

# FAQS about new ADU Laws for 2023

On September 28, 2022, Governor Newsom signed new laws into effect impacting ADUs: **SB 897**, **AB 2221**, and **AB 916**. Taking effect as of January 2023, these laws made changes to the statewide regulatory standards that apply to ADUs, including providing a height allowance for two-story ADUs statewide, and further clarified the expected processes for issuance of a building permit within 60 days of the submittal of an application to build an ADU.



## How to construct an ADU on YOUR property

ADUs are a rather unique **homeowner-initiated** housing type. You can expect that the ADU process will follow these general steps:

**SECURE FINANCING:** Common sources of financing for ADUs include home equity loans, savings, second mortgages, and/or funds from family members.

**HIRE A DESIGNER:** A full set of professionally drawn site and floor plans by an architect or design team are needed for approval of ADUs.

**APPLY FOR PERMITS:** Site plans and floor plans are preliminarily reviewed by the Planning Division. A site visit is conducted to evaluate the accuracy of the submitted plans. Planning approval, full-scale construction drawings, and an administrative action form are submitted to the Building and Safety Division for plan check review. The application is approved and a building permit is issued or the applicant is given another list of corrections to address before approval.

**CONSTRUCTION:** Once the building permit is approved and issued, a licensed contractor can execute the approved ADU plans. Inspections will be conducted and a Permit Final will be issued.

The final step is to **ENJOY YOUR ADU!**

*Please contact the Planning Department at (562) 868-0511, ext. 7550 or [waynemorrell@santafesprings.org](mailto:waynemorrell@santafesprings.org) for more information.*

## How tall of an ADU can be built under new State laws?

**Attached ADUs** that are affixed to the primary dwelling are allowed to be up to two stories with a height of up to 25 feet, or the height limit in the underlying zoning, whichever is lower. If there is an existing or proposed garage attached to the primary dwelling, this would allow for an ADU to be built above the attached garage.

**Detached ADUs within ½ mile walking distance of transit** are allowed up to 18 feet in height, plus an additional two feet in height allowance to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling. Transit is defined as either a major transit stop or a High-Quality Transit Corridor (HQTC); however, currently, Santa Fe Springs is not served by any such qualifying transit service.

On a property with an existing or proposed **multifamily, multi-story dwelling**, an ADU height allowance is provided of 18 feet. This applies to all lots that allow multifamily residential uses, regardless of relative proximity to transit.

The existing height allowance of 16 feet is maintained for **all ADUs not covered by one of the previous three exemption categories** above. This height is generally considered insufficient to allow for two-story ADUs.

**What is the new ADU approval process, under State law?** The new 2022 ADU bills clarify that within 60 days of receiving a completed application for an ADU, the local agency must approve or deny the permit application.

If the local agency denies the application, then it must, within the 60-day period, provide a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant to be approved upon submittal. The 60-day clock is paused if the application is returned to the applicant with this set of comments. Once the applicant has submitted a corrected application, then the 60-day clock resumes.

If the local agency has not approved or denied the completed application within 60 days, then **the application shall be deemed approved**. This applies to all "Permitting Agencies" defined as "any entity that is involved in the review of a permit for an ADU". Examples include, but are not limited to, the Planning Division, Building and Safety Division, Public Works Department, Los Angeles County Fire Department, utilities, and special districts.



**Can an attached ADU be built on the second story of a home?** Yes. Two-story attached ADUs are allowed as part of the new height exemptions. Existing State law already allowed livable space on the second floor of a residence to be converted to an ADU or JADU.

**With changes to the height allowance regulations, can a detached garage be converted to a two-story ADU?** In most cases, yes, the conversion of an existing accessory structure to a two-story ADU is allowed. ADUs built within the footprint of existing accessory structures are not required to comply with several ADU regulations including maximum size restrictions, setbacks, or lot coverage requirements. However, the conversion of an existing garage to an ADU is not always the most quick, simple or cost-effective method to construct an ADU on a property. Converting a single-story garage to a two-story ADU will most likely require deeper footings to reinforce the existing foundation. Building a two-story ADU also may require approval from Southern California Edison, as there may be easements of up to 10 feet to accommodate power lines. Even with an approved building permit, homeowners are encouraged to delay construction until final approval from Edison is granted.

**Can an ADU be built within the front setback between a house and the public street?** In certain situations, yes. The new legislation stressed that every lot that allows residential uses has a right to construct at least an 800 sf ADU. If such an ADU does not fit within the rear or side yard, then the ADU is allowed within the front setback.

**If a property has a nonconforming building, should the applicant be worried about applying to build an ADU?** This should no longer be a barrier to constructing an ADU. AB-2221 and SB-897 clarify that local agencies shall not deny a permit to create an ADU due to the presence of nonconforming zoning conditions, building code violations, or unpermitted structures, as long as they do not present a threat to public health or safety, and are not affected by the construction of the ADU. However, these conditions would need to be corrected in the future, and most owners choose to address them with the ADU project.

**If the applicant wants to replace a detached garage with an ADU, do any special processes need to be followed?** The 2023 updates to State law state that local agencies must review and issue demolition permits for detached garages to be replaced with an ADU at the same time as the application to create the ADU. Further, any requirement for the ADU applicant to provide written notice or post a placard for the demolition of a detached garage is prohibited, unless the property is located within an architecturally and historically significant historic district.

**If a property has an unpermitted ADU built prior to 2018, can it be legalized?** Yes. The updated State ADU regulations state that local jurisdictions must provide a pathway to legalization of unpermitted ADUs constructed prior to 2018. Additionally, a local agency must approve any permit to legalize an unpermitted ADU built prior to 2018, even if it is in violation of building standards, State ADU code, or local ADU ordinances, unless the structure is deemed substandard, or if the local agency finds that correcting the violation is necessary to protect the health and safety of the public or of occupants of the structure. When a record of the issuance of a building permit for the construction of an existing ADU does not exist, the building official shall determine when the residential unit was constructed, apply the building standards in effect on that date, and issue a retroactive building permit for that construction. However, any new alteration, remodeling, and/or addition to the existing unpermitted work is required to comply with the current California building codes, and other regulations.

**If the current home does not have fire sprinklers, but fire sprinklers would now be required in a new structure due to updates to the fire code, is there a requirement to install sprinklers in a new ADU?** No. The updated State ADU regulations strengthened language around this issue. Fire sprinklers are not required in an ADU unless already installed in the existing home. Also, the installation of fire sprinklers cannot be required for the primary dwelling as a condition of approval for an ADU.

