



MANAGEMENT SERVICES DEPARTMENT

MEMORANDUM

DATE: November 19, 2019

TO: The Honorable City Council

FROM: Bryan Cook, City Manager
By: Brian Haworth, Assistant to the City Manager

SUBJECT: LEGISLATIVE UPDATE

RECOMMENDATION:

The City Council is requested to:

1. Receive and file this report; and
2. Direct the City Manager and City Attorney to return with a detailed analysis of recently approved housing production and worker reclassification legislation that will significantly affect city operations and policy beginning next year.

BACKGROUND:

1. On October 13, 2019, this year's legislative session concluded with Governor Newsom signing more than 1,000 bills into law effective January 1, 2020.
2. Among the new legislation are a number of provisions to boost housing production statewide by streamlining permitting and approval processes, providing enhanced density bonuses, and facilitating the development of new accessory dwelling units. These mandates will change how the City processes housing applications moving forward; furthermore, the resultant new housing units will have an impact on Temple City neighborhoods.
3. The new legislation also includes AB 5, which seeks to reclassify independent contractors as employees. While this move will dramatically reshape California's independent workforce, it may pose significant fiscal and operational impacts to city services—many of which are provided by independent contractors.

ANALYSIS:

Attachment "A" provides a summary of new legislation applicable to city operations and policy.

Please note that highlighted items are those associated with new housing production and worker reclassification mandates. Given the nuances of these laws, the City Manager and City Attorney will present a detailed analysis at the January 21, 2020 City Council meeting.

CITY STRATEGIC GOALS:

Actions contained in this report align with the strategic goal of good governance.

FISCAL IMPACT:

There are none associated with the requested actions; however, there are unknown fiscal impacts associated with the new housing production and worker reclassification laws.

ATTACHMENT:

A. Legislative Summary

PRELIMINARY ANALYSIS

ENACTED 2019 STATE LEGISLATION *Impacts to City Services and Policies*

HOUSING

ADUs: Fees (SB 13)

Eliminates developer impact fees on accessory dwelling units (ADUs) below 750 sq. ft.; any larger ADU would be charged in proportion to the primary home on the lot (roughly 25% of impact fees). Allows ADUs to be built in the non-habitable part of an existing or proposed dwelling unit—e.g. storage areas—and reduces the application approval timeframe to 60 days. Formalizes an amnesty program that eases the process of permitting pre-existing unpermitted units.

ADUs: Impediment Removal (AB 881)

Requires local agencies to ministerially approve ADUs on lots in residential or mixed-use zones if the unit is contained within an existing structure; eliminates the owner-occupancy requirement for five years. Limits ADU approval criteria to the adequacy of water and sewer services, and the impact of ADUs on traffic flow and public safety.

ADUs: Incentives (AB 671)

Requires local agencies to identify a plan in its housing element that incentivizes ADUs that are affordable to very-low, low- and moderate-income households. Directs the State to develop a list of available grants and other funding sources for affordable ADUs.

ADUs: Small Home Building Standards (AB 69)

Streamlines policies and establishes a Building Standards Code to make it easier for property owners to build low-cost, energy-efficient and affordable housing units (less than 800 sq. ft.). The new code is to be in effect on or before January 1, 2021.

ADUs: Streamlined Policies (AB 68)

Potentially allows two ADUs on lots with single-family homes, and multiple ADUs on lots with multi-family dwellings. Prohibits a local ADU ordinance from imposing requirements on minimum lot size, and requiring replacement parking when parking is demolished in the creation of an ADU. Requires a new ADU structure to be setback at least 4' from the property boundaries.

Density Bonus (AB 1763)

Expands existing Density Bonus Law to allow a developer significantly more density, additional concession and incentives, and increased building height when 100% of all units in a development are restricted to lower-income households.

Housing Production (SB 330)

Establishes the Housing Crisis Act of 2019, which accelerates housing production in California by streamlining permitting and approval processes, ensuring no net loss in zoning capacity and limiting fees after projects are approved. Local governments are prohibited from downzoning residential properties; establishing housing moratoriums or

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caps on housing construction, building permits and zoning variances; raising housing fees and enforcing parking minimums; and conducting more than three public hearings for a proposed project in a 12-month period. Sunsets in 2025.

HUMAN RESOURCES

Employment Discrimination Claims (AB 9)

Extends the statute of limitations from one to three years for complaints alleging employment discrimination under the Fair Employment Housing Act. (NOTE: This limitations period is six times the length of the federal standard and three times the length of the current state standard.) Does not apply to previously lapsed claims.

Flexible Spending Accounts (AB 1554)

Requires that employers now provide two different forms of notice (one of which may be electronic) to employees participating in a flexible spending account of upcoming withdrawal deadlines toward the end of the benefit/plan year.

Harassment Prevention Training (SB 778)

Requires employers with five or more employees to provide harassment prevention training and education to new non-supervisory employees within six months of hire and to new supervisory employees within six months of assuming a supervisory position. Mandates employers who have provided such training to an employee in 2019 to provide refresher training to that employee every two years thereafter.

Lactation Accommodation (SB 142)

Obligates employers to provide a private, safe lactation room with a seat, electricity and a surface, that is not a bathroom and is in proximity to the employee's workstation. Employers must also provide access to refrigeration or a cooler, and running water near the workspace.

Living Organ Donation (AB 1223)

Requires an employer to provide additional, unpaid leave time—of up to 30 days to year—to an employee who is donating an organ. Public employees are required to first exhaust all available sick leave before taking unpaid leave.

Occupational Injuries and Illness (AB 1804)

Requires employers to report serious injury, illness or death immediately through an online mechanism established by the Division of Occupational Safety and Health or to report by telephone.

Paid Family Leave (SB 83)

Increases paid family leave from six to eight weeks beginning July 2020. Also requires a task force to develop a proposal that extends the duration of Paid Family Leave benefits to six months by fiscal year 2021-22; and to address job protections for workers and the

PRELIMINARY ANALYSIS

goal of providing a 90% wage replacement rate for low-wage workers utilizing the Paid Family Leave program.

OTHER

Worker Classification (AB 5)

Adopts as law the ABC test from the *Dynamex v. Superior Court* case as a way to classify whether workers are employees or independent contractors, based on whether the hiring entity controls the work, if the worker does tasks outside the usual course of the hiring entity's business, and whether the worker performs similar work for other customers. Applies the ABC test to the wage orders, labor code, unemployment insurance code, and, effective July 1, 2020, workers' compensation laws.