

ACCESSORY DWELLING UNIT

ORDINANCE

BACKGROUND & FREQUENTLY ASKED QUESTIONS – Nov. 17, 2016



SUMMARY

On September 27th, 2016, Governor Brown signed two accessory dwelling unit bills into State law, Assembly Bill (AB) 2299 and Senate Bill (SB) 1069 that amended the State's existing second unit law (Government Code Section 65852.2). These amendments to the existing second unit law go into effect on January 1, 2017. The new version of State law makes clear that City ordinances which do not align with State law shall be "null and void" and that, until which time a jurisdiction adopts its own ordinance, in accordance with State law, the state standards specified in section 65852.2 shall be enforced.

In response to these changes in State law the Department of City Planning has prepared a new ordinance which is expected to be heard by the City Planning Commission (CPC) on December 15, 2016. Due to the time frame imposed by the new State law the City is moving quickly to discuss this important topic.

In addition to following the regulations established in the City's new ordinance any future Accessory Dwelling Units (ADUs) would also need to conform to the parcel's zoning regulations including floor area, bulk and height. Floor area devoted to an ADU is counted against the total floor area permitted on a parcel. The Department of City Planning's new Baseline Mansionization (BMO) and Baseline Hillside Ordinances (BHO) are currently pending council review and will further regulate the size of ADUs.

BACKGROUND

Second units, now called accessory dwelling units (ADUs), have been identified by the State as providing an important housing option to both potential renters and homeowners. They typically cost less than other types of housing, provide convenient housing for family members, help ease a severe rental housing deficit, maximize limited land resources and existing infrastructure, and assist homeowners with supplemental income.

California's second-unit law was first enacted in 1982 to encourage the creation of second-units while maintaining local control and flexibility. In 2002, the State enacted AB 1866 that updated the second-unit law to require that local governments must allow second units on both single family lots and multi-family lots through a by-right process.

In 1985, the City adopted L.A.M.C. 12.23 W.43 and W.44 which permitted second units only in limited circumstances through a conditional use permit process. Due to the 2002 changes in State law the City prepared two memos, one in 2003 and a second one in 2010, that sought to align the City's practices with the state's by-right process. The City was recently challenged on the legality of the second of the two memos and in September of this year the City Council directed the City Planning Department to prepare a new Zoning Administrator Interpretation (ZAI) that would supersede the previous memos and provide a by-right pathway for ADUs that adhered to certain standards established in the original LAMC 12.23 W. 43 and W44 ordinance from 1985.

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In response to council request, ZAI 2016-4167 was published on November 2, 2016 and will be in effect until December 31, 2016 at which time the new State law will go into effect. Any new ordinance adopted by the City must be consistent with this new State law. Once the City adopts its own new ordinance the City's ordinance will be the prevailing local regulations for ADUs. In preparing its own ordinance the City, per State law, may modify certain state standards but must adhere to others.

KEY PROVISIONS OF ORDINANCE

Accessory Dwelling Units are:

- Not allowed in Hillside areas.
- Not allowed between the front of the primary residence and the street.
- Only allowed in zones that allow residential uses with an existing single-family residence.
- Limited to only one per lot.
- Limited in size, to 50% of the primary residence and up to a maximum of 1200 sq.ft.
- Required to meet all underlying zoning and land use regulations.

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FREQUENTLY ASKED QUESTIONS

What are the state standards that the City must include in its own ordinance?

The state's standards include a limitation on the size of an ADU. ADUs that are attached to an existing single family dwelling cannot be larger than 50% of the existing living areas. Both attached and detached ADUs cannot exceed 1,200 square feet. The State law stipulates that no passageway shall be required in conjunction with the construction of an ADU and that no setbacks shall be required for an existing garage that is converted to an ADU. An ADU that is constructed above a garage will need to provide no more than five feet from the side and rear lot lines. In addition, per state legislation, existing accessory structures, with side and rear setbacks sufficient for fire safety, and with their own exterior entrance shall be permitted to become ADUs.

What are the state's parking requirements for an ADU?

The state legislation limits the required parking for an ADU to one parking space per unit or per bedroom and permits the parking space to be a tandem space in an existing driveway. When a garage, carport or covered parking structure is demolished in conjunction with the construction of an ADU the replacement spaces may be located in any configuration on the same lot as the ADU, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

The state legislation further stipulates that parking cannot be required when the ADU is located: within ½ mile of public transportation; in an historic district; is part of an existing primary residence; or, when a car-share vehicle is located within one block.

What additional limitations is the City considering?

The City's ordinance proposes to exclude ADUs in Hillside areas. Furthermore, the ordinance would limit the square footage of a detached ADU to no more than 50% of the square footage of the existing single family home while allowing at least an ADU of 640 square feet but no more than 1,200 square feet. In addition, detached ADUs shall not be located between the primary dwelling unit and the street. Furthermore, the Baseline Mansionization Ordinance (BMO) and Baseline Hillside Ordinance (BHO), currently pending council review, will further regulate the size of ADUs.

