January 19, 2017

TO:  
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FROM:  
Sorin Alexanian, Deputy Director  
Current Planning Division

ASSEMBLY BILL 2299 AND SENATE BILL 1069, LAND USE AND ZONING: ACCESSORY DWELLING UNITS

On September 27, 2016, the Governor approved Assembly Bill (AB) 2299 (Bloom) and Senate Bill (SB) 1069, which amend the State Second Unit Law (Section 65852.2 of the Government Code). As such, the amendments to the State Second Unit Law became effective January 1, 2017. I encourage you to discuss these modifications with your respective staff in order to provide a consistent transition to the new regulations.

A copy of the new State law is attached for your reference. Please be aware of the following changes to State law pertaining to the approval of second units (now known as Accessory Dwelling Units, or ADUs). This memorandum does not describe all County regulations that pertain to ADUs. It is primarily intended to highlight changes related to ADUs in implementation of Title 22.

Until such time when the County Zoning Code (Title 22) is amended to comply with the new amended State law, the following changes shall supersede any contrary provisions in Title 22 and shall apply to all Accessory Dwelling Unit applications with approvals pending after January 1. Applicants with approvals pending may choose to have their applications processed under current regulations.

I. Location of Accessory Dwelling Units

ADUs are permitted in all zones that allow single-family or multifamily residences by right when all the requirements in Part III of this memo are met. This includes areas covered by a General Plan special management overlay, such as Significant Ecological Areas, Hillside Management Areas, and Very High Fire Hazard Severity Zones.

This does not include areas regulated by a Local Coastal Program, where ADUs are subject to Local Coastal Program regulations as applicable.
The lot must contain at least one existing, single-family residence prior to construction of the second unit. If the property is vacant or the existing single-family residence is to be demolished, the application(s) must include construction of both the primary residence and ADU.

II. Use Restrictions
   A. An ADU shall not be permitted on a lot or parcel of land where there exists any of the following:
      1. Another ADU.
      2. A mobile home or residence for use by a caretaker, as defined in Section 22.08.030, and the caretaker’s immediate family;
      3. Detached living quarters (guest house), as defined in Section 22.08.040.

III. Approval of ADUs
   A. ADUs shall be approved with a ministerial site plan review if they meet all of the following requirements:
      1. The unit is not intended for sale separate from the primary residence.
      2. The zoning of the lot allows residential uses by right and contains at least one existing, single-family residence. If the lot is vacant or the existing single-family residence is to be demolished, the application(s) must include construction of both the primary residence and ADU.
      3. The ADU is either attached to the primary residence, contained within the existing space\(^1\) of the primary residence, or detached from the primary residence and located on the same lot as the primary residence.
      4. The ADU has independent exterior access.
      5. The increased floor area of an attached ADU is not more than 50 percent of the existing floor area, with a maximum increase in floor area of 1,200 square feet.
      6. The total floor area for a detached ADU is not more than 1,200 square feet, regardless of lot size.
      7. The required distance between the ADU and the primary residence, and between the ADU and structures on adjacent lots, must comply with fire separation requirements in Section R302 of the California Residential Code (Attachment 2).
      8. The ADU meets all development standards in Part IV of this memo.

   B. ADUs approved ministerially shall be processed within four months of receiving a completed application.

\(^1\) "Existing space" refers to the existing footprint and square footage of the single-family primary residence or accessory structure.
IV. Development standards

A. No development standards shall apply to ADUs, except for the following:

1. A stepback\(^2\) of five feet from the side and rear lot lines shall be required for an ADU that is established above a garage. The ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

2. Height limits applicable to single-family residences in the zone shall apply to the ADU.

3. Parking for ADUs shall be required in accordance with subsection E of Section 22.52.1180, with the following exceptions:
   a. No parking shall be required for the ADU if any of the following apply:
      i. The ADU is located within one-half mile of public transit (including a bus stop, as verified by checking a current transit map for the area); or
      ii. The ADU is entirely contained within the existing space of a primary residence or existing accessory structure; or
      iii. When on-street parking permits are required but not offered to the occupant of the ADU; or
      iv. When there is a car share vehicle located within one block of the ADU. This can be verified by checking the maps on Zipcar [http://www.zipcar.com/find-cars/losangeles](http://www.zipcar.com/find-cars/losangeles) or Turo [https://turo.com/rentals](https://turo.com/rentals).
   b. When a garage, carport or covered parking structure is demolished or rendered unusable in conjunction with the construction of an ADU, any parking spaces required for the ADU or primary residence may be provided as covered spaces, uncovered spaces, tandem spaces on an existing driveway, or by the use of mechanical parking lifts.

4. An ADU shall have a total size of at least 150 square feet, with at least one habitable room of at least 70 square feet. An ADU must contain a bathroom including a toilet, lavatory and bathtub or shower; and a kitchen area with a sink. Habitable rooms, not including the kitchen, are required to have a minimum horizontal dimension of 7 feet. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable rooms.

