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Accessory dwelling units zero in on housing woes

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Mayor Kirk Caldwell enacted a new city ordinance last week allowing residential property owners on Oahu to create small rental dwellings within or adjacent to their homes. There are, however, lots of detailed regulations governing the creation of these rental units referred to as accessory dwelling units, or ADUs.

To help the general public learn about many of the ins and outs of the new ADU ordinance, Harrison Rue, the city's administrator of Community Building and Transit-Oriented Development, participated in a question-and-answer session with the Honolulu Star-Advertiser.

Generally, the purpose of ADUs, which have kitchens and bathrooms, is to produce affordable rental housing for residents and help address a critical shortage in our city where housing costs are among the highest nationwide. It's estimated that between 20,000 and 100,000 such units could be created.

Question: The city has estimated that about 20,000 homeowners on Oahu might build an accessory dwelling unit on their property, which sounds like a relatively small number for the whole island. What factors went into this estimate?

Answer: The first draft of the affordable-housing strategy proposed allowing ADUs (rented to unrelated occupants) only on the approximately 22,000 ohana-zoned lots which were already in areas that were determined to have infrastructure capacity. After additional research, the Department of Planning and Permitting proposed in Bill 20 allowing ADUs on any of the approximately 105,000 residential-zoned lots (zoning codes R-3.5, R-5, R-7.5, R-10 and R-20) on the island. (The City Council) added country district lots, which are 1 acre or larger.

So more than 100,000 homeowners could potentially be eligible to build ADUs on their lots under this program, or convert existing structures, although other restrictions would apply. Since many newer subdivisions are under condominium property regimes that do not allow auxiliary structures or additions without permission from the property owners association, ADUs would not be automatically permitted in those subdivisions, unless the owners association also permitted them. Construction on many lots might also be limited due to lack of infrastructure capacity, existing accessory buildings, or lack of buildable space on the lot. So we have used a very conservative estimate of at least 20,000 units. The real potential is likely much greater.

Q: Where can homeowners go to see what the zoning is for their property?

A: Information about your zoning district can be accessed at cchnl.maps.arcgis.com (select zoning map).

Q: The size of a homeowner's lot determines whether an ADU can be up to 400 square feet (for lots between 3,500 and 4,999 square feet) or up to 800 square feet (for lots over 5,000 square feet). Where

can a homeowner go to find out how big their lot is?

A: Information about your lot size can be accessed at cchnl.maps.arcgis.com (select tax parcels). It is also likely on your deed or survey.

Q: Does the property owner or family members of the property owner have to live in the primary dwelling or the ADU?

A: No, the ordinance also allows the owner to designate an authorized representative to live in one of the units and be responsible for managing the other unit.

Q: One of the limitations on whether a homeowner may develop an ADU has to do with providing one parking stall on the property in addition to parking for the primary dwelling unless the property is within a half-mile of a rail transit station site. How many stalls are required for a primary dwelling?

A: For the first 2,500 finished square feet (of living space), two off-street spaces are required. One additional space is required for each additional 1,000 finished square feet.

Q: Having adequate infrastructure such as sewer capacity is another limitation. Are there a lot of residential-zoned properties with inadequate infrastructure? How does a homeowner find out whether infrastructure is adequate?

A: Whether or not infrastructure is available needs to be checked on a neighborhood-by-neighborhood (and often street-by-street) basis. The homeowner should use the one-page ohana/ADU public facilities pre-check form to get the required department sign-offs on zoning/lot size and infrastructure availability (water, sewer/septic, fire, roads). Instructions are available in the ADU quick guide. Both documents are available at the (DPP) permit counter or online (honolulu.dpp.org).

Q: Are there other reasons not already mentioned here why a property would not qualify for adding an ADU?

A: An ADU may not be added if the lot is landlocked; or if the lot already has more than one dwelling unit, i.e., more than one single-family dwelling, two-family dwelling, accessory ohana dwelling, guesthouse or multifamily dwelling; or if the lot is approved cluster housing or planned development housing Cluster Housing or Planned Development Housing or affordable housing via (the state's affordable-housing law under Hawaii Revised Statutes chapter) 201H-38.

