

# The New ADU Ordinance

**State Regulations became effective January 1, 2017.** The state laws are a blend of three bills—one from the Senate and two from the Assembly—with overlapping regulations.

## Approval & Design

### State Regulations

- Requires that ADUs that conform to the zoning code must be permitted through a building permit only, but allows development standards.
- For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations.

### New ADU Ordinance

- State requirements, plus
- For new or converted detached accessory dwelling units, no windows, doors, mechanical equipment, or venting or exhaust systems, located within six feet of a property line.
- Removed ADU architectural design and compatibility requirements.
- Street addresses shall be assigned to all accessory dwellings to assist in emergency response.
- Any window, door or deck of a second story accessory dwelling unit must use techniques to lessen views onto adjacent properties to preserve the privacy of residents
- For detached ADUs, prohibit windows, doors, mechanical equipment, or venting or exhaust systems within six feet of a property line.
- Outside of ordinance, staff was directed to return to Council with potential Eichler design guidelines relating to ADUs, including lower height limits.

## Occupancy

### State Regulations

- Property owner must reside in the primary unit or ADU. (This new requirement also enables Code Enforcement staff to respond to concerns about absentee owners and property maintenance.)
- The ADU cannot be rented for less than 30 days.
- The owner must record a deed restriction stating that the ADU/JADU cannot be sold separately from the single family residence and restricting the ADU/JADU to the size limitations and other requirements of any local ordinance.

### New ADU Ordinance

- State requirements, plus

- Allows a property owner to rent both the ADU/JADU and principal residence to one tenant (who cannot sublet the units).

## **Minimum Lot Size / Lot Coverage**

### **State Regulations**

- Local government may establish minimum and maximum sizes.
- JADUs, and units constructed within existing buildings, must be allowed on any size lot.

### **New ADU Ordinance**

- State requirements, plus
- Permits ADUs in all residential districts, except the RM-15, RM-30 and RM-40 districts.
- Attached and detached ADUs are limited to lot sizes of 5,000 sq ft or more.
- Removes “35% greater” minimum lot size requirements for lots that are at least 90% of standard lot size within each zone, meaning that a lot no longer has to be 135% of the minimum lot size for the district in order to add an ADU.
- ADUs are subject to site lot coverage standards, except in instances where adding the ADU results in the property exceeding the lot coverage standard. In such cases, those ADUs are not counted as lot coverage.

## **FAR**

### **State Regulations**

- Local government may establish rules for ADUs.

### **New ADU Ordinance**

- Must comply with the underlying zoning districts requirement for FAR.
- For properties whose FAR is at or near the maximum for the site, allows an extra 175 sq ft of FAR for an attached or detached ADU (does not increase the maximum size of the ADU itself).
- For properties whose FAR is at or near the maximum for the site, allows an extra 50 sq ft of FAR for a JADU (does not increase the maximum size of the JADU itself).

## **Setbacks**

### **State Regulations**

- No setbacks are required for an existing garage converted to an ADU, but only apply if existing garage is not needed as required parking for principal dwelling.

### **New ADU Ordinance**

- State requirements, plus
- Require no more than 6-ft side and rear setbacks for ADUs.
- In the RE and OS districts, a second story ADU above a garage can be located 5 feet from the side or rear property line.

- Eliminates the 12 feet separation between an existing single family home and a detached ADU.

## **ADU Size**

### **State Regulations**

- Limits JADUs to 500 sf.
- Limits attached ADUs to 450 sf or 50% of existing floor area, whichever is less.
- Limits detached to 1200 sf.

### **New ADU Ordinance**

- Limits JADUs to 500 sf.
- Limits attached ADUs to 600 sf or 50% of existing floor area, whichever is less.
- Limits detached to 900 sf.

## **ADU Height**

### **State Regulations**

- Local government may establish rules.

### **New ADU Ordinance**

- Maximum height limited to one story and 17 ft, including SSO neighborhoods and flood zones, even if the main house is a grandfathered 2-story house.
  - In RE zones, attached ADUs may be 2-stories and 30-ft.
  - In OS zones, attached ADUs may be 2-stories and 25-ft.
- Staff to consider design guidelines specific to Eichler neighborhoods.

# Parking

## State Regulations

- Not to exceed 1 per unit or per bedroom.
- No parking required under certain conditions.

## New ADU Ordinance

- No parking is required for an ADU or JADU.
- No covered parking replacement for the main dwelling is required if the parking space is converted to an ADU or JADU.
- Previously approved ADUs will not be required to retain parking spaces that were previously required.
- Any designated required covered parking for the primary dwelling unit that is converted to an ADU (such as a garage conversion) must be replaced. The replacement parking space may be covered/uncovered; an uncovered space is permitted within the front setback on an existing driveway. All new parking structures must comply with development standards of the underlying zoning.