



CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY  
DEVELOPMENT

# ACCESSORY DWELLING UNIT HANDBOOK

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# ADUs in California

Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are innovative and effective options for adding much needed housing in California. Since 2016, State ADU Laws have continued to evolve to further lower barriers to the development of more affordable housing as the Legislature works to address the housing crisis across the state. As these laws change, HCD's goal is to ensure consistency and clarity in the application of these laws through education, technical assistance, and enforcement.<sup>1</sup>

## Benefits of ADUs

ADUs provide a wide range of benefits, including:

- ADUs are an **affordable** type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators.
- ADUs can provide a **source of income** for homeowners.
- ADUs are often built with **cost-effective wood frame construction**, which is significantly less costly than homes in new multifamily infill buildings.
- ADUs allow **extended families** to be near one another while maintaining **privacy**.
- ADUs can provide as much **living space** as many newly built apartments and condominiums, and they're suited well for individuals, couples, small families, friends, young people, and older adults.
- ADUs give homeowners the **flexibility** to share independent living areas with family members and others, allowing older adults to age in place.

Indeed, Californians are increasingly recognizing the benefits of ADUs, and ADUs are making a difference. Between 2016-2024, the number of ADUs permitted annually in the state grew from 1,336 to 30,354, a 20-fold increase. In 2024, ADUs comprised more than 26.6 percent of all homes permitted statewide.

## ADUs as an Infill Development Strategy

ADUs are, by definition, created in areas that are already developed but where land may be underutilized. Moreover, restrictions on parking requirements for ADUs that are located near transit create further incentives to build ADUs, particularly in places that provide easy access to jobs and other amenities, further reducing reliance on vehicles.

As a result, ADU construction is a key infill development strategy that contributes to, among other things, reducing greenhouse gas emissions and improving air quality by reducing the distance people need to travel; reducing conversion of agricultural land, sensitive habitat, and open space for new development; reducing costs to build and maintain expensive infrastructure; and facilitating healthy and environmentally friendly active transportation.

In light of changing laws around ADUs and the growing importance of this housing type, HCD has updated this ADU Handbook and continues to be committed to facilitating housing production at all income levels.

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<sup>1</sup> This updated ADU Handbook references the law as amended by recent legislation that went into effect on January 1, 2026.

# The California Department of Housing and Community Development

With the vision that one day, every California resident can live, work, and play in healthy communities of opportunity, it is the mission of HCD to provide safe, affordable homes and vibrant, inclusive, sustainable communities for all Californians. HCD accomplishes this by increasing and preserving the supply of affordable places to live in California and by creating effective solutions to the housing crisis through policy and research.

## **Housing Accountability Unit**

California's housing crisis has reached historic proportions despite the passage of numerous laws intended to increase the supply of housing affordable to Californians at all income levels. As part of the 2021-2022 state budget, HCD received additional staff to grow its accountability efforts and formed the Housing Accountability Unit (HAU). While education and technical assistance are always the first step in HCD's accountability efforts, the HAU holds jurisdictions accountable for meeting their housing element commitments and complying with state housing laws. Violations of state housing laws, including State ADU Law, may lead to consequences, including revocation of housing element certification and referral to the California Office of the Attorney General.

## **Technical Assistance**

There may be uncertainty, or a need for education at the local level about how to comply with state law, especially as state laws evolve. HCD provides technical assistance to property owners and developers who are seeking to create ADUs, as well as to advocates, local agencies, and other interested parties.

Any questions regarding the application of State ADU Law may be submitted to HCD via the online [ADU Portal](#). Please provide as much detail as possible in the online form. HCD may request additional information, including, but not limited to denials and communications from the local agency.

Local agencies seeking assistance or submitting an ADU ordinance to HCD, must also use the online portal.

For questions beyond what this Handbook provides, stakeholders are encouraged to contact their local permitting agency (e.g., city or county) or private attorney.

## **Enforcement of State ADU Law**

Since 2016, HCD has had statutory authority to review local agencies' ADU ordinances, and as of January 1, 2024, HCD also has the authority to enforce all State ADU Laws. HCD's ADU team reviews local ordinances for compliance with State ADU Law and sends findings letters and, when necessary, may escalate its enforcement. To ensure consistency, the HAU works closely with other HCD divisions.

The ADU team is committed to supporting the public, local agencies, and partner agencies with understanding and complying with State ADU Law.

# Glossary

## 66323 Units

One of the four delineated types of ADUs (and JADUs) that must be permitted pursuant to Government Code section 66323. **Source:** Government Code section 66323

## Accessory Dwelling Unit (ADU)

An attached or a detached residential dwelling unit that provides complete, independent living facilities for one or more persons, and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is, or will be, situated.

An ADU also includes the following:

- (A) An efficiency unit.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

**Source:** Government Code section 66313, subdivision (a)

## Accessory Structure

A structure that is accessory and incidental to a dwelling located on the same lot. **Source:** Government Code section 66313, subdivision (b)

## Applicant

The person or party responsible for the submittal of an application seeking a permit.

## Application

A formal request to perform work, which includes all information as required.

## Certificate of Occupancy

A document issued by local California Building and Safety departments which certifies that a commercial space or newly constructed residential building has been inspected for compliance with the California Building Standards Code and local ordinances which govern construction and occupancy. **Source:** 2025 California Residential Code section R110

## Common Interest Development

Any of the following:

- (a) A community apartment project.
- (b) A condominium project.
- (c) A planned development.
- (d) A stock cooperative.

**Source:** Civil Code section 4100

## Covenants, Conditions, and Restrictions (CC&Rs)

A set of rules governing the use of a certain piece of real estate in each community. "Governing documents" includes declarations, bylaws, operating rules, articles of incorporation, or articles of association, which govern the operation of the common interest development or association. **Source:** Civil Code section 4150

### **Efficiency Dwelling Unit**

A dwelling unit which contains a minimum of 190 square feet in living space, a separate closet, kitchen sink, cooking appliance, refrigerator, and a separate bathroom containing a water closet, lavatory, bathtub, or shower. **Source:** Government Code section 66313, subdivision (a)(1); 2025 California Building Code section 1208.4

### **Habitable Space**

A space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces. **Source:** 2025 California Building Code section 202.

### **High Quality Transit Corridor**

A corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. **Source:** Public Resources Code section 21155, subdivision (b)

### **Impact Fee**

“Impact fee” has the same meaning as the term “fee” as defined in subdivision (b) of Section 66000, and includes the fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation. **Source:** Government Code section 66311.5, subdivision (c)(2)

### **Interior Livable Space**

A space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation. Livable space includes bedrooms, bathrooms, kitchens, laundry rooms, closets, and interior stairs. **Source:** Government Code section 66313, subdivision (e)

### **Junior Accessory Dwelling Unit (JADU)**

A unit that is no more than 500 square feet in interior livable space and contained entirely within a single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. **Source:** Government Code section 66313, subdivision (d)

### **Living Area**

The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure. **Source:** Government Code section 66313, subdivision (f)

### **Local Agency**

A city, county, or city and county, whether general law or chartered. **Source:** Government Code section 66313, subdivision (g)

### **Major Transit Stop**

A site containing any of the following:

- (a) An existing rail or bus rapid transit station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.

**Source:** Public Resources Code section 21064.3

### **Manufactured Home**

A structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. **Source:** Health and Safety Code section 18007, subdivision (a)

### **Ministerial Approval**

Considered and approved without discretionary review or a hearing. **Source:** Government Code section 66317, subdivision (a)

### **Multifamily Dwelling**

For the purposes of State ADU Law, a structure with two or more attached dwelling units on a single lot is considered a multifamily dwelling structure. Multiple detached single-family dwelling units on the same lot are not considered multifamily dwelling units for the purposes of State ADU Law. Please note, this does not affect the number of units allowable under Government Code section 66323, subdivision (a)(4), which allows ADUs on a lot with a multifamily dwelling structure, but requires the ADUs to be detached from the multifamily dwelling structure, not *within* the multifamily dwelling structure.

### **Nonconforming Zoning Condition**

A physical improvement on a property that does not conform with current zoning standards. **Source:** Government Code section 66313, subdivision (h)

### **Objective Standards**

Standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or proponent and the public official prior to submittal.

**Source:** Government Code section 66313, subdivision (i)

### **Passageway**

A pathway that is unobstructed, clear to the sky, and extends from a street to one entrance of the ADU. **Source:** Government Code section 66313, subdivision (j)

### **Permitting Agency**

Any entity that is involved in the review of a permit for an ADU or JADU, and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts. **Source:** Government Code section 66313, subdivision (k)

### **Planned Development**

A real property development other than a community apartment project, a condominium project, or a stock cooperative, having either or both of the following features:

- (a) Common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.

(b) Common area and an association that maintains the common area with the power to levy assessments that may become a lien upon the separate interests in accordance with Article 2 (commencing with Section 5650) of Chapter 8. **Source:** Civil Code section 4175

### **Proposed Dwelling**

A dwelling that is the subject of a permit application and meets the requirements for permitting. **Source:** Government Code section 66313, subdivision (l)

### **Public Transit**

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. **Source:** Government Code section 66313, subdivision (m)

### **Qualified Buyer**

Persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. **Source:** Government Code section 66340, subdivision (a); Health and Safety Code section 50093

### **Qualified Nonprofit Corporation**

A nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program. **Source:** Government Code section 66340, subdivision (b)

### **Reasonable Restrictions**

Restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an ADU or JADU.

Reasonable restrictions shall not include any fees or other financial requirements. **Source:** Civil Code section 4751, subdivision (b), and Civil Code section 714.3, subdivision (b)

### **Single-Family Dwelling**

For the purposes of State ADU Law, a single-family dwelling is a single unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and existing as a separate interest of real property, such as a detached single-family dwelling or a townhouse.

### **Substandard Building**

Any building or portion thereof, or premises on which the building is located, in which there exists any of a long list of conditions that endanger the life, limb, health, property, safety, or welfare of the public or occupants thereof. **Source:** Health and Safety Code section 17920.3

### **Tandem Parking**

Two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another. **Source:** Government Code section 66313, subdivision (n)

# Summary of Recent Changes to ADU Law



In Government Code section 66310, subdivision (d), the California Legislature declared that allowing ADUs in zones that allow single-family and multifamily uses provides additional rental housing and is an essential component in addressing California's housing needs. Over the years, State ADU Law has been revised to improve its effectiveness in creating more housing units. Major changes to State ADU Law between 2023 and 2026 further reduced barriers to the development of ADUs and JADUs. Within this context, HCD developed – and continues to update – this Handbook

to assist local governments, homeowners, attorneys, architects, and the public in understanding and applying the requirements of state law. Below is a summary of recent legislation that amended State ADU Law.

Please visit <https://leginfo.legislature.ca.gov> for the complete statutory changes.

All local permitting agencies and interested parties should review the amendments to California law, effective between 2023 and 2026, regarding the creation of ADUs and JADUs.

2022 legislation includes the following changes to State ADU Law (effective January 1, 2023):

Assembly Bill (AB) 2221 (Chapter 650, Statutes of 2022, Section 1) and Senate Bill (SB) 897 (Chapter 664, Statutes of 2022, Sections 2.5, 4, 5, and 6) built upon recent changes to State ADU and JADU Law and further addressed barriers to the development of ADUs and JADUs. Due to SB 897 being chaptered after AB 2221, section 2.5 of SB 897 incorporated amendments to ADU Law proposed by both SB 897 and AB 2221.

- **Objective Standards.** Requires local agencies to only impose objective standards on ADUs, which “involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal” of an ADU permit application. (Gov. Code, § 66313, subd. (i). See *also* Gov. Code, §§ 66314, subd. (b)(1); 66323, subd. (g).)
- **Detached Garages.** Allows ADUs detached from the proposed or existing primary dwelling, including in detached garages (Gov. Code, § 66314, subd. (d)(3)).
- **Occupancy Change.** Provides that the construction of an ADU does not constitute a Group R occupancy change under the local building code, unless the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety (Gov. Code, § 66314, subd. (d)(8)).
- **Fire Sprinklers.** Precludes ADU construction from triggering a requirement that fire sprinklers be installed in the existing primary dwelling (Gov. Code, § 66314, subd. (d)(12)).

