



Lori Droste  
Berkeley City Councilmember, District 8

Consent Calendar  
January 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Lori Droste and Ben Bartlett  
Subject: Support for AB 68 (Accessory Dwelling Units)

**Recommendation:**

That the Berkeley City Council send a letter supporting AB 68, Accessory Dwelling Units, authored by Assemblymember Phil Ting which seeks to streamline Accessory Dwelling Units, also known as granny flats or in-law units, in order to encourage new housing units across the state.

**Financial Implications:**

None.

**Background:**

Over the past several years, the City of Berkeley has taken several steps to streamline the process of building ADUs.

AB 68 would further streamline the ADU building process by:

- Requiring permits to be issued in 60 days, rather than the 120 days in existing law;
- Prohibiting a local ordinance that applies lot coverage, lot size, or floor area ratio requirements to ADUs;
- Eliminating the requirement that off-street parking spaces be replaced if a garage is converted to an ADU;
- Specifying that local agencies requiring Owner-Occupancy for the primary unit must exempt trust and non-profit "owners" providing for lower income, senior, or disabled residents;
- Prohibiting local agencies from requiring that existing zoning nonconforming conditions be corrected as part of the ministerial approval process; and
- Prohibiting ministerially-approved ADUs from being used as short-term rentals.
- Allowing ministerial approval for:
  - Both a JADU and an ADU within an existing space
  - An ADU that is new construction of up to 800 sq. ft. and no taller than 16 ft.
  - ADUs in multi-family building areas not currently used as livable space

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home. Studies show that ADUs cost less to both build and rent, making them an affordable and eco-friendly source of new housing. For example, utilities cost less for those living in ADUs due to greater energy efficiency. ADUs utilize existing space on lots and maximize land use to minimize impacts on growing communities. The smaller size of ADUs allows them to be built faster and be on the market sooner. Residents will have greater choice in where they want to live as ADUs present more affordable options in neighborhoods.

Recent state efforts to incentivize the construction of ADUs have resulted in more communities and families building ADUs as a cost efficient way to address the affordable housing crisis. By further streamlining the construction process, this legislation will help add thousands of new units to California's housing stock.

**Environmental Sustainability:** No impact

**Contact Person:**

Councilmember Lori Droste    Council District 8    510-981-7180

**Attachment 1: Draft Letter of Support**

December 20, 2018

The Honorable Assemblymember Phil Ting  
California State Assembly  
State Capitol  
P.O. Box 942849  
Sacramento, CA 94249

RE: Assembly Bill 68 (Ting) – Accessory Dwelling Units - Streamlining - SUPPORT

Dear Assemblymember Ting,

Berkeley City Council is pleased to support AB 68, which will help address California's housing crisis by easing barriers to the construction of accessory dwelling units (ADUs). Over the past several years, the City of Berkeley has taken several steps to streamline the process of building ADUs and this bill further those goals.

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home. Studies show that ADUs cost less to both build and rent, making them an affordable and eco-friendly source of new housing. For example, utilities cost less for those living in ADUs due to greater energy efficiency. ADUs utilize existing space on lots and maximize land use to minimize impacts on

growing communities. The smaller size of ADUs allows them to be built faster and be on the market sooner. Residents will have greater choice in where they want to live as ADUs present more affordable options in neighborhoods.

Recent state efforts to incentivize the construction of ADUs have resulted in more communities and families building ADUs as a cost efficient way to address the affordable housing crisis. By further streamlining the construction process, this legislation will help add thousands of new units to California's housing stock. For these reasons and more, Berkeley City Council is proud to support AB 68.

Sincerely,  
Berkeley City Council

CC: Assemblymember Buffy Wicks  
Senator Nancy Skinner

**ASSEMBLY BILL**

**No. 68**

---

---

**Introduced by Assembly Member Ting**  
**(Coauthor: Assembly Member Gloria)**  
(Coauthors: Senators Skinner and Wiener)

December 3, 2018

---

---

An act to amend Sections 65852.2 and 65852.22 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as introduced, Ting. Land use: accessory dwelling units.

