



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

LEGISLATIVE REVIEW COMMITTEE STAFF REPORT

Meeting: June 25, 2019

Subject

Consider adopting a position on AB 68 (Ting) – Accessory Dwelling Units

Recommended Action

Adopt positions opposing Assembly Bill 68 and authorize the Mayor to send a letter of opposition to the State Legislature

Summary

AB 68 makes a number of changes to existing law governing accessory dwelling units. Specifically,

- Requires a local agency to ministerially approve, in an areas zoned for residential or mixed-use, an application to create an ADU/JADU if it is proposed within an existing structure or has the same footprint as the existing structure, provided the space has exterior access and the side and rear setbacks are sufficient for fire and safety.
 - An ADU/JADU that qualifies for ministerial approval may be subject to a size limit of 800 square feet, a height limit of 16 feet, and a side and rear setbacks of four feet.
- Requires a local agency to ministerially approve, on a lot with a multifamily dwelling:
 - Multiple ADUs within the existing structures that are not used as livable space, if each unit complies with state building standards for dwellings.
 - Two detached ADUs that are subject to a height limit of 16 feet and rear and side setbacks of four feet.
- Prohibits a local ADU ordinance from:
 - Imposing standards on ADUs that include requirements on lot coverage or minimum lot size.
 - Setting a maximum ADU size that does not allow an ADU of at least 800 square feet and 16 feet in height.
 - Requiring replacement parking when a garage, carport, or covered parking structure is demolished/converted into an ADU.

- Allowing more than 60 days to ministerially approve an ADU/JADU application.
- Requiring, as a condition for ministerial approval of an application for an ADU/JADU, correction of nonconforming conditions.
- Provides that the total floor areas of an attached ADU cannot exceed 50% of the existing primary dwelling.
- Limits the number of ADUs that must be ministerially approved within an existing multifamily dwelling to one ADU and up to 25% of the existing units thereafter.
- Provides that JADUs must be allowed to be constructed within proposed single-family residences and eliminates certain requirements relating to interior entry to the main living area, waste lines, and electrical service minimums.
- Requires a local agency to require rental of an ADU to be for a term longer than 30 days.
- If the Department of Housing and Community Development finds that a local ADU ordinance is not compliant with state law, provides the local agency with up to 30 days to respond to the findings. If the local agency does not amend its ordinance to comply with HCD's findings, or adopt a resolution disputing the findings, HCD may notify the Attorney General that the locality is in violation of state law.

The Legislature is considering additional ADU measures in the current session. Below is a chart of the major provisions of each measure. It is likely that all three bills will receive additional amendments, and may be amended into a single bill to comprehensively deal with ADUs.

	AB 68 (Ting) (6/12/19)	AB 881 (Bloom) (4/11/19)	SB 13 (Wieckowski) (5/17/19)
Ministerial approval	Requires ministerial approval of a permit for one ADU and one JADU per lot; one detached, new, single-story ADU that may be combined with a JADU; multiple ADUs within existing structures; up to two detached ADUs on a lot.	Requires ministerial approval of a permit for an ADU within an existing structure, as specified.	Requires ministerial approval of a permit for one ADU per lot, as specified.
Size requirements	Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 800 sq. ft.		Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 850 sq. ft.

	ADU and at least a 16-foot high ADU		ADU or 1,000 sq. ft. if more than one bedroom
Owner occupancy requirement	Prohibits owner occupancy requirement	Prohibits owner occupancy requirement until Jan. 1, 2025	Prohibits owner occupancy requirement
Impact fees			Provides for a tiered structure of fees based on size of ADU
Parking requirements related to demolition of off-street parking	Prohibits requirement of replacement parking when a garage, carport, or covered parking structure is demolished for, or converted to, an ADU.		Prohibits requirement of replacement parking when a garage, carport, or covered parking structure is demolished for, or converted to, an ADU.
Prohibition on parking requirements near ½ mile of transit		Specifies that the ½ mile shall be measured in walking distance and defines public transit as a bus stop, bus line, light rail, street car, car share drop off or pickup, or heavy rail stop	

Status

Passed the Assembly 61-10. Passed Senate Housing Committee 9-0 on 6/18. Referred to the Senate Governance and Finance Committee. Scheduled for a hearing on July 3rd.

Support

The author and supporters of AB 68 state that ADUs have increased in popularity in California as a cost-effective way to address the State's housing crisis. They believe that this bill will remove the 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.

Supporters of the measure include: California YIMBY (Sponsor), AARP California, Assn of Bay Area Governments, Bay Area Council, Bay Area Housing Advocacy Coalition, Bridge Housing Corporation, Building Industry Assn of the Bay Area, California Apartment Assn, California Assn of Realtors, California Teamsters Public Affairs Council, Community Legal Services in East Palo Alto, Facebook, Habitat for Humanity, League of Women Voters of California, Metropolitan Transportation Commission, Silicon Valley At Home, Silicon Valley Community Foundation, and numerous affordable housing developers.

Opposition

Opponents to the measure cite a number of concerns with AB 68, primarily that the bill circumvents local ordinances that may exclude ADUs due to health and safety criteria. Opponents also note that by prohibiting a local agency from requiring replacement parking when a garage, carport, or covered parking structure is converted to an ADU, the bill will exacerbate parking issues. Lastly, opponents note that by prohibiting owner occupancy requirements, this bill may incentivize large investors to purchase single-family homes for the purpose of adding ADUs and maximizing the rents on both structures.

Opponents of the measure include: Cities Assn of Santa Clara County, League of California Cities, Marin County Council of Mayors and Council Members, South Bay Cities Council of Governments, and the Cities of Camarillo, Los Alamitos, Manhattan Beach, Novato, Rancho Cucamonga, San Dimas, San Marcos, and Santa Clarita.

Potential Impact

AB 68 would result in modifications to the manner in which ADUs are reviewed and approved in the City. The measure could result in an increased number of requests to build ADUs, particularly from properties that are not owner occupied. Additionally, this measure would remove some local discretion for ADUs that are built within an existing garage on lots with multifamily residences by requiring approval of ADUs up to a certain size and height. Depending upon the number of requests for permits of existing garages or other parking structures, this measure could result in increased pressures for on-street parking in neighborhoods.

Prepared by: Townsend Public Affairs