

Kimball, Tirey & St. John LLP

Building and Landlording with “Granny Flats” – Accessory Dwelling Units in California

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In recent years the California legislature passed several laws related to accessory dwelling units (“ADUs”)—often referred to as “granny flats.” The laws are intended to facilitate ADU development in California, and overcome some of the local hurdles property owners experience in ADU construction. This article highlights some of the recent changes for the aspiring “granny flat” property owner.

The ADU Defined

ADUs are secondary homes on residential property that allow for a person to live independently from the primary residential structure (including sleeping, eating, cooking, and sanitation). The ADU can be attached to the primary residential structure on the parcel, or detached and built on a separate portion of the parcel.

Property owners build ADUs for a variety of reasons, including housing family members, leasing out the ADU to tenants, or lodging the occasional out-of-town guest.

Building the ADU

While California’s legislature has made efforts to streamline ADU construction, property owners still need to obtain the necessary permits and licenses from their local government development agency before beginning construction. Fortunately, recent laws have reduced permitting and licensing regulations that local governments may impose, including (among other changes):¹

SB 1069

- Mandates that local governments approve ADU building permit requests if the ADU meets certain standards.
- Reduces, and in some cases eliminates, ADU parking requirements.
- Reduces ADU utility-related fee requirements.

AB 2299

- Prohibits local governments from discretionary approval of ADUs.
- Voids all local government ADU-related ordinances that do not fully comply with state law.
- ADU permits in non-compliant jurisdictions must be reviewed under California law until the local government adopts a California-compliant ADU ordinance.

AB 2406

- Allows local governments to adopt an ordinance permitting junior-ADUs (“JADUs”), subject to certain requirements. JADUs are ADUs that do not exceed 500 square feet

¹ See *Cal. Gov. Code* § 65852.2

and are completely contained within an existing residential structure.²

SB 229 and AB 494

- Further streamlines the ADU-permitting process.

Landlording with an ADU

Generally, landlords may rent an ADU separately from the primary dwelling on the property. The ADU is subject to all applicable local and state law for residential tenancies, including municipal vacation/short term-rental prohibitions, if any.

To facilitate residential leasing, landlords may consider the following:

- Register a separate address for the ADU.
- Ensure USPS can deliver mail to the ADU.
- Disclose in any lease or rental agreement that the ADU is part of a larger shared parcel, and designate all areas that are separate or shared (common areas).
- In any lease or rental agreement, identify parking, storage, or other rights, to avoid disputes between the primary dwelling occupants and the ADU occupants.
- In any lease or rental agreement, identify shared utilities, if any, and how billing will be calculated.

If you have questions regarding this article, please contact Taylor Baumann at (800) 574-5587 or taylor.baumann@kts-law.com.

² See Cal. Gov. Code § 65852.22

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