

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

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May 21, 2021

Ken Rukavina, Director of Community Development  
Community Development Department  
City of Rancho Palos Verdes  
30940 Hawthorne Boulevard  
Rancho Palos Verdes, CA 90275

**RE: Review of the City of Rancho Palos Verdes' Accessory Dwelling Unit (ADU) Ordinance**

Dear Ken Rukavina:

Thank you for submitting the City of Rancho Palos Verdes' (City's) accessory dwelling unit (ADU) Ordinance Number 640, adopted January 19, 2021. The ordinance was received by the California Department of Housing and Community Development (HCD) on February 10, 2021. HCD is submitting these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the ordinance does not comply with section 65852.2 in several respects, noted below. HCD requests that the City provide a written response to these findings no later than June 18, 2021. HCD will review and consider any written response received from the City before that date in advance of taking further action authorized by Government Code section 65852.2.

The adopted ADU ordinance meets many statutory requirements. However, the ordinance must be revised to comply with State ADU Law as follows:

- **AB 3182 Update:** Effective January 1, 2021, an ADU and a Junior Accessory Dwelling Unit (JADU) must be allowed on the same site if there is a proposed or existing single-family dwelling. (Gov. Code, § 65852.2, subd. (e)(1)(A).) Section 17.10.020 and 17.10.040 of the City's ordinance should thus be revised to allow an attached, detached, or conversion ADU in conjunction with a JADU on any site with a proposed or existing single-family dwelling (see Assembly Bill 3182, Chapter 198, Statutes of 2020).
- **Zoning for ADUs and JADUs:** As currently written on page 4, Section 6, Ordinance No. 640 amended Single Family Residential and Multifamily Residential Districts to allow ADUs and JADUs. To be consistent with current State ADU Law, the Municipal Code must make clear that ADUs are allowed in all zones that allow single family and multifamily development. (Gov. Code, § 65852.2, subd. ((a)(1)(D)(ii).) Title 17 should also be amended to clarify this point. Likewise, JADUs must be allowed in all zones that allow for single-family

development, including planned developments. (Gov. Code, § 65852.2, subd. (a)(1).)

- Manufactured Homes: For clarity, Section 17.02.20.A should replace the term “mobile homes” with “manufactured homes” as described in Health and Safety Code section 18007 and Government Code section 65852.2.
- Familial Status: Sections 17.02.020 and 17.04.020 raises concerns about limiting occupancy based on familial status. The City should revise this section to avoid limiting the occupancy of housing units based on familial status. The narrow definition of family contained in Section 17.96.680 potentially violates Government Code sections 65008 and 8899.50 as well. Section 65008 prohibits discrimination in housing on the basis of protected characteristics, including income source and income level. On a related note, HCD observes that section 17.96.680 actually violates housing element law. Government Code section 65583, subdivision (c)(3), mandates: “Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.” This does not mean that transitional and supportive housing must be allowed by right in all residential zones. It does mean that if transitional or supportive housing is located in a single-family home, the city cannot require a use permit for the transitional or supportive housing unless it also generally requires a use permit for all other single-family homes. The references in Sections 17.02.020 and 17.04.020 to family, the definition of family in 17.96.680, and the requirement for a conditional use permit in all instances in for transitional and supportive housing in section 17.04.030 are potentially violative of section 65583.
- Parking Requirements: The parking requirements in Section 17.02.030 are excessive and should be removed. Parking for ADUs may not be required to be covered and/or enclosed, whether in a fire hazard zone or not. Section 17.10.020.B.11 should be changed to reflect this as well; this section should also be amended to include all five parking exemption categories in Government Code section 65852.2, subdivision (d).
- ADUs Within and Existing Space: Section 17.10.020 should be revised to clarify that an ADU “within an existing space” may be a unit that is located within a *proposed* or an existing primary dwelling. The current definition in this section is overly restrictive to existing dwellings.
- JADUs and Multifamily Dwellings: Section 17.10.20.B should be revised to make clear that ADUs are allowed on all lots with a proposed or existing single family or multifamily structure, and that JADUs are allowed only where there is a proposed or existing single-family unit on the lot. Section 17.10.040.E.3 should also be revised to make clear that JADUs are only allowed in a proposed or existing single-family dwelling.
- Conversions, JADUs and Local Development Standards: Under Government Code sections 65852.2 and 65852.22, conversion ADUs and JADUs as well as 65852.2, subdivision (e), ADUs, are exempt from local development standards like lot coverage, setbacks, heights, and unit sizes. However, ADUs under this

subdivision must meet the building code and health and safety requirements. Section 17.10.20.B.3 should be revised to reflect this. The language in Section 17.10.030.A requiring JADUs to comply with ADU standards “in addition” to JADU standards should also be removed, as it is overly broad and confusing.

