

DATE: January 14, 2020  
TO: Mayor and City Council Members  
FROM: Community Development Department  
SUBJECT: Presentation Regarding New California Laws Pertaining to Accessory Dwelling Units (Effective January 1, 2020) and Upcoming Folsom Municipal Code Amendments to Ensure Consistency with State Law

**BACKGROUND/ISSUE**

During 2019, the State enacted several new laws affecting Accessory Dwelling Units or ADUs. ADUs are more commonly referred to as second units, second dwelling units, or “granny flats.” These new laws go into effect on January 1, 2020. While this type of dwelling unit provides a lower-cost housing alternative that may benefit new and existing residents, particularly young people and seniors, the State has significantly curtailed jurisdictions’ abilities to regulate these units.

Since the State has changed many of the requirements, it is necessary for the City to update its own ADU standards. While the new State regulations go into effect January 1, 2020 regardless of the existing standards in our current Zoning Code, staff is recommending that the City amend its local ADU standards as soon as possible for consistency and transparency for our residents.

Staff and its consultant team at MIG will explain the new State laws and how the proposed draft ordinance implements those laws in our presentation. Similar workshops with the Planning Commission and Historic District Commission are scheduled for January 15. Once staff has received input from the Council, Commissions and the public, staff will return with a final ADU ordinance for consideration and adoption in late February 2020.

**POLICY/RULE**

The changes in State law are, and the City’s draft ADU Ordinance will be, consistent with the City’s 2035 General Plan including the Land Use and Housing Elements. The City has sought to encourage ADUs in its single-family zones. Furthermore, the new State requirements mandate that the City process development applications in an expedited timeframe and that the City does so without discretionary review. As a result, the City will need to enact an ordinance that not only addresses State requirements, but which also establishes the standards needed for staff to review and approve or deny ADU applications. Finally, the new State requirements reduce or eliminate impact fees for small ADUs, which is consistent with the City’s Housing Element policy of ensuring impact fees do not constrain residential development. The City policies that support the development of ADUs and these new State law requirements are listed below.

## **General Plan Land Use (LU) and 2013-2021 Housing Element Policies:**

- *LU 1.1.11 Vacant and Underutilized Sites* - Monitor residential and non-residential development and make adjustments as necessary to the amount of land designated for various uses and the rate of project approvals to promote a reasonable citywide balance between new employment-generating development and housing development.
- *LU 6.1.2 Historic Folsom Residential Areas* - Preserve and protect the residential character of Historic Folsom's residential areas.
- *Policy H-1.4* - The City shall support the development of second units on single family parcels.
- *Policy H-2.1* - The City shall continually strive to shorten permit processing and review times to the greatest extent possible by allowing concurrent processing.
- *Policy H-2.2* - The City shall strive to ensure that its current development impact fee structure does not unnecessarily constrain production of residential development.
- *Policy H-2.4* - The City shall endeavor through its development and design standards and decision making to provide consistent and predictable policy direction for residential project applicants.
- *Policy H-5.1* - The City shall strive to ensure adequate and affordable housing for seniors.

## **ANALYSIS**

Since 2017, State legislation has provided jurisdictions more flexibility in order to promote the development of ADUs. This included expanding where ADUs could be built, allowing reduced parking standards, allowing reduced fees, and enabling concurrent development of an ADU with a new single-family home.

However, in the 2018-2019 legislative session, the State enacted many bills that removed much of the local discretion and instead created new mandates to encourage ADU development. Seven of these bills significantly changed the current laws affecting ADUs. These new laws, which staff and its consultant team at MIG will discuss in more detail in its presentation, streamlined reviews of ADUs and created new development standards for them. The new laws affecting ADUs include:

- **AB 68 (Assembly Member Phil Ting) / AB 881 (Assembly Member Richard Bloom) – Processing Timelines, Ordinance Prohibitions and Triplexes.** These two laws do the following:
  - Prohibit minimum lot size requirement for ADUs;
  - Require ministerial (staff-level only) approval or denial of an ADU project within 60 days;
  - Allow ADUs on lots with multi-family dwellings;
  - Limit minimum ADU size to 220 square feet (sf);
  - Cannot limit maximum ADU size to less than 850 square feet (sf) for one-bedroom and to 1,000 sf for two or more bedrooms;
  - Allow attached ADUs to be 50 percent of existing home even if greater than 1,200 sq.

- ft.;
- Prohibit side or rear yard setbacks greater than 4 feet;
- Prohibit any local standard that would not allow for at least an 800-square foot, 16-foot tall ADU with 4-foot side and rear setbacks;
- Prohibit jurisdictions from requiring replacement off-street parking when a garage, carport or covered parking structure is demolished or converted to an ADU;
- Allow an expansion of the existing structure of up to 150 square feet for ingress and egress for converted ADUs;
- Prohibit required parking when ADU is located within ½-mile of transit including bus stops;
- Allow both an ADU as well as a "junior" ADU on the same single-family parcel where certain access, setback and other criteria are met;
- Allow up to two (2) detached ADUs on multi-family sites;
- Allow up to one ADU and one JADU on multi-family sites;
- Allow multiple converted ADUs on multi-family sites;
- Cannot require correction of physical non-conforming zoning conditions as a requirement to approve an ADU or junior ADU;
- Prohibit short-term rental of ADUs (i.e., less than 30 days);
- Render local ordinances null and void if not consistent with State law; and
- Make jurisdictions accountable to State Housing and Community Development Department (HCD) and Attorney General if violations.
- **SB 13 (Senator Bob Wieckowski) – Owner-Occupancy Prohibitions and Fee Limitations.**  
This law states that jurisdictions:
  - Cannot require either the primary dwelling or ADU to be owner-occupied until 2025;
  - Are now more limited in whether and how utility providers can charge connection fees and capacity charges for ADUs; and
  - Cannot impose impact fees on ADUs under 750 square feet.
- **AB 587 (Assembly Member Laura Friedman) – Separate Conveyances.**
  - Enables jurisdictions to allow for the sale of the ADU separately from the primary residence even though both buildings are on the same parcel if certain conditions are met.
- **AB 670 (Assembly Member Laura Friedman) – HOA Limitations.**
  - Prevents homeowners' associations (HOAs) from barring ADUs.
- **AB 671 (Assembly Member Laura Friedman) / AB 139 (Assembly Member Sharon Quirk-Silva) – Local Government Promotion of ADUs and HCD Financial Incentives.**  
These laws, among other housing requirements, mandate that:
  - Local governments include in the Housing Element plans to incentivize and promote the creation of affordable ADUs; and
  - State Housing and Community Development (HCD) Department must identify financial incentives for affordable ADUs.

Given the number of new ADU laws in the past three years particularly in 2019, staff expects there to be additional clean-up legislation on ADUs in future legislative sessions.

**FISCAL IMPACT**

There is no fiscal impact to the City as this is an informational presentation only.

**ENVIRONMENTAL REVIEW**

This presentation on ADUs is an administrative action and not considered a project under the California Environment Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3). As a result, the presentation is exempt from environmental review.

**ATTACHMENTS**

None.

**RECOMMENDATION /CITY COUNCIL ACTION**

This is an informational presentation designed to explain the new laws and receive input as City staff develops a new ADU ordinance.

Submitted,



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Community Development Director