

**Metropolitan Transportation Commission and the Association of Bay Area Governments
Joint MTC Legislation Committee and
ABAG Legislation Committee**

May 10, 2019

Agenda Item 5e

AB 68 (Ting): Accessory Dwelling Units

Subject: AB 68 would prohibit local Accessory Dwelling Unit (ADU) standards from including certain requirements related to minimum lot size and replacement parking and would require an ADU (attached or detached) of at least 800 square feet and 16 feet in height to be allowed. The bill would also reduce the allowable time to issue an ADU permit to 60 days after an agency receives a completed application.

Background: Many Bay Area local governments have taken steps to actively incentivize ADUs and over the past three years a number of bills have been enacted to limit zoning restrictions and expedite ADU approvals. As a result, the number of ADU permit applications has surged throughout the region. AB 68 seeks to further address barriers to ADU development. For example, a Senate Governance and Finance Committee ADU bill analysis references that some jurisdictions appear to set minimum lot sizes for ADUs at sizes larger than the jurisdictions' average lot size as a way to indirectly prohibit ADUs.


Attachment A compares AB 68 provisions with current law and with SB 13 (Wieckowski), another ADU bill being considered today.

Discussion: As the Bay Area's housing crisis deepens, it is becoming increasingly important to consider innovative strategies to increase the Bay Area's housing supply. ADUs can be an important part of the solution. If 20 percent of Bay Area homeowners built an ADU, the Bay Area would add 300,000 units, enough to accommodate nearly 40 percent of the region's projected population growth through 2040. ADU infill development is inherently more low-impact and energy-efficient than large-scale construction and ADUs are generally more affordable than other forms of housing. This type of development is consistent with the Bay Area's shared climate and equity goals, as identified in *Plan Bay Area 2040*. Given the potential for ADUs to be a part of the solution to the Bay Area's ongoing housing crisis, we support the policy of accelerating the approval of and removing remaining barriers to ADU production.

Recommendation: Support

Bill Positions: See Attachment B

Attachments: Attachment A: Bill Comparison Matrix
Attachment B: Bill Positions


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AB 68 (Ting) and SB 13 (Wieckowski) Comparison Matrix
As of May 3, 2019

	Current Law	AB 68 (Ting)	SB 13 (Wieckowski)
Bill Status	N/A	Assembly Appropriations	Senate Appropriations
Minimum Lot size	Locally established	Prohibits minimum lot size standards	No change
Setback requirements	Five Feet	Reduces setback requirements to four feet	No change
Owner-Occupancy Requirement	Allows a local agency to require that an applicant be an owner-occupant	No change	Prohibits owner occupancy requirement
Application approvals	Requires ministerial approval of an ADU permit within 120 days	Reduces to 60 days from receipt of a completed application	Reduces to 60 days and deems permit approved if not acted upon within that period
State Oversight	Requires local agencies submit ADU ordinances to HCD within 60 days of adoption	Requires local agencies to submit ADU ordinances to HCD and authorizes HCD to make findings of non-compliance, require correction and work with Attorney General on enforcement	Requires local agencies to submit ADU ordinances to HCD and authorizes HCD to make findings of non-compliance, require correction and work with Attorney General on enforcement
Size Requirements	Requires ADU ordinance that allows an “efficiency unit” (250 – 450 square feet (sf))	Requires an ADU ordinance that establishes minimum or maximum size to allow an ADU of at least 800 sf and 16-feet high	Prohibits an ADU ordinance that does not allow an ADU of at least 850 sf (applies to studios and one-bedroom)/1,000 sf (applies more than one bedroom ADUs)
Zoning	Allowed in areas zoned to allow single family or multifamily dwelling residential use	Removes restriction to residential zones and instead applies to residential and mixed-use zones; Allows for one ADU and one JADU per proposed or existing single family residential unit and two ADUs per proposed or existing multifamily lot	Removes zoning restriction requiring only that the lot “includes a single family dwelling that exists or is proposed on the lot”

	Current Law	AB 68 (Ting)	SB 13 (Wieckowski)
Impact fees	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; Other fees subject to Fee Mitigation Act	No change	Provides for a tiered structure of fees based on size of ADU
RHNA	Permitted ADUs count toward RHNA numbers; no allowance for ADUs in site inventories	No change	Provides for an amnesty program to permit un-permitted ADUs; Authorizes a local agency to count ADUs for purpose of identifying adequate sites for its housing element
Parking	Restricts the parking standards a locality may impose on an ADU, including prohibiting parking requirements on ADUs located within ½ mile of public transit	Newly prohibits local agencies from requiring replacement parking for spaces that are lost due to construction of ADU (e.g. garage conversion)	Same as AB 68
Building Standard Amnesty	No amnesty	No change	Provides for an amnesty program to permit un-permitted ADUs that do not pose a health and safety risk

Source: Senate Housing Committee Analysis of SB 13, revised and augmented by MTC/ABAG staff

AB 68 (Ting) Positions

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.
Turner 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

Oppose

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