

Summary of ADU Bills
Effective January 1, 2020
AB 68 (Ting), AB 587 (Friedman), AB 671 (Friedman),
AB 881 (Bloom), SB 13 (Wieckowski)

The Legislature passed several bills that may require a city to amend its existing ordinance regarding development of ADUs and Junior ADUs. A copy of the amended ordinance must be submitted to HCD within 60 days of adoption.

Accessory Dwelling Units: Location; development standards

Gov't Code 65852.2 requires a city to adopt an ordinance that allows ADUs subject only to ministerial (non-discretionary approval). Generally the ordinance must allow ADUs in areas zoned to allow single family or multi-family units.

Effective January 1, 2020, the law relating to ADUs will be amended to provide¹:

- A city must allow an ADU within a residential or mixed-use zone. A city that does not provide water or sewer service must consult with local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where ADUs may be permitted.
 - Within an existing or proposed single-family home: One ADU or one junior ADU per lot if exterior access is available; and side and rear setbacks are sufficient for fire and safety.
 - One detached, new construction ADU that does not encroach into four-foot side and rear yard setbacks on a lot with a proposed or existing single-family dwelling. City may impose total floor area of 800 square feet; height limitation of 16 feet.
 - Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space including storage rooms, boiler rooms, passageways, attics, basements, garages if each unit complies with state building standards. At least one ADU within an existing multifamily dwelling and “*shall allow up to 25 percent of the existing multifamily dwelling units.*”²
 - Not more than 2 ADUs that are located on a lot that has an existing multifamily dwelling but are detached from the dwelling and are subject to a height limit of 16 feet and four-foot rear and side setbacks.
- An ADU may be located in an attached garage, storage area or other accessory structure. If on-site parking is removed to allow for an ADU, a city may not require the on-site parking to be replaced.
- The maximum rear and side yard setback for an ADU that is not converted from an existing structure is four feet (reduced from five feet in existing law).
- Development standards:
 - City may not impose a minimum lot size.
 - Fire sprinklers cannot be required in an ADU if sprinklers are not required for the primary residence.
 - Minimum size may not prohibit efficiency unit.

¹ This list is a compilation of changes made by AB 68 (Ting); AB 881 (Bloom); SB 13 (Wieckowski); AB 587 (Friedman); and AB 671 (Friedman).

² Language in italics is not clear. Does this mean all multifamily units in the city?

- Maximum size may not be less than 850 square feet or 1,000 square feet for ADU that provides more than one bedroom.
- Lot coverage, floor area ratio, open space and other standards may not preclude at least an 800 square foot ADU that is at least 16 feet.
- Parking: If on-site parking is removed to allow for ADU, a city may not require the on-site parking to be replaced. No parking can be required if ADU located within ½ mile *walking distance* of public transit. “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- A city must act on an application for an ADU on a lot with an existing single-family or multi-family structure within 60 days of receiving a completed application. Ministerial approval of an ADU is required under existing law.
- A city may not require owner occupancy for either the primary dwelling or the ADU. This section is repealed on January 1, 2025.
- Rental of an ADU must be for a term longer than 30 days.
- Gov’t Code 65852.2(a)(1)(D)(i) provides that an ADU may be rented separate from the primary residence but may not be sold or otherwise conveyed separate from the primary residence.

AB 587 (Friedman) creates an exception to this provision:

- Qualified non-profit corporation developed the property.
- Enforceable restriction recorded on the use of the land.
- Qualified buyer must occupy as primary residence (person of low or moderate income).
- Qualified buyer must first offer option to purchase nonprofit corporation if sells unit in the future.
- Affordability restrictions must be placed on the property for 45 years.
- A separate utility connection can be required.
- A city must submit a copy of its ADU ordinance to HCD within 60 days of adoption. HCD may submit written findings to a city regarding whether the ordinance complies with state law. If HCD finds it does not, city is given 30 days to respond to HCD’s findings. The city must either amend the ordinance or “adopt without changes.”³ HCD may refer violation to Attorney General.
- HCD to adopt guidelines.

Accessory Dwelling Units: Fees

- No impact fees upon development of ADU less than 750 square feet.
- Impact fee for ADU more than 750 square feet charged proportionately in relation to the square footage of the primary dwelling unit.

³ Since ordinance has been adopted already, this must mean “readopt” ordinance. An interesting consequence: Delays effective date of ADU ordinance for 45 more days.

- Impact fee includes park fees (Gov't Code 66477) but does not include capacity fee or connection fee.
- Connection fees and capacity charges are based upon the “proportionate burden of the proposed ADU on the water or sewer system, based upon either its square feet (formerly “size”) or the number of its drainage fixture unit (DFU) values, as defined by the UPC (formerly “number of plumbing fixtures”).

Accessory Dwelling Units: Delay in Enforcement of Building Standards

There will be a delay in enforcement of building standards for an ADU built before January 1, 2020 or built after January 1, 2020 in a city with a noncompliant ADU ordinance (but ordinance is compliant when request is made). Cities shall delay enforcement of a building standard for five years upon request of owner on the basis that correcting the violation is not necessary to protect health and safety. Delay granted if enforcement agency – after consulting with entity responsible for enforcement of building standards and other regulations of the State Fire Marshal – determines that correcting the violation is not necessary to protect health and safety. No delays granted after January 1, 2030. [Delay procedure set forth in H & S 17980.12 added by SB 13 (Wieckowski)]. Delay provisions sunset January 1, 2035.

Junior ADUs [unit that is no more than 500 square feet and contained entirely within an existing or proposed single-family structure]

- A junior ADU must have a cooking facility but a city can no longer limit the nature of the electrical, gas, or propane gas connections.
- A city may no longer require a sink within an efficiency kitchen with a maximum waste line diameter of 1.5 inches.
- An application for a permit for a junior ADU must be acted on within 60 days from receipt of a completed application.

ADUs and Housing Elements

Housing element must include a plan that incentivizes and promotes the creation of ADUs that can be offered at affordable rent for very low, low or moderate-income households.