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The Impact of SB 897 on ADU Allowances in California

Senate Bill 897 (“SB 897”) went into effect on January 1, 2023 as one of the many state laws intended to spur housing production through the streamlining of approvals for certain housing projects – in the case of SB 897, accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). In combination with other state ADU law updates, the passage of SB 897 has spurred necessary revisions to local ADU ordinances statewide. In case you missed it, this article provides a brief reminder of the main points of SB 897, still in effect today.

What is SB 897?

SB 897 made sweeping changes to existing ADU law, first by establishing that ADUs and JADUs can only be subject to “objective standards,” which are defined as “standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion.” The benchmark or criterion must be both available and knowable by the development applicant and the public official prior to application submittal.

The Permitting Process

Since the effective date of SB 897, local jurisdictions have had to adhere to strict 60-day review timelines for certain ADUs and JADUs, and provide detailed comments with non-approvals. Failure to meet the state-law-imposed deadline results in the ADU and/or JADU application being deemed approved.

Second, local jurisdictions are precluded from denying a permit for an ADU or JADU due to nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety.

Size and Location Requirements

Other development-incentivizing measures established by SB 897 and still in place today include adjusted height limitations for ADUs. If an ADU is near certain transit stops or constructed on a lot with an

existing or proposed multifamily development, the maximum height can be 18 feet, or even 25 feet if the ADU is attached to the primary residence. A local agency must also allow an additional two feet in height to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit. Moreover, because of SB 897, ADUs cannot be required to install fire sprinklers unless required for the primary dwelling.

SB 897 also eliminated local jurisdictions' ability to charge certain impact fees for ADUs smaller than 750 square feet. For larger units, fees must be proportionate to the primary residence's size. Utility connections for certain ADUs do not require new or separate connections - a potentially significant cost savings for applicants, but a source of frustration for some public agencies seeking to ensure that utility capacity can meet the increased demand.

Parking and Demolition Requirements

Since SB 897 went into effect, ADUs are exempt from local parking requirements if certain conditions are met, such as proximity to public transit, and requires local jurisdictions to review and issue a demolition permit for a detached garage and a proposed ADU at the same time. An applicant cannot be required to provide written notice or post a placard for such demolitions, unless they are in a historic district.

How a California Public Law Attorney Can Help

Any local jurisdiction that has not yet updated its ADU ordinance to be consistent with state ADU laws such as SB 897, AB 2221, SB 1211, or the more recent SB 450, to name a few, should consider consulting an experienced [public law attorney](#) for assistance in updating their code and implementing state law. Adoption of local ADU ordinances requires review by the California Department of Housing and Community Development (HCD), and implementation is also monitored and strictly enforced by HCD - with potentially stiff penalties for lack of compliance. Further, state ADU law is updated nearly every year - so legal compliance that stays abreast of these changes is crucial.

Burke, Williams & Sorensen, LLP regularly advises clients on legal matters relating to State housing laws. [Reach out](#) to us to learn more.

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