- **Permitting Process.** Requires a permitting agency to either approve or deny (replacing the former language “act on”) an application to create or serve an ADU or JADU within 60 days from when a completed application is received, if there is an existing single-family or multifamily dwelling on the lot (Gov. Code, §§ 66317, subd. (a)(3); 66335, subd. (a)(3)).
- **Concurrent Permitting.** Clarifies that permitting agencies may concurrently approve or deny a proposed ADU and new single-family or multifamily dwelling when submitted simultaneously for permitting. The application for the ADU shall be considered without discretionary review or hearing. Clarifies that permitting agencies may concurrently approve or deny a proposed JADU and new single-family dwelling when submitted simultaneously for permitting. (Gov. Code, §§ 66317, subd. (a)(3); 66335, subd. (a)(3).)
- **Permitting Agency Denials.** Obligates a permitting agency, when it denies an ADU or JADU application, to “return in writing a full set of comments to the applicant with a list of items that are defective or deficient, and a description of how the application can be remedied by the applicant” within 60 days from when a completed application is received. (Gov. Code, §§ 66317, subd. (b); 66335, subd. (b).)
- **Demolition Permits.** Adds a requirement for a local agency to review and issue a demolition permit for “a detached garage that is to be replaced with an ADU” at the same time it reviews, and issues permits for, the ADU construction. (Gov. Code, § 66314, subd. (e).) Also prohibits permitting agencies requiring applicants to “provide written notice or post a placard for the demolition of a detached garage ... unless the property is located within an architecturally and historically significant district.” (Gov. Code, § 66314, subd. (f).)
- **Zoning & Setbacks.** Prohibits a local agency from requiring “a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.” (Gov. Code, § 66321, subd. (b)(3).)
- **Detached ADU Height Allowances.** Establishes a base height limitation of 16 feet for detached ADUs (Gov. Code, § 66321, subd. (b)(4)(A)). Increases the maximum height limitation on a detached ADU to 18 feet if the ADU is “either within a half-mile walking distance of a major transit stop or a high-quality transit corridor” and provides for an additional two feet for roof pitch to align with the roof pitch of the primary dwelling unit.” (Gov. Code, §§ 66321, subd. (b)(4)(B); 66323, subd. (a)(2)(B).) Increases the height to 18 feet for a detached ADU that is “on a lot with an existing or proposed multifamily, multistory dwelling.” (Gov. Code, § 66321, subd. (b)(4)(B).)
- **Attached ADU Height Allowances.** Establishes the maximum height limitation that may be imposed by a local agency on an attached ADU to 25 feet, or the existing primary dwelling height limit if lower than 25 feet. Does not require a local agency to allow an ADU to exceed two stories (Gov. Code, § 66321, subd. (b)(4)(D)).
- **Parking Requirements.** Prohibits local agencies from imposing parking in a number of specific circumstances (Gov. Code, § 66322, subd. (a)).

- **Zoning Nonconformance & Building Code Violations.** Prohibits local agencies from denying an ADU permit due to the correction of “nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.” (Gov. Code, § 66322, subd. (b).) The prohibition was also added to Government Code section 66336 to apply to JADUs.
- **Multifamily Dwellings.** Prohibits a permitting agency from requiring “any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit” if the existing multifamily dwelling has “a rear or side setback of less than four feet...” (Gov. Code, § 66323, subd. (a)(4)(B)).
- **Permitting Agency Definition.** Adds definition of a permitting agency as “any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.” (Gov. Code, § 66313, subd. (k).)
- **Unpermitted ADUs.** Precludes a local agency from denying a permit for an unpermitted ADU that was constructed before January 1, 2018, because the ADU violates building standards or because the ADU does not comply with State ADU Law or a local ordinance. (Gov. Code, § 66311.7, subd. (a).) This prohibition does not apply if the local agency makes a finding that “correcting the violation is necessary to protect the health and safety of the public or occupants of the structure” (Gov. Code, § 66311.7, subd. (b)) or to a building that is deemed substandard pursuant to Health and Safety Code section 17920.3 (Gov. Code, § 66311.7, subd. (c)).
- **Enclosed Uses.** Considers enclosed uses within the residence, such as attached garages, to be “a part of the proposed or existing single-family residence” for the purposes of JADUs (Gov. Code, § 66333, subd. (d)).
- **JADU Separate Entrance.** Requires a JADU without a separate bathroom to “include a separate entrance from the main entrance to the proposed JADU, with an interior entry to the main living area.” (Gov. Code, § 66333, subd. (e)(2).)

2023 legislation includes the following changes to State ADU Law (effective January 1, 2024):

AB 976 (Chapter 751, Statutes of 2023) and AB 1033 (Chapter 752, Statutes of 2023) made changes to State ADU Law. AB 1332 (Chapter 759, Statutes of 2023) added Government Code section 65852.27 to expedite the approval of ADUs. AB 434 (Chapter 740, Statutes of 2023) modified Government Code section 65585 to require enforcement of State ADU Law, the legalization of unpermitted ADUs, and lot split / duplex laws, among others.

- **Owner Occupancy.** Removes the existing 2025 sunset of the prohibition on owner-occupancy requirements and instead mandates no owner-occupancy requirement for ADUs (Gov. Code, § 66315). Authorizes a local agency to adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and ADU(s) as condominiums (Gov. Code, § 66342).

- **Pre-Approved ADU Plans.** Requires the local agency to develop a program for the preapproval of ADU plans by January 1, 2025. The local agency shall accept ADU plan submissions for preapproval from any party and shall approve or deny applications pursuant to standards established in Government Code sections 66314-66331. The local agency shall post preapproved ADU plans and the contact information of the applicant on the local agency’s website. The local agency may also post plans pre-approved by other local or state agencies. (Gov. Code, § 65852.27.)
- **Enforcement Authority.** Amends Government Code section 65585, subdivision (j), by adding to the list of laws about which HCD is authorized to notify a local jurisdiction or the Attorney General when the local jurisdiction fails to comply with those laws, including Chapter 13 (commencing with Section 66310) and Government Code sections 65852.21, 65852.24, 65852.28, 65913.4.5, and 66411.7, among others.

2024 legislation includes the following changes to State ADU Law (effective March 27, 2024, and January 1, 2025):

SB 477 (Chapter 7, Statutes of 2024) made changes to the numbering of the government code sections related to ADU and JADU Law. AB 2533 (Chapter 834, Statutes of 2024) and SB 1211 (Chapter 296, Statutes of 2024) made changes to State ADU Law.

- **Updated Government Code Sections.** Government Code sections related to ADU and JADU law were updated from 65852.2, 65852.22, 65852.23, and 65852.26 to Government Code sections 66310-66342.
- **Unpermitted ADUs and JADUs.** Changes the date from January 1, 2018, to January 1, 2020, such that a local agency is precluded from denying a permit for an unpermitted ADU that was constructed before January 1, 2020, because the ADU violates building standards or because the ADU does not comply with State ADU Law or a local ordinance. (Gov. Code, § 66311.7, subd. (a).) A local agency shall inform the public about the provisions of this section through public information resources, including permit checklists and the local agency’s internet website, which shall include both of the following: (1) a checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem a building substandard, and (2) information that, before applying for a permit, the homeowner may obtain a confidential third-party code inspection from a licensed contractor to determine the unit’s existing condition or potential scope of building improvements before applying for a permit. (Gov. Code, § 66311.7, subd. (d)(1), (d)(2).)
- **Objective Standards.** Prohibits a local agency from imposing any objective development standards on 66323 Units that are not authorized by the provisions of Government Code section 66323, subdivision (a).
- **Livable Space.** Defines “livable space” as a space in a dwelling intended for human habitation, as the term appears in Government Code sections 66313, subdivision (e), and 66323, subdivision (a)(3)(A).
- **Uncovered Parking.** Specifies that uncovered, off-street parking spaces demolished in conjunction with the construction of an ADU do not need to be replaced.
- **Detached ADUs.** Authorizes up to eight detached ADUs on a lot with an existing multifamily dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot.

2025 legislation includes the following changes to State ADU Law (effective June 30, 2025, October 10, 2025, and January 1, 2026):

AB 1154 (Chapter 507, Statutes of 2025), SB 9 (Chapter 510, Statutes of 2025), SB 543 (Chapter 520, Statutes of 2025), AB 462 (Chapter 491, Statutes of 2025), and AB 130 (Chapter 22, Statutes of 2025) made various changes to State ADU Law.

- **Updated and Added Government Code Sections.** Government Code sections related to ADU and JADU Law were updated from 66324, 66327, and 66332 to sections 66311.5, 66313.5, and 66311.7, respectively. Additionally, Government Code section 66333.5 was added.
- **JADU Owner Occupancy.** Clarified that if a JADU has shared sanitation facilities with the primary structure, owner-occupancy will be required. If the JADU does *not* have shared sanitation facilities, owner occupancy will *not* be required (Gov. Code, § 66333, subd. (b)). Additionally, made changes that stipulate JADUs can no longer be used as short-term rentals and, if rented, must now be rented for longer than 30 days (Gov. Code, § 66333, subd. (g)).
- **Local Ordinance Requirements.** Clarified that if a local agency fails to submit an adopted ADU ordinance to HCD within the 60-day timeline or fails to respond to HCD’s findings regarding its ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when permitting ADUs (Gov. Code, § 66326, subd. (d)). Additionally, section 66333.5 was added, which specifies that if a local agency fails to submit an adopted JADU ordinance to HCD within the 60-day timeline or fails to respond to HCD’s findings regarding their ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when processing applications for JADUs.
- **Application Requirements.** Required a permitting agency to determine whether an application for an ADU or JADU is complete and provide written notice of the determination no later than 15 business days after the permitting agency received the application (Gov. Code, § 66317, subd. (a)(2)(A)). If an application is determined to be incomplete, the permitting agency must provide the applicant with a list of incomplete items and a description of how the application can be made complete in the written notice (Gov. Code, § 66317, subd. (a)(2)(B)). If a permit application is determined to be incomplete or is denied, the permitting agency must provide a process for an applicant to appeal the incompleteness determination or denial and the permitting agency must provide a final written determination no later than 60 business days after receipt of the written appeal (Gov. Code, § 66317, subd. (d)(1)).
- **Applications in the Coastal Zone.** Clarified application processing when in the coastal zone by requiring a local government or the Coastal Commission, as specified, to either approve or deny a coastal development permit application for an ADU within 60 days of receiving a completed application (Gov. Code, § 66329, subd. (a)).
- **Size Limitations.** Revised size limitations to be based on the square footage of interior living space of an ADU or JADU (Gov. Code, §§ 66321, subds. (b)(2) and (b)(3); 66313, subd. (d)).

- **Fees.** Specified that an ADU or JADU that contains less than 500 square feet of interior livable space does not increase assessable space. Revised the limitations on impact fees to prohibit impact fees on the development of an ADU that has 750 square feet of interior livable space or less or a JADU that has 500 square feet of interior livable space or less, and to require that any impact fee on an ADU that has more than 750 square feet of interior livable space be charged proportionately in relation to the square footage of the primary dwelling unit (Gov. Code, § 66311.5, subd. (c)).
- **Expanded HCD Authority.** Expanded HCD's authority over Chapter 13 of Division 1 of Title 7 of the Government Code, to review, adopt, amend, or repeal guidelines to additionally grant that authority with respect to terms, references, and standards for JADUs (Gov. Code, § 66313.5).
- **JADUs and Fire Sprinklers.** Clarifies that fire sprinklers are not required for a JADU if the primary residence does not have fire sprinklers and that the addition of a JADU cannot trigger the requirement for fire sprinklers (Gov. Code, § 66323, subd. (d)).
- **Unit Combinations.** Specifies the number of allowable ADUs described under Government Code section 66323 per lot (Gov. Code, § 66323, subd. (a)).
- **Certificate of Occupancy.** Requires a local agency to issue a certificate of occupancy for an ADU constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025, even if the primary dwelling has not yet been issued a certificate of occupancy, if certain requirements are met, including that the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation (Gov. Code, § 66328).
- **Reasonable Restrictions.** Specifies that reasonable restrictions in covenants, restrictions, and conditions, as described in the Civil Code, shall not include any fees or other financial requirements (Civil Code, § 714.3, subd. (b)).
- **Objective Standards.** Removes Government Code section 66323, subdivision (g), which allowed the imposition of objective standards on ADUs in multifamily dwelling structures if the local agency had adopted an ADU ordinance by July 1, 2018.

For additional summaries of ADU legislation, please see the Resources section.

# Frequently Asked Questions

## 66323 Units

### What are “66323 Units”?

HCD uses the term “66323 Units” to refer to ADUs and JADUs that are created pursuant to Government Code section 66323. They have also been referred to as “State mandated” or “State exempt” ADUs. Government Code section 66323 creates four categories of ADUs (and JADUs) that must be approved ministerially and are only subject to standards set forth in Government Code section 66323. (Gov. Code, § 66323, subd. (b).) For example, 66323 Units do not have to comply with lot coverage, front setbacks, and design standards. However, these ADUs must comply with building code and health and safety requirements for dwellings. The four categories are:

#### 1. **Single-Family Converted ADUs and JADUs**

One ADU per lot is permitted within the converted space of a proposed or existing single-family dwelling or accessory structure. This type of ADU must have exterior access and setbacks for fire and safety but is not subject to a four-foot side and rear yard setback. (Gov. Code, § 66323, subd. (a)(1).)

ADUs converted from accessory structures are eligible for a 150 square-foot expansion to accommodate ingress and egress. For example, if a second story from a single-family dwelling is converted into an ADU, a stairwell of not more than 150 square feet could be added, among other types of ingress and egress configurations that comply with the local building standards. (Gov. Code, § 66323, subd. (a)(1)(A).)

In addition, one JADU per lot is permitted within the proposed or existing space of a single-family dwelling or accessory structure and must have exterior access, side and rear setbacks for fire and safety. (Gov. Code, § 66323, subd. (a)(1).) JADUs must also comply with the provisions of JADU Law found in Government Code sections 66333-66339. For the purposes of constructing a JADU, attached garages are part of a single-family dwelling. (Gov. Code, § 66333, subd. (d).)

For more information, please see the Handbook section on JADUs.

#### 2. **Single-Family Detached ADUs**

One detached new construction ADU that does not exceed four-foot side and rear yard setbacks is permitted on lots with an existing or proposed single-family dwelling (Gov. Code, § 66323, subd. (a)(2)). The maximum unit size is 800 square feet with a height limitation of 16, 18, or 20 feet depending on conditions specified in Government Code section 66321, subdivision (b)(4). (Gov. Code, § 66323, subd. (a)(2)(B).)