The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and sets forth required ordinance standards, including, among others, maximum unit size, parking, and height standards.

This bill would prohibit an ordinance from imposing requirements on minimum lot size, lot coverage, or floor area ratio, and would prohibit an ordinance from establishing size requirements for accessory dwelling units that do not permit at least an 800 square foot unit of at least 16 feet in height to be constructed.

Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit permit within 60 days of receipt.

Existing law requires ministerial approval of a permit to create one accessory dwelling unit within a single-family dwelling, subject to specified conditions and requirements.

This bill would require ministerial approval of an application for a permit to create one or more accessory dwelling units or junior accessory dwelling units on a single-family dwelling or multifamily dwelling, subject to specified conditions and requirements.

Existing law authorizes a local agency ordinance for accessory dwelling units to require that a permit applicant be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

This bill would provide that, if a local agency imposes an owner-occupancy restriction, the monitoring for compliance shall not be more frequent than annually and be based on specified published documents. The bill would describe owner-occupant for purposes of that requirement.

Existing law authorizes a local agency to adopt an ordinance providing for the creation of junior accessory dwelling units in single-family residential zones, and requires a local agency to ministerially approve or deny an application for a junior accessory dwelling unit within 120 days of submission of the application.

This bill would instead require a local agency to ministerially approve or deny an application for a junior accessory dwelling unit within 60 days of submission of the application. The bill would require a local agency that has not adopted an ordinance for the creation of junior accessory dwelling units to apply the same standards established by this bill for local agencies with ordinances.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 65852.2 of the Government Code is
- 2 amended to read:
- 3 65852.2. (a) (1) A local agency may, by ordinance, provide
- 4 for the creation of accessory dwelling units in areas zoned to allow

1 single-family or multifamily use. The ordinance shall do all of the  
2 following:

3 (A) Designate areas within the jurisdiction of the local agency  
4 where accessory dwelling units may be permitted. The designation  
5 of areas may be based on criteria that may include, but are not  
6 limited to, the adequacy of water and sewer services and the impact  
7 of accessory dwelling units on traffic flow and public safety.

8 (B) (i) Impose standards on accessory dwelling units that  
9 include, but are not limited to, parking, height, setback, ~~lot~~  
10 ~~coverage~~, landscape, architectural review, maximum size of a unit,  
11 and standards that prevent adverse impacts on any real property  
12 that is listed in the California Register of Historic Places. *These*  
13 *standards shall not include requirements on minimum lot size, lot*  
14 *coverage, or floor area ratio.*

15 (ii) Notwithstanding clause (i), a local agency may reduce or  
16 eliminate parking requirements for any accessory dwelling unit  
17 located within its jurisdiction.

18 (C) Provide that accessory dwelling units do not exceed the  
19 allowable density for the lot upon which the accessory dwelling  
20 unit is located, and that accessory dwelling units are a residential  
21 use that is consistent with the existing general plan and zoning  
22 designation for the lot.

23 (D) Require the accessory dwelling units to comply with all of  
24 the following:

25 (i) The unit may be rented separate from the primary residence,  
26 ~~but~~ *but* may not be sold or otherwise conveyed separate from the  
27 primary residence.

28 (ii) The lot is zoned to allow single-family or multifamily use  
29 and includes a proposed or existing single-family dwelling.

30 (iii) The accessory dwelling unit is ~~either~~ attached or located  
31 within the living area of the proposed or existing primary ~~dwelling~~  
32 *dwelling, attached or located within an accessory structure,* or  
33 detached from the proposed or existing primary dwelling and  
34 located on the same lot as the proposed or existing primary  
35 dwelling.

36 (iv) The total *floor area of floorspace* of an attached accessory  
37 dwelling unit shall not exceed 50 percent of the proposed or  
38 existing primary dwelling living area or 1,200 square feet.

