



Accessory Dwelling Units: Overview of California Law

Presented by

**Nathan Klein, Esq., Tyler Law
Anne Rawlinson, Esq., Whitney Petchul**

Legislative Purpose

- Problem: population growth and limited housing supply.
- State is planning for construction of 2.5 million homes by 2030 to meet demand.
- Recent laws encourage development of accessory dwelling units (ADUs) by reducing regulatory barriers.
- Sources: *Gov. Code* §§ 66310, 65852.27, 65583; <https://www.hcd.ca.gov>

State Limitations on Local Agencies

- “Local Agency” = a city or county
- Must allow ADUs that meet State standards.
- Cannot adopt ordinances that unreasonably restrict ADU development.
- Cannot impose minimum lot size or owner-occupancy requirements.
- Source: *Gov. Code* §§ 66311—66315

ADU Structure

- Attached ADUs may be up to 50% of the primary dwelling's size.
- Detached ADUs may be built up to 1,200 square feet regardless of the size of the primary home.
- Manufactured homes may be ADUs.
- Sources: *Gov. Code* §§ 66313(a)(2), 66314(d)

JADU Size Limits

- JADU = Junior Accessory Dwelling Unit
- Must be located within a proposed or existing single-family residence.
- May not exceed 500 square feet of interior livable space.
- Source: *Gov. Code* §§ 66313, 66333

Streamlined Approval

- Local agencies must “ministerially” approve (*i.e.*, rubber-stamp) lot splits and two-unit developments in single-family residential zones.
- Local agencies may rezone parcels near transit to permit up to ten units per parcel without CEQA review.
- Sources: *Gov. Code* §§ 65852.21, 65913.5, 66411.7

Streamlined Approval

- Local agencies may not impose discretionary review, hearings, or other delays for qualifying units.
- Maximum of 60 days for approval process.
- Source: *Gov. Code* § 66317

HOA Restrictions are Limited

- Must defer to city or county approval.
- May not enforce provisions in governing documents that "effectively prohibit" or "unreasonably restrict" construction or use of ADUs or JADUs on single-family lots.
- Source: *Civil Code* § 4751

HOA Restrictions are Limited

Examples of rules that might “effectively prohibit” an ADU:

- CC&R provisions requiring use of garage
- Height restrictions
- Mandatory setbacks
- Required roof pitches

HOA Architectural Standards

- “Reasonable” architectural standards are permitted.
- “Reasonable” means it cannot unreasonably increase construction costs or effectively prohibit construction of an ADU or JADU.
- Example: compatible exterior finishes.
- Source: Civil Code § 4751(b)

ADU Rental Rules

- Local agencies must allow rentals of 30 days or more.
- May not count owner-occupied ADUs as rentals under rental cap rules.
- Sources: *Gov. Code* §§ 66315, 65852.21; *Civil Code* § 4741

Riverside County ADU Types

- **Detached ADUs:** Separate from the primary dwelling, up to 1,200 sq ft. (Riverside County Ord. 348 § 18.5)
- **Attached ADUs:** Share a wall with the main home, limited to 50% of primary dwelling size. (Gov. Code § 65852.2)
- **Junior ADUs (JADUs):** Located within an existing home, up to 500 sq ft, may share bathroom. (Gov. Code § 65852.22; Riverside County FAQ)
- **Conversion ADUs:** Created by repurposing existing space (e.g., garages or basements). (Gov. Code § 65852.2(e))
- **Manufactured ADUs:** Factory-built units meeting HUD or state standards. (Riverside County ADU Handbook)

Second Units

- Not part of the ADU/JADU statutory scheme. *Gov. Code* § 66313; 65852.1(a); Riverside County Ord. 348, § 19.802 A.3.
- A one family dwelling that includes a kitchen and bathroom that is allowed on lots zoned for one family dwellings and includes an existing primary dwelling. Riverside County Ord. 348, § 19.802 A.3.
- Must be detached. Riverside County Ord. 348, § 19.802 B.6.
- Not permitted on lots zoned for multiple family dwellings. Riverside County Ord. 348, § 19.807 A.2.
- Minimum lot size 7,200 square feet. Riverside County Ord. 348, § 19.807 A.1.

Second Units Cont'd

- **Maximum Floor Area** - Riverside County Ord. 348, § 19.807 D.4
 - Lot size 7,201 – 20,000 sf = 1,200 sf max.
 - Lot size 20,001 sf – 2 acres = 1,500 sf max.
 - Lot size 2.01 acres – 4 acres = 2,500 sf max.
 - Lot size > 4 acres = not to exceed 200% of primary dwelling floor area
- Set back requirements for the lot also apply to the second unit. Riverside County Ord. 348, § 19.807 C.3.
- Height cannot exceed primary dwelling. Minimum lot size 7,200 square feet. Riverside County Ord. 348, § 19.807 E.4.
- Parking – one space for one bedroom or two spaces for units with 2+ bedrooms. Riverside County Ord. 348, § 19.807 F.3.