### **3. Multifamily Converted ADUs**

ADUs may be created within the portions of existing multifamily structures that are not used as livable space (Gov. Code, § 66323, subd. (a)(3)(A)). Local agencies shall allow at least one ADU within an existing multifamily dwelling and up to 25 percent of the existing multifamily dwelling units (Gov. Code, § 66323, subd. (a)(3)(B)). Examples of structures that are not used as livable space include, but are not limited to: storage rooms, boiler rooms, passageways, attics, basements, or garages (Gov. Code, § 66323, subd. (a)(3)(A)).

### **4. Multifamily Detached ADUs**

Up to two detached ADUs are allowed on a lot that has a proposed multifamily dwelling, or up to eight detached ADUs are allowed on a lot with an existing multifamily dwelling, not to exceed the number of existing units on the lot. These ADUs are subject to four-foot rear and side yard setbacks and height limits of 16, 18, or 20 feet depending on conditions specified in Government Code section 66321, subdivision (b)(4). (Gov. Code, § 66323, subd. (a)(4)(A).) A local agency may not require that a setback be modified for an existing multifamily dwelling with setbacks less than four feet as a condition of ADU application approval (Gov. Code, § 66323, subd. (a)(4)(B)).

The local agency must allow the four categories of ADUs listed above to be combined.. For example, pursuant to Government Code 66323, subdivision (a), local governments must allow units created pursuant to subparagraphs (1) and (2) together or (3) and (4) together. This means that on single-family lots, local agencies must allow at least one ADU constructed from existing space, one JADU, and one newly constructed detached ADU. For multifamily lots, local agencies must permit at least one ADU constructed from existing non-livable space (or up to 25 percent of the number of multifamily units), and two detached ADUs.

### Allowable 66323 ADU Combinations

All formats listed below may be combined as explained in the preceding section

	<b>Single-Family Primary Dwelling</b>	<b>Multifamily Primary Dwelling</b>
Gov. Code, § 66323, subd. (a)(1) <b>ADU constructed from proposed or existing space</b>	<ul style="list-style-type: none"> <li>• Sometimes referred to as “Conversions,” “Interior,” “Created within.”</li> <li>• May expand 150 square feet from the existing accessory structure for ingress and egress.</li> <li>• Must have exterior access.</li> </ul>	Does not apply
Gov. Code, §§ 66323, subd. (a)(1); 66333-66339 <b>JADUs</b>	<ul style="list-style-type: none"> <li>• Created within existing or proposed dwelling.</li> <li>• 500 square-foot interior livable space maximum.</li> <li>• May be created from within attached garage.</li> </ul>	Does not apply
Gov. Code, § 66323, subd. (a)(2) <b>New construction detached</b>	<ul style="list-style-type: none"> <li>• May be in front setback.</li> <li>• 800 square-foot interior livable space maximum.</li> </ul>	Does not apply
Gov. Code, § 66323, subd. (a)(3)(A) <b>Constructed in existing space not used as livable</b>	Does not apply	<ul style="list-style-type: none"> <li>• Existing non-livable space (e.g., gyms, enclosed parking, etc.) within the multifamily structure.</li> <li>• Allows at least one ADU or up to 25% of existing primary units.</li> </ul>
Gov. Code, § 66323, subd. (a)(4) <b>Detached from primary dwelling</b>	Does not apply	<ul style="list-style-type: none"> <li>• Up to two units detached from proposed primary dwelling, or</li> <li>• Up to eight units detached from existing primary dwelling, not to exceed the number of existing units on the lot.</li> <li>• Four-foot side and rear setbacks.</li> </ul>

In addition to the units described in Government Code section 66323, a local agency must allow at least one unit described in Section 66314 and may impose objective development and design standards on such units.

### **What design, zoning, or other local standards can be imposed on 66323 Units?**

A local agency may not impose development or design standards, including both local standards and standards found in State ADU Law, on 66323 Units that are not specifically listed in Government Code section 66323. (Gov. Code, § 66323, subs. (a), (b).) This includes, but is not limited to, parking, height, setbacks, or other zoning provisions (e.g., lot size, open space, floor area ratio, etc.).

Additionally, rentals of 66323 ADUs and JADUs must be for terms longer than 30 days. (Gov. Code, §§ 66323, subd. (e); 66333, subd. (g).) Fire sprinklers are not required for the ADU if not required for the primary residence, and the construction of an ADU or JADU may not trigger the requirement for fire sprinklers in an existing multifamily dwelling. (Gov. Code, § 66323, subd. (d).)

### **Can a 66323 ADU created by converting an existing accessory structure be expanded?**

Yes. An ADU created within the existing space of an accessory structure can be expanded beyond the physical dimensions of the structure up to 150 square feet solely for the purpose of accommodating ingress and egress. (Gov. Code, § 66323, subd. (a)(1)(A).) An example is the construction of a staircase to reach a second story ADU. The ADUs shall conform to setbacks sufficient for fire and safety. (Gov. Code, § 66323, subd. (a)(1)(C).)

**NOTE: A JADU may be created within the walls of a single-family residence and not within an accessory structure.**

For more information regarding 66323 multifamily accessory units, please see Multifamily ADUs.

## **ADUs**

### **What is an ADU?**

An ADU is accessory to a primary residence and has complete independent living facilities for one or more persons. ADUs are either “detached from,” “attached to,” or located within the proposed or existing primary dwelling. This includes attached garages, storage areas or similar spaces, and accessory structures. The ADU can also be detached from the proposed or existing primary dwelling, including detached garages, provided it is located on the same lot. (Gov. Code, §§ 66313, subd. (a); 66314, subd. (d)(3).)<sup>2</sup>

## **Bedrooms**

### **Can a limit on the number of bedrooms in an ADU be imposed?**

A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs (Gov. Code, § 65008). Building standards for minimum bedroom size still apply.

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<sup>2</sup> Note that certain federal financing programs mentioned in the section on “Funding,” below, may have different definitions of an ADU.

### **Can an ADU have no bedrooms?**

A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, (Gov. Code, § 65008) and could also unreasonably restrict the ability of homeowners to create ADUs (Gov. Code, § 66311). Additionally, efficiency units, which are an allowable type of ADU, are not required to have bedrooms. (Gov. Code, § 66313, subd. (a)(1).) Building standards for minimum bedroom size still apply.

## **Building Code Violations**

### **Can an ADU application be denied due to building code violations?**

An ADU application pursuant to Government Code section 66314 may be denied due to building code violations on the primary unit only if the violations present a threat to public health and safety and are affected by the construction of the ADU (Gov. Code, § 66322, subd. (b)). However, all ADUs must comply with building code and health and safety requirements for dwellings.

## **Certificate of Occupancy**

### **Can a Certificate of Occupancy for an ADU be issued without a Certificate of Occupancy being issued for the primary dwelling first?**

Only under specific circumstances. A local agency can issue a certificate of occupancy for an ADU constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025, even if the primary dwelling has not yet been issued a certificate of occupancy, if certain requirements are met, including that the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation (Gov. Code, § 66328).

## **Coastal Commission**

### **Do state ADU laws apply to jurisdictions located in the California Coastal Zone?**

Yes. ADU laws apply to jurisdictions in the California Coastal Zone, but do not alter or lessen the effect or application of Coastal Act resource protection policies (Gov. Code, § 66329). Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new State ADU Laws. For more information, see the California Coastal Commission 2022 Memo and reach out to the local Coastal Commission district office.

### **What is the application process in the California Coastal Zone?**

When a certified local coastal program contains provisions regarding ADUs, Aa local agency shall either approve or deny a coastal development permit application for an ADU within 60 days of receiving a completed application, if there is an existing primary dwelling, and shall not be required to hold public hearings for coastal development permit applications for ADU. The process to approve or deny a coastal development permit application shall happen concurrently with the process to approve or deny an application for an ADU under Section 66317 (Gov. Code, § 66329, subd. (a)).

When a certified local coastal program does not contain provisions regarding ADUs, the California Coastal Commission's review process to approve or deny a coastal development permit application shall happen concurrently with the process to approve or deny an application for an ADU under Section 66317, provided that the California Coastal Commission has received a completed application for a coastal development permit pursuant to Section 65943 (Gov. Code, § 66329, subd. (b)(3)). If the California Coastal Commission has not approved or denied the completed coastal development permit application for the ADU within 60 days, and there is an existing primary dwelling, the application shall be deemed approved (Gov. Code, § 66329, subd. (b)(5)).

### **Can the California Coastal Commission delay a permit for an ADU?**

Yes. If the coastal development permit application to create or serve an ADU is submitted with a coastal development permit application to create or serve a new single-family or multifamily dwelling on the lot, the California Coastal Commission may delay approving or denying the coastal development permit application for the ADU until the California Coastal Commission approves or denies the coastal development permit application to create or serve the new single-family or multifamily dwelling (Gov. Code, § 66329, subd. (b)(4)).

### **What if a local agency does not have a Local Coastal Program?**

If the local agency does not have a certified local coastal plan or program, as defined in Public Resources Code section 31001, then the California Coastal Commission shall either approve or deny the coastal development permit application for an ADU within 60 days of receiving a completed application (Gov. Code, § 66329, subd. (b)(1)). A local agency that does not have a certified local coastal plan or program shall immediately notify the California Coastal Commission that a permit application for an ADU is complete pursuant to Section 66317 (Gov. Code, § 66329, subd. (b)(2)).

## **Deed Restrictions**

### **Can an affordable housing deed restriction be imposed on an ADU?**

No. A local agency cannot impose a deed restriction on an ADU. Government Code section 66315 states, "Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer." Section 66314, subdivision (b)(1) allows for local objective standards, but the examples provided all relate to design and development standards (e.g., parking, height, setback, landscape, maximum size of a unit). A deed restriction is not such a standard and thus cannot be imposed.

### **Can a deed restriction be imposed on a JADU?**

Yes. A local agency may adopt an ordinance for the creation of JADUs (Gov. Code, § 66333). That ordinance must "[r]equire the recordation of a deed restriction" that includes only a prohibition on the sale of the JADU separate from the sale of the single-family residence and a restriction on the size and attributes of the JADU that conforms with state law (Gov. Code, § 66333, subds. (c)(1), (c)(2)).

## Fees

### What types of fees are considered impact fees?

Impact fees charged for the construction of ADUs and JADUs must be determined in accordance with the Mitigation Fee Act and include any monetary exaction other than a tax or special assessment that is charged by a local agency in connection with the approval of an ADU or JADU for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU or JADU. (Gov. Code, §§ 66311.5, subd. (c)(2); 66000.) A local agency, special district, or water corporation shall not consider ADUs or JADUs as a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer services unless the ADU or JADU is being constructed concurrently with a new single-family home. (Gov. Code, § 66311.5, subd. (d).)

### Can impact fees be charged for an ADU less than 750 square feet or a JADU of less than 500 square feet?

No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if it contains 750 square feet of interior livable space or less. If an ADU contains greater than 750 square feet of interior livable space, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit. A JADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if it contains 500 square feet of interior livable space or less. If a JADU contains greater than 500 square feet of interior livable space, impact fees shall be charged proportionately in relation to the square footage of the JADU to the square footage of the primary dwelling unit. (Gov. Code, § 66311.5 subd. (c)(1).) In this specific instance, impact fees also include Quimby fees specified in Government Code section 66477 (Gov. Code, § 66311.5 subd. (c)(2)).

#### What is “Proportionality”?

“Proportionality” is some amount in relation to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square-foot primary dwelling with a proposed 1,000 square-foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. (Gov. Code, § 66311.5, subd. (c)(1).)

### Can school districts charge impact fees?

Yes. School districts are authorized to, but do not have to, levy impact fees for ADUs larger than 500 square feet of interior livable space pursuant to Section 17620 of the Education Code and the Mitigation Fee Act (Gov. Code, § 66000). ADUs and JADUs that are less than 500 square feet of interior livable space are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs and JADUs, and to ensure appropriate nexus studies are conducted on fees to facilitate construction or reconstruction of adequate school facilities, as required by the Mitigation Fee Act. ADUs or JADUs that contain less than 500 square feet of interior livable space shall be considered other residential construction that does not increase assessable space by 500 square feet (Gov. Code, § 66311.5, subd. (c)(3)).

### **Can I still be charged water and sewer connection fees?**

ADUs constructed from existing space and JADUs shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed concurrently with a new single-family dwelling (Gov. Code, § 66311.5, subd. (b)). The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or drainage fixture unit as compared to the primary dwelling (Gov. Code, § 66311.5, subd. (e)).

## **Fire Protection and Fire Sprinkler Requirements**

### **Can fire sprinklers be required for ADUs and JADUs?**

Only when sprinklers are required for the existing primary residence. Installation of fire sprinklers shall not be required in ADUs or JADUs if sprinklers are not required by building standards for the existing primary residence. For example, a detached single-family home designed and constructed decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. However, if the same primary dwelling recently underwent significant alteration and is now required to have fire sprinklers, any ADU or JADU created after that alteration must be provided with fire sprinklers. Additionally, the construction of any ADUs or JADUs shall not trigger a requirement for fire sprinklers for the primary residence. (Gov. Code, §§ 66314, subd. (d)(12); 66323, subd. (d).)

## **Funding**

### **Is there financial assistance or funding available for ADUs?**

Possibly. While at the time of this writing the funds have been exhausted, the California Housing Finance Agency's (CalHFA) ADU Grant Program provided up to \$40,000 in assistance to reimburse qualifying homeowners for predevelopment costs necessary to build an ADU or JADU on a lot with an owner-occupied single-family dwelling unit. The ADU Grant Program was intended to create more housing units in California by providing a grant to reimburse qualifying homeowners for predevelopment costs. Predevelopment costs include, but are not limited to, architectural designs, permits, soil tests, impact fees, property surveys, and energy reports.

Some local agencies are creating funding opportunities for ADU/JADU predevelopment and construction costs, or they are waiving fees.

For local agencies wanting to apply for funding for ADUs and JADUs, some of HCD's funding programs, such as the CalHome Program, the Permanent Local Housing Allocation program, the Prohousing Incentive Program, and the Local Housing Trust Fund Program, do include funding for these housing types as eligible activities.

For more information on local and state funding opportunities for ADU/JADU predevelopment or construction, or funding options for local agencies, please see the Grants and Funding section of our ADU webpage: <https://www.hcd.ca.gov/building-standards/adu>.

The Federal Housing Administration (FHA), Freddie Mac, and Fannie Mae also provide loans to support ADUs. The links below include information on these finance programs, including relevant definitions and criteria.

## **FHA**

The FHA recently expanded access to mortgage financing for homes that have or will include ADUs. Specifically, the updated loan policies allow for the inclusion of rental income from the ADU in the borrower's qualifying income and would allow more borrowers to qualify for FHA financing for properties with ADUs. This includes the 203(k) Rehabilitation loan. Note that the 203(k) Rehabilitation loan may only be used to construct an attached ADU.

For more information on the updated policies, please reference the FHA Single Family Housing Policy Handbook at <https://www.hud.gov/sites/dfiles/OCHCO/documents/40001-hsgh-update15-052024.pdf>, or the 2023 Mortgagee Letter that includes specific ADU finance changes in the handbook <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-17hsgml.pdf>. Interested parties should look to HUD's website for any updates.

## **Freddie Mac**

Freddie Mac now offers several options for adding an ADU to an existing home and financing a purchase with the intention to rent or build an ADU. This includes allowing rental income from ADUs to be included in qualified income for a loan.

For more information, please visit <https://sf.freddiemac.com/docs/pdf/fact-sheet/adu-fact-sheet.pdf>.

## **Fannie Mae**

Fannie Mae now offers financing options for adding an ADU to an existing property, building a home with an ADU using Construction-to-Permanent Financing, and buying a home with an existing ADU.

For more information, please visit <https://singlefamily.fanniemae.com/originating-underwriting/mortgage-products/accessory-dwelling-units>.

## **Height Requirements**

### **Is there a limit on the height of an ADU?**

There is no height limit contained in State ADU Law, but local agencies may impose height limits pursuant to Government Code section 66321, subdivision (b)(4). A local agency may impose a height limit by adopting a compliant ADU ordinance.

A local agency may not impose a height limit that is less than the following:

### **Detached ADUs**

16 feet on a lot with a proposed or existing single-family or multifamily dwelling unit (Gov. Code, § 66321, subd. (b)(4)(A)).

18 feet on a lot with an existing or proposed single-family or multifamily dwelling, including an additional 2 feet to accommodate roof pitch that aligns with the primary dwelling, when the lot is a half-mile from a major transit stop or high-quality transit corridor (Gov. Code, § 66321, subd. (b)(4)(B)). Please see the ADU Glossary for definitions of these terms.

18 feet height on a lot with an existing or proposed multifamily, multistory dwelling (Gov. Code, § 66321, subd. (b)(4)(C)).

If a detached two-story ADU can be built according to the height allowances required under State ADU Law while remaining compliant with the building code, a local agency cannot deny an ADU application to create a two-story ADU, irrespective of the underlying zoning that might restrict a primary dwelling to one story. (Gov. Code, §§ 66321, subd. (b)(4)(D); 66314, subd. (d)(8).)

### **Attached ADUs**

25 feet or the height limitation that applies to the primary dwelling in the local zoning ordinance, whichever is lower (Gov. Code, § 66321, subd. (b)(4)(D)).

#### **Is there a limit on the number of stories of an ADU?**

There is no limit on the number of stories contained in State ADU Law. A local agency must allow at least two stories, if this can be accommodated under the applicable height limit while complying with all applicable building standards, and an attached ADU may be built to the height of the zoning for the primary dwelling or up to 25 feet, whichever is lower. (Gov. Code, § 66321, subd. (b)(4)(D).)

#### **Are there tools available to determine if a project qualifies for 18 feet in height?**

The California State Geoportal features an interactive map and searchable database to assess whether any California address is within a High-Quality Transit Corridor (HQTC) (as described in Public Resources Code sections 21155, 21064.3, and 21060.2). This can assist with determining if your projects are eligible for an extra two feet in height. However, the State ADU Law does not designate a definitive resource for making HQTC proximity determinations. Applicants should go to their Metropolitan Planning Organizations first to find out if they are in a HQTC. If there is not one in their area, then they should go to their local agency.

## **Homeowners Associations (HOAs)**

#### **Can CC&Rs prohibit the construction or use of an ADU or JADU?**

No. Sections 714.3 and 4751 of the Civil Code nullify covenants, conditions, and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on lots zoned to permit single-family residential uses. Such CC&Rs, including operating rules, are void and unenforceable. Applicants who encounter prohibitions of ADUs and JADUs within CC&Rs, whether implicit or explicit, are encouraged to reach out to their local agency.

#### **What restrictions can be placed on an ADU or JADU?**

HOAs may impose some limited objective standards on an ADU or JADU, such as requiring, within reason, specific materials, architectural styles, or other design and aesthetic restrictions. However, these standards may not be more stringent than State ADU Law and thereby unreasonably increase the cost to construct or effectively prohibit or extinguish the ability to create or serve an ADU or JADU. Reasonable restrictions in covenants, restrictions, and conditions, as described in the Civil Code, shall not include any fees or other financial requirements (Civ. Code, § 714.3, subd. (b)).

Examples of effective prohibitions, unreasonable costs, and extinguishments of the ability to construct an ADU or JADU may include, but would not be limited to:

- Any delay in reviewing an ADU or JADU for compliance with reasonable restrictions beyond the timeframes required of local agencies (60 days) or that significantly delay the construction or use of an ADU or JADU.
- Requiring alteration to an ADU or JADU application that would cause the property owner to incur substantial costs or forgo the development.
- Imposing a condition that would necessitate re-applying or amending a building permit application that substantially complies with State ADU and JADU Laws.
- Mandating neighboring property owners' approval or agreement for an ADU or JADU application or considering any disapproval or disagreement to the construction or use of an ADU or JADU by the neighbors as part of the local agency's ministerial process to approve or deny the application.
- Restricting the placement or location of an ADU or JADU such that it would be rendered infeasible or unusable by the property owner.
- Requiring major structural elements or design changes beyond the requirements set forth in State ADU and JADU Law that would extinguish the ability to construct or use the ADU or JADU.
- Imposing restrictions that are not objective or not knowable or available to the property owners in advance of submitting the application.

Property owners whose construction or use of an ADU or JADU is impeded by an HOA (or their representatives or agents) are encouraged to reach out to their local agency and to seek legal counsel.

### **Can an HOA review or influence a local agency's ministerial approval to create or serve an ADU or JADU?**

No. An HOA may not influence a local agency's ministerial approval of an ADU or JADU. Local agencies must provide an approval process that only includes ministerial provisions for the approval of ADU permit applications. This approval process shall not include discretionary processes, provisions, or requirements except as provided in Government Code section 66315. Thus, third party reviews by an HOA or their representatives or agents would violate State ADU Law. (Gov. Code, § 66315.) No other local ordinances, policies, or regulations may be applied in the approval or denial of an ADU or JADU permit application (Gov. Code, § 66317, subd. (c)). If a local agency allows an HOA to be involved in any part of an ADU or JADU application process, the local agency is in violation of State ADU Law.

## **Housing Elements and Prohousing Designation**

### **Do ADUs and JADUs count toward a local agency's RHNA?**

Yes. Pursuant to Government Code sections 66330, and 65583.1, ADUs and JADUs may be utilized towards the RHNA and the Housing Element Annual Progress Report (APR) required by Government Code section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the U.S. Census definition of a housing unit. Generally, an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the U.S. Census definition and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level.

The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other local applications.

For more information, please refer to the Housing Element Building Blocks or contact [HousingElements@hcd.ca.gov](mailto:HousingElements@hcd.ca.gov).

### **What analysis is required to count ADUs toward the RHNA in the housing element?**

To count ADUs towards the RHNA in the housing element, local agencies must generally use a three-part approach: (1) development trends, (2) anticipated affordability, and (3) resources and incentives. Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR required by Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures, and affordability monitoring programs.

### **Are ADUs required to be addressed in the housing element?**

Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs to address identified constraints. In addition, housing elements must include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs. (Gov. Code, § 65583; HSC, § 50504.5.) Please note, if a local jurisdiction has an ADU program as part of a housing element, even once the housing element is approved, the ADU ordinance needs to be updated regularly to ensure compliance with new state laws.

### **Can ADUs and JADUs impact a local agency's Prohousing Designation status?**

Yes. To qualify for a Prohousing Designation, a local agency must be in compliance with all applicable state housing laws, such as those mentioned in Government Codes section 65585, subdivision (j), which includes State ADU Law. An approved housing element and any associated programs which promote ADU development will also need to be enacted and in compliance to meet the minimum threshold requirements for a Prohousing Designation. Additionally, ADUs and JADUs are specifically identified within the Prohousing Designation Program as designation criteria under California Code of Regulations, Title 25, section 6606, meaning that an ADU ordinance or program which promotes ADU development beyond the minimum requirements of State ADU Law may score additional points towards their Prohousing Designation. In other words, local agencies that are in violation of State ADU Law will be ineligible for a Prohousing Designation, while local agencies that promote additional ADU development can score additional points towards their Prohousing Designation, and all the benefits that designation provides. (CCR Title 25, §§ 6600-6608).

## JADUs

### What is a JADU?

A “junior accessory dwelling unit” or JADU is a unit that is no more than 500 square feet of interior livable space in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. (Gov. Code, § 66333.)

### Are two JADUs allowed on a lot?

No. Only one JADU may be created per lot zoned for single-family residences with an existing or proposed single-family residence (Gov. Code, § 66333, subd. (a)). The JADU may be created within the walls of the proposed or existing single-family residence, including attached garages (Gov. Code, § 66333, subd. (d)). If there are multiple detached single-family residential units on one lot, there can only be one JADU.

### Can a JADU be created within a “half-plex”?

Yes, a JADU is permitted in a half-plex. A half-plex consists of two primary dwelling units on separate lots that share a dividing wall. One JADU is permitted in each half-plex in areas zoned for single-family use. (Gov. Code, § 66333, subd. (a).) If two units are attached on a single lot (i.e., a duplex), the primary dwelling is considered multifamily and would not qualify for a JADU.

### Are JADUs required to have an interior connection to the primary dwelling?

JADUs are required to be within the walls of the primary dwelling but are not required to have an interior connection to the primary dwelling. However, if the JADU does not include a separate bathroom, the JADU must include an interior entrance to the main living area. (Gov. Code, § 66333, subd. (e)(2).)

### Are JADUs allowed in detached accessory structures?

No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single-family residence. As noted above, “enclosed uses” within the residence, such as attached garages, are eligible for JADU creation. (Gov. Code, § 66333, subd. (d).)

### Are JADUs allowed to be increased by up to 150 square feet when created within an existing structure?

No. Only ADUs that are created from existing accessory structures are allowed to add up to 150 square feet “beyond the physical dimensions of the existing accessory structure” to provide for ingress or egress (Gov. Code, § 66323, subd. (a)(1)(A)).

### What can local agencies require as part of an “efficiency kitchen”?

An efficiency kitchen is a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the JADU (Gov. Code, § 66333, subds. (f)(1), (f)(2)). A local agency cannot be more restrictive than this definition. Thus, requirements such as counter or cabinet sizes, specified electrical or gas connections, or appliance types are not authorized by State JADU Law. Please note: 220V circuits are not required for an efficiency kitchen.

### Are JADUs required to provide parking?

No. Local agencies may not require parking as a condition to permitting a JADU, even when the JADU is converted from an attached garage (Gov. Code, § 66334, subd. (a)).

## Local ADU Ordinances and Local Agencies

### Should a local ordinance encourage the development of ADUs?

Yes. Pursuant to Government Code section 66310, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities, and others. Therefore, ADUs are an essential component of California's housing supply.

Recent changes to State ADU Law intend to address barriers, streamline approval, and expand potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment, and implementation of local ADU ordinances must be carried out consistently with Government Code section 66310 and must not unduly restrict the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

State ADU Law provides the statutory minimum requirements for ADUs and JADUs. Local governments may elect to be less restrictive than the statutory minimum to further the creation of ADUs and JADUs. (Gov. Code, § 66325, subd. (b).) Many local governments have embraced the importance of ADUs as an important part of their overall housing policies and have pursued innovative strategies.