39 (v) The total *floor area of floorspace* for a detached accessory  
40 dwelling unit shall not exceed 1,200 square feet.

1 (vi) No passageway shall be required in conjunction with the  
2 construction of an accessory dwelling unit.

3 (vii) No setback shall be required for an existing ~~garage living~~  
4 *area or accessory structure or a structure constructed in the same*  
5 *location and to the same dimensions as an existing structure* that  
6 is converted to an accessory dwelling unit or to a portion of an  
7 accessory dwelling unit, and a setback of no more than ~~five~~ *four*  
8 feet from the side and rear lot lines shall be required for an  
9 accessory dwelling unit that is ~~constructed above a garage.~~ *not*  
10 *converted from an existing structure or a new structure constructed*  
11 *in the same location and to the same dimensions as an existing*  
12 *structure.*

13 (viii) Local building code requirements that apply to detached  
14 dwellings, as appropriate.

15 (ix) Approval by the local health officer where a private sewage  
16 disposal system is being used, if required.

17 (x) (I) Parking requirements for accessory dwelling units shall  
18 not exceed one parking space per unit or per bedroom, whichever  
19 is less. These spaces may be provided as tandem parking on a  
20 driveway.

21 (II) Offstreet parking shall be permitted in setback areas in  
22 locations determined by the local agency or through tandem  
23 parking, unless specific findings are made that parking in setback  
24 areas or tandem parking is not feasible based upon specific site or  
25 regional topographical or fire and life safety conditions.

26 (III) This clause shall not apply to a unit that is described in  
27 subdivision (d).

28 (xi) When a garage, carport, or covered parking structure is  
29 demolished in conjunction with the construction of an accessory  
30 dwelling unit or converted to an accessory dwelling unit, ~~and the~~  
31 ~~local agency requires that those offstreet parking spaces be~~  
32 ~~replaced, the replacement spaces may be located in any~~  
33 ~~configuration on the same lot as the accessory dwelling unit,~~  
34 ~~including, but not limited to, as covered spaces, uncovered spaces,~~  
35 ~~or tandem spaces, or by the use of mechanical automobile parking~~  
36 ~~lifts. This clause shall not apply to a unit that is described in~~  
37 ~~subdivision (d).~~ *shall not require that those offstreet parking spaces*  
38 *be replaced.*

39 (2) The ordinance shall not be considered in the application of  
40 any local ordinance, policy, or program to limit residential growth.

1 (3) ~~When a local agency receives its first application on or after~~  
2 ~~July 1, 2003, for a permit pursuant to this subdivision, the~~ *A permit*  
3 ~~application shall be considered ministerially without discretionary~~  
4 ~~review or a hearing, notwithstanding Section 65901 or 65906 or~~  
5 ~~any local ordinance regulating the issuance of variances or special~~  
6 ~~use permits, within 120 60 days after receiving the application. A~~  
7 ~~local agency may charge a fee to reimburse it for costs that it incurs~~  
8 ~~as a result of amendments to this paragraph enacted during the~~  
9 ~~2001–02 Regular Session of the Legislature, including the costs~~  
10 ~~of adopting or amending any ordinance that provides for the~~  
11 ~~creation of an accessory dwelling unit.~~

12 (4) An existing ordinance governing the creation of an accessory  
13 dwelling unit by a local agency or an accessory dwelling ordinance  
14 adopted by a local agency ~~subsequent to the effective date of the~~  
15 ~~act adding this paragraph~~ *after January 1, 2017*, shall provide an  
16 approval process that includes only ministerial provisions for the  
17 approval of accessory dwelling units and shall not include any  
18 discretionary processes, provisions, or requirements for those units,  
19 except as otherwise provided in this subdivision. ~~In the event that~~  
20 ~~If~~ a local agency has an existing accessory dwelling unit ordinance  
21 that fails to meet *one or more of* the requirements of this  
22 subdivision, that ordinance shall be null and void ~~upon the effective~~  
23 ~~date of the act adding this paragraph~~ *to the extent of such conflict*  
24 *on January 1, 2017*, and that agency shall thereafter apply the  
25 *applicable standards or* standards established in this subdivision  
26 for the approval of accessory dwelling units, unless and until the  
27 agency ~~adopts an~~ *amends its* ordinance ~~that complies to comply~~  
28 with this section.

