

Accessory Dwelling Units (ADUs)

SANDAG Housing Element Workshop: May 20, 2020



California Department of Housing and
Community Development



Today's Agenda

- ADUs and the 6th Cycle RHNA
- Authorizing Legislation
- Summary of Changes and General Overview
- Approval and Review Process
- Designation of Areas
- Development Standards
- Parking
- Subdivision (e)
- Fees
- HCD ADU Efforts: TA, Funding, and Accountability
- Q & A

ADUs and 6th Cycle RHNA





Overview



Housing Elements in
General



RHNA and the Sites
Inventory



ADUs and Housing
Elements



Leveraging the new laws

- Projecting the number of new ADU units
- Required level of analysis

Policies and Programs section of the housing element

- How to complement your analysis through your policies and programs section



Authorizing Legislation

- Assembly Bill 881 (Bloom) ADU
- Assembly Bill 68 (Ting) ADU and JADU
- Senate Bill 13 (Wieckowski) ADU
- Assembly Bill 587 (Friedman) ADU for sale
- Assembly Bill 670 (Friedman) CC&Rs
- Assembly Bill 671 (Friedman) Incentives in Housing Element



Summary of Changes

Required State Standards (Examples)

- Although local agencies may restrict short-term rentals, they shall not require owner-occupancy for ADUs. ADUs shall not allow short-term rentals
- The lot is zoned for single-family or multifamily use and contains an existing or proposed single-family or an existing multifamily dwelling
- The ADU is either attached to an existing dwelling or located within the living area of the existing dwelling or detached from the primary unit
- The total area of floorspace of the attached unit does not exceed 50% of the existing or proposed dwelling living area, but shall be allowed at least 800 square feet



Summary of Changes

Required State Standards (Examples, cont.)

- The total area of floor space for a new detached accessory dwelling unit is not to exceed 1,200 square feet, unless allowed to be larger, through a local agency's adopted ADU ordinance
- No limitations to size of the ADU if created within the space of an existing structure
- Complete ADU and JADU applications must be processed within 60 days



Summary of Changes

ADU's or JADUs Created Within Existing Structures

- Allowed within zones with an existing or proposed single family dwelling
- No local zoning or development standards
- No fire sprinklers and no connection or capacity fees
- Applicable standards:
 - Contained within an existing or proposed residence or an existing accessory structure
 - Complies with local agency building codes
 - Has independent exterior access from the existing residence
 - The JADU shall comply with Section 65852.22



Summary for JADU

Junior Accessory Dwelling Units (JADU)

- JADUs are required to be allowed by local agencies
- Shall be contained within the walls of the existing or proposed single-family residence
- Limited to one per residential lot zoned for single-family use and may be combined on a lot with an ADU
- 500 square foot maximum size
- Owner to occupy the primary residence or JADU
- Recorded deed restriction is required, as noted in statute
- Efficiency kitchen is required, but a shared bathroom with the primary residence is allowed



General Overview

- Limits a local jurisdiction's ability to regulate ADU's and JADU's
- Existing ADU ordinances are null and void to the extent that they conflict with updated state ADU law
- Adopted ADU ordinances must be sent to HCD within 60 days of adoption
 - In ordinance format with the appropriate signatures
 - HCD may submit written findings to the local agency (city, county) as to whether the ordinance complies with state ADU law
 - More on this later in the presentation



Approval and Review Process

- Permits for ADUs that meet standards in state ADU law must be reviewed ministerially; no discretionary review or hearings can be required for approval
 - ADUs that do not meet standards set forth in state ADU law or local agency's ordinance may still be permitted through a discretionary process
- 60 days to approve a complete application
 - Guidance: If application is incomplete, 60 day period is suspended and continues upon re-submittal



Areas

- ADUs are allowed in areas zoned to allow single-family and multifamily dwelling residential use
 - Does not mean exclusively "residential areas"
 - May only restrict based on adequacy of water and sewer service, and the impact of accessory dwelling units on traffic flow and public safety
 - Subdivision (e) ADUs not subject to this designation
- Owner-occupancy cannot be required
 - ADUs permitted from 2020 through end of 2024 will not have owner-occupancy requirement
- Local jurisdictions may prohibit rentals for ADUs created under (a), and must require for ADUs created under subdivision (e)



