regulations also require these facilities to comply with parking requirements, which is now void under the law.

## **RELATED HOUSING LEGISLATION FROM 2017 HOUSING PACKAGE**

### SB 166 – “No Net Loss” Law

#### Description:

SB 166 was signed in 2017 by Governor Brown, as part of the State’s landmark Housing Package. This bill was designed to ensure that development opportunities remain available throughout the planning period to accommodate a jurisdiction’s RHNA cycle, especially for lower and moderate income households. The [Memorandum](#) recently issued by HCD on October 2, 2019, provides guidance for local jurisdictions to implement the statutes

#### Summary of Requirements:

- Jurisdictions must identify adequate sites to accommodate their RHNA by income category at all times throughout the entire planning period of the 6<sup>th</sup> Cycle Housing Element
- A jurisdictions may not take any action to reduce a parcel’s residential density unless it makes findings that the remaining sites identified in the Housing Element Sites Inventory can accommodate the remaining unmet RHNA by each income category, or if it identifies additional sites so that there is no net loss of residential unit capacity.

- If a jurisdiction approves a development of a parcel identified in the Housing Element Sites Inventory with fewer units than shown in the Housing Element, it must either make findings that the Housing Element's remaining sites have sufficient capacity to accommodate the remaining unmet RHNA by each income level, or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category.
- A jurisdiction may not disprove a housing project on the basis that approval of the development would trigger the identification of zoning of additional adequate sites to accommodate the remaining RHNA.

Impact and Actions for the City:

Since the City has received the new 6<sup>th</sup> Cycle RHNA numbers, and is underway updating the Housing Element to accommodate the allocation, the provisions outlined by SB 166 are extremely pertinent to follow. A Sites Inventory to identify eligible locations for housing development to accommodate the total RHNA has historically been required in the Housing Element; however, state law now additionally requires jurisdictions to state the number of housing units to be developed by income level on each individual site in the Inventory, to accommodate the total RHNA. This means that the City will need to update the Sites Inventory accordingly to identify future housing development per each income level. The City will also need to ensure it identifies a sufficient amount of additional, back-up sites to accommodate the RHNA, in the case that future development of parcels results in less residential units than identified in the Sites Inventory. If at any time during the 6<sup>th</sup> Housing Element Planning Cycle the City finds that there is a shortfall of sites to accommodate the remaining RHNA, then the City must take immediate action to correct the shortfall by amending the Housing Element Sites Inventory to either include sites previously unidentified with capacity to accommodate the shortfall, or sites that have been rezoned to correct for the shortfall. Any failure of the City to do so would constitute as a violation of this "No Net Loss" law, which is to be avoided. Nonetheless, this bill enacts the importance ongoing management and tracking of residential development in the City.