### Can a local agency adopt an ADU “bonus program?”

Yes. One common strategy used by local agencies to promote ADU development is to adopt ADU bonus programs. HCD supports this approach to go above and beyond State ADU Law's requirements to address California's ongoing housing crisis. A successful ADU bonus program should meet the following criteria:

1. The ADU bonus program is completely optional – There is no requirement, and no consequence for not taking part in a local bonus program.
2. The ADU bonus program only offers benefits in addition to the provisions of State ADU Law, not in lieu of them – All state-mandated requirements are granted unconditionally.
3. The ADU bonus program removes one or more physical constraints, such as a limitation on the number of allowable units on a lot, ADU size, height, setback requirements, or a waiver of design and development criteria.

### Does HCD have enforcement authority over ADU and JADU ordinances?

Yes. Pursuant to Government Code sections 66326, subdivision (a), and 66333.5, subdivision (a), local agencies are required to submit a copy of newly adopted ADU and JADU ordinances to HCD within 60 days of adoption. HCD may thereafter provide written findings to the local agency as to whether the ordinance complies with State ADU Law. If HCD finds that the ADU or JADU ordinance does not comply with State ADU Law, the local agency must respond to HCD's written findings within 30 days. The local agency shall either amend its ordinance in accordance with HCD's findings, or adopt the ordinance without changes, but include findings in its resolution explaining why the ordinance complies with State ADU Law despite HCD's findings. (Gov. Code, §§ 66326, subd. (b); 66333.5, subd. (b)(2).) If the local agency fails to respond to HCD's findings regarding its ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when permitting ADUs and

JADUs (Gov. Code, §§ 66326, subd. (d); 66333.5, subd. (d)). Although not required by State ADU Law, HCD may continue to offer further technical assistance to the local agency. However, if the local agency does not amend its ordinance in accordance with HCD's findings or adopt a resolution explaining why the ordinance is compliant, HCD shall notify the local agency and may notify the Attorney General that the local agency is in violation of State ADU Law. (Gov. Code, §§ 66326, subd. (c)(1); 66333.5, subd. (c)(1).) While an ordinance is non-compliant, the local agency shall apply state standards for the approval of ADUs, until the local agency adopts a compliant ordinance. (Gov. Code, § 66316.)

In addition, HCD may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria for ADUs and JADUs that supplement or clarify State ADU Law (Gov. Code, §66313.5).

### **Do local agencies have to adopt an ADU ordinance?**

No. Local agencies may choose not to adopt an ADU or JADU ordinance. Should a local agency choose not to adopt an ADU or JADU ordinance, any proposed ADU or JADU development would be subject only to the standards set forth in State ADU Law. (Gov. Code, §§ 66315, 66316; 66333.5, subd.(d).) A local agency that adopts an ADU ordinance may impose objective development and design standards in compliance with Government Code section 66314.

### **Is a local agency required to send an ADU ordinance to HCD?**

Yes. A local agency, upon adoption of an ADU or JADU ordinance, must submit a copy of the adopted ordinance to HCD within 60 days after adoption. If a local agency fails to submit an adopted ADU ordinance to HCD within the 60-day timeline or fails to respond to HCD's findings regarding its ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when permitting ADUs (Gov. Code, §§ 66326, subd. (d); 66333.5, subd. (d)). After the adoption of an ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with the State ADU Law. (Gov. Code, §§ 66326, subd. (a); 66333.5, subd. (a).)

### **Are charter cities and counties subject to the new ADU laws?**

Yes. State ADU Law applies to a local agency, which is defined as a city, county, or city and county, whether general law or chartered (Gov. Code, §§ 66312; 66313, subd. (g)).

### **Do ADU laws apply to areas governed by the Tahoe Regional Planning Agency (TRPA)?**

Possibly. The TRPA was formed through a bistate compact between California and Nevada, which elevates its authority above state laws. Under this authority, TRPA has adopted certain restrictions that effectively limit lot coverage on developed land. State ADU Law may conflict to a degree with the TRPA standards, and to the extent that it does, the TRPA law preempts or overrides State ADU Law. For more information, please see: <https://www.trpa.gov/adus/>.

## **Manufactured Homes**

### **Can a manufactured home be used as an ADU?**

Yes. By definition, an ADU includes manufactured homes (Gov. Code, § 66313, subd. (a)(2); HSC, § 18007).

Health and Safety Code section 18007, subdivision (a): “Manufactured home,” for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

For more information on Manufactured Homes please contact the Division of Codes and Standards at [ContactMH-FBH@hcd.ca.gov](mailto:ContactMH-FBH@hcd.ca.gov).

## Mobilehome Parks

### **Are ADUs permitted on lots within mobilehome parks or special occupancy parks?**

No. A lot, as defined in Health and Safety Code sections 18210 and 18862.23, allows for only one manufactured home, mobilehome, or recreational vehicle. Health and Safety Code section 18862.23 also allows one tent, camp car, camping cabin, or camping party on a lot within a special occupancy park.

For more information, please contact the Division of Codes and Standards at: [NAOStaff@hcd.ca.gov](mailto:NAOStaff@hcd.ca.gov) for Northern CA or [SAOStaff@hcd.ca.gov](mailto:SAOStaff@hcd.ca.gov) for Southern CA.

## Multifamily ADUs

### **What is considered a multifamily dwelling under State ADU Law?**

For the purposes of creating an ADU, a structure with two or more *attached* dwellings on a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of State ADU Law.

### **Does a local agency have to permit ADUs on lots zoned for multifamily use?**

Yes. A local agency must permit an attached, detached, or converted ADU on a lot that is zoned to allow single-family or multifamily residential use and includes an existing or proposed dwelling (Gov. Code, § 66314, subds. (d)(2), (d)(3)). An applicant may build a detached or a converted ADU on a site in a residential or mixed-use zone with a proposed or existing multifamily dwelling. (Gov. Code, § 66323, subds. (a)(3), (a)(4).) (See next question for more information.)

### **How many ADUs are allowed on a multifamily site under Government Code section 66323?**

Under Government Code section 66323, an applicant may apply to build up to eight detached ADUs (Gov. Code, § 66323, subd. (a)(4)(A)) and at least one conversion ADU within an existing multifamily dwelling and up to 25 percent of the number of units in the existing multifamily dwelling (Gov. Code, § 66323, subd. (a)(3)(B)).

### **Can JADUs be created in multifamily dwelling structures?**

No. JADUs may only be constructed on a site with a proposed or existing single-family dwelling in an area zoned for single-family residences; a JADU cannot be constructed on a multifamily site (Gov. Code, § 66333, subd. (a)).

### **Can a permitting agency impose accessibility standards on ADUs converted from existing space?**

Maybe. For more information on ADA standards as they apply to your specific dwelling, please contact the Division of Codes and Standards at [HCDBuildingStandards@hcd.ca.gov](mailto:HCDBuildingStandards@hcd.ca.gov).

### **Can a leasing office be converted into an ADU?**

Yes. A leasing office within an existing multifamily dwelling structure can be converted to at least one ADU – and up to 25 percent of the existing multifamily dwelling units – provided the ADUs comply with state building standards for dwellings. (Gov. Code, § 66323, subd. (a)(3)(A).)

In addition, a leasing office on a lot with an existing multifamily dwelling may be converted into up to eight detached ADUs, not to exceed the number of existing units on the lot and subject to height limitations in section 66321, subdivision (b), and to rear yard and side setbacks of no more than four feet. (Gov. Code, § 66323, subd. (a)(4)(A).)

Finally, an ADU can be created from an accessory space, including a leasing office, that is either attached to or located within the multifamily structure or an accessory structure, or is detached from the primary dwelling and located on the same lot as the primary dwelling, and complies with other applicable standards. (Gov. Code, § 66314, subd. (d)(3).)

## **Nonconforming Zoning**

### **Can a local agency refuse to permit an ADU or JADU because of nonconforming zoning conditions?**

State ADU Law limits a local agency's ability to deny a permit application due to the correction of existing, nonconforming zoning conditions. Nonconforming zoning conditions are physical improvements on a property that do not conform to current zoning standards. (Gov. Code, § 66313, subd. (h)). For 66323 Units, a local agency cannot condition approval on the correction of nonconforming zoning conditions (Gov. Code, § 66323, subd. (c)). For all other ADUs, a local agency may only deny a permit to create an ADU due to zoning non-conformance when the non-conformance creates a threat to public health and safety and is affected by the construction of the ADU (Gov. Code, §§ 66322, subd. (b)).

## **Owner-Occupancy**

### **Can local agencies require owner-occupancy for an ADU?**

Only ADUs which are sold separately to a qualified buyer under Government Code section 66341, subdivision (c)(3), can require owner-occupancy. Otherwise, a local agency cannot impose an owner-occupancy requirement on any other ADU (Gov. Code, § 66315).

### **Are there any owner-occupancy requirements for JADUs?**

Yes, under certain circumstances. If a JADU has shared sanitation facilities with the primary structure, owner-occupancy will be required. If the JADU does *not* have shared sanitation

facilities, or the owner is another governmental agency, land trust, or housing organization, owner-occupancy will *not* be required. The owner must reside in either the remaining portion of the primary residence or in the newly created JADU. (Gov. Code, § 66333, subd. (b).) Additionally, JADUs cannot be used as short-term rentals and, if rented, must be rented for longer than 30 days (Gov. Code, § 66333, subd. (g).)

## Parking Requirements

### Can ADU parking requirements exceed one space per unit or bedroom?

No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever is less (Gov. Code, § 66314, subd. (d)(10)(A)). These spaces may be provided as tandem parking on a driveway (Gov. Code, § 66314, subd. (d)(10)(B)). Guest parking spaces shall not be required for ADUs under any circumstances. In addition, a local agency may not require off-street parking spaces to be replaced when a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU (Gov. Code, § 66314, subd. (d)(11)).

Local agencies may choose to eliminate or reduce parking requirements for ADUs, such as requiring zero or a fraction of a parking space per each ADU (such as a ½ space per unit), to further reduce barriers to ADU construction and to facilitate more development of mixed-modal transportation such as walking and public transit.

### Are certain ADUs exempt from parking requirements?

Yes. A local agency shall not impose parking standards on any of the following ADUs, pursuant to Government Code section 66322, subdivision (a):

- 1) ADUs located within one-half mile walking distance of public transit.
- 2) ADUs located within an architecturally and historically significant historic district.
- 3) ADUs that are part of the proposed or existing primary residence or an accessory structure.
- 4) When on-street parking permits are required but not offered to the occupant of the ADU.
- 5) When there is a car share vehicle located within one block of the ADU.
- 6) When a permit application for an ADU is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the ADU or the parcel satisfies any other criteria listed in Government Code section 66322, subdivision (a)(1)-(5).

Parking requirements for ADUs may not exceed one parking space per ADU or per bedroom, whichever is less (Gov. Code, § 66314, subd. (d)(10)). ADUs which have no bedrooms because they are an “efficiency unit” or studio do not increase the bedroom count.

In addition, local agencies may not impose parking requirements on 66323 Units.

### Is flexibility for siting ADU parking recommended?

Yes. Local agencies should be flexible when siting parking for ADUs. Off-street parking spaces for the ADU shall be permitted in setback areas in locations determined by the local agency or through tandem parking unless specific findings are made otherwise based on specific site or regional topographical or fire and life safety conditions. (Gov. Code, § 66314, subd. (d)(10)(B).)

When a garage, carport, uncovered parking space, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the local agency shall not require that those off-street parking spaces for the primary unit be replaced (Gov. Code, § 66314, subd. (d)(11)).

## Permit Applications and Permitting Agencies

### What is an ADU permitting agency?

A permitting agency is “any entity that is involved in the review of a permit for an accessory dwelling unit or JADU and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.” (Gov. Code, § 66313, subd. (k).) See also the Glossary section of this Handbook for this definition.

### Are ADUs and JADUs permitted ministerially?

Yes. ADUs and JADUs subject to State ADU Law must be considered, approved or denied, and permitted ministerially, without discretionary review or a hearing (Gov. Code, §§ 66317, subd. (a); 66335, subd. (a); 66335.5). Development standards must be objective to allow for ministerial review (Gov. Code, § 66314, subd. (b)(1)). Objective standards require a uniform benchmark or reference that is knowable by both the permit applicant and the permitting agency prior to the submission of an application to create or serve an ADU (Gov. Code, § 66313, subd. (i)).

### What are considered objective standards for ministerial approval?

Examples include numeric and fixed standards such as heights or setbacks, or design standards such as specified colors or materials. See also the Glossary section of this Handbook for the definition of objective standards.

### What would be considered subjective standards?

Subjective standards require independent judgement and are open to multiple interpretations. Language such as “privacy,” “compatibility with neighboring properties,” “promoting design harmony and balance,” “must maintain similar architecture style,” or requiring “high quality materials” are subjective and may not be imposed on ADU development (Gov. Code, § 66313, subd. (i)).

### What is the process and timeline for reviewing and approving ADU and JADU applications?

A permitting agency must determine whether an application for an ADU or JADU is complete and provide written notice of the determination not later than 15 business days after the permitting agency received the application (Gov. Code, §§ 66317, subd. (a)(2)(A); 66335, subd. (a)(2)(A)).

If it is determined that an application is incomplete, the permitting agency is required to provide the applicant with a list of incomplete items and a description of how the application can be made complete in the written notice (Gov. Code, §§ 66317, subd. (a)(2)(B); 66335, subd. (a)(2)(B)). If a permit application is determined to be incomplete or is denied, the permitting agency must provide a process for an applicant to appeal the decision (Gov. Code, §§ 66317, subd. (d)(1); 66335, subd. (e)(1)). The permitting agency must provide a final written

determination by not later than 60 business days after receipt of the written appeal (Gov. Code, §§ 66317, subd. (d)(2); 66335, subd. (e)(2)).