29 (5) No other local ordinance, policy, or regulation shall be the  
30 basis for the *delay or* denial of a building permit or a use permit  
31 under this subdivision.

32 (6) This subdivision establishes the maximum standards that  
33 local agencies shall use to evaluate a proposed accessory dwelling  
34 unit on a lot zoned for residential use that includes a proposed or  
35 existing single-family dwelling. No additional standards, other  
36 than those provided in this subdivision, shall be ~~utilized~~ *used* or  
37 imposed, except that a local agency may require an applicant for  
38 a permit issued pursuant to this subdivision to be an  
39 owner-occupant or that the property be used for rentals of terms  
40 longer than 30 days. *If an ordinance imposes an owner-occupancy*



1 restriction, this restriction shall not be monitored more frequently  
 2 than annually based on published public documents that evidence  
 3 residency, including, but not limited to, a driver's license, school  
 4 registration, or a voter registration document. For purposes of  
 5 this requirement, an owner-occupant shall include any of the  
 6 following:

7 (A) An owner of the lot who occupies the primary dwelling or  
 8 the accessory dwelling unit.

9 (B) A trust in which ownership of the lot is placed if at least one  
 10 beneficiary of the trust occupies the primary dwelling or the  
 11 accessory dwelling unit.

12 (C) An organization that owns the lot in order to provide  
 13 long-term, deed-restricted affordable housing that is subject to a  
 14 regulatory agreement with a local agency.

15 (7) A local agency may amend its zoning ordinance or general  
 16 plan to incorporate the policies, procedures, or other provisions  
 17 applicable to the creation of an accessory dwelling unit if these  
 18 provisions are consistent with the limitations of this subdivision.

19 (8) An accessory dwelling unit that conforms to this subdivision  
 20 shall be deemed to be an accessory use or an accessory building  
 21 and shall not be considered to exceed the allowable density for the  
 22 lot upon which it is located, and shall be deemed to be a residential  
 23 use that is consistent with the existing general plan and zoning  
 24 designations for the lot. The accessory dwelling unit shall not be  
 25 considered in the application of any local ordinance, policy, or  
 26 program to limit residential growth.

27 (b) When a local agency that has not adopted an ordinance  
 28 governing accessory dwelling units in accordance with subdivision  
 29 (a) receives an application for a permit to create an accessory  
 30 dwelling unit pursuant to this subdivision, the local agency shall  
 31 approve or disapprove the application ministerially without  
 32 discretionary review pursuant to subdivision (a) within ~~120~~ 60  
 33 days after receiving the application.

34 (c) A local agency may establish minimum and maximum unit  
 35 size requirements for both attached and detached accessory  
 36 dwelling units. No minimum or maximum size for an accessory  
 37 dwelling unit, or size based upon a percentage of the proposed or  
 38 existing primary dwelling, shall be established by ordinance for  
 39 either attached or detached dwellings that does not permit at least  
 40 an ~~efficiency unit~~ 800 square feet accessory dwelling unit that is

1 *at least 16 feet in height* to be constructed in compliance with local  
2 development standards. Accessory dwelling units shall not be  
3 required to provide fire sprinklers if they are not required for the  
4 primary residence.

5 (d) Notwithstanding any other law, a local agency, whether or  
6 not it has adopted an ordinance governing accessory dwelling units  
7 in accordance with subdivision (a), shall not impose parking  
8 standards for an accessory dwelling unit in any of the following  
9 instances:

10 (1) The accessory dwelling unit is located within one-half mile  
11 of public transit.

