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Good to Know: California Homeowners Can Build Granny Flats

California has paved the way for homeowners to add a second unit to their homes. To combat our severe housing shortage crisis in California, the Legislature has declared that second units are a valuable form of affordable housing for family members, students, senior citizens, disabled, in-home care providers, and others.

Although building standards are generally dictated by a city or county, California state law now imposes the maximum standards that local authorities can use to evaluate a proposed second unit. Local

authorities must also facilitate the construction of second units by minimizing costs and approving applications for building permits in an expedited manner.

ADU Defined: Second units, such as guest houses and granny flats above the garage, are now called “accessory dwelling units” (ADUs). An ADU is defined as a residential dwelling unit that provides complete independent living facilities for one or more persons, including sleeping, cooking, and sanitation. It can be attached or detached to a single family home. It can be a manufactured home or efficiency unit.

Participating Cities: Starting January 1, 2017, a city or county may enact an ADU ordinance if the city or county complies with all of the following requirements (unless otherwise provided):

1. **Permit Process:** Must consider in a ministerial manner, without discretionary review or a hearing, any completed permit application for an ADU within 120 days.
2. **Location:** Must designate areas within its jurisdiction where ADUs may be permitted.
3. **Size:** May establish minimum and maximum size requirements for both attached and detached ADUs, but must allow at least an efficiency unit (150 square feet minimum).
4. **Parking:** May generally require one parking space per unit or per bedroom. However, parking can be tandem parking or off-street parking in setback area absent specific findings of a fire or safety hazard. Also, no parking requirements can be imposed if the ADU is located: (a) within one-half mile of public transit; (b) within an architecturally and historically significant historic district; (c) in part of the existing primary residence (or the ADU is an existing accessory structure); (d) in an area with on-street parking permits not offered to the ADU occupant; or (e) within one block of a car-share vehicle.

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5. **Utilities:** May require a new or separate utility connection, but the ADU cannot be considered new residential use for calculating connection fees or capacity charges, such as utility hookup. Also, any connection fee or capacity charge must be reasonable and proportionate to the burden of the ADU on the water or sewer system, based upon its pro-rated size or number of plumbing fixtures.
6. **Building Standards:** Must impose standards including parking, height, setback, lot coverage, architectural review, maximum size, density, and restrictions for historic homes.
7. **Fire Sprinklers:** Cannot require fire sprinklers if they are not required for the primary residence.
8. **Optional:** Can require primary residence to be owner-occupied or ADU to be used for rental terms over 30 days. Can also adopt less restrictive requirements for creating ADUs than those listed above.

Other Cities and Counties: A city or county with no ADU ordinance as specified must generally approve in a ministerial manner, without discretionary review, any permit application for an ADU within 120 days, if all of the following requirements have been met:

1. **Lot:** The lot contains an existing single-family dwelling.
2. **Type:** The ADU is attached or detached and located on the same lot as the existing dwelling. The ADU cannot be intended for sale separate from the primary residence.
3. **Size:** The increased floor area is a maximum of 1,200 square feet, and if attached, does not exceed 50% of the existing living area.
4. **Zoning:** The lot is zoned for single-family or multifamily use.
5. **Septic System:** Any private sewage disposal system is approval by local health officer if required.
6. **Building Standards:** The ADU meets the requirements on height, setback, lot coverage, architectural review, site plan review, fees, charges, and zoning that are generally applicable to residential construction in the zone where the property is located. If the ADU is detached, it must also meet local building code requirements for a detached dwelling.

No New Square Footage ADUs: Regardless of whether the city enacts an ADU ordinance, any permit application to create an ADU within the existing space of a single-family residence or accessory structure must generally be approved in a ministerial manner if all the following basic requirements are met:

1. The ADU has an independent exterior access from the existing residence.
2. The lot is zoned for single-family residential use.
3. The installation of a new or separate utility cannot be required. The ADU cannot be considered a new residential use for calculating connection fees or capacity charges for utilities.
4. The side and rear setbacks are sufficient for fire safety.
5. The installation of fire sprinklers cannot be required if they are not required for the primary residence.

Other Requirements: An ADU that conforms to this law shall be deemed to be residential use consistent with the existing general plan, and zoning, density and anti-growth requirements. This ADU law, however, does not supersede any restrictions imposed by the California Coastal Act, except that public hearings for coastal development permit applications for ADUs are not required.

Property Tax Reassessment: Under existing law, new construction or an addition to an existing home can trigger reassessment for property tax purposes. For more information, visit the California Board of Equalization website at <https://www.boe.ca.gov/proptaxes/faqs/newconstruction.html>.

Source: Senate Bill 1069 and Assembly Bill 2299 (codified as Cal. Gov't Code § 65852.2), available at <http://leginfo.legislature.ca.gov/>.

