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Public Law Update - California's New ADU Legislation: Expanding Amnesty and Increasing Housing Potential on Multifamily Properties

Navigating Unpermitted ADUs and JADUs - AB 2533

AB 2533 amends Government Code section 66332 most notably by expanding the amnesty provisions by: (1) including JADUs; and (2) modifying the amnesty date so that the provisions apply to unpermitted ADUs and JADUs built before January 1, 2020 (the current Government Code applies only to unpermitted ADUs built before January 1, 2018).

AB 2533 also requires cities and counties to provide information regarding the amnesty provisions on its website and at other public locations. Specifically, cities and counties must provide a substandard building checklist (per the Health and Safety Code) and a notice regarding property owners' right to obtain a confidential third-party inspection from a licensed contractor before submitting an application for legalization of a qualifying ADU or JADU.

Additionally, AB 2533 prohibits cities and counties from imposing impact fees for unpermitted ADUs and JADUs constructed without permits before January 1, 2020. Lastly, it provides that a local agency may conduct an inspection and make recommendations on how to comply with the amnesty provisions upon receipt of an application; if the inspector finds noncompliance, then the local agency is prohibited from penalizing an applicant for having an unpermitted ADU or JADU.

From building codes to public infrastructure, each city and county faces unique challenges that require careful, thoughtful planning. AB 2533 does not make any changes to a local agency's ability to deny an application or otherwise provide corrections when an ADU or JADU is considered substandard pursuant to Health and Safety Code 17920.3.

ADUs on Multifamily Properties - SB 1211

Senate Bill 1211 (2024) ("SB 1211" or "Bill") is a pivotal piece of

legislation aimed at addressing California's housing crisis by expanding the potential for accessory dwelling units ("ADU") on multifamily properties. Effective January 1, 2025, SB 1211 increases the allowable number of detached ADUs from two to eight on lots with existing multifamily dwellings.

This Bill comes in the wake of recent ADU legislation, which, according to City and County Annual Progress Reports, significantly increased ADU construction in California, with over 9,600 completed units in 2022. Legislative data identifies that most ADU development is concentrated in metropolitan areas, particularly in high-value regions. The Bill represents the Legislature's latest measure to further increase the number of dwelling units in metropolitan areas.

Specifically, SB 1211 amends the Government Code by:

1. Defining "livable space" as a "space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation;"
2. Prohibiting cities and counties from requiring replacement parking when uncovered parking space is demolished in conjunction with the construction of an ADU;
3. Increasing the number of ADUs that can be built on a lot with an existing or proposed multifamily dwelling unit, from two to eight ADUs; and
4. Clarifying that city and counties cannot apply any standards, other than those provided in the Government Code for ADUs constructed under Government Code section 66323. Existing ADU law allows cities to adopt local ordinances regulating ADUs, and imposes limitations on the local standards that can be applied to proposed ADU construction or conversion. Additionally, it mandates approval of certain ADUs that meet the statutory requirements of Government Code section 66323. SB 1211 amends both of these Government Code sections by prohibiting local ordinances from requiring replacement parking for uncovered parking spaces when they are demolished in conjunction with the construction of an ADU, and amends the statutory mandate by allowing at least eight ADUs on lots with multifamily dwellings.

Accordingly, cities and counties should review their ADU ordinances to determine if any amendments are necessary.

Burke, Williams & Sorensen, LLP regularly advises clients on legal matters relating to land use, zoning, and planning issues, including ADUs and JADUs.

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