

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

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June 24, 2022

John F. Signo, Director  
Planning & Community Services  
City of Rolling Hills  
2 Portuguese Bend Road  
Rolling Hills, CA 90274

Dear John F Signo:

**RE: Review of Rolling Hills' Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the City of Rolling Hills' (City) accessory dwelling unit (ADU) Ordinance No. 364 (Ordinance) adopted February 24, 2020, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits 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 the manner noted below. Under that statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than July 24, 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:

- Section 17.28.030 (D)(2) and (3) – *Efficiency Kitchen* – The Ordinance defines an efficiency kitchen to include “A food preparation counter or counters that total at least 15 square feet in area” and “Food storage cabinets that total at least 30 square feet of shelf space.” However, Government Code section 65852.22, subdivision (a)(6)(B) only requires that an efficiency kitchen include a food preparation counter and storage cabinets that are “of reasonable size in relation to the size of the junior accessory dwelling unit.” As there is no specific size requirement in statute, the size requirements as written in the Ordinance could act as a constraint on junior accessory dwelling units (JADUs). Therefore, the City must remove the size references. To provide clarity, HCD recommends that the City includes language per Government Code section 65852.22, subdivision (a)(6)(B).
- Section 17.28.040 (A)(1) – *Unit Combination* – The Ordinance permits “[o]nly one ADU or JADU on a lot with a proposed or existing single-family dwelling on it.”

This reference is outdated. Current Government Code section 65852.2, subdivision (e)(1)(A), provides for “One accessory dwelling unit **and** one junior accessory dwelling unit per lot” (emphasis added), and the ADU on a lot that also has a JADU may be either attached or detached. Therefore, the City must change “or” to “and” or make a similar correction that brings the Ordinance into compliance with State ADU Law.

- Section 17.28.050 (D) – *Separate Conveyance* – The Ordinance currently prohibits the separate sale of an ADU or JADU. However, Government Code section 65852.26 creates a narrow exception to allow separate conveyance of an ADU to a qualified buyer if the property was built or developed by a qualified nonprofit corporation, among other things. The City should revise the Ordinance to allow for such an exception.
- Section 17.28.060 (A)(1) – *Bedroom Limitation* – The Ordinance states that “no more than two bedrooms are allowed.” Limiting the number of bedrooms within an ADU may constrain housing choice and result in discriminatory effects on families with children, people with disabilities, and other protected groups in violation of state and federal fair housing laws, including but not limited to Government Code section 65008, subdivisions (a)(1)(A) and (b)(1)(B)(i). Therefore, the City must revise this section to avoid limiting the occupancy of housing units based on familial status or other protected characteristics.
- Section 17.28.060 (C)(1) – *Front Property Line* – The Ordinance states, “No part of any ADU... may be located within 30 feet of the front property line.” The City should be aware that this 30-foot front set back requirement must not prevent the creation of at least an 800 square foot ADU that is at least 16 feet in height with a four-foot side and rear yard setback to be constructed in compliance with all other local development standards per Government Code section 65852.2, subdivision (c)(1)(C). While not required, HCD recommends including such language.
- Section 17.28.060 (I)(4), (I)(6), (I)(7) – *Architectural Requirements* – The Ordinance requires that “the ADU entrance must be located on the side or rear building façade, not facing a public-right-of-way.... windows and doors of the ADU may not have a direct line of sight to an adjoining residential property.... [and] all windows and doors that are less than 30 feet from a property line that is not a right-of-way line must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, (for windows and for doors) utilize frosted or obscure glass, or (for doors) opaque.” Government Code section 65852.150, subdivision (b), requires that “provisions... relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units.” Statute for both ADUs (Gov. Code, § 65852.2, subd. (e)(1)(A)(ii)), and JADUs (Gov. Code, § 65852.22, subd. (a)(5)), require independent entry into the unit, and a constraint on the location of

an entry door may prohibit the creation of an additional housing unit. In addition, the window placement restriction and clerestory window requirements could make it infeasible to meet standard building code regulations for egress, thus potentially limiting the creation of an ADU at all, depending on the lot configuration. As a result, HCD considers the above requirements to be potentially excessive and burdensome. 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 subdivision (e). Therefore, the City should remove these design requirements.

- Section 17.28.070 (B)(2) – *Utility Fees* – The Ordinance states that “All ADUs and JADUs not covered by Section 17.28.070.B.1 above require a new, separate utility connection directly between the ADU or JADU and the utility.” However, all JADUs are created out of converted space within a single-family home and would therefore be covered by Section 17.28.070 (B)(1). To promote internal consistency, the City should remove the references to JADUs in Section 17.28.070 (B)(2).

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City’s response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

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 Mike Van Gorder, of our staff, at (916) 776 - 7541 or at [mike.vangorder@hcd.ca.gov](mailto:mike.vangorder@hcd.ca.gov).

Sincerely,



David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability