



Presentation on New State Housing Laws

Background

- A record number of bills through the Legislature, 41 of which were signed into law by Governor Gavin Newsom
- Most of these laws take effect on January 1, 2023
- The scope of the new laws are wide ranging, impacting projects from bedroom additions to transforming an office park into a mixed-use development

2022 Housing Legislative Themes



**RESIDENTIAL DEVELOPMENT
ON COMMERCIAL ZONED LAND**

STREAMLINING

PARKING REFORM

ACCESSORY DWELLING UNITS

DENSITY

**HOUSING ELEMENT ANNUAL
PROGRESS REPORT**

Residential Development on Commercially Zoned Land



AB 2011 - Creates a ministerial, CEQA-exempt, time-limited approval process for multifamily housing developments on commercially zoned property

- Projects must pay **prevailing wages** to construction workers and meet specified **Below Market Rate** (BMR) affordable housing targets
- Provides **two distinct options**: one for 100 % BMR projects and a second for mixed-income (typically 15% BMR) projects located specifically on "commercial corridors"
- Eligibility is further limited by numerous **site** and **project criteria** requiring careful review
- The streamlined review process is very similar to SB 35 of 2017
- Sunsets in 2033

Residential Development on Commercially Zoned Land



SB 6 - Allows residential development on property zoned for retail and office space without needing a rezoning and allows project applicants to invoke the Housing Accountability Act (HAA) to limit local discretion to deny or condition approval

- Does **not** provide a ministerial approval pathway
- Requires applicants to commit to both **prevailing wage and** more costly "**skilled and trained workforce**" requirements for project labor with exceptions
- Does not contain any BMR requirements, and it has fewer site exclusions than AB 2011
- Likely to be used most frequently in lower-cost areas of the state and on sites where AB 2011 is not available

AB 2234 Timelines for Post-Entitlement Permits

Establishes a concrete and time-limited approval process for issuing post-entitlement ministerial permits

- Applies to development that is intended to be at least 2/3 residential
- Excludes discretionary and ministerial planning permits and entitlements
- Examples including building permits, demolition permits, grading permits, and off-site improvements

Establishes a Shot-Clock Timeline:

- 15 business days to determine application completion
- 30 business days to complete review of projects with 25 or fewer units
- 60 business days to complete review of projects with more than 25 units

AB 2668 - SB 35 “Clean-up” - Technical and clarifying changes to SB 35 of 2017

- Make explicit that a local government is **required to approve** a development if it determines that it is consistent with SB 35
- Confirms minimum % of total units dedicated for lower-income housing is calculated **before** calculating any density bonus
- Provides opportunities to use SB 35 on a hazardous waste site
- Cannot find a project inconsistent with applicable standards on the grounds that application materials were not included if project is consistent with the objective planning standards
- Confirms that although SB 35 allows additional "design review" or "public oversight" over the ministerial application, a locality still must provide written documentation of any applicable standards with which the project conflicts within the applicable deadline from application submittal

Parking Reform

AB 2097 – No Parking Minimums within Half-Mile of Public Transit

- Prohibits public agencies from imposing minimum parking requirements on residential, commercial or other development projects located within a half-mile of public transit
- May only impose parking minimums on projects if the agency can make certain written findings that the inability to impose parking requirements would have substantial negative impacts on:
 - 1) Ability to meet its regional housing needs for low-income households
 - 2) Ability to meet special housing needs for the elderly or persons with disabilities
 - 3) Existing residential or commercial parking facilities located within a half-mile of the housing development project
- Requires findings to be supported by a preponderance of the evidence and such determination and findings must be made within 30 days of receiving a complete project application

AB 2097 – No Parking Minimums within Half-Mile of Public Transit cont.

- Cannot deny a parking reduction for housing development projects, including but not limited to residential-only and mixed-use projects, if:
 1. A minimum of 20% of the units are dedicated to very low-, low- or moderate-income households, students, the elderly or persons with disabilities;
 2. Development contains 20 residential units or less; or
 3. Development is subject to other applicable parking reductions provided by law
- If developer voluntarily provides parking the jurisdiction may require the following:
 1. Spaces for car-share vehicles
 2. Spaces to be shared with the public
 3. Electric vehicle supply equipment
 4. Accessible parking spaces

State Density Bonus Law

State Density Bonus Law allows developers to increase density, access concessions to reduce development costs, waive development standards and reduce parking in exchange for providing affordable housing

Amended nearly every year in an effort to provide more housing production potential



State Density Bonus Law



AB 2334 – State Density Bonus Law Amendments

- Reforms to the State Density Bonus Law to define "base density" and provide further concessions for 100% BMR projects in low VMT areas
- Updates the definition of maximum allowable residential density for the purpose of determining the "**base density**" to which bonus density may be added
- Provides that if the density under the zoning ordinance is inconsistent with the General Plan or Specific Plan, the greater shall prevail
- Dictates a method for determining the "base density" where zoning and/or General Plan do not provide a du/ac standard for density (e.g. form-based codes, FAR limits, etc.)
- Changes the resident age requirement for a specified development to receive an elimination of parking minimums from the current 62 years of age or older to instead be 55 years or older

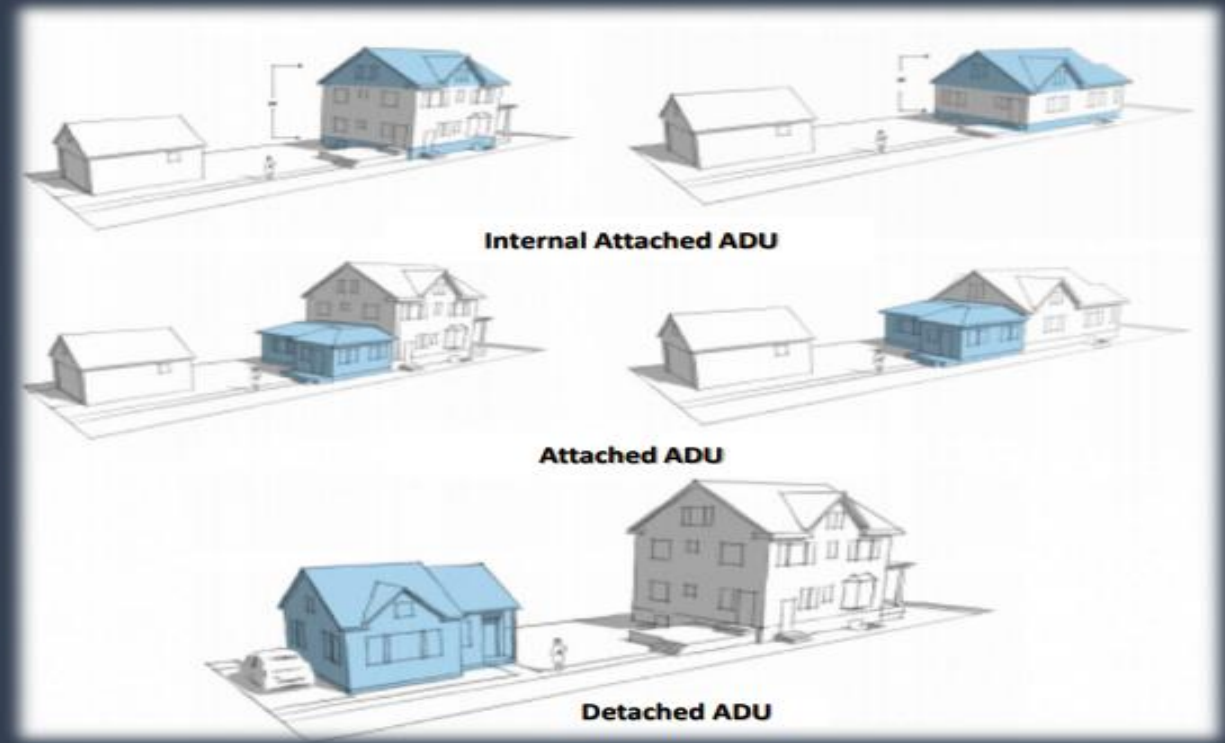
Accessory Dwelling Units

Accessory Dwelling Unit Types

An Accessory Dwelling Unit or ADU is a second residence on the same lot as the main home or apartment building. Also, known as second units or “granny flats,” these units can, if well designed, can add to property values and increase housing opportunities in existing areas without changing the overall character of the neighborhood. To be considered an ADU, the unit must include a kitchen, bathroom, and a place to sleep. ADUs in Folsom can range in size from 150 to 1,000 square feet.