### **What kind of environmental review is required for ADUs and JADUs?**

ADUs and JADUs approved ministerially are statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the CEQA guidelines and Section 21080, subdivision (b)(1) of the Public Resources Code. In addition, ADUs can be categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA guidelines. ADU and JADU ordinances are statutorily exempt from CEQA pursuant to Section 21080.17. However, if an ADU application requires a discretionary coastal development permit, that discretionary permit may be subject to CEQA.

### **What does ministerial review of a permit application involve?**

A ministerial review ensures that the permit application meets all the applicable objective standards effective at the time of the review and uses no discretionary judgment, opinion, or subjective standards. Agency staff inspect the submitted application, site plan, and building plans for compliance with applicable standards. This often means that the permitting agency (i.e., planning, building, fire departments and utilities) reviews the application using only checklists. (Gov. Code, §§ 66316, 66317, 66320.)

### **Can an applicant delay the 60-day timeline?**

Yes. If an applicant would like to request a delay on their application for any reason, they may do so. The 60-day period to approve or deny the permit shall be tolled for the period of the delay. (Gov. Code, §§ 66317, subd. (a)(3); 66335, subd. (a)(5).)

### **When is an ADU permit application “deemed complete” without formal review?**

An ADU permit application is “deemed complete” when the permitting agency fails to make a timely written completeness determination within 15 business days (Gov. Code, §§ 66317, subd. (a)(2)(F)).

### **Do ADUs need a Certificate of Occupancy?**

Yes, property owners must obtain a Certificate of Occupancy from the local agency prior to any residential occupancy of an ADU or JADU (Gov. Code, § 66328; 2022 CBC, § 111).

### **Can the local agency deny a permit application for an unpermitted ADU that was built before 2020?**

Yes, but only with specific findings. A local agency shall not deny a permit for an unpermitted ADU that was constructed before January 1, 2020, due to the ADU being in violation of building standards, non-compliance with State ADU Law, or any local ordinance regulating ADUs (Gov. Code, § 66311.7, subd. (a)). However, the local agency may deny the permit if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure, or if the building is deemed substandard pursuant to section 17920.3 of the Health and Safety Code (Gov. Code, § 66311.7, subsd. (b), (c)). Please note, corrections, requirements, or issues relating to the building code or health and safety are under the local agency’s discretion and purview. Applicants applying for a permit for a previously unpermitted dwelling should follow the local agency’s appeals process if they feel there is a discrepancy with corrections or denials issued by the local agency.

### **What happens when an application for an ADU is denied?**

The permitting agency denying the application must provide the applicant a full set of comments listing items that are defective or deficient and include a description of how the application may be remedied. A full set of comments includes all comments from all reviewers, from every permitting agency. The 60-day countdown continues until the complete list is provided. (Gov. Code, §§ 66317, subd. (b); 66335, subd. (b).) A local agency which has provided a complete set of correction comments has fulfilled this requirement. Following a denial, a subsequent application resets the 60-day period.

The applicant may address the proposed remedy and resubmit the application to the permitting agency. A local agency may charge a fee to process a resubmitted application. (Gov. Code, § 66335 subd. (c).)

### **How can I request technical assistance from HCD about the denial of my ADU application?**

Questions and requests for technical assistance should be submitted through HCD's [ADU Portal](#), which is available on HCD's ADU webpage: <https://www.hcd.ca.gov/building-standards/adu>. To reach the portal, navigate to "Contact the ADU Team." Applicants should first work to address the denial with the permitting agency via the agency's process. HCD may provide technical assistance after an application has been submitted. However, HCD may not respond or follow up with a permitting agency if there is no pending application.

## **Rental Terms**

### **Are rental terms allowed?**

Yes. Local agencies may require that ADUs and JADUs be rented for terms longer than 30 days (Gov. Code, § 66315; 66323, subd. (e); 66333, subd. (g)).

## **Sales and Separate Conveyance**

### **Can ADUs be sold or separately conveyed?**

A local agency may adopt a local ordinance to allow separate conveyance of the primary unit and the ADU as condominiums if the ordinance meets specific requirements laid out in Government Code section 66342. In addition, Government Code section 66341 creates a narrow exception to allow separate conveyance of an ADU to a qualified buyer if the property was built or developed by a qualified nonprofit corporation and meets other requirements specified in section 66341.

## **Senate Bill 9 (SB 9) (Chapter 162, Statutes of 2021)**

### **How does SB 9 work with ADUs?**

SB 9 (Gov. Code, §§ 65852.21 and 66411.7) and ADU Law are complementary. Both laws can be used together to create varying combinations of "SB 9 units" and ADUs. SB 9 allows for a lot to be split, with each of the two resulting lots eligible for up to two primary units. These primary units are distinct from ADUs and JADUs created under ADU Law and must be approved ministerially.

When a lot split occurs, SB 9 requires the local agency to approve up to two units on each parcel but specifically states that only two units are allowed per parcel, despite what ADU Law would otherwise allow. Those two units could be two primary “SB 9 units,” or one primary unit and one ADU, or one primary unit and one JADU. But in no case is a local agency required to permit more than two units on either of the two parcels resulting from an SB 9 lot split.

When an SB 9 lot split has not occurred, the lot is eligible to receive up to two primary units under SB 9, as well as whatever combination of ADUs and JADUs it would otherwise be entitled to under ADU Law if SB 9 was not being used. In some instances, this may result in a total number of units on the parcel that is greater than what either SB 9 or ADU Law would allow on its own. However, if ADU Law is used on its own or in combination with SB 9 to create more than four total units on the lot, a local agency is not required to approve a lot split under SB 9.

See HCD’s SB 9 Factsheet for more information and resources.

## Setbacks

### **Can setbacks be required for ADUs?**

Yes. A local agency may impose objective development standards, such as setbacks, for the creation of ADUs. A setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU (Gov. Code, § 66314, subd. (d)(7)). Additional setback requirements may be required in the Coastal Zone if required by a local Coastal Program (Gov. Code, § 66329).

### **Are setbacks required for ADUs/JADUs created within an existing structure or replacing an existing structure?**

No setback shall be required for an ADU or JADU created within an existing living area or accessory structure or an ADU created in a new structure in the same location and to the same dimensions as an existing structure (Gov. Code, § 66314, subd. (d)(7)).

### **Can a local agency impose front setbacks?**

Yes. A local agency may apply front yard setbacks for ADUs, but front yard setbacks cannot preclude an ADU of at least 800 square feet from being built on the property, even if that ADU would exist partially or wholly within the front setback (Gov. Code, § 66321, subd. (b)(3)).

### **Can a local agency require an ADU to be built in an alternate location to comply with front setback requirements?**

Maybe. If the ADU is a unit described under Government Code section 66314, then the local agency could have a requirement that the ADU be built in the backyard. If at least an 800 square foot unit cannot be built in the backyard, then the local agency must allow the ADU to be built within the front setback if necessary to accommodate the ADU (Gov. Code, § 66314, subd. (b)(1)). However, if the ADU is a unit described under Government Code section 66323, then the local agency cannot impose local standards, including front setbacks, and may not require the unit to be built in an alternate location (Gov. Code, § 66323, subd. (b)).

### **Is there a distance requirement between an ADU and other structures on the lot?**

State ADU Law does not address the distance between an ADU and other structures on a lot. A local agency may impose objective development standards for the creation of some ADUs,

and all ADUs must comply with local building codes. However, development standards should not unreasonably restrict the creation of ADUs. (Gov. Code, § 66311.) Minimum distance or other requirements may not be applied if they would unreasonably restrict the creation of ADUs, unless they are a requirement of a Building or Fire Code (Gov. Code, § 66314, subd. (d)(8)).

## Size Requirements and Restrictions

### How is the square footage of an ADU or JADU calculated?

In several places, State ADU Law refers to “square feet of interior livable space” or “square feet of livable space.” (See, e.g., Gov. Code, §§ 66321, subd. (b)(2), (b)(3); 66323, subd. (a)(2)(A).) Government Code section 66313, subdivision (e) defines livable space as “a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.” Livable space includes bedrooms, bathrooms, kitchens, laundry rooms, closets, and interior stairs.

### Can minimum lot size requirements be imposed on ADUs?

No. Local governments may not include minimum lot size requirements for ADUs (Gov. Code, § 66314, subd. (b)(1)).

### Can lot coverage or floor area ratio preclude an ADU?

Limits on lot coverage or any floor area ratio requirements cannot preclude the creation of an ADU of at least 800 square feet of interior livable space that maintains four-foot rear and side setbacks. While floor area ratio and lot coverage requirements can be applied to other ADUs, such requirements must not unreasonably restrict the creation of ADUs. (Gov. Code, §§ 66321, subd. (b)(3); 66311.)

### Can minimum and maximum unit sizes be established for ADUs?

Yes. A local government may, by ordinance, establish minimum and maximum unit size requirements for both attached and detached ADUs; however, maximum unit size requirements must allow an ADU of at least 850 square feet of interior livable space, or 1,000 square feet of interior livable space for ADUs with more than one bedroom. (Gov. Code, § 66321, subd. (b)(2).) For local agencies without a compliant ADU ordinance, maximum unit sizes are 1,200 square feet of interior livable space for a new detached ADU (Gov. Code, § 66314, subd. (d)(4)) and up to 50 percent of the floor area of the existing primary dwelling for an attached ADU (at least 800 square feet of interior livable space) (Gov. Code, §§ 66314, subd. (d)(5); 66321, subd. (b)(3)). Finally, the local agency must not establish by ordinance a minimum square footage requirement that prohibits the development of an efficiency unit as defined in Health and Safety Code section 17958.1. An efficiency unit may be as small as 150 square feet in floor area (HSC, § 17958.1).

The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to unit size requirements. (Gov. Code, § 66323, subd. (a)(1).)

### Can open space or landscaping requirements be used to limit the size of or deny an ADU permit?

No. A local agency's open space zoning requirements may not deny an ADU of at least 800 square feet of interior livable space with four-foot rear and side setbacks (Gov. Code, § 66321,

subd. (b)(3)). In addition, 66323 Units are not subject to local open space and landscaping requirements in an ADU ordinance (Gov. Code, § 66323, subd. (b)).

### **Can a percentage of the primary dwelling be used to limit the maximum size of an attached ADU?**

Yes. Local agencies may utilize a percentage (e.g., not greater than 50 percent) of the existing primary dwelling as a maximum unit size for attached ADUs, but only if it does not restrict an ADU's size to less than 850 square feet of interior livable space, or 1,000 square feet of interior livable space for ADUs with more than one bedroom (Gov. Code, §§ 66314, subd. (d)(4); 66321 (b)(2)).

### **Can maximum unit sizes exceed 1,200 square feet for ADUs?**

Yes. Maximum unit sizes can exceed 1,200 square feet for ADUs through the adoption of a less stringent local ADU ordinance. State ADU Law does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs. (Gov. Code, § 66325, subd. (b).)

## **Solar Requirements**

### **Are solar systems required for newly constructed ADUs?**

Yes, newly constructed ADUs are subject to the California Energy Code requirement (excluding manufactured homes) to provide solar systems if the unit(s) is a newly constructed, detached ADU (though some exceptions apply). Per the California Energy Commission (CEC), the solar systems can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the California Energy Code requirement to provide solar systems.

Please refer to the CEC on this matter. For more information, see the CEC's website at [www.energy.ca.gov](http://www.energy.ca.gov). You may email your questions to [title24@energy.ca.gov](mailto:title24@energy.ca.gov), or contact the Energy Standards Hotline at 800-772-3300. CEC memos can also be found on HCD's website at <https://www.hcd.ca.gov/policy-and-research/accessory-dwelling-units>.

## **Tiny Homes**

### **Are "tiny homes" considered ADUs?**

Possibly. While State ADU Law does not specifically reference "tiny homes," "tiny home" is an industry term that can mean different structures or vehicles. If the unit meets the definition of an ADU in Government Code section 66313, subdivision (a), it is subject to ADU Law. For more information on "tiny homes," see Information Bulletin 2016-01 at <https://www.hcd.ca.gov/policy-research/docs/hcd-bulletin-tiny-home-ib-2016-01.pdf>. You may also contact HCD's Division of Codes and Standards at [ContactMH-FBH@hcd.ca.gov](mailto:ContactMH-FBH@hcd.ca.gov).

## Types of ADUs

### What are attached ADUs?

An attached ADU is a newly created (constructed) dwelling structure that structurally abuts (and connects to) an existing or proposed primary dwelling or accessory structure (Gov. Code, § 66314, subd. (d)(3)). This can be constructed on top of or below the primary dwelling. The attached ADU extends beyond the building plane of the existing or proposed primary dwelling unit. An attached ADU shall not exceed 50 percent of the existing primary dwelling's floor area size. (Gov. Code, § 66314, subd. (d)(4).)

Examples of attached ADUs include, but are not limited to:

- An ADU addition to a duplex.
- An ADU built on top of an attached garage.
- An ADU built as a new second story of a single-family dwelling.
- An ADU built in a newly constructed basement.

### What are converted ADUs?

Converted ADUs are dwelling units that are created from existing space within proposed or existing primary dwelling units or existing accessory structures. For single family residences, the converted ADU is created from the proposed or existing space of the single-family residence or the existing space of an accessory structure. For multifamily dwelling structures, the converted ADUs are created from portions of the multifamily dwelling structures that are not used as livable space (i.e., storage rooms, passageways, etc.). (Gov. Code, § 66323, subds. (a)(1), (a)(3)(A).)

