



# COMMUNITY DEVELOPMENT AGENCY

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January 14, 2020

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Marin County Board of Supervisors  
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**SUBJECT:** Report on 2019 Housing Legislation Related to Accessory Dwelling Units

Dear Supervisors,

Building and Safety  
Environmental Health Services  
Planning  
Environmental Review  
Housing  
Sustainability  
Code Enforcement  
GIS  
Federal Grants

**RECOMMENDATION:**

Receive presentation on the California Housing Legislation related to creation of Accessory Dwelling Units (ADUs) and Junior ADUs (JADUs).

**SUMMARY:**

In 2019, the California Legislature approved, and the Governor signed into law, a number of bills that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs. The laws took effect January 1, 2020, and the County will need to update the Development Code in order to comply with the new State laws. An urgency ordinance with these amendments is scheduled for your Board's consideration on January 28, 2020.

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**DISCUSSION:**

The California State Legislature brought forward several bills in 2019 relating to the planning for and permitting of ADUs and JADUs. In October of 2019, the Governor signed into law Assembly Bill (AB) 68, AB 881, and Senate Bill (SB) 13 amending the section of the California Government Code related to ADUs (Government Code Section 65852.2). Additionally, AB 68 amended standards for JADUs, and SB 13 made additions to the State Health and Safety Code (Health and Safety Code Section 1790.12 added). Based on order of chaptering, AB 881, Sections 1.5 and 2.5, modifies development standards for ADUs and AB 68, Section 2, modifies standards for JADUs.

California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of the new state law shall be null and void unless and until the local agency adopts a new ordinance complying with California Government Code Section 65852.2. In the absence of a valid local ordinance, the new state law instead provides a set of default standards governing local agencies' regulation and approval of ADUs and JADUs.

The following table provides a listing of ADU-related legislation based on chaptering, with brief summaries:

Bill No.	Summary
<p>AB 881 (Bloom)</p>	<p><u>Ministerial Approval:</u></p> <ul style="list-style-type: none"> <li>Requires permits for ADUs and JADUs be added to existing single-family and multi-family dwellings to be ministerially processed.</li> </ul> <p><u>Development Standards:</u></p> <ul style="list-style-type: none"> <li>Prohibits application of lot coverage, floor area ratio, open space, and minimum lot size requirements that would deny construction of an 800 sq. ft. ADU, less than 16 feet in height with no less than four feet side and rear yard setbacks;</li> <li>Allows local governments to establish minimum and maximum ADU size requirements, provided that the maximum floor area is not less than 850 square feet or 1,000 square feet if the ADU has more than one bedroom</li> </ul> <p><u>ADUs in Multi-Family Districts:</u></p> <ul style="list-style-type: none"> <li>Allows ADUs on multi-family and mixed-use properties;</li> <li>Up to 2 new detached ADUs will be permitted, and new ADUs within existing multi-family buildings may be created by converting non-livable space up to 25% of the existing dwelling units; and</li> <li>JADUs would continue to be prohibited in multi-family properties.</li> </ul> <p><u>Owner-occupancy Exemption:</u></p> <ul style="list-style-type: none"> <li>The requirement for owner occupancy will not apply to properties issued permits for ADUs between 1/1/2020 and 1/1/2025. Owner-occupancy would continue to be required where Junior ADUs are permitted.</li> </ul> <p><u>Non-Conforming:</u></p> <ul style="list-style-type: none"> <li>Prohibit municipalities from requiring that existing nonconforming zoning conditions be corrected as a condition for ADU permit approval.</li> </ul> <p><u>Parking:</u></p> <ul style="list-style-type: none"> <li>If a garage is converted or demolished to construct a new ADU, the off-street parking</li> </ul>

	<p>spaces do not have to be replaced;</p> <ul style="list-style-type: none"> <li>No parking can be required in any of the following instances:             <ul style="list-style-type: none"> <li>If located within one-half mile walking distance of public transit;</li> <li>If located within an architecturally and historically significant historic district;</li> <li>If ADU is part of the proposed or existing primary residence or an accessory structure;</li> <li>When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; and</li> <li>When there is a car share vehicle located within one block of the accessory dwelling unit.</li> </ul> </li> </ul>
<p>AB 68 (Ting)</p>	<p><u>Streamlined Approval:</u></p> <ul style="list-style-type: none"> <li>Junior ADUs and ADUs added to existing single-family and multi-family homes to be ministerially approved or denied within 60 days.</li> </ul>
<p>SB 13 (Wieckowski)</p>	<p><u>Impact Fees:</u></p> <ul style="list-style-type: none"> <li>ADUs less than 750 sq. ft. are exempt from imposition of impact fees.</li> <li>ADUs over 750 sq. ft. must be charged impact fees that are a proportion of the fees applicable to the primary dwelling, determined as a ratio of square footage.</li> <li>New construction attached ADUs are now eligible for the same exclusion from utility connection fees that was previously only available to Conversion ADUs.</li> </ul> <p><u>Owner Occupancy:</u></p> <ul style="list-style-type: none"> <li>Until Jan. 1, 2025, owner-occupancy of either the primary dwelling or the ADU will not be required. If a property contains a JADU, however, owner-occupancy of the JADU or the primary residence is now required.</li> </ul>
<p>AB 587 (Friedman)</p>	<p><u>Separate Conveyance:</u></p> <ul style="list-style-type: none"> <li>Allows a local agency to adopt an ordinance that would permit ADUs to be sold or conveyed separately from the primary residence, but only in a very limited and narrow manner where: (1) property was built or developed by a qualified non-profit corporation; (2) that both the primary house and the ADU are sold to low-income families as their primary residence; (3) that any subsequent sale is also to a low-income family;</li> </ul>

	and (4) the property is deeded restricted for owner-occupied low income households for a period of at least 45 years.
AB 670 (Friedman)	<u>Limitations on HOAs:</u> <ul style="list-style-type: none"> <li>Prevents homeowners' associations from banning or unreasonably restricting the construction of ADUs on single-family residential lots.</li> </ul>
AB 671 (Friedman)	<u>Incentivize ADUS:</u> <ul style="list-style-type: none"> <li>Requires local General Plan housing elements to incentivize and promote the construction of affordable ADUs that can be rented to very low, low, and moderate-income households.</li> <li>Mandates that the California Department of Housing and Community Development publish a draft a list of "existing state grants and financial incentives" for ADU owners and developers by December 31, 2020.</li> </ul>

Given the time required to undertake the necessary study and analysis, staff will present to the Board on January 28 for review and adoption an urgency ordinance to update the existing ADU ordinance. The urgency ordinance will address only those ADU provisions directly related to zoning requirements.

**REVIEWED BY:**

- Department of Finance                       N/A
- County Counsel                                       N/A
- Human Resources                                       N/A

**SIGNATURE:**

  
 Immanuel Bereket  
 Senior Planner