Additional guidance documents will be prepared subsequent to this memo to assist staff in implementing the new ADU regulations.

\(^2\) No side or rear yard setback may be imposed by Title 22. However, minimum fire separation distances in the State Residential Code as adopted in Title 30 of the County Code still apply.
If you have any questions regarding AB 2299 and SB 1069, please contact Sorin Alexanian, Deputy Director, Current Planning Division, at (213) 974-6441 or salexanian@planning.lacounty.gov or Ayala Scott, Advance Planning Division, General Plan Development and Housing Section, at (213) 974-6417 or ascott@planning.lacounty.gov.

SA:MC:AS:Im

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Attachments:
1. Government Code Section 65852.2 (as amended).
2. California Residential Code Tables R302 (1) and R302.1(2).
3. Accessory Dwelling Unit Memorandum, California Department of Housing and Community Development
Attachment 1: Government Code Section 65852.2

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, 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 Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that
includes only ministerial provisions for the approval of accessory dwelling units and shall
not include any discretionary processes, provisions, or requirements for those units,
except as otherwise provided in this subdivision. In the event that a local agency has an
existing accessory dwelling unit ordinance that fails to meet the requirements of this
subdivision, that ordinance shall be null and void upon the effective date of the act adding
this paragraph and that agency shall thereafter apply the standards established in this
subdivision for the approval of accessory dwelling units, unless and until the agency
adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a
building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to
evaluate a proposed accessory dwelling unit on a lot zoned for residential use that
contains an existing single-family dwelling. No additional standards, other than those
provided in this subdivision, shall be utilized or imposed, except that a local agency may
require an applicant for a permit issued pursuant to this subdivision to be an owner-
occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the
policies, procedures, or other provisions applicable to the creation of an accessory
dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an
accessory use or an accessory building and shall not be considered to exceed the
allowable density for the lot upon which it is located, and shall be deemed to be a
residential use that is consistent with the existing general plan and zoning designations
for the lot. The accessory dwelling unit shall not be considered in the application of any
local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling
units in accordance with subdivision (a) receives its first application on or after July 1,
1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the
local agency shall accept the application and approve or disapprove the application
ministerially without discretionary review pursuant to subdivision (a) within 120 days after
receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both
attached and detached accessory dwelling units. No minimum or maximum size for an
accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall
be established by ordinance for either attached or detached dwellings that does not permit
at least an efficiency unit to be constructed in compliance with local development
standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling
unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) “Living area” means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, “neighborhood” has the same meaning as set forth in Section 65589.5.

(4) “Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

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

(5) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
### TABLE R302.1(1)

**EXTERIOR WALLS**

<table>
<thead>
<tr>
<th>EXTERIOR WALL ELEMENT</th>
<th>MINIMUM FIRE-RESISTANCE RATING</th>
<th>MINIMUM FIRE SEPARATION DISTANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walls</td>
<td>Fire-resistance rated</td>
<td>1 hour—tested in accordance with ASTM E119 or UL 263 with exposure from both sides</td>
</tr>
<tr>
<td></td>
<td>Not fire-resistance rated</td>
<td>0 hours</td>
</tr>
<tr>
<td>Projections</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Fire-resistance rated</td>
<td>1 hour on the underside&lt;sup&gt;a,b&lt;/sup&gt;</td>
</tr>
<tr>
<td></td>
<td>Not fire-resistance rated</td>
<td>0 hours</td>
</tr>
<tr>
<td>Openings in walls</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>25% maximum of wall area</td>
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</tr>
<tr>
<td></td>
<td>Unlimited</td>
<td>0 hours</td>
</tr>
<tr>
<td>Penetrations</td>
<td>All</td>
<td>Comply with Section R302.4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>None required</td>
</tr>
</tbody>
</table>

<sup>a</sup> Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fireblocking is provided from the wall top plate to the underside of the roof sheathing.

<sup>b</sup> Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided that gable vent openings are not installed.

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**TABLE R302.1(2)**

**EXTERIOR WALLS—DWELLINGS AND ACCESSORY BUILDINGS WITH AUTOMATIC RESIDENTIAL FIRE SPRINKLER PROTECTION**

<table>
<thead>
<tr>
<th>EXTERIOR WALL ELEMENT</th>
<th>MINIMUM FIRE-RESISTANCE RATING</th>
<th>MINIMUM FIRE SEPARATION DISTANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walls</td>
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<td>1 hour—tested in accordance with ASTM E119 or UL 263 with exposure from the outside</td>
</tr>
<tr>
<td></td>
<td>Not fire-resistance rated</td>
<td>0 hours</td>
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<tr>
<td>Projections</td>
<td>Not allowed</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Fire-resistance rated</td>
<td>1 hour on the underside&lt;sup&gt;a,c&lt;/sup&gt;</td>
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<tr>
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For SI: 1 foot = 304.8 mm.

N/A = Not Applicable.