

Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 494 (Bloom) – As Amended March 28, 2017

SUBJECT: Land use: accessory dwelling units

SUMMARY: Makes a number of changes to the Accessory Dwelling Unit (ADU) review process and standards. Specifically, **this bill:**

- 1) Provides that a local agency's ADU ordinance may require that the ADU is not intended for sale separate from the primary residence and may be rented separately from the primary residence.
- 2) Provides that parking requirements for ADUs not exceed one parking space per unit or per bedroom, whichever is less.
- 3) Removes the option for local agencies to prohibit offstreet parking in setback areas or through tandem parking where that parking is not allowed anywhere else in the jurisdiction.
- 4) Allows a local agency to require replacement parking spaces in any configuration on the same lot as the ADU when a garage, carport, or covered parking structure is converted to an ADU.
- 5) Defines "tandem parking" as two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another.
- 6) Provides that no setback shall be required for an existing garage that is converted to a portion of an ADU.
- 7) Provides that, when a local agency must ministerially approve an ADU application if the unit is contained within the existing space of a single-family residence or accessory structure and meets other specified requirements:
 - a) That "accessory structure" includes, but is not limited to, a studio, pool house, or other similar structure.
 - b) Authorizes a city to require owner occupancy for either the primary or the accessory unit created through this process.
- 8) Makes technical, clarifying changes.
- 9) Provides that no reimbursement is required by this act 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 act.

EXISTING LAW:

- 1) Makes legislative findings and declarations regarding the importance of ADUs as an essential element of the state's housing supply (Govt. Code Section 65852.150).
- 2) Provides that a local government may adopt an ordinance allowing ADUs in single-family and multifamily residential zones.
- 3) Provides that the ordinance must require the ADU to comply with certain conditions, including, but not limited to, that the ADU is not intended for sale separate from the primary residence and may be rented.
- 4) Provides that no setback shall be required for an existing garage that is converted to an ADU.
- 5) Requires a local agency to ministerially approve an application for a building permit to create within a single-family residential zone one ADU per single-family lot if the unit meets the following requirements:
 - a) It is contained within the existing space of a single-family residence or accessory structure.
 - b) It has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.
- 6) Provides the following parking requirements for ADUs:
 - i) Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.
 - ii) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.
 - iii) These parking requirements do not apply to a unit that is described above in 5).
- 7) Requires that when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration, including as tandem parking, on the same lot as the ADU.

(Govt. Code Section 65852.2)

FISCAL EFFECT: Unknown

COMMENTS:

ADUs are additional living quarters on single-family lots that are independent of the primary dwelling unit. Also known as accessory apartments, accessory dwellings, mother-in-law units,

or granny flats, ADUs are either attached or detached to the primary dwelling unit, and provide complete independent living facilities for one or more person. This includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

In 2002, AB 1866 (Wright), Chapter 1062, Statutes of 2002, required local governments to use a ministerial process for approving ADUs, notwithstanding other laws that regulate the issuance of variances or special use permits. A local government may provide for the construction of ADUs by ordinance, and may designate areas where ADUs are allowed, as well as require specified standards for parking, setback, lot coverage, and maximum size.

In 2016, AB 2299 (Bloom), Chapter 735, Statutes of 2016 and SB 1069 (Wieckowski), Chapter 720, Statutes of 2016, made a number of changes to state law in order to ease some of the local barriers to the development of ADUs. These changes were numerous and included reorganizing existing law to apply one standard for the ADU permit review process regardless of whether a local government has adopted an ordinance or not, changing specified ADU building and parking standards, and placing limitations on utility connection fees and capacity charges and requirements.

According to the author, there is a need for additional clarifying language to better reflect the intent of AB 2299. This bill makes several changes to ADU law, including owner occupancy, parking, and setback requirements.

Related legislation:

SB 229 (Wieckowski, 2017): Makes a number of clarifying changes to ADU standards. *This bill is pending in the Senate Committee on Governance and Finance.*

AB 2299 (Bloom), Chapter 735, Statutes of 2016: Made a number of changes to the ADU review process and standards, including relaxing parking restrictions, prohibiting the need for a passageway, and increasing the permissible size of the units.

SB 1069 (Wieckowski), Chapter 720, Statutes of 2016: Made a number of changes to the ADU review process and standards, including exempting parking requirements for specified types of ADUs and limitations on utility connection fees and capacity charges and requirements.

AB 1866 (Wright), Chapter 1062, Statutes of 2002: Required local governments to use a ministerial process for approving ADUs, notwithstanding other laws that regulate the issuance of variances or special use permits.

Double-referred: This bill was also referred to the Local Government Committee where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Realtors

Opposition

None received

Analysis Prepared by: Rebecca Rabovsky / H. & C.D. /916-319-2085