What additional standards can the City impose on ADUs?

Perhaps most importantly, the state explicitly states that an ADU must also adhere to the local jurisdiction's standards with regards to height, setback, lot coverage, Floor Area Ratio (FAR), building separation and open space of the zone on which the property is located.

How many ADU's have been built in the City?

Since 2003 a total of 644 (as of March, 14, 2016) projects have pulled a permit to build an ADU but, to date, only 404 of those have received a certificate of occupancy.

I see lots of second units in my neighborhood but the City claims that only 404 have been completed.

It is estimated that many thousands of units have been illegally established by converting a garage or recreation room into a dwelling unit without proper permits. Such units are not legalized by the new ordinance and are subject to citation. However, some of these existing units may be eligible to pursue permits if they otherwise meet the requirements of the new ordinance and meet all building codes.

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Of the units that have been permitted and/or completed, where are they located?

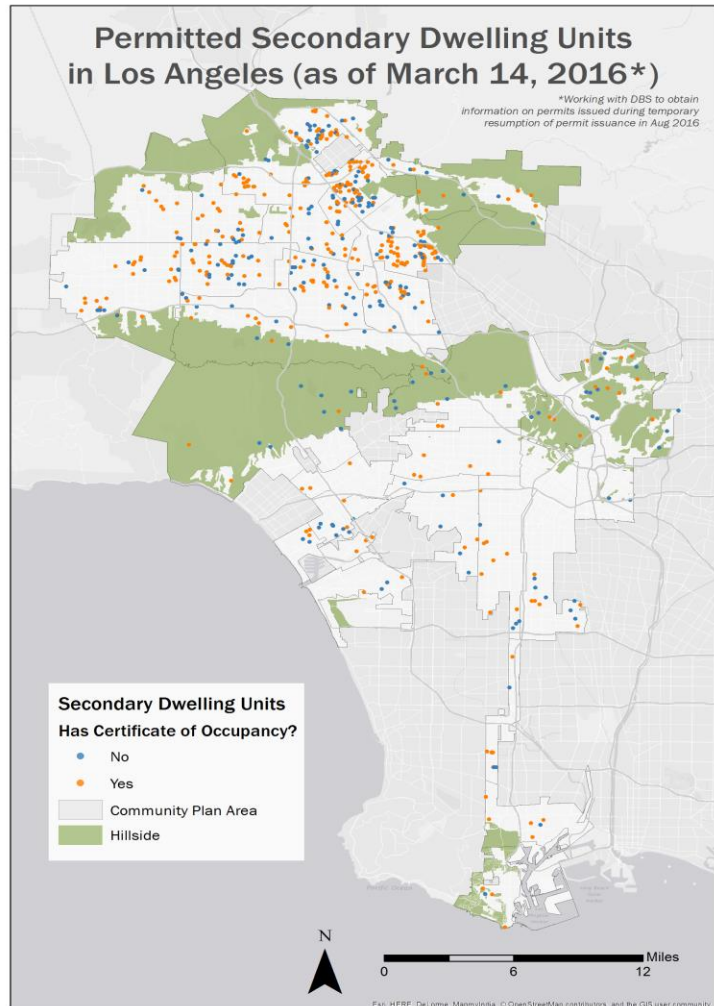
Most of the approved units have been located in the San Fernando Valley because the lots are typically larger there and the driveways and lots are configured such that an ADU can more easily be accommodated. A few units have also been legally built in South LA, Hollywood and West LA.

How many ADUs have been built in the Hillside areas?

Due to the FAR, height, setback and other limitations that pertain to lots in the Hillside areas only a small handful of SDUs have been built in these areas. To date 13 ADUs have been completed and another 16 have been permitted but not completed for a total of 29 ADUs in the Hillside areas.

How many single family zoned parcels are in the City of Los Angeles?

There are approximately 485,000 single family zoned parcels in the City. The 644 permitted ADU's represent 1/8th of 1% of the City's single family zoned parcels.



If I have questions about the ADU Ordinance what can I do?

The ordinance will be considered by the City Planning Commission on December 15, 2016, which will include a public hearing and opportunity for public comment. The City Planning Commission's recommendation will be heard by City Council's Planning and Land Use Management (PLUM) committee at a date to be determined. Please email matthew.glesne@lacity.org to join our interested parties list and receive updates on the proposed Code Amendment. For more information, visit planning.lacity.org and click "Ordinances," then "Proposed Ordinances." Questions or Comments on the Code amendment should be addressed directly to planning staff up until November 28th (matthew.glesne@lacity.org or (213)978-2666), or to the City Planning Commission after that date (cpc@lacity.org).