- ADUs and Garage Space: Pursuant to Government Code section 65852.2, subdivision (a)(1)(D)(x), parking for ADUs may be provided as tandem parking spots or in a driveway. There can be no “required garage space” as stated in Section 17.10.20.B.4 on page 7 of Ordinance 640.
- Development Requirements: Section 17.10.20.B.6.c and e on page 8 of the ordinance should be revised to include the phrase “where feasible” at the beginning of the first sentence. These privacy standards could potentially be huge hinderances to ADU development and cannot be applied if they prevent an applicant from receiving an approved ADU permit. Additionally, as mentioned above, JADUs are exempt from local design and development standards, and thus these privacy standards would not apply to JADUs under any condition. The “lighting requirements” under Section 17.10.20.B.6.g should also be elucidated and required only “where feasible.”
- Limiting the Number of Bedrooms: State Fair Housing Law prevents local jurisdictions from limiting the number of bedrooms in a residence. A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs. Section 17.10.020.B.8 on page 8 of this ordinance therefore needs to be removed.
- Setback Requirements: State ADU Law prohibits the implementation of rear and side yard setbacks of greater than four (4) feet on any ADU. Section 17.10.020.B.14 of this ordinance will need to be revised to require 4-foot rear and side yard setbacks instead of five (5)-foot side and rear yard setbacks. Section 17.10.020.C.4 should be revised in the same manner.
- Fire Safety Requirements: The requirements listed under Section 17.10.020 of this ordinance should be removed and, if desired, placed in the local fire code or building code as they appear to be more generally applicable rather than merely an imposition on ADUs only that go beyond the scope of State ADU Law. (See, e.g., Gov. Code, § 65852.22, subd. (d) [acknowledging application of fire safety requirements if they apply uniformly to all single-family residences in the zone and not just for JADUs].)
- Conditional Use Permits and ADUs: State law allows the construction of ADUs by right in all areas zoned for single family and/or multifamily use. (Gov. Code, § 65852.2, subd. (a)(1).) Conditional use permits may not be required unless the proposed ADU does not comply with state or compliant local ADU provisions. Since, as noted above, Section 17.10.020 is not a compliant local provision, Section 17.10.020.C.1.a of this ordinance should be removed along with the rest of Section 17.10.020.C.
- Replacement Parking for ADUs: The parking requirements in the City’s ordinance do not align with State ADU Law. For instance, ADUs are not required to provide replacement parking when such parking is lost due to the construction

of the ADU. (See Gov. Code, § 65852.2, subd. (a)(D)(xi).) Thus, Section 17.10.020.D.3 of this ordinance should thus be removed. The same is true for 17.10.020.C.5.

- JADUs in Garages: Attached garages are not accessory structures and are “within the walls of” a single-family residence. Thus, JADUs can be created in an attached garage. (See Gov. Code, § 65852.2, subd. (a)(D)(xi).) This should be elucidated in Section 17.10.030.A.4 of this ordinance.
- ADUs and Fees: As stated in Government Code section 65852.150, subdivision (b), local governments cannot establish fees on ADUs that are “excessive, arbitrary, or burdensome,” to the point that they are restricting the production of ADUs. Any filing fee as mentioned under Section 17.10.040 of this ordinance would have to be in compliance with state statute and local building code fees.
- Recorded Covenants and Restrictions: In Section 17.10.040A.1, the City requires a fully executed use covenant and restriction running with the land be recorded prior to occupancy. HCD would like further clarification on “all such conditions” necessary to execute a use covenant and restriction required to receive a certificate of occupancy for an ADU. Local jurisdictions may not require any conditions under this required covenant that is not required under State ADU Law.
- Revocation of ADU Permits: HCD would also like further clarification on Section 17.10.050.A.3, which states that permits for ADUs and JADUs may be revoked if certain conditions are met under Chapter 17.86 of the Rancho Palos Verdes Municipal Code. Any request for an ADU owner or applicant to remedy building standards must be in compliance with the provisions laid out in the Health and Safety Code section 17980.12.

This date on this letter shall serve as the start of the 30-day period for the local agency to respond to the findings before HCD takes any other action authorized pursuant to Government Code section 65852, subdivision (h). Please note that failure to comply with Section 65852, subdivision (h), may lead to a referral to the Attorney General’s Office.

HCD appreciates the city’s efforts in the preparation and adoption of the ordinance and welcomes the opportunity to assist the city in fully complying with State ADU Law. Please feel free to contact Reid Miller, of our staff, at (916) 263-2707 or at Reid.Miller@hcd.ca.gov.

Sincerely,



Shannan West  
Land Use & Planning Unit Chief