
SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 881	Hearing Date:	6/18/2019
Author:	Bloom		
Version:	4/11/2019		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Riches		

SUBJECT: Accessory dwelling units

DIGEST: This bill makes a number of changes to existing law governing accessory dwelling units (ADUs).

ANALYSIS:

Existing law:

- 1) Provides that if a locality adopts an ADU ordinance in areas zoned for single-family or multifamily, it must do all of the following:
 - a) Designate areas where ADUs may be permitted.
 - b) Impose certain standards on ADUs such as parking and size requirements.
 - c) Prohibit an ADU from exceeding the allowable density for the lot.
 - d) Require ADUs to comply with certain requirements such as setbacks.
- 2) Requires ministerial approval of an ADU permit within 120 days.
- 3) Allows a locality to establish minimum and maximum unit sizes for both attached and detached ADUs.
- 4) Restricts the parking standards a locality may impose on an ADU.
- 5) Allows a local agency to require that an applicant be an owner-occupant or that the property be used for rentals of terms longer than 30 days.
- 6) Provides that an ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of

calculating connection fees or capacity charges for utilities, including water and sewer service.

- 7) Requires a local agency to submit a copy of its ADU ordinance to HCD within 60 days of adopting it and authorizes HCD to review and comment on the ordinance.

This bill:

- 1) Limits the criteria by which a local agency may determine where ADUs may be permitted to the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety.
- 2) Requires local agencies to ministerially approve ADUs on lots with multifamily residences and within existing garages.
- 3) Removes, until January 1, 2025, existing law authority for local agencies to require ADU applicants to be owner occupants and eliminates existing law authority for local agencies to require owner occupancy of either the ADU or the primary dwelling.
- 4) Specifies, in the existing law prohibition on a local agency from imposing parking standards within a half-mile of transit, that the half-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.

COMMENTS

- 1) *Purpose of the bill.* The author states that California's housing shortage is well documented and the state currently needs over three million new units to address existing housing need. ADUs are an innovative and affordable housing option for many Californians. Because they are relatively affordable to build and are constructed by homeowners themselves, they also create units without depleting limited affordable housing funds. The ADU permitting process was streamlined significantly in 2016 through AB 2299 (Bloom) and cities around California embraced ADUs, adopting ordinances that have resulted in some confusion and uncertainty that has created unnecessary barriers to the construction of these units. This bill provides much-needed updates and clarifications to ADU statute that will help facilitate the construction of more housing.

- 2) *ADUs and JADUs.* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law. Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom. The state Department of Housing and Community Development (HCD) notes that “ADUs are an innovative, affordable, effective option for adding much-needed housing in California.”
- 3) *Relaxing ADU requirements.* According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units*, second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite existing state law, which requires each city in the state to have a ministerial process for approving second units, the study found that local regulations often impede development. The study, which evaluated five adjacent cities in the East Bay, concluded that there is a substantial market of interested homeowners; cities could reduce parking requirements without contributing to parking issues; second units could accommodate future growth and affordable housing; and that scaling up second unit strategy could mean economic and fiscal benefits for cities.
- 4) *Key provisions.* Major provisions of this bill include:
 - a) *Ministerial approval requirements.* Existing law requires a local agency to ministerially approve an application for one ADU per single-family lot if the unit is contained within the existing space of the single-family dwelling or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. This bill requires ministerial approval of ADUs on lots with multifamily residences and within existing garages.
 - b) *Zoning.* Existing law allows local ADU ordinances to designate areas where ADUs may be permitted, based on criteria including but not limited to the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety. This bill deletes “including but not limited to,” restricting a local agency’s location considerations to the water- and sewer-

adequate sites and those that do not overly impact traffic flow and public safety.

- c) *Owner occupancy requirements.* Existing law allows a local ADU ordinance to require owner occupancy for either the primary dwelling or the ADU. This bill removes, until January 1, 2025, the authority for local agencies require ADU applicants to be owner occupants and eliminates existing law authority for local agencies to require owner occupancy for either the ADU or the primary dwelling.
 - d) *Parking requirements.* Existing law prohibits a local agency from imposing parking standards on ADUs that are within one-half mile of transit. This bill specifies that the half-mile shall be measured in walking distance, to account for possible obstacles such as bodies of water or freeways. It also expands the definition of public transit.
- 5) *Other ADU bills.* Multiple ADU bills have been introduced again this year. The two bills that overlap most with this bill are AB 68 (Ting) and SB 13 (Wieckowski). A comparison of major provisions among the three bills is on the following page.

	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. ADU and at least a 16-foot high ADU		Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 850 sq. ft. 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	

6) *Opposition concerns.* A number of cities, writing in opposition to this bill, state that by prohibiting a locality from requiring a property owner to live in the main house or one of the accessory structures, this bill could incentivize large-scale investors to purchase many single-family homes and add ADUs.

7) *Double-referral.* This bill has also been referred to the Governance and Finance Committee.

RELATED LEGISLATION:

SB 13 (Wieckowski, 2019)— makes a number of changes to law governing ADUs. *This bill is in Assembly Local Government Committee.*

AB 68 (Ting, 2019)— makes a number of changes to law governing ADUs. *This bill will also be heard in this committee today.*

SB 831 (Wieckowski, 2018)— would have made a number of changes to ADU law. *This bill died in the Assembly Local Government Committee.*

AB 2890 (Ting, 2018)— would have made a number of changes to ADU law. *This bill died on the suspense file of the Senate Appropriations Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

California YIMBY (Sponsor)
Bay Area Council
California Apartment Association
California Association Of Realtors
California Forward Action Fund
Non-Profit Housing Association of Northern California
United Dwelling

OPPOSITION:

Los Alamitos; City of
Marin County Council Of Mayors And Council Members
San Dimas; City Of
San Marcos; City Of
South Bay Cities Council Of Governments
Thousand Oaks; City Of

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