



CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: December 30, 2016

TO: Department of City Planning Staff
Structural Plan Check Engineers and Building Inspectors

FROM:  Kevin J. Keller, AICP, Deputy Director, Department of City Planning; and
 Ara Sargsyan, Assistant Deputy Superintendent of Building, Department of Building and Safety

SUBJECT: ACCESSORY DWELLING UNITS – AB 2299 AND SB 1069

On September 27, 2016, Governor Brown signed AB 2299 and SB 1069, which amended sections of the State law regulating second dwelling units, now known as accessory dwelling units (ADUs) (Government Code Section 65852.2). These laws are a significant change to the State's ADU regulations. The new laws require that local jurisdictions allow ADUs by-right under certain mandatory development standards, and require that local jurisdictions, if seeking to establish additional regulations, do so via an ordinance facilitating the ministerial creation of ADUs, consistent with state law.

The City's second dwelling unit law in LAMC 12.24 W.43 and W.44 as well as the Zoning Administrator's Interpretation (ZAI) on Second Dwelling Units issued on November 2, 2016 (ZA-2016-4167-ZAI) do not comply with these new amendments. As a result, LAMC 12.24 W.43 and W.44, and the ZAI (ZA-2016-4167-ZAI) will become null and void on January 1, 2017. Further background and discussion can be found in the ZAI (ZA-2016-4167-ZAI) available at: http://planning.lacity.org/documents/Policy/ZA2016_%204167_%20ZAI.pdf.

On January 1, 2017, the amended State law on ADUs will take effect and govern the rules for establishing an ADU in the City. If and when the City adopts a new ADU Ordinance that complies with State standards, the new City ordinance will then govern. This memo provides guidance to staff and project applicants on the implementation of State ADU law during the period between January 1, 2017, and the effective date of any new ADU ordinance adopted by the City. The attached ADU Checklist can be used as a reference. Please refer to State Government Code Section 65852.2 and the December 2016 ADU Memorandum from the California Department of Housing and Community Development (HCD) for additional guidance. This memorandum is available at: www.hcd.ca.gov/housing-policy-development/docs/2016-12-12-adu-ta-memo.docx.pdf

State ADU Standards

ADUs are allowed on any lot zoned for single-family or multifamily use that contains an existing, single-family dwelling. They must adhere to the City's Building and Zoning codes, except as they conflict with the state law provisions below:

1. Detached ADUs are limited to a maximum size of 1,200 square feet. Limits on total residential floor area on a lot apply separately and may limit allowable ADU square footage.
2. Attached ADUs are limited to a maximum size of 50% of existing living area, excluding garages.

3. No passageways (per LAMC 12.21 C.2) shall be required in conjunction with the construction of an ADU.
4. Detached ADUs are considered an “accessory building” and are subject to the setback requirements set forth in LAMC 12.21 C.5.
5. No setbacks shall be required for an existing garage that is converted to an ADU, including when existing space (rec room, storage) above or adjacent to a garage is converted to an ADU.
6. For newly constructed ADUs above a garage, setbacks from the side and rear lot lines shall be the lesser of such setbacks as required by the Zoning Code, or five feet. The ADU can extend beyond the footprint of the garage but maintain a five foot setback.
7. One parking spot per ADU is required and may be provided as tandem parking on an existing driveway and within the required front yard. When a garage, carport, or covered parking structure is demolished, or ceases to exist, in conjunction with the construction of an accessory dwelling unit, the replacement parking spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to uncovered spaces, tandem spaces, in required setback areas, or by the use of mechanical automobile parking lifts.
8. Parking is not required for an Accessory Dwelling Unit in the following instances:
 - i) It is located within one-half mile of public transit (any public transit stop along a fixed route with a fixed schedule);
 - ii) It is located within an historically significant historic district (including districts listed in, or formally determined eligible for, listing in the National Register of Historic Places and the California Register of Historical Resources or as a City Historic Preservation Overlay Zone), to be verified by DCP if not shown on ZIMAS;
 - iii) It is part of the existing primary residence or an existing accessory structure; or
 - iv) When there is a car share vehicle located within one block of the Accessory Dwelling Unit, as demonstrated by the applicant.

Conversions

Notwithstanding any development standard above or any zoning provision to the contrary, existing space within the legally existing primary residence or a legally existing accessory structure located in a single-family zone can be converted into an ADU as long as it meets the following:

1. The ADU has independent exterior access.
2. The rear and side setbacks are deemed sufficient for fire safety as required by the Building Code. The structure complies with applicable Building and Residential Codes for the proposed use.
3. The conversion does not involve an addition of floor area to the structure.

In such cases, a local agency may not require the applicant to install a new or separate utility connection or impose a related connection fee or capacity charge.

Implementation and Timing

Starting January 1, 2017, applicants may apply for permits for the construction of Accessory Dwelling Units that meet the State standards above. These standards will remain effective until the City adopts its own Accessory Dwelling Unit Ordinance in compliance with the State law.

Building Permits

Applicants may submit plans for ADUs using the application available at the LADBS Development Services Center. Plans may be submitted to any LADBS Development Services Center, then processed as a Regular Plan Check. The work description shall specify "Accessory Dwelling Unit per AB 2299 and SB 1069." Please be advised that other development regulations apply, including without limitation all applicable provisions of the Building and Zoning Codes and other applicable codes, not inconsistent with the requirements of state law.

Reasonable Accommodation

The City will consider Reasonable Accommodations to the ADU development standards to further housing access and opportunity to persons with disabilities, when required by law.

Attachment: Accessory Dwelling Unit Checklist (As of January 1, 2017)

| YES/NO | STATE STANDARD* | GOVERNMENT CODE SECTION |
|--------|--|-------------------------|
| | Unit is not intended for sale separate from the primary residence and may be rented. | 65852.2(a)(1)(D)(i) |
| | Lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling. | 65852.2(a)(1)(D)(ii) |
| | Accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling. | 65852.2(a)(1)(D)(iii) |
| | Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet. | 65852.2(a)(1)(D)(iv) |
| | Total area of floor space for a detached accessory dwelling unit does not exceed 1,200 square feet. | 65852.2(a)(1)(D)(v) |
| | Passageways are not required in conjunction with the construction of an accessory dwelling unit. | 65852.2(a)(1)(D)(vi) |
| | Setbacks are not required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines are not required for an accessory dwelling unit that is constructed above a garage. | 65852.2(a)(1)(D)(vii) |
| | Local building code requirements that apply to detached dwellings are met, as appropriate. | 65852.2(a)(1)(D)(viii) |
| | Local health officer approval where a private sewage disposal system is being used, if required. | 65852.2(a)(1)(D)(ix) |
| | Parking requirements do not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway. | 65852.2(a)(1)(D)(x) |

* Other requirements may apply. See Government Code Section 65852.2