### What standards apply to ADU conversions?

Objective standards related to height, lot coverage, landscape, design, development, and architectural standards in the local ADU ordinance do not apply to ADU conversions. However, since ADU conversions are created within an existing structure, the height of ADU conversions are limited to the dimension of the original structure. ADU conversions are not subject to setback requirements because they are created within an existing living area or are constructed in the same location and to the same dimensions as an existing structure. (Gov. Code, § 66323, subds. (a)(1), (a)(3)(A).) ADU conversions are subject to all applicable building, health and safety, and fire standards for dwellings.

### Can accessory structures be converted into an ADU?

Yes. The conversion of detached garages, sheds, and other existing detached accessory structures into ADUs is permitted by State ADU Law (Gov. Code, §§ 66314, subd. (d)(3); 66323, subds. (a)(1), (a)(4)).

### What are Detached ADUs?

Detached ADUs are newly constructed dwelling units that are created on a lot with an existing or proposed single-family or multifamily dwelling structure but are detached from the primary dwelling (Gov. Code, §§ 66314, subd. (d)(3); 66323, subds. (a)(1), (a)(2), (a)(4)(A)).

### Can detached ADUs on multifamily lots be attached to each other?

Yes. Multifamily lots qualify for two detached, new construction ADUs on lots with a proposed

multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, not to exceed the total number of existing units on the lot. These ADUs are detached from the primary multifamily structure but do not have to be detached from each other or other accessory structures on the lot. (Gov. Code, § 66323, subd. (a)(4)(A).)

For more information on 66323 Units, please see the “66323 Units” section above.

## Unpermitted Structures and ADUs

### **Can a local agency deny a permit for an unpermitted ADU or JADU built prior to January 1, 2020?**

Yes, but only with specific findings. A local agency shall not deny a permit for an unpermitted ADU that was constructed before January 1, 2020, due to the ADU being in violation of building standards, non-compliance with State ADU Law, or any local ordinance regulating ADUs (Gov. Code, § 66311.7, subd. (a)). However, the local agency may deny the permit if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure, or if the building is deemed substandard pursuant to section 17920.3 of the Health and Safety Code (Gov. Code, § 66311.7, subds. (b), (c)). Please note, corrections, requirements, or issues relating to the building code or health and safety are under the local agency’s discretion and purview. Applicants applying for a permit for a previously unpermitted dwelling should follow the local agency’s appeals process if they feel there is a discrepancy with corrections or denials issued by the local agency.

### **How does an applicant know what items are related to health and safety and may lead to needing corrections for an unpermitted ADU or JADU?**

A local agency shall inform the public about the provisions of this section through public information resources, including permit checklists and the local agency’s internet website, which shall include both of the following: (1) a checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem a building substandard, and (2) information that, before applying for a permit, the homeowner may obtain a confidential third-party code inspection from a licensed contractor to determine the unit’s existing condition or potential scope of building improvements (Gov. Code, § 66311.7, subd. (d)(1), (d)(2)).<sup>3</sup>

## Utilities

### **Can a local agency, special district, or water corporation require a new or separate connection for an ADU or JADU?**

ADUs and JADUs created from the existing space of a primary dwelling or accessory structure pursuant to Government Code section 66323, subdivision (a)(1), cannot be required to install a new or separate connection unless the ADU or JADU is constructed concurrently with a new single-family dwelling. For all other ADUs and JADUs not created pursuant to Government Code section 66323, subdivision (a)(1), a new or separate connection directly from the utility to the ADU or JADU may be required (Gov. Code, § 66311.5, subds. (d), (e)).

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<sup>3</sup> See the Department of Consumer Affairs’ Contractors State License Board’s contractor license check resource, available at <https://www2.cslb.ca.gov/onlineservices/checklicense/checklicense.aspx>.

### **What if I have questions about electrical or gas utilities in connection with an ADU?**

HCD does not have authority over issues related to gas and electrical services. If an applicant believes that a local utility provider is not complying with connection requirements, fee schedules, or other issues that impact the creation of or service of an ADU, the applicant can file a complaint with the appropriate agency.

For privately owned public utilities such as PG&E, contact the California Public Utilities Commission (CPUC) by using CPUC's online complaint form, by calling 1-800-649-7570, or by sending a letter to:

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

For publicly owned utilities such as SMUD, the applicant will need to contact the utility directly and follow their complaint process.

## **Zoning, Development, and Other Standards**

### **Must ADUs be allowed jurisdiction-wide?**

No. Local agencies may, by ordinance, designate where ADUs are permitted within zones that allow residential use. However, any limits on where ADUs are allowed may only be based on the adequacy of water and sewer service and on the impacts on traffic flow and public safety. (Gov. Code, § 66314, subd. (a).)

Local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors. If a lot with a residence has been rezoned to a use that does not allow for residential uses, that lot is no longer eligible for an ADU. (Gov. Code, §§ 66314; 66323, subd. (a).) Impacts on traffic flow should consider factors like lower car ownership rates for ADUs. Local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns. Additionally, these designated areas cannot preclude units described in Government Code section 66323. If a local agency wishes to limit development of all ADUs, including units described in Government code section 66323, then the local agency may impose "a moratorium or similar restriction or limitation on housing development" as described in Government Code section 66300, subdivision (b)(1)(B), only with HCD's approval. Note that any such moratorium or restriction may only be imposed to "specifically protect against an imminent threat to ... health and safety...." (Gov. Code, § 66300, subd. (b)(1)(B)(i).)

### **Can local agencies restrict ADUs based on Fire Hazard Severity Zones or other environmental hazards?**

HCD understands that extreme weather conditions occur, and the threat of destructive wildfires cannot be ignored. Some agencies have used the High (HFHSZ) and Very High Fire Hazard Severity Zone (VHFHSZ) maps provided by CAL FIRE to mark areas where ADUs may be restricted or prohibited altogether. However, according to CAL FIRE, the HFHSZ and VHFHSZ maps are intended to govern building materials used in construction and defining zones of defensibility around structures. These are *not* intended to restrict housing development. The presence of a High Fire Hazard Severity Zone is not a conclusive rationale to warrant

restricting ADUs. A restriction based on the threat to public safety should be supported with findings detailing the impact of ADUs on public safety. (Gov. Code, § 66314, subd. (a).)

**Can an ADU application be denied due to lot density?**

No. An ADU ordinance shall provide that ADUs do not exceed the allowable density on the lot (Gov. Code, § 66314, subd. (c)). Additionally, ADUs which conform to Government Code section 66314 shall not be considered to exceed the allowable density for the lot (Gov. Code, §§ 66314, subd. (c); 66319).

**Can ADUs serve to qualify a project for a density bonus pursuant to State Density Bonus Law (SDBL), even though the general plan designation on the site allows less than five primary units?**

Yes. A project initially qualifies under the SDBL when the project’s “total units,” as defined in the SDBL (i.e., the number of units in the project *before* a density bonus is received) meet or exceed five units (Gov. Code, § 65915, subd. (o)(8)). Although the SDBL makes no mention of ADUs in its text, it likewise does not expressly narrow the definition of a unit to exclude ADUs. Provided they are counted within the total units of the project, ADUs are a type of housing unit that may be counted for the purposes of achieving the five total unit minimum.

**If ADUs can be used to qualify a project under the SDBL’s minimum total unit requirement, can they likewise be used to calculate a density bonus?**

No. The calculation of a density bonus is based solely on a site’s maximum allowable residential density, which does not include ADUs. A density bonus is defined as “a density increases over the otherwise maximum allowable gross residential density...” (Gov. Code, § 65915, subd. (f)). Maximum allowable residential density is defined as “the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan.” (Gov. Code, § 65915, subd. (o)(6).) As an example, if the zoning ordinance allows up to two units and the general plan allows up to three, the applicable maximum allowable residential density (i.e., base density) on the site is three units, even though the addition of two ADUs brings the “total units” to five (see question above). The density bonus would then be calculated on top of a base density of three units, not five.

**Can a local government apply design and development standards?**

Yes. With an adopted ADU ordinance in compliance with State ADU Law, a local government may apply objective development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. These standards must be objective to allow ministerial review of an ADU. (Gov. Code, §§ 66314, subd. (b)(1); 66316.) ADUs created under Government Code section 66323 shall not be subject to design and development standards except for those that are specified in section 66323. (Gov. Code, § 66323, subds. (a), (b)).

**Can an ADU be built in a historic district or if the primary residence is subject to historic preservation?**

Yes. ADUs are allowed within a historic district and on lots where the primary residence is subject to historic preservation. State ADU Law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. (Gov. Code, § 66314, subd. (b)(1).)

As with non-historic resources, an agency may impose objective standards that do not unreasonably restrict the creation of ADUs (Gov. Code, § 66311). Local agencies are encouraged to incorporate these standards into their ordinances and to submit these standards along with their ordinances to HCD.

**How should demolition of garages in conjunction with the permitting of an ADU be handled by a local or permitting agency?**

The local or permitting agency must review and issue the demolition permit and ADU permit at the same time. The applicant shall not be required to provide written notice or post a placard for the demolition of the garage unless the property is located in an architecturally and historically significant historic district. (Gov. Code, § 66314, subds. (e), (f).)

# Resources



## Changes to State ADU Laws

### AB 1154

AB 1154 (Chapter 507, Statutes of 2025) made various changes to State ADU Law (Gov. Code, § 66333) regarding JADUs and went into effect on January 1, 2026. This bill:

- Specifies that if a JADU has shared sanitation facilities with the primary structure, owner-occupancy will be required. If the JADU does not have shared sanitation facilities, owner-occupancy will not be required (Gov. Code, § 66333, subd. (b)).
- Requires that JADUs can no longer be used as short-term rentals and, if rented, must now be rented for longer than 30 days (Gov. Code, § 66333, subd. (g)).

### SB 9

SB 9 (Chapter 510, Statutes of 2025) made various changes to State ADU Law (Gov. Code, § 66326) regarding requirements for local jurisdictions when submitting ordinances to HCD and went into effect on January 1, 2026. This bill:

- Clarifies that if a local agency fails to submit an adopted ADU ordinance to HCD within the 60-day timeline or fails to respond to HCD's findings regarding its ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when permitting ADUs (Gov. Code, § 66326, subd. (d)).

## SB 543

SB 543 (Chapter 520, Statutes of 2025) made various changes to State ADU Law (Gov. Code, §§ 66311, 66313, 66317, 66320, 66323; 66324; 66327; 66325; 66332 and added sections 66335; 66335.5; and 66339.5) regarding requirements for local jurisdictions when submitting ordinances to HCD and went into effect on January 1, 2026. This bill:

- Revises the definition of a “junior accessory dwelling unit” to require the size of a JADU to be no more than 500 square feet of interior livable space (Gov. Code, § 66313, subd. (d)).
- Expands HCD’s authority over Chapter 13 of Division 1 of Title 7 of the Government Code, including but not limited to review, adopt, amend, or repeal guidelines to additionally grant that authority with respect to terms, references, and standards for JADUs (Gov. Code, § 66311).
- Revises the limitations on impact fees to, instead, prohibit impact fees upon the development of an ADU that has 750 square feet of interior livable space or less or JADU that has 500 square feet of interior livable space or less, and to require that any impact fee on an ADU that has more than 750 square feet of interior livable space be charged proportionately in relation to the square footage of the primary dwelling unit (Gov. Code, § 66311.5, subds. (a) – (d)).
- Requires a permitting agency to determine whether an application for an ADU or JADU is complete and provide written notice of the determination not later than 15 business days after the permitting agency received the application (Gov. Code, § 66317, subd. (a)(2)(A)).
- Requires the permitting agency to provide the applicant with a list of incomplete items and a description of how the application can be made complete in the written notice if it is determined that an application is incomplete (Gov. Code, § 66317, subd. (a)(2)(B)).
- Requires the permitting agency to provide a process for an application to be deemed complete and for applicants to appeal an incompleteness determination or denial, as provided, and requires the permitting agency to provide a final written determination by not later than 60 business days after receipt of the written appeal if a permit application is determined to be incomplete or is denied (Gov. Code, § 66317, subd. (d)(1)).
- Specifies that an ADU or JADU that contains less than 500 square feet of interior livable space does not increase assessable space (Gov. Code, § 66311, subds. (d)). This is important to the calculation and imposition of school fees.
- Revises size limitations to be based on the square footage of interior living space of the ADU (Gov. Code, § 66321, subds. (b)(2)(A), (b)(2)(B), and (b)(3)).
- Specifies the number of allowable ADUs described under Government Code section 66323 per lot (Gov. Code, § 66323, subd. (a)).
- Clarifies that fire sprinklers are not required for a JADU if the primary residence does not have fire sprinklers and that the addition of a JADU cannot trigger the requirement for fire sprinklers (Gov. Code, § 66323, subd. (d)).
- Adds section 66333.5, which specifies that if a local agency fails to submit an adopted JADU ordinance to HCD within the 60-day timeline or fails to respond to HCD’s findings regarding their ordinance within the 30-day timeline, that ordinance is null and void and the local agency must only apply State ADU Law when processing applications for JADUs.