Development Standards

- Jurisdictions are expressly allowed to regulate parking, height, setback, landscape, architectural review, maximum unit size, and can require standards that prevent adverse impacts on any real property that is listed in California Register of Historic Resources
 - Prohibited from enforcing minimum lot size
 - Lot coverage requirements still allowed, but cannot prohibit creation of at least an 800 square foot ADU
- ADUs created under subdivision (e) cannot be required to conform to the above development standards, unless listed in Gov. Code 65852.2 (e)
- Setbacks
 - No more than 4' side and rear-yard setbacks (this includes street, corner, alley, etc.)
 - No zoning setback for conversions of existing structures
 - No more than 4' for ADUs above garage



Minimum and Maximum Sizes

- Jurisdictions are required, at a minimum, to allow for:
 - Minimum size of an efficiency unit
 - 850 square feet (0-1 bedrooms)
 - 1,000 square feet (more than 1 bedroom)
 - Cannot limit the number of bedrooms (Fair Housing)
- Certain development standards must be waived to permit up to and at least an 800 square foot ADU, 16 feet in height, with 4' side and rear-yard setbacks
- No maximum size can be required for existing space in single-family residence or accessory structure converted to ADU



Parking

- Maximum of 1 space per bedroom or per ADU, whichever is less
- Must allow tandem parking
- If existing parking structure/area is converted to an ADU, no on-site replacement parking can be required
- Jurisdictions cannot require parking for the following:
 - ADU within ½ mile walking distance to public transit
 - ADU within architecturally and historically significant district
 - Part of proposed primary residence, or existing primary residence or accessory structure
 - When on-street parking permits are required but not offered to occupant of ADU
 - Car share located within one block of ADU



Subdivision (e)

Regardless of development standards in (a) through (d), local agencies must approve building permits in any residential or mixed used zone for:

- Conversion of existing space into ADU (or JADU if in single-family residence)
- One detached, new construction ADU, of up to and at least 800 square feet, 16 feet in height
- Conversion of non-livable space within multifamily dwelling structures to ADUs
 - 25% of units, but at least one ADU
- Not more than 2 detached ADUs on a lot with an existing multifamily dwelling, subject to 16' height and 4' setbacks



Fees

- Impact fees exempt for ADUs under 750 sq. ft. and then shall be proportional, based on the size of the ADU and primary dwelling





Summary of Changes

Accessory Dwelling Unit Ordinances

- Any existing ADU ordinance that does not meet the requirements of the updated state statute may be null and void as of January 1, 2020
- Local governments must permit ADUs and JADUs limited to state standards until they adopt an ADU/JADU ordinance
- Although state ADU law establishes the maximum standards, a local agency may adopt less restrictive requirements
- Adopted ordinances are required to be submitted to HCD within 60 days of adoption
- Copies of ordinances submitted to HCD may be requested through adu@hcd.ca.gov



Ordinance Best Practices

- Areas may be limited for ADUs only based on their impact on traffic flow and public safety, and inadequacy of water and sewer service
- No bedroom limit
- Ministerial standards for ADUs, especially in historic areas



HCD ADU Efforts: 3 Main Areas

Technical
Assistance

Funding

Accountability



HCD Technical Assistance

- Questions and answers for applicants, local agencies and others through email
- January 10, 2020 TA Memo for 2020 ADU/JADU law is available at the HCD ADU webpage
- Informal draft ordinance review, as requested by agencies
- ADU ordinance clearinghouse, as requested
- **Coming soon:** ADU TA Booklet



ADU Funding

- LEAP and REAP Planning Grants
 - ADU ordinances are eligible
- AB 101 – Authorizes HCD to make grants to local agencies or nonprofit associations to construct ADUs and JADUs
- SB 2 PGP
 - Ready-build ADU plans
- AB 671
 - HCD list of grants and financial incentives



Accountability

- HCD may submit written findings to the local agency as to whether the ordinance complies with ADU law
- HCD may refer to Attorney General
- HCD will consult and provide assistance to the local agency to obtain compliance before seeking enforcement actions



Q & A



For Additional Information and ADU/JADU Updates:

**California Department of Housing and Community Development
Housing Policy Development Division**

Website:

<http://www.hcd.ca.gov/housing-policy-development/accessorydwellingunits.html>

Email:

adu@hcd.ca.gov