



CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

DATE: May 1, 2018

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

FROM:  Kevin J. Keller, AICP, Executive Officer, Department of City Planning; and  
 Peter Kim, Senior Structural Engineer, Department of Building and Safety

SUBJECT: ACCESSORY DWELLING UNITS – SB 229 AND AB 494

On October 8, 2017, Governor Brown signed SB 229 and AB 494, which further amended sections of the State law regulating accessory dwelling units (ADUs) (Government Code Section 65852.2). These laws took effect January 1, 2018. They clarify provisions contained in the ADU laws passed the prior year (AB 2229 and SB 1069) and added a few new changes. Most significantly, the new laws specify a 1,200 square feet limit to attached ADUs and allow ADUs to be built in conjunction with a proposed single-family dwelling.

The City's existing Second Dwelling Unit zoning code provisions in LAMC 12.24 W.43 and 12.24 W.44 are not in compliance with State ADU law and therefore became null and void on January 1, 2017. Until the City adopts its own ADU ordinance, the City will default to the use of the State ADU law to regulate the establishment of new ADUs in the City. This memo provides guidance to staff and project applicants on the implementation of State ADU law after January 1, 2018. **This memo replaces the ADU memo previously issued by the Department of City Planning and the Department of Building and Safety on December 30, 2016.**

The updated attached ADU Checklist can be used as a staff reference. Please refer to State Government Code Section 65852.2 for additional guidance.

### State ADU Standards

#### New Buildings or Additions

An ADU meeting the requirements of Government Code Section 65852.2 is allowed on any lot zoned for single-family or multifamily use that contains either a proposed or an existing single-family dwelling. An ADU must adhere to the City's Building Code and all objective requirements in the City's Zoning Code, except when the objective requirements conflict with the State law provisions below:

1. New detached ADUs are limited to a maximum size of 1,200 square feet. Limits on total floor area (including residential floor area) on a lot apply separately and may further limit allowable ADU square footage. A qualified ADU conversion (see below) is not subject to size limits.
2. ADUs attached to the primary residence through an addition or addition with partial conversion are limited to a maximum size of 1,200 square feet or 50% of existing living area, excluding garages, whichever is less. Limits on total floor area (including residential floor area) on a lot apply separately and may further limit allowable ADU square footage. A qualified ADU conversion (see below) is not subject to size limits.

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” for location purposes, and are subject to the setback requirements set forth in LAMC 12.21 C.5.
5. For newly constructed ADUs attached to or located above any lawfully existing 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.
6. One parking spot per ADU is required and may be provided as tandem parking on a lawfully existing driveway including that portion of a lawfully existing driveway within required setback areas. 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 ADU, including, but not limited to as covered spaces, uncovered spaces, tandem spaces, in required setback areas, or by the use of mechanical automobile parking lifts. Other objective provisions of 12.21A.5, Design of Parking Facilities, apply, except that tandem parking means two or more automobiles parked on a driveway or in any other location on the lot, lined up behind one another.

Parking or replacement parking is not required for an Accessory Dwelling Unit in the following instances:

- i) It is located within one-half mile radius of public transit (any public transit stop along a fixed route with a fixed schedule);
- ii) It is located within an architecturally and historically significant historic district (including districts listed, or formally determined eligible for listing, in the National Register of Historic Places, California Register of Historical Resources or a City Historic Preservation Overlay Zone). This must be verified by DCP if not shown on ZIMAS;
- iii) It is part of the proposed or 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, lawfully existing space of a single-family residence or accessory structure located in a single-family zone can be converted (without an addition) into an ADU, regardless of size, as long as it meets all of 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 or is upgraded to meet all applicable Building and Residential Codes for the proposed use. No setbacks shall be required for a lawfully existing garage, or portion of a lawfully existing garage, that is converted to an ADU, including when lawfully existing space (recreation room, storage) above or adjacent to an abutting garage is converted to an ADU; and
3. The conversion does not involve an addition or expansion of new floor area to the structure beyond the pre-existing four walls and roofline. Lawfully existing floor space for any

previously occupied use, which as a result of the conversion becomes new residential floor area, is exempt from the residential floor area requirements of the Zoning Code, provided the pre-existing space is located exclusively within all existing walls and roofline that lawfully existed prior to January 1, 2017.

As part of an ADU conversion, a local agency, special district or water corporation may not require the applicant to install a new or separate utility connection or impose a related connection fee or capacity charge.

#### ADUs Located in Overlay Districts Including HPOZs and Specific Plans

Architectural review standards, including objective historic preservation or design review standards, may be applied in a ministerial fashion without discretionary public hearings or review. Architectural review in a ministerial fashion includes architectural standards and design guidelines with clear, fixed and objective standards. This applies to all local development or zoning standards, whether found in zoning ordinances, Preservation Plans, Specific Plans or other design review overlays.

Consultation meetings with local Design Review and Historic Preservation Overlay Boards are encouraged, but not required per Government Code Section 65852.2. If an ADU project that complies with Government Code Section 65852.2 would have required a discretionary planning approval such as Project Permit Compliance, Certificate of Appropriateness or Certificate of Compatibility, the project must in place and steady undergo an ADU Administrative Review. The ADU project will be reviewed in a ministerial fashion. The attached Accessory Dwelling Unit Checklist must first be used to determine compliance with applicable ADU standards in Government Code Section 65852.2 regarding size, setbacks, parking, passageway, etc. Projects located in HPOZs are not required to provide a parking space for the ADU. The remainder of ADU Administrative Review must be completed by the project planner by listing all applicable ministerial standards found in the relevant Specific Plan, Preservation Plan or other document, and determining whether the proposed ADU project meets each of those standards. Projects must be approved or disapproved in less than 120 days after receiving an application. ADUs that are a result of converting lawfully existing space and do not involve exterior modifications do not require a planning or zoning clearance.

#### 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. The work description shall specify "Accessory Dwelling Unit per AB 494 and SB 229." 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. However, ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence.

#### 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, 2018)\*

STATE STANDARD*	YES/NO	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 either an existing or proposed 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)
The total floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, or 1,200 square feet, whichever is less.		65852.2(a)(1)(D)(iv)
Total floor area 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)
No setback is 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 is required for an accessory dwelling unit that is constructed above a garage or attached to a pre-existing garage.		65852.2(a)(1)(D)(vii)
All other building and objective zoning code requirements are met, as appropriate.		65852.2(a)(1)(B)(C)(D)(viii); and (a)(6)
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 zero or one parking space per unit (see no. 6 in attached memo). These spaces may be provided as tandem parking on an existing driveway.		65852.2(a)(1)(D)(x)

\* Other requirements in may apply. See applicable provisions in this memo, the LAMC and Government Code Section 65852.2

Please note: The above standards do not apply to ADU conversions within existing space, which should refer to the Conversions section of this memo on pg. 2.