

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
AB 68 (Ting) – As Amended April 3, 2019

**SUBJECT:** Land use: accessory dwelling units.

**SUMMARY:** Revises the law regarding accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Specifically, **this bill:**

- 1) Provides that a local ADU ordinance:
  - a) Cannot impose lot coverage standards;
  - b) Cannot impose standards requiring minimum lot size;
  - c) Cannot require that a setback be required for ADUs within existing structures and new ADUs located in the same location as existing structures, and no more than a four-foot side and rear yard setback for all other ADUs;
  - d) Cannot require replacement offstreet parking when parking (garage, carport, or covered parking structure) is demolished with the construction or conversion of an ADU; and,
  - e) Shall require ministerial approval of an ADU permit in 60 days (instead of 120 days), from the date the local agency receives a completed application.
- 2) Expands provisions in ADU law to require ministerial approval of an application for a building permit, within a residential or mixed-use zone, for any of the following:
  - a) One ADU and one JADU per lot with a proposed or existing single-family dwelling if all of the following apply:
    - i) The ADU or JADU is substantially within the proposed or existing space of a single-family dwelling or accessory structure, including, but not limited to, remodeling or reconstruction of an existing space with substantially the same physical dimensions as the existing accessory structure;
    - ii) The space has exterior access from the proposed or existing single-family dwelling;
    - iii) The side and rear setbacks are sufficient for fire and safety; and;
    - iv) The JADU complies with existing law.
  - b) One detached, new construction, single-story ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The ADU may be combined with a JADU, as specified. Allows a local agency to impose the following conditions on the ADU:
    - i) A total floor area limitation of not more than 800 square feet;

- ii) A height limitation of 16 feet;
  - c) Multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, or garages, if each unit complies with state building standards for dwellings; and,
  - d) Not more than two ADUs that are located on a lot that has an existing multifamily dwelling, but are detached from that dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
- 3) Prohibits a local agency, as a condition for ministerial approval, from requiring the correction of nonconforming zoning conditions.
  - 4) Prohibits the installation of fire sprinklers from being required in an ADU if sprinklers are not required in the primary residence.
  - 5) Allows a local agency to require owner occupancy for either the primary dwelling or the ADU on a single-family lot, as specified. Requires a local agency to require that a rental of an ADU be for a term longer than 30 days.
  - 6) Provides that 3c) and 3d), above, shall not apply if a local agency has adopted an ordinance by July 1, 2018, providing for the approval of ADUs in multifamily dwelling structures.
  - 7) Allows the Department of Housing and Community Development to submit written findings to the local agency as to whether the ordinance complies with ADU law, and requires HCD to notify the local agency if it is in violation. Requires HCD to provide the local agency a reasonable time, no longer than 30 days, to respond to the findings before taking any other action, as specified.
  - 8) Requires that the local agency consider the findings and either: a) amend its ordinance to comply; or, b) adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing HCD's findings. Provides that if the local agency does not amend its ordinance or does not adopt a resolution, that HCD shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
  - 9) Defines the following terms:
    - a) "Accessory structure" to mean an existing, fixed structure, including, but not limited to, a garage, studio, pool house, or other similar structure;
    - b) "Living area" to mean the interior habitable area of a dwelling unit, including basements and attics but does not include a garage or any accessory structure;
    - c) "Local agency" to mean a city, county, or city and county, whether general law or chartered;
    - d) "Nonconforming zoning condition" to mean a physical improvement on a property that does not conform with current zoning standards.

- 10) Prohibits a local agency from issuing a certificate of occupancy for an ADU before the local agency issues a certificate of occupancy for the primary dwelling.
- 11) Allows JADUs to be constructed within new single-family residences. Requires a ministerial application for a JADU to be issued within 60 days (instead of 120 days) from the date the local agency receives a completed application.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary and Author's Statement.** This bill makes many changes to ADU and JADU law. In addition to some more minor provisions, this bill:
  - a) Expands ministerial approval provisions to include multiple ADUs in existing multifamily dwellings, multiple detached ADUs on the same lot as a multifamily dwelling, and an ADU and a JADU on one lot, under specified conditions.
  - b) Requires local agencies to approve a building permit ministerially for certain ADUs and JADUs in 60 days (instead of 120 days) from the time of receipt of the completed application.
  - c) Provides that a local ADU ordinance cannot impose lot coverage standards, require minimum lot size or certain setbacks, and cannot require offstreet parking to be replaced when existing parking like a garage, carport, or covered parking structure is demolished for the construction or conversion of an ADU.
  - d) Grants to HCD more authority to respond to a local agency's ordinance with findings and requires the local agency to respond within 30 days to either amend its ordinance or adopt a resolution with findings explaining the reason the ordinance complies, and allows HCD to notify the Attorney General that the local agency is in violation.