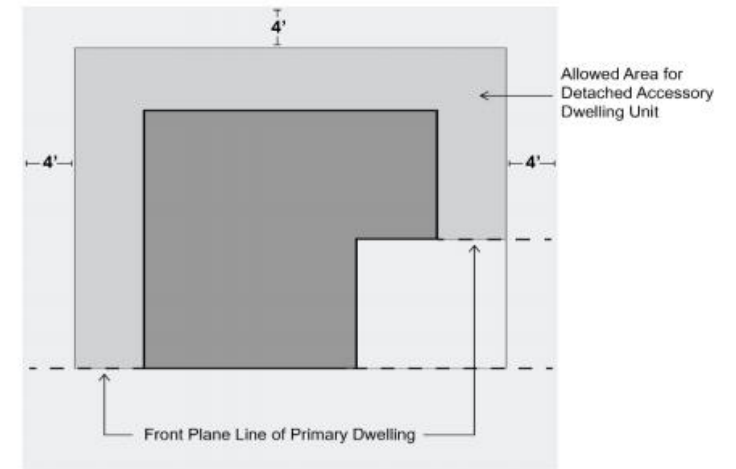
There are several types of ADUs including:

- **Internal Attached ADU:** Conversion of space such as a room, basement or attic in a home into a separate unit.
- **Attached ADU:** Addition of a new structure to the existing home.
- **Detached ADU:** A stand-alone unit separate from the primary home. This category also includes:
 - **Garage Apartments:** ADU attached to the side or back of an existing detached garage (not shown).
 - **Above-Garage ADU:** An ADU built on top of a new or existing detached garage (not shown).



Accessory Dwelling Units

Consistent with Govt Code Section 65852, an ADU is exempt from local regulations up to 800 square feet in size, 16 feet in height, and 4 feet from side and rear yard property lines. For ADUs that meet these requirements, only a ministerial building permit is required, and a local jurisdiction cannot impose lot coverage, floor area ratio, open space, or minimum lot size requirements.



Accessory Dwelling Units

SB 897 – Increased Height Limits

Adjusts the minimum ADU height limit that a local agency may impose, as follows:

- Detached ADUs on a lot with an existing or proposed single family, a 16-foot height limitation is allowed.
- For detached ADUs on a lot with an existing or proposed multifamily dwelling unit, an 18-foot height limitation is allowed.
- For a detached ADU within **½ mile walking distance** of a major transit stop or a high-quality transit corridor, an **18-foot** height limitation is allowed. Also, requires that a local agency must allow an additional 2 feet in height to accommodate a roof pitch on an ADU that is aligned with the roof pitch of the primary dwelling unit.
- For ADUs attached to the primary dwelling, a height of **25 feet** or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, is allowed.

Accessory Dwelling Units

AB 2221 – ADU Law “Cleanup” - This law contains clean-up language and clarifications to reduce permitting delays for ADU applicants, including:

- Expressly requires agencies to “approve” or “deny” and ADU application within 60 days following completeness determination
- Requires agencies that deny an ADU application to provide a full set of comments and list of items that are deficient and a description of how the application can be remedied
- Adds front setbacks to the list of local development standards that local governments cannot impose if they would preclude construction of the attached or detached ADU

Housing Element Annual Progress Report Changes



Changes to the current requirement for annual progress reports on Housing Element implementation to be submitted to the State by April 1 of each year. Changes to reporting requirements include:

- **AB 1743** - Requires local governments to include in its APR whether each housing development application is subject to a ministerial or discretionary approval process
- **AB 2094** - Requires that the annual report specifically detail the local government's progress in meeting RHNA targets for the "extremely low income" category
- **AB 2653** - Requires that the annual report additionally provide: the number of new housing units built, the number of housing units demolished, information specifying rental versus for-sale housing and details regarding approved projects that benefit from AB 2011 or the State Density Bonus Law

QUESTIONS?

- The Housing Accountability Act (HAA) is a California state law designed to promote infill development by speeding housing approvals.
- The Act was passed in 1982 in recognition that "the lack of housing, including emergency shelter, is a critical statewide problem," and has also been referred to as "the anti-NIMBY law." It empowers the State of California to limit the ability of local government to restrict the development of new housing.
- The Act was strengthened by its amendment in 2017.

The Act applies to housing applications to local agencies within the State of California that meet the following criteria:^[4]

- Meet a city's "objective general plan and zoning standards," e.g. the local zoning rules. A developer cannot use the HAA to build a 6-story building in an area that is zoned for 3 story buildings.
- The development would not cause a "specific, adverse impact" to public health, or take water from bordering farms or preserved resources.
- The development meets the standards of the California Environmental Quality Act and the California Coastal Act.

If an application meets these criteria, the relevant city council or planning commission must vote to approve the application and provide necessary permits within 90 to 180 days, with the shorter deadline for projects that include affordable housing and/or government funding.

If the city votes to decline the application it must make a written finding specifying the section of the HAA the application violates. The city is also forbidden from proposing modifications that would reduce the number of units to be developed, or passing zoning rules that would retroactively make the application non compliant.