12 (2) The accessory dwelling unit is located within an  
13 architecturally and historically significant historic district.

14 (3) The accessory dwelling unit is part of the proposed or  
15 existing primary residence or an accessory structure.

16 (4) When on-street parking permits are required but not offered  
17 to the occupant of the accessory dwelling unit.

18 (5) When there is a car share vehicle located within one block  
19 of the accessory dwelling unit.

20 (e) ~~(1) Notwithstanding subdivisions (a) to (d), inclusive, a~~  
21 ~~local agency shall ministerially approve an application for a~~  
22 ~~building permit to create within a zone for single-family use one~~  
23 ~~accessory dwelling unit per single-family lot if the unit is contained~~  
24 ~~within the existing space of a single-family residence or accessory~~  
25 ~~structure, including, but not limited to, a studio, pool house, or~~  
26 ~~other similar structure, has independent exterior access from the~~  
27 ~~existing residence, and the side and rear setbacks are sufficient for~~  
28 ~~fire safety. Accessory dwelling units shall not be required to~~  
29 ~~provide fire sprinklers if they are not required for the primary~~  
30 ~~residence. A city may require owner occupancy for either the~~  
31 ~~primary or the accessory dwelling unit created through this process.~~  
32 *within a residential or mixed-use zone to create any of the*  
33 *following:*

34 (A) *One accessory dwelling unit and one junior accessory*  
35 *dwelling unit per lot with a single-family dwelling if all of the*  
36 *following apply:*

37 (i) *The accessory dwelling unit or junior accessory dwelling*  
38 *unit is substantially within the existing space of a single-family*  
39 *dwelling or accessory structure, including, but not limited to,*

1 reconstruction of an existing space with substantially the same  
2 physical dimensions as the existing accessory structure.

3 (ii) The space has exterior access from the existing single-family  
4 dwelling.

5 (iii) The side and rear setbacks are sufficient for fire and safety.

6 (iv) The junior accessory dwelling unit complies with the  
7 requirements of Section 65852.22.

8 (B) One detached, new construction, single-story accessory  
9 dwelling unit that does not exceed four-foot side and rear yard  
10 setbacks for a lot with a single-family dwelling. The accessory  
11 dwelling unit may be combined with a junior accessory dwelling  
12 unit described in subparagraph (A). A local agency may impose  
13 the following conditions on the accessory dwelling unit:

14 (i) A total floor area limitation of not more than 800 square  
15 feet.

16 (ii) A height limitation of 16 feet.

17 (C) Multiple accessory dwelling units within the portions of  
18 existing multifamily dwelling structures that are not used as livable  
19 space, including, but not limited to, storage rooms, boiler rooms,  
20 passageways, attics, or garages, if each unit complies with state  
21 building standards for dwellings.

22 (D) Not more than two accessory dwelling units that are located  
23 on a lot that has an existing multifamily dwelling, but are detached  
24 from that multifamily dwelling and are subject to a height limit of  
25 16 feet and four-foot rear yard and side setbacks.

26 (2) A local agency shall not require, as a condition for  
27 ministerial approval, the correction of nonconforming zoning  
28 conditions.

29 (3) The installation of fire sprinklers shall not be required in  
30 an accessory dwelling unit if sprinklers are not required for the  
31 primary residence.

32 (4) A local agency may require owner occupancy for either the  
33 primary dwelling or the accessory dwelling unit on a single-family  
34 lot, subject to the requirements of paragraph (6) of subdivision  
35 (a).

36 (5) A local agency shall require that a rental of the accessory  
37 dwelling unit created pursuant to this subdivision be for a term  
38 longer than 30 days.

39 (6) Subparagraphs (C) and (D) of paragraph (1) shall not apply  
40 to a local agency that has adopted an ordinance by July 1, 2018,

1 *providing for the approval of accessory dwelling units in*  
2 *multifamily dwelling structures.*

3 (f) (1) Fees charged for the construction of accessory dwelling  
4 units shall be determined in accordance with Chapter 5  
5 (commencing with Section 66000) and Chapter 7 (commencing  
6 with Section 66012).

7 (2) Accessory dwelling units shall not be considered by a local  
8 agency, special district, or water corporation to be a new residential  
9 use for the purposes of calculating connection fees or capacity  
10 charges for utilities, including water and sewer service.

11 (A) For an accessory dwelling unit described in *subparagraph*  
12 *(A) of paragraph (1) of subdivision (e)*, a local agency, special  
13 district, or water corporation shall not require the applicant to  
14 install a new or separate utility connection directly between the  
15 accessory dwelling unit and the utility or impose a related  
16 connection fee or capacity charge.

17 (B) For an accessory dwelling unit that is not described in  
18 *subparagraph (A) of paragraph (1) of subdivision (e)*, a local  
19 agency, special district, or water corporation may require a new  
20 or separate utility connection directly between the accessory  
21 dwelling unit and the utility. Consistent with Section 66013, the  
22 connection may be subject to a connection fee or capacity charge  
23 that shall be proportionate to the burden of the proposed accessory  
24 dwelling unit, based upon either its size or the number of its  
25 plumbing fixtures, upon the water or sewer system. This fee or  
26 charge shall not exceed the reasonable cost of providing this  
27 service.

28 (g) This section does not limit the authority of local agencies  
29 to adopt less restrictive requirements for the creation of an  
30 accessory dwelling unit.

31 ~~Local agencies~~ *A local agency* shall submit a copy of the  
32 ordinance adopted pursuant to subdivision (a) to the Department  
33 of Housing and Community Development within 60 days after  
34 adoption. The department may review and comment on this  
35 submitted ordinance.

36 (i) As used in this section, the following terms ~~mean~~ *apply*:

37 (1) ~~“Living area” means the interior habitable area of a dwelling~~  
38 ~~unit including basements and attics but does not include a garage~~  
39 ~~or any accessory structure.~~

1     ~~(2) “Local agency” means a city, county, or city and county,~~  
2 ~~whether general law or chartered.~~

3     ~~(3) For purposes of this section, “neighborhood” has the same~~  
4 ~~meaning as set forth in Section 65589.5.~~

5     ~~(4)~~

6     (1) “Accessory dwelling unit” means an attached or a detached  
7 residential dwelling unit ~~which~~ *that* provides complete independent  
8 living facilities for one or more persons. It shall include permanent  
9 provisions for living, sleeping, eating, cooking, and sanitation on  
10 the same parcel as the single-family dwelling is situated. An  
11 accessory dwelling unit also includes the following:

12     (A) An efficiency unit, as defined in Section 17958.1 of the  
13 Health and Safety Code.

14     (B) A manufactured home, as defined in Section 18007 of the  
15 Health and Safety Code.

16     (2) “Accessory structure” means an existing, fixed structure,  
17 including, but not limited to, a garage, studio, pool house, or other  
18 similar structure.

19     (3) “Living area” means the interior habitable area of a  
20 dwelling unit, including basements and attics but does not include  
21 a garage or any accessory structure.

22     (4) “Local agency” means a city, county, or city and county,  
23 whether general law or chartered.

24     (5) “Nonconforming zoning condition” means a physical  
25 improvement on a property that does not conform with current  
26 zoning standards.

27     ~~(5)~~

28     (6) “Passageway” means a pathway that is unobstructed clear  
29 to the sky and extends from a street to one entrance of the accessory  
30 dwelling unit.

31     ~~(6)~~

32     (7) “Tandem parking” means that two or more automobiles are  
33 parked on a driveway or in any other location on a lot, lined up  
34 behind one another.

35     (j) Nothing in this section shall be construed to supersede or in  
36 any way alter or lessen the effect or application of the California  
37 Coastal Act of 1976 (Division 20 (commencing with Section  
38 30000) of the Public Resources Code), except that the local  
39 government shall not be required to hold public hearings for coastal  
40 development permit applications for accessory dwelling units.