This bill is sponsored by California YIMBY.

According to the author, "ADUs have surged in popularity as a way to address California's housing crisis as demand outpaces supply. AB 68 will remove remaining barriers to the widespread adoption of ADUs as low-cost, energy efficient, affordable housing that can go from policy to permit in 12 months."

- 2) **Background.** ADUs are additional living quarters that are independent of the primary dwelling unit on the same lot. ADUs are either attached or detached to the primary dwelling unit, 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.

ADUs have been identified as an important piece of the solution to California's housing crisis. According to the Turner Center for Housing Innovation at UC Berkeley, the average cost to build an ADU is relatively inexpensive at \$156,000. Because of their size and lower cost to construct, the Turner Center found that 58% of ADUs are rented out at below market rate.

Over the past few years, the Legislature has passed a number of bills to ease zoning restrictions and expedite approval processes at the local level, which has contributed to the increased supply of ADUs throughout the state. For example, in the City of Los Angeles, since 2017 a total of 9,247 applications have been received for ADUs. This represents an approximately 30-fold increase as compared to the citywide average in the many years well before the state law changed. Similarly, the City of Santa Rosa received 118 applications for ADUs in 2018, compared to 54 total from 2008-2016.

- 3) **Arguments in Support.** According to UC Berkeley’s Urban Displacement Project, “Recent state efforts to incentivize the construction of ADUs have resulted in more communities and families building ADUs as a cost efficient way to address the affordable housing crisis. By further reducing barriers to ADU approval and construction, this legislation will help add tens of thousands of new units to California’s housing stock.” The California Association of Realtors notes that the bill “will help alleviate our housing shortage while capitalizing on limited land resources.”
- 4) **Arguments in Opposition.** Opponents are concerned about the unlimited number of ADUs within multifamily buildings and up to two ADUs on a multifamily lot, which could substantially increase the density in areas built with infrastructure designed to handle the existing units. Opponents are additionally concerned about the elimination of replacement parking requirements and the need for occupants to have a place to park.
- 5) **Double-Referral.** This bill was heard in the Housing and Community Development Committee on April 3, 2019, and passed with a 6-0 vote.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California YIMBY [SPONSOR]  
AARP California  
ADU Task Force East Bay  
Bay Area Council  
BRIDGE Housing  
Building Industry Association of the Bay Area  
California Apartment Association  
California Association of Realtors  
California Community Builders  
California Teamsters  
Chan Zuckerberg Initiative  
Citylab - UCLA  
Community Legal Services In East Palo Alto  
EAH Housing  
Eden Housing  
Emerald Fund  
Enterprise Community Partners, Inc.  
Facebook, Inc.  
Greenbelt Alliance  
Habitat for Humanity East Bay/Silicon Valley (if amended)  
Hello Housing  
La-Mas  
Larson Shores Architects  
League of Women Voters of California  
Non-Profit Housing Association of Northern California  
Openscope Studio  
PICO California  
PreFabADU  
Related California  
San Diego Apartment Association  
San Francisco Foundation  
San Francisco Housing Action Coalition  
Silicon Valley At Home (Sv@Home)  
Spur  
Tentmakers Inc.  
Terner Center For Housing Innovation at the University Of California, Berkeley  
The Casita Coalition  
The Two Hundred  
TMG Partners  
Urban Displacement Project, UC Berkeley  
Working Partnerships USA  
10 Individual letters

**Opposition**

American Planning Association, California Chapter (unless amended)  
League of California Cities (unless amended)

**Analysis Prepared by:** Debbie Michel / L. GOV. / (916) 319-3958