Q: Are exemptions to the proper zoning, minimum lot size, parking requirement and infrastructure capacity possible?

A: Exemptions are not available. However, an existing, established accessory structure constructed in a residential district prior to the effective date of the ADU ordinance may be converted to an ADU and allowed to exceed the maximum floor area and/or be exempted from the off-street parking requirement through a zoning adjustment process.

The DPP has prepared instructions for prospective applicants to use when requesting a zoning adjustment.

Q: What are some different ways to create an ADU? Can a homeowner convert part of their primary dwelling or add on to it?

A: Yes, both. You can build a new unit either separate or attached. An existing accessory structure (garage or interior rooms such as recreation rooms, basements or attics) can also be converted to an ADU. Current building code standards must be met when adding an ADU.

Q: Can a nonconforming or illegal unit be converted to an ADU?

A: A nonconforming structure can be converted to an ADU, but it has to conform to the ADU regulations and all the development standards of the underlying zoning district, as well as other pertinent regulations.

An existing illegal structure can also be converted to an ADU. If it was built without a building permit, the owner must obtain an after-the-fact permit. In addition to fulfilling the base requirements of the after-the-fact permit (including any health and safety improvements required by building codes), any adjustments required to the structure must conform to the ADU regulations.

Q: Is there a penalty for having a nonconforming or illegal second dwelling if a homeowner applies to convert it to an ADU?

A: No, there is no penalty for approaching DPP to determine how to comply with requirements to convert an existing structure to an ADU. Normal enforcement procedures would apply through the construction process.

Q: ADUs cannot be used for short-term vacation rentals or bed-and-breakfast operations. How will this be regulated?

A: The ADU provisions require the ADU to be leased for a minimum of six months (180 days). This requirement will be recorded in a covenant running with the land with the Bureau of Conveyances or the Land Court of the State of Hawaii, or both, as is appropriate. This requirement facilitates enforcement and deters the ADU from being used as a transient vacation unit.

Q: Will homeowners have to submit copies of a lease?

A: No. However, building inspectors can and will require a valid written lease as part of any investigation.

Q: Is there any concern that homeowners will try to earn more from ADUs by renting them to visitors at higher rates and then claiming their tenant paid for one month, then left and broke the lease?

A: This will be part of any investigation of illegal rentals/uses, although it would be difficult to game the system like this over time. The ordinance also establishes that any online advertising of the unit for short-term rental may be used as prima facie evidence of a violation.

Q: What is the penalty for violating the minimum rental period?

A: Up to \$1,000 per day.

Q: How would the penalty be enforced?

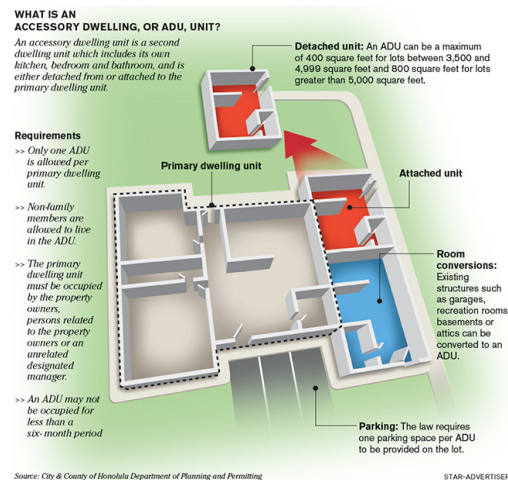
A: On a complaint basis. If a complaint is determined to be valid, and a violation of the ordinance has occurred, a notice of violation (NOV) will be issued. If the NOV is not addressed and removed after typically 30 days, civil fines of up to \$1,000 per day will be assessed against the property owner.

Q: Does the city have the resources to monitor compliance?

A: Yes. The DPP will investigate all complaints received. In anticipation of the need for more enforcement in the near future, the DPP has submitted a request for more inspector positions in next year's budget.

Q: If a homeowner is interested in adding an ADU to his or her property, what are the basic steps to get started?

A: Please see the ADU quick guide available online at honolulu.dpp.org.



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