1 SEC. 2. Section 65852.22 of the Government Code is amended  
2 to read:

3 65852.22. (a) Notwithstanding Section 65852.2, a local agency  
4 may, by ordinance, provide for the creation of junior accessory  
5 dwelling units in single-family residential zones. The ordinance  
6 may require a permit to be obtained for the creation of a junior  
7 accessory dwelling unit, and shall do all of the following:

8 (1) Limit the number of junior accessory dwelling units to one  
9 per residential lot zoned for single-family residences with a  
10 single-family residence already built on the lot.

11 (2) Require owner-occupancy in the single-family residence in  
12 which the junior accessory dwelling unit will be permitted. The  
13 owner may reside in either the remaining portion of the structure  
14 or the newly created junior accessory dwelling unit.  
15 Owner-occupancy shall not be required if the owner is another  
16 governmental agency, land trust, or housing organization.

17 (3) Require the recordation of a deed restriction, which shall  
18 run with the land, shall be filed with the permitting agency, and  
19 shall include both of the following:

20 (A) A prohibition on the sale of the junior accessory dwelling  
21 unit separate from the sale of the single-family residence, including  
22 a statement that the deed restriction may be enforced against future  
23 purchasers.

24 (B) A restriction on the size and attributes of the junior accessory  
25 dwelling unit that conforms with this section.

26 (4) Require a permitted junior accessory dwelling unit to be  
27 constructed within the existing walls of the structure, and require  
28 the inclusion of an existing bedroom.

29 (5) Require a permitted junior accessory dwelling to include a  
30 separate entrance from the main entrance to the structure, with an  
31 interior entry to the main living area. A permitted junior accessory  
32 dwelling may include a second interior doorway for sound  
33 attenuation.

34 (6) Require the permitted junior accessory dwelling unit to  
35 include an efficiency kitchen, which shall include all of the  
36 following:

37 (A) A sink with a maximum waste line diameter of 1.5 inches.

38 (B) A cooking facility with appliances that do not require  
39 electrical service greater than 120 volts, or natural or propane gas.

1 (C) A food preparation counter and storage cabinets that are of  
2 reasonable size in relation to the size of the junior accessory  
3 dwelling unit.

4 (b) (1) An ordinance shall not require additional parking as a  
5 condition to grant a permit.

6 (2) This subdivision shall not be interpreted to prohibit the  
7 requirement of an inspection, including the imposition of a fee for  
8 that inspection, to determine ~~whether~~ *if* the junior accessory  
9 dwelling unit ~~is in compliance~~ *complies* with applicable building  
10 standards.

11 (c) An application for a permit pursuant to this section shall,  
12 notwithstanding Section 65901 or 65906 or any local ordinance  
13 regulating the issuance of variances or special use permits, be  
14 considered ministerially, without discretionary review or a hearing.  
15 A permit shall be issued within ~~120~~ *60* days of submission of an  
16 application for a permit pursuant to this section. A local agency  
17 may charge a fee to reimburse the local agency for costs incurred  
18 in connection with the issuance of a permit pursuant to this section.

19 (d) For ~~the~~ purposes of any fire or life protection ordinance or  
20 regulation, a junior accessory dwelling unit shall not be considered  
21 a separate or new dwelling unit. This section shall not be construed  
22 to prohibit a city, county, city and county, or other local public  
23 entity from adopting an ordinance or regulation relating to fire and  
24 life protection requirements within a single-family residence that  
25 contains a junior accessory dwelling unit so long as the ordinance  
26 or regulation applies uniformly to all single-family residences  
27 within the zone regardless of whether the single-family residence  
28 includes a junior accessory dwelling unit or not.

29 (e) For ~~the~~ purposes of providing service for water, sewer, or  
30 power, including a connection fee, a junior accessory dwelling  
31 unit shall not be considered a separate or new dwelling unit.

