

New ADU State Legislation

Regulations	Existing State Law (SB 1069, AB 2229, AB 2406)	New State Law (AB 670, SB 13 , AB 881 , AB 68)
General		
No total prohibition	Prohibits local govt. from adopting an ordinance that precludes ADUs.	Local govts. must allow ADUs and JADUs within their community.
Zoning	<p>Lot must be zoned for single-family or multi-family use and contain an existing single-family dwelling.</p> <p>Local govts. can still choose areas in which ADUs are not allowed, but restrictions must be based on health and safety issues such as water, sewer, traffic flow, and public safety.</p>	<p>Lot is zoned for single-family or multi-family dwelling residential use and includes a proposed or existing dwelling.</p> <p>Additionally, multifamily buildings are allowed to convert unused spaces (boiler areas, storage spaces, etc.) to new ADUs, and develop 2 ADUs in new detached structures on the same lot.</p>
# of ADUs per SF lot	1 ADU per sf lot	2 ADUs allowed on sf lot—1 ADU and 1 JADU if each is contained within the space of existing structures.
Owner Occupancy requirement	No state mandated owner occupancy requirement. Local govt.	Cities can no longer require owner occupancy in the primary dwelling or the ADU for ADUs permitted by 2025.
Max. occupancy of ADU	No state mandated max. occupancy.	No state mandated max. occupancy.
Parking Requirements	<p>Reduces parking to one space per bedroom or unit. Off-street parking can be tandem or in setbacks. Prohibits parking requirements if ADU meets any of the following requirements:</p> <ul style="list-style-type: none"> *is within ½ mile of transit *is within an architecturally and historically significant historic district *is part of an existing primary residence or an existing accessory structure *is in area where off-street parking permits are required, but not offered to ADU occupant *is located within 1 block of car share 	<p>Previous parking requirements still apply.</p> <p>When a garage, carport, or covered parking structure is demolished in conjunction with construction of / conversion to an ADU, the local agency shall not require the off-street parking spaces be replaced.</p> <p>**Jurisdictions can decide to provide less restrictions and eliminate parking requirements for all ADUs.</p>

HOA/ CDI restrictions	No State mandate for HOAs/CDIs to allow ADUs	HOAs/CDIs must allow ADUs and JADUs, permitting “reasonable restrictions” that do not unreasonably prohibit the construction of ADUs. (AB 670)
Illegal/unpermitted units	No State mandate to address unpermitted units	Homeowners that have received a violation or been tagged as unpermitted can request enforcement of the violation be delayed for 5 years, as long as health and safety standards are not compromised. Local govts. area tasked with developing programs in which unpermitted units can become legalized.
Short Term Rentals	No State mandate on ADUs being used as short term rentals. Local govt. may require that ADUs not be used as short term rentals.	Local govt. may require ADUs not be used as short term rentals.
Unit Specifics		
Lot size requirements	No state mandated lot size requirement	Local govt. can no longer impose a minimum lot size requirement.
Unit Min/Max.	Local govt. may establish min. and max. unit sizes. State Max. 1,200 sq. ft.	Local govt. may establish min. and max. unit sizes but prohibits a local govt. from establishing a min. sq. ft. requirement for an attached or detached unit that precludes an efficiency unit. State law prohibits a local agency from establishing a max. sq. ft. requirement for an attached or detached unit that is less than 850 sq. ft., and 1,000 sq. ft. for an ADU that contains more than 1 bedroom. Jurisdictions must allow for at least an 800 sq. ft. detached ADU that is at least 16 ft. in height with 4 ft. side and rear yard setbacks to be constructed in compliance with all other local development standards.

Floor Area Ratio (FAR)	50% of existing living area	No specific FAR, however local govt. cannot mandate FARs that would prevent an 800 sq. ft. ADU from being developed on a sf lot.
Setback requirements	No State mandated setback requirements. Local govts. can choose setback requirements.	Setback requirements are capped at 4 ft.
Utility connections/ fees	Prohibits local agency from requiring a new or separate utility connection or impose a related connection fee or capacity charge for ADUs within an existing residence or accessory structure. For attached or detached ADUs, fee or charge MUST be proportionate to the burden of the unit on the water or sewer system.	Same as before.
Fire requirements	Fire sprinklers not required in ADU if they are not required in the primary residence.	Same as before.
Process		
Impact Fees	Must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the size and impact of the ADU.	Cities can no longer charge any impact fees for units under 750 sq. ft. For ADUs 750 sq. ft and larger, fees must be proportionate to the sq. ft. of the primary dwelling.
Application process time	Cities must approve ADU application within 120 days of submittal	Cities must approve ADUs within 60 days of submittal. If not processed within the 60 days, application is considered approved. The applicant has the right to request more time for application review.
Ministerial (over the counter) process	Local govts. must ministerially approve application if unit complies with certain parking requirements, maximum allowable size, and setback requirements.	Same as before.
ADU compliance/enforcement	ADU ordinances must be submitted to the State Department of Housing and	HCD will require jurisdictions to provide ADU ordinances to the dept. and to comply with new

	Community Development (HCD) within 60 days of adoption.	state legislation. If not in compliance, HCD can notify the Attorney General that the local govt. is in violation of State law.
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As with previous State law, local governments are NOT required to adopt an ADU and JADU ordinance. Instead, jurisdictions can apply State law when processing ADU and JADU applications. If the jurisdiction wants to adopt its own ADU and JADU ordinances, they must meet state standards or be less restrictive, and can do so through a new ordinance, an amendment to an existing ordinance, or develop a special section or special regulations within the zoning code. Any local ordinance that is not in compliance with state law by January 1, 2020, will be null and void.

Additional state laws concerning ADUs:

[AB 587](#): Accessory Dwelling Units: Sale or separate conveyance

Creates an exemption for affordable housing organizations such as Habitat for Humanity, with the consent of the local govt., to sell deed-restricted land (separate from the primary unit) to eligible low-income homeowners for the purpose of creating affordable housing units.

[AB 671](#): Accessory Dwelling Units: Incentives

Requires local agencies to adopt, via their housing elements, a plan that incentivizes and promotes the creation of ADUs that can be offered at rents affordable to lower-income households.

Requires HCD to develop a list of existing State grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of ADUs with affordable rent and post that list on its internet website by December 2020.