New Government Code Sections	Previous Government Code Sections
66311.5	66324
66313.5	66327
66311.7	66332

## AB 462

AB 462 (Chapter 491, Statutes of 2025) made various changes to State ADU Law (Gov. Code, §§ 66328 and 66329) regarding requirements for the issuance of a certificate of occupancy during a declared state of emergency and creating an exception in coastal jurisdictions. This bill went into effect on October 10, 2025, as an urgency bill. This bill:

- Requires a local agency to issue a certificate of occupancy for an ADU constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025, even if the primary dwelling has not yet been issued a certificate of occupancy, if certain requirements are met, including that the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation (Gov. Code, § 66328).
- Clarifies application processing when in a coastal zone by requiring a local government or the Coastal Commission, as specified, to either approve or deny a coastal development permit application for an ADU within 60 days of receiving a completed application (Gov. Code, § 66329, subd. (a)).

## AB 130

AB 130 (Chapter 22, Statutes of 2025) made changes to the Civil Code and State ADU Law (Gov. Code, § 66323) regarding ADUs and went into effect on June 30, 2025. This bill:

- Specifies that reasonable restrictions in covenants, restrictions, and conditions, as described in the Civil Code, shall not include any fees or other financial requirements (Civil Code, § 714.3, subd. (b)).
- Removes Government Code section 66323, subdivision (g), which allowed the imposition of objective standards on ADUs in multifamily dwelling structures if the local agency had adopted an ADU ordinance by July 1, 2018.

## AB 2533

AB 2533 (Chapter 834, Statutes of 2024) made various changes to State ADU Law (Gov. Code, § 66311.7) regarding unpermitted ADUs and went into effect on January 1, 2025. This bill:

- Prohibits a local agency from denying a permit for an unpermitted ADU or JADU that was constructed before January 1, 2020, for building code violations, unless the local agency makes a finding that correcting the violation is necessary to comply with conditions that would otherwise deem a building substandard.
- Requires a local agency to inform the public about the provisions prohibiting denial of a permit for an unpermitted ADU or JADU.
- Requires this information to include a checklist of the conditions that deem a building substandard and to inform homeowners that, before submitting a permit application, the

homeowner may obtain a confidential third-party code inspection from a licensed contractor.

- Prohibits a local agency from requiring a homeowner to pay impact fees or connection or capacity charges except under specified circumstances.
- Authorizes an inspector from a local agency, upon receiving an application for a permit for a previously unpermitted ADU or JADU constructed before January 1, 2020, to inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards.
- Prohibits the local agency from penalizing an applicant for having the unpermitted ADU and would require the local agency to approve necessary permits to correct noncompliance with health and safety standards.

## **SB 1211**

SB 1211 (Chapter 296, Statutes of 2024) made various changes to State ADU Law (Gov. Code, §§ 66313, 66314, 66323) with regard to replacement parking and 66323 Units on lots with existing or proposed multifamily dwellings and went into effect on January 1, 2025. This bill:

- Defines “livable space” as a space in a dwelling intended for human habitation, as the term appears in Government Code sections 66313, subdivision (e), and 66323, subdivision (a)(3)(A).
- Specifies that uncovered, off-street parking spaces demolished in conjunction with the construction of an ADU do not need to be replaced.
- Authorizes up to eight detached ADUs on a lot with an existing multifamily dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot.
- Prohibits a local agency from imposing any objective development standards on 66323 Units that are not authorized by the provisions of Government Code section 66323, subdivision (a).

## **SB 477**

SB 477 (Chapter 7, Statutes of 2024) made changes to the numbering of the sections of Government Code for State ADU and JADU Laws. The bill went into effect on March 25, 2024.

New Government Code Sections	Previous Government Code Sections
<b>Article 1. General Provisions</b>	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 65852.22 (j)
<b>Article 2. Accessory Dwelling Unit Approvals</b>	
66314	65852.2 (a)(1)(A), (D)(i)-(xii), (a)(4)-(5)
66315	65852.2 (a)(8)
66316	65852.2 (a)(6)
66317	65852.2 (a)(3), (a)(7)
66318	65852.2 (a)(9) 65852.2 (a)(2)
66319	65852.2 (a)(10)
66320	65852.2 (b)
66321	65852.2 (c)
66322	65852.2 (d)
66323	65852.2 (e)
66324	65852.2 (f)
66325	65852.2 (g)
66326	65852.2 (h)
66327	65852.2 (i)
66328	65852.2 (k)
66329	65852.2 (l)
66330	65852.2 (m)
66331	65852.2 (n)
66332	65852.23.
<b>Article 3. Junior Accessory Dwelling Units</b>	
66333	65852.22 (a)
66334	65852.22 (b)
66335	65852.22 (c)
66336	65852.22 (d)
66337	65852.22 (e)
66338	65852.22 (f)-(g)
66339	65852.22 (h)
<b>Article 4. Accessory Dwelling Unit Sales</b>	
66340	65852.26 (b)
66341	65852.26 (a)
66342	65852.2 (a)(10)

Note: The statutory references below have been adjusted to the new numbering described above.

## **AB 976 and AB 1033**

AB 976 (Chapter 751, Statutes of 2023) and AB 1033 (Chapter 1033, Statutes of 2023) made changes to State ADU Law (Gov. Code, §§ 66310-66342) regarding the occupancy, sale, and separate conveyance of ADUs and went into effect on January 1, 2024. These bills:

- Removed the existing 2025 sunset prohibition on a local agency imposing an owner-occupancy requirement on any ADU and would instead prohibit a local agency from requiring owner-occupancy for an ADU (Gov. Code, § 66315).
- Authorized a local agency to adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and ADU(s) as condominiums, subject to certain conditions (Gov. Code, §§ 66340-66342). Specifically:
  - Condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act.
  - Condominiums shall be created in conformance with the Subdivision Map Act.
  - Requires a safety inspection of the ADU prior to recordation of the condominium plan.
  - Requires lienholders' consent prior to recordation of the subdivision map or condominium plan.
  - The local agency shall provide notice to consumers regarding requirements, establishment of condominium, and lienholder consent.
  - Requires homeowner notice to utilities.
  - The owner of a separate interest in an existing planned development must obtain express written authorization from the association.

## **AB 1332**

AB 1332 (Chapter 759, Statutes of 2023) added section 65852.27 to the Government Code to expedite the approval of ADUs and went into effect on January 1, 2024. This bill:

- Requires the local agency to develop a program for the preapproval of ADU plans by January 1, 2025.
- Requires the local agency to accept ADU plan submissions for preapproval from any party and approve or deny applications pursuant to standards established in Government Code sections 66314-66342.
- Requires the local agency to post preapproved ADU plans and the contact information of the applicant on the local agency's internet website.
- Allows the local agency to also post plans pre-approved by other local or state agencies.
- Authorizes a local agency to charge a fee to an applicant for the preapproval of an ADU plan.
- Requires a local agency to approve or deny within 30 days an application for a detached ADU that utilizes either a plan preapproved by the local agency or another agency within the state, or a plan that is identical to a plan in a previously approved application for a detached ADU. The plans must be valid within the current triennial California Building Standards Code rulemaking cycle.

## **AB 434**

AB 434 (Chapter 740, Statutes of 2023) modified amended Government Code section 65585, subdivision (j), by adding State ADU Law (Gov. Code, §§ 66310-66342) and SB 9 (Gov. Code, §§ 65852.21, 66411.7), among others, to the list of laws that HCD is authorized to enforce, including HCD's authority to notify a city, county, city and county, or the Attorney General when the planning agency of a city, county, or city and county fails to comply with those laws. The bill went into effect on January 1, 2024.

## **AB 345**

AB 345 (Chapter 343, Statutes of 2021) built upon recent changes to State ADU Law, to require cities to allow the separate conveyance of ADUs from the primary dwelling in certain circumstances, provided they meet certain conditions, including those listed below, found in Government Code section 66341:

- The ADU or primary dwelling was built or developed by a qualified nonprofit (Gov. Code, § 66341, subd. (a)).
- There is an enforceable restriction on the use of the property between the low-income buyer and nonprofit that satisfies the requirements of Section 402.1 of the Revenue and Taxation Code (Gov. Code, § 66341, subd. (b)).
- The entire property is subject to the affordability restrictions to assure that the ADU and primary dwelling are preserved for owner-occupied, low-income housing for 45 years and are sold or resold only to a qualified buyer (Gov. Code, § 66341, subd. (c)).
- The property is held in a recorded tenancy in common agreement that meets certain requirements (Gov. Code, § 66341, subd. (c)).

AB 345 does not apply to JADUs, and local ordinances must continue to prohibit JADUs from being sold separately from the primary residence.

## **AB 3182**

AB 3182 (Chapter 198, Statutes of 2020) built upon recent changes to ADU Law, specifically Government Code sections 66310-66342 and Civil Code Sections 4740 and 4741, to further address barriers to the development and use of ADUs and JADUs.

This legislation, among other changes, addressed the following:

- States that an application for the creation of an ADU or JADU shall be deemed approved (not just subject to ministerial approval) if the local agency has not approved or denied the completed application within 60 days (Gov. Code, § 66317, subd. (a)).
- Requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one ADU and one JADU per lot (not one or the other), within the proposed or existing single-family dwelling, if certain conditions are met (Gov. Code, § 66323, subd. (a)(1)(A)).

- Provides for the rental or leasing of a separate interest ADU or JADU in a common interest development, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, and without regard to the date of the governing documents (Civ. Code, §§ 4740, subd. (a); 4741, subd. (a)).
- Provides that not less than 25 percent of the separate interest units within a common interest development be allowed as rental or leasable units (Civ. Code, § 4741, subd. (b)).

## **AB 68, AB 881, and SB 13**

AB 68 (Chapter 655, Statutes of 2019), AB 881 (Chapter 659, Statutes of 2019), and SB 13 (Chapter 653, Statutes of 2019) built upon recent changes to State ADU and JADU Law and further address barriers to the development of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size. (Gov. Code, § 66314, subd. (b)(1)).
- Clarifies that areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services, as well as on impacts on traffic flow and public safety (Gov. Code, § 66314, subd. (a)).
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020, and January 1, 2025 (Gov. Code, § 66315).
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet (Gov. Code, § 66321, subds. (b)(2), (b)(3)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement of off-street parking spaces cannot be required by the local agency (Gov. Code, § 66314, subd. (d)(11)).
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Gov. Code, §§ 66317, subd. (a); 66335, subd. (2)).
- Clarifies that “public transit” includes various means of transportation that charge set fees, run on fixed routes, and are available to the public (Gov. Code, § 66313, subd. (m)).
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees, and ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Gov. Code, § 66311.5, subd. (c)(1)).
- Defines an “accessory structure” to mean a structure that is accessory and incidental to a dwelling on the same lot (Gov. Code, § 66313, subd. (b)).
- Authorizes HCD to notify the local agency if HCD finds that the local ADU ordinance is not in compliance with state law (Gov. Code, § 66326, subd. (b)(1)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy its Regional Housing Needs Allocation (RHNA) (Gov. Code, § 65583.1, subd. (a)).
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them (Gov. Code, § 66335.5).

- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom and an interior entry into the single-family residence (Gov. Code, § 66333, subd. (d)).
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency (Gov. Code, § 66331; HSC, § 17980.12).

## **AB 587, AB 670, and AB 671**

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an impact on State ADU Law, particularly through Health and Safety Code section 17980.12.

These pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households. (Gov. Code, § 66340, 66341.)
- AB 670 provides that covenants, conditions, and restrictions that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civ. Code, § 4751)).
- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low-, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction, and operation of affordable ADUs (Gov. Code, § 65583; HSC, § 50504.5)).

## Summary Table of Statutory Changes

Bill	Statute Amended	Section	Year Effective
AB 670 (2019)	Civil Code	4751	2020
AB 671 (2019)	Government Code	65583 (c)(7)	2020
AB 671 (2019)	Health and Safety Code	50504.5	2020
AB 3182 (2020)	Civil Code	4740 4741	2021
AB 345 (2021)	Government Code	65852.26	2022
SB 9 (2021)	Government Code	65852.21 66411.7	2022
AB 1584 (2022)	California Civil Code	714.3	2022
SB1069 (2016) AB 2299 (2016) SB 229 (2017) AB 494 (2017) AB 881 (2019) AB 68 (2019) SB 13 (2019) AB 3182 (2020) AB 345 (2021) AB 2221 (2022) SB 897 (2022) AB 976 (2023) AB 1033 (2023)	Government Code	65852.2	2023
AB 2406 (2016) AB 881 (2019) SB 897 (2022)	Government Code	65852.22	2023
SB 897 (2022)	Health and Safety Code	17980.12	2023
AB 1332 (2023)	Government Code	65852.27	2024
AB 434 (2023)	Government Code	65585 (j)	2024
SB 477 (2024)	Government Code	65852.150 65852.2 65852.22 65852.23 65852.26	2024
AB 2533 (2024)	Government Code	66322	2025
SB 1211 (2024)	Government Code	66313 66314 66323	2025

AB 3057 (2024)	Public Resources Code	21080.17	2025
AB 130	Government Code	66323	2025
AB 462	Government Code	66328 66329	2025
SB 543	Government Code	66311 66313 66317 66320 66323 66324 66327 66325 66332 66335 66335.5 66339.5	2026
SB 9 (2025)	Government Code	66326	2026
AB 1154 (2025)	Government Code	66333	2026
SB 1077 (2024)	Public Resources Code	30500.5	2026