32 (f) This section shall not be construed to prohibit a local agency  
33 from adopting an ordinance or regulation, related to parking or a  
34 service or a connection fee for water, sewer, or power, that applies  
35 to a single-family residence that contains a junior accessory  
36 dwelling unit, so long as that ordinance or regulation applies  
37 uniformly to all single-family residences regardless of whether the  
38 single-family residence includes a junior accessory dwelling unit.

39 (g) *If a local agency has not adopted a local ordinance pursuant*  
40 *to this section, the local agency shall ministerially approve a permit*

1 *to construct a junior accessory dwelling unit that satisfies the*  
2 *requirements set forth in subparagraph (A) of paragraph (1) of*  
3 *subdivision (e) of Section 65852.2 and the requirements of this*  
4 *section.*

5 ~~(g)~~

6 (h) For purposes of this section, the following terms have the  
7 following meanings:

8 (1) “Junior accessory dwelling unit” means a unit that is no  
9 more than 500 square feet in size and contained entirely within an  
10 existing single-family structure. A junior accessory dwelling unit  
11 may include separate sanitation facilities, or may share sanitation  
12 facilities with the existing structure.

13 (2) “Local agency” means a city, county, or city and county,  
14 whether general law or chartered.

15 SEC. 3. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 a local agency or school district has the authority to levy service  
18 charges, fees, or assessments sufficient to pay for the program or  
19 level of service mandated by this act, within the meaning of Section  
20 17556 of the Government Code.



# AB 68

## ADU Streamlining

Assemblymember  
**Phil Ting**  
19TH DISTRICT



### SUMMARY

Accessory dwelling units (ADUs) have surged in popularity as a way to address California's housing crisis as demand outpaces supply. AB 68 will remove 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.

### BACKGROUND

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home. Junior accessory dwelling units (JADUs) are units that are no more than 500 square feet and are contained entirely within an existing room, with an efficiency kitchen and a private or shared bathroom.

California is in a housing crisis. Currently, the ability to create additional small housing on a homeowner's property can be delayed for months, or stopped all together, due to zoning requirements that are not directly related to the health and safety of the unit's occupiers.

ADUs and JADUs represent forms of housing production that can be rapidly increased without significant change to state laws. These dwellings provide affordable housing options by maximizing existing space on lots. However, many homeowners encounter land use and permitting obstacles when planning to build ADUs, and thus end up building illegal units that may be unsafe.

A University of California, Berkeley Turner Center for Housing Innovation report (ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes) documented that despite numerous ADU laws enacted in California in the past few years, many cities and counties continue to unevenly impose barriers that prevent ADU development.

By removing remaining barriers to building, while keeping health and safety in mind, we can allow for the non-discriminatory building of ADUs and JADUs throughout the State of California.

### THIS BILL

AB 68 will create more housing in California by:

- Requiring permits to be issued in 60 days, rather than the 120 days in existing law;
- Prohibiting a local ordinance that applies lot coverage, lot size, or floor area ratio requirements to ADUs;
- Eliminating the requirement that offstreet parking spaces be replaced if a garage is converted to an ADU;
- Specifying that local agencies requiring Owner-Occupancy for the primary unit must exempt trust and non-profit "owners" providing for lower income, senior, or disabled residents;
- Allowing ministerial approval for:
  - Both a JADU and an ADU within an existing space
  - An ADU that is new construction of up to 800 sq. ft. and no taller than 16 ft.
  - ADUs in multi-family building areas not currently used as livable space;
- Prohibiting local agencies from requiring that existing zoning nonconforming conditions be corrected as part of the ministerial approval process; and
- Prohibiting ministerially-approved ADUs from being used as short-term rentals.

### SUPPORT

Bay Area Council

Non-Profit Housing Association of Northern CA

### STAFF CONTACT

Office of Assemblymember Phil Ting

Irene Ho

(916) 319-2019

