

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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April 21, 2022

John Kopchik, Director
Conservation & Development
Contra Costa County
30 Muir Road
Martinez, CA 94553

Dear John Kopchik:

**RE: Review of the County of Contra Costa's Accessory Dwelling Unit (ADU)
Ordinance under State ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the County of Contra Costa (County) accessory dwelling unit (ADU) ordinance No 2020-01 (Ordinance), adopted January 21, 2020, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and is submitting these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD has determined that the Ordinance does not comply with section 65852.2 in the manner noted below. Under the statute, the County has up to 30 days to respond to these findings. Accordingly, the County must provide a written response to these findings no later than April 20, 2022.

The adopted ADU Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

- 82-24.010 – Outdated Unit Mixture – The Ordinance notes that for the residential, water recreation, planned unit, multi-family, or agricultural districts, “One accessory unit may be built on any lot...” This no longer complies with statute. Recent changes to Government Code section 65852.2, subdivision (e)(1)(A), permit “[o]ne accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling...” (Emphasis added.) Furthermore, as the Ordinance has already noted the allowance of multiple units with multifamily buildings in section 82-24.006, section 82-24.010 creates problems with internal consistency. The County must change the language to comply with statute and should note for simplicity that ADUs are allowed in any zone that permits residential use and that junior accessory dwelling units (JADUs) are allowed on a lot zoned to allow single-family residential use.

- 82-24.012 (e) – Subordination – The Ordinance requires that “independent exterior access must be: located on the building side or building rear; or not visible from the street; or otherwise subordinate to the primary dwelling unit.” However, since state law requires that ADUs and JADUs have an independent entry into the unit (Gov. Code § 65852.2, subd. (e)(1)(a)(ii) and Gov. Code § 65852.22, subd. (a)(5)), a constraint on the location of an entry door may make the creation of an additional housing unit infeasible. Furthermore, local development standards provided by the Ordinance pursuant to Government Code section 65852.2, subdivisions (a) through (d), do not apply to ADUs created under Government Code section 65852.2, subdivision (e), and the restrictions as implied would not be permissible. Therefore, the County should revise or remove the section.
- 82-24.016 (1) – Deed Restriction – The Ordinance currently prohibits the separate sale of an ADU or JADU. However, Government Code section 65852.26, subdivision (a)(1), creates a narrow exception to allow separate conveyance of ADUs with the involvement of qualified nonprofit housing organizations. The County should modify its code to allow for such an exception.
- 82-24.020 – Fees – The Ordinance states, “Accessory dwelling units and junior accessory dwelling units are subject to all applicable fees for new development....” There is no further elaboration. Government Code section 65852.2, subdivision (f)(3)(A), states, “A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.” The above reference also exempts all JADUs from impact fees. The County must clarify what fees are to be applied and include language to satisfy statute.

In these respects, revisions are necessary to comply with statute.

HCD will consider any written response to these findings, such as a revised ordinance or a detailed plan to bring the Ordinance into compliance with law by a date certain, before taking further action authorized pursuant to Government Code section 65852.2. Please note that HCD may notify the California Office of the Attorney General in the event that the County fails to take appropriate and timely action under section 65852.2, subdivision (h).

HCD appreciates the County's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the County in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at (916) 916-776-7541 or at mike.vangorder@hcd.ca.gov if you have any questions or would like HCD's technical assistance in these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal stroke extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability