

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 1211 (Skinner) – As Amended April 23, 2024

SENATE VOTE: 29-8

SUBJECT: Land use: accessory dwelling units: ministerial approval

SUMMARY: Increases the allowable number of detached accessory dwelling units (ADUs) eligible for ministerial permitting on lots with an existing multifamily development.

Specifically, **this bill:**

- 1) Increases the number of detached ADUs eligible for a ministerial approval process on a lot that has existing multifamily dwelling units from no more than two detached ADUs to no more than eight detached ADUs, provided that the number of ADUs does not exceed the number of existing dwelling units on the lot.
- 2) Prohibits local governments from requiring the replacement of uncovered parking spaces that are demolished to allow for the construction of an ADU.
- 3) Provides that no reimbursement to local government is necessary because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill.

EXISTING LAW:

- 1) Defines an ADU as an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. ADUs must include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated on. [Government Code (GOV) § 66313]
- 2) Requires a local agency to ministerially approve, within specified timelines, an application for a building permit within a residential or mixed-use zone to create one or more ADUs that meet all state and local requirements. (GOV § 66317)
- 3) Provides that a local agency is limited in its ability to establish local development standards that differ from specified standards established in state law for issues such as density, height, square footage, and setbacks. (GOV § 66314, 66319)
- 4) Prohibits a local agency from requiring the replacement of offstreet parking spaces when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU. (GOV § 66314)
- 5) Requires a local agency to allow for at least one ADU within an existing multifamily dwelling (i.e., attached to the primary building) and allow ADUs totaling up to 25% of the existing multifamily dwelling units. (GOV § 66323)

- 6) Requires a local agency to allow for no more than two detached ADUs when proposed on a lot containing an existing or proposed multifamily dwelling. (GOV § 66323)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Bill Summary.** This bill increases the number detached ADUs eligible for ministerial approval on a lot with an existing multifamily development from 2 ADUs to 8, provided that the number of ADUs does not exceed to number of units on the property. This bill also prohibits a local government from requiring a development to replace any uncovered parking spaces lost as a result of the construction the ADU.

This bill is sponsored by the Casita Coalition and California YIMBY.

- 2) **Author's Statement.** According to the author, "One of California's success stories in our effort to build more housing has been ADUs. Over the past decade, numerous laws have been enacted to incentivize ADUs, which are generally cheaper to build than other housing. Today, ADUs are the fastest growing sector of California's housing market. Existing law allows multifamily properties to add a number of ADUs equivalent to 25% of the number of units on the property. However, the law limits the number of detached ADUs on a multifamily property to no more than two, a restriction that unnecessarily limits these units. SB 1211 will provide additional flexibility on where ADUs can be sited on multi-family properties by increasing the allowable detached ADUs from two to eight. The limitations in current law do not account for the fact that there are multi-family properties with underutilized areas or space on the site that is separate from the primary building, including surface parking, carports, service areas, or landscaped areas, that could all be used for housing."
- 3) **Accessory Dwellings.** ADUs are additional living quarters that are independent of the primary residence on the same lot. ADUs are either attached to or detached from, the primary residence and provide complete independent living facilities for one or more persons, including separate access from the property's primary unit. This includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

Over the past few years, the Legislature has passed a number of bills to ease zoning restrictions and expedite approval processes for ADUs at the local level, which has contributed to the increased supply of ADUs throughout the state.

- 4) **Recent ADU Law Changes.** Beginning in 2016, the Legislature revised ADU laws to address some of the barriers to ADU creation that local governments had adopted (SB 1069, Wieckowski and AB 2299, Bloom). These changes prohibited local ordinances from banning ADUs and required a local agency to, among other provisions:
 - a) Designate areas within the jurisdiction where ADUs may be permitted;
 - b) Permit ADUs that do not exceed various zoning requirements set in statute, such as minimum lot sizes and distances from property lines ("setbacks");

- c) Limit parking to one space per ADU;
- d) Approve or disapprove an application for an ADU ministerially without discretionary review if the local government does not have an ADU ordinance when it receives a permit application; and
- e) Approve building permits to create an ADU ministerially if the ADU is within an existing residence, has independent exterior access, and meets certain fire safety requirements.

These bills also limited the cases when local agencies could require new utility connections for water and sewer, and limited those fees to be proportionate to the burden created by the ADU. AB 2408 (Thurmond, 2016) also allowed local agencies to adopt an ordinance regulating Junior ADUs (JADUs), which are smaller ADUs under 500 square feet, are contained entirely within an existing single-family residence, and may or may not have separate sanitation facilities. In 2017, the Legislature clarified portions of the law (SB 229, Wieckowski and AB 494, Bloom).

In 2019, the Legislature expanded on many aspects of ADU law through three bills: SB 13 (Wieckowski), AB 68 (Ting), and AB 881 (Bloom). The most significant provisions of these bills:

- a) Require local governments to allow ADUs to be at least 800 square feet;
- b) Require local governments to allow one ADU and one JADU on a single-family parcel;
- c) Allow up to two detached units on the same site as an existing or proposed multifamily dwelling and the ministerial creation of multiple ADUs within the portions of existing multifamily buildings that are not used as livable space, as long as each unit complies with state building standards for dwellings. Local governments must allow at least one such ADU (in the case that the existing building has fewer than four units) and the construction of up to 25% of the number of existing multifamily units more in the form of ADUs;
- d) Exempt ADUs under 750 square feet from impact fees and require impact fees for larger ADUs to be proportional to the square footage of the primary unit;
- e) Prohibit local governments from requiring carports, garages, or covered parking spaces that are demolished to construct an ADU to be replaced; and
- f) Gave the Department of Housing and Community Development (HCD) enforcement authority over ADU ordinances.

Next, in 2022, the Legislature made further changes to many aspects of ADU law through two bills: SB 897 (Wieckowski) and AB 2221 (Quirk-Silva). The most significant provisions of these bills:

- a) Increase the minimum height for ADUs to the following:
- b) 16 feet for a detached ADU on a lot with an existing or proposed single-family dwelling;

- c) 18 feet for detached ADUs on a lot with an existing or proposed multi-story multifamily dwelling;
- d) 18 feet for a detached ADU on a lot within a half-mile walking distance of a major transit stop or a high-quality transit corridor, plus an additional two feet if it would allow the roof pitch of the ADU to match the roof pitch of the primary dwelling unit; and
- e) For ADUs attached to the primary dwelling, a height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower.
- f) Require a permitting agency to approve or deny an application for an ADU or JADU within 60 days of receiving it. If a permitting agency denies an application, it must return in writing a full set of comments on how the application can be remedied.

In 2023, the Legislature permanently prohibited local governments from requiring owner-occupancy for ADUs (AB 976, Ting) and authorized local governments to adopt ordinances that permit property owners to sell or otherwise convey their ADU separately from the primary residence (AB 1033, Ting). Most recently, SB 477 (Committee on Housing, 2024) was chaptered as an urgency measure to relocate and renumber ADU statutes to make them clearer and more readable.

- 5) **Gentle Density.** Increasing density and facilitating the construction of new housing can occur in multiple ways. This has often meant high-density housing near major transit stops. However, such housing is expensive to build and limited in geographic scope. In California, much of the land suitable for this type of housing has already been developed. The remaining vacant developable areas are typically far from job centers, in high-risk wildfire areas, or land that is environmentally sensitive or important for agriculture. A critical component to increasing density in existing neighborhoods and residential areas has been infill development. However, there has been hesitation, at times resistance, for some neighborhoods to embrace more density.

In communities where higher density residential developments have been difficult to build, “gentle density” has been a strategy to promote the construction of housing. “Gentle density” includes ADUs, duplexes, fourplexes, townhomes, and other moderately dense developments that were common before the imposition of zoning. The Legislature has facilitated moderate density development with recent legislation with by-right approval of ADUs on all residentially zoned parcels and duplexes on all single-family zoned properties.

- 6) **Related Legislation.** AB 2533 (Juan Carrillo) extends the ADU amnesty law to unpermitted ADUs and JADUs built before 2020; provides a process for homeowners to permit their unpermitted ADUs; and provides financial assistance to lower- and moderate-income households seeking to permit their unpermitted ADUs and JADUs.
- 7) **Arguments in Support.** California YIMBY is sponsoring the bill and writes, “Existing state ADU law allows owners of multifamily housing to build multiple ADUs, up to 25% of the existing multifamily dwelling units, on their properties. A maximum of two of these ADUs may be built as external, detached structures, while the remainder must be built within existing dwelling structures in underutilized, non-livable spaces, like storage rooms and garages.

“The requirement that all but two of these ADUs be built within unused space in the existing dwelling structure prevents many owners from maximizing their buildings’ housing potential by, for example, building on surface parking lots or in detached garages. Further, local ordinances may require replacement parking, which severely limits owners’ ability to add critically needed housing.

“SB 1211 would instead give property owners flexibility in where to site their ADUs by increasing the current restriction on the number of ADUs on a multifamily property that can be detached from 2 to up to 8, depending on the existing number of multifamily units on site. However, cities would retain the power to enact ordinances that require that tenants who lose access to parking or other building amenities be compensated.”

- 8) **Arguments in Opposition.** The City of Huntington Beach writes in opposition, “The California State Legislature and Administration have made amendments to statutes and regulations to dramatically expand the allowances for ADUs in the state. ADUs have served as a positive housing resource for family, elderly and other residents at below-market rate in high-cost housing communities. Ministerial permitting was offered for typically small ADU projects undertaken by homeowners, inexperienced and not well-resourced, to participate in the permit development procedures.

“However, large ADU projects on multifamily dwellings have more recently been undertaken by professional developers, namely for financial gain while still being under a ministerial process. Ironically, these large projects are prohibited from conforming to ordinances like parking requirements, and other enforcement authorities of local governments. Moreover, existing law already allows multifamily properties to add a number of ADUs equivalent to 25% of the number of units on the existing structure of the property. SB 1211 would allow up to 8 additional detached ADUs, presumably to be ministerially developed, on multifamily dwellings on detached areas like parking lots, landscaping, and service areas. These projects would be completed, depending upon square footage, without permitting fees but added costs to local governments, and erodes the value of ADUs as truly ‘accessory.’”

- **Double-Referral.** This bill was double referred to the Committee on Housing and Community Development, where is passed on an 8-1 vote on June 12, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

California Yimby (Sponsor)
Casita Coalition (Sponsor)
AARP
Abodu, INC.
Abundant Housing LA
Avalonbay
Bay Area Council
Bequall
California Apartment Association

California Building Industry Association (CBIA)
California Community Builders
CoreSGB
Cottage Technologies
Crest Backyard Homes
Dirt to Keys
East Bay for Everyone
East Bay Leadership Council
East Bay Yimby
Eastside Housing for All
Eden Housing
Enterprise Community Partners, INC.
Fieldstead and Company, INC.
Fremont for Everyone
Grow the Richmond
Hello Housing
Housing Action Coalition
Housing Trust Silicon Valley
How to Adu
Midpen Housing
Mountain View Yimby
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
Redlands Yimby
San Francisco Bay Area Planning and Urban Research Association (SPUR)
San Francisco Yimby
San Luis Obispo Yimby
Santa Cruz Yimby
Santa Rosa Yimby
Snapadu
South Bay Yimby
Southern California Rental Housing Association
Southside Forward
Studio Kda
Tentmakers INC
The Two Hundred
Unidosus
Urban Environmentalists
Ventura County Yimby
Villa Homes
Yimby Action
Yimby Slo

Opposition

California Cities for Local Control

Catalyst for Local Control

Huntington Beach, City of

League of California Cities

Livable California

Mission Street Neighbors

Santa Clarita; City of

Save Lafayette

Sunnyvale United Neighbors

Whittier, City of

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