

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

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May 7, 2025

Denice Thomas, Community Development Director  
Community Development  
City of Agoura Hills  
30001 Ladyface Ct  
Agoura Hills, CA 91301

Dear Denice Thomas:

**RE: City of Agoura Hills' Accessory Dwelling Unit (ADU) Ordinance – Letter of Technical Assistance**

The California Department of Housing and Community Development (HCD) reached out to the City of Agoura Hills (City) in the fall of 2024 and early 2025 and discussed via phone with the City on April 11, 2025, regarding its ADU Ordinance No. 21-456 (Ordinance). HCD had previously sent an Ordinance Review Letter on February 3, 2023, and had met with City staff on March 8, 2023, to discuss the City's response letter of March 6, 2023, which accepted some findings but disputed others. HCD now follows up with this letter to address the City's responses and subsequent discussions with the City.

The City's March 6, 2023, letter does not address substantial inconsistencies between the City's ADU Ordinance and State ADU Law. HCD requests that the City respond to these findings no later than June 7, 2025, with a detailed plan of action, with dates and deadlines, to bring the Ordinance into compliance with State ADU Law pursuant to Government Code section 66326, subdivision (b)(2)(B).

**Background and Summary of Issues**

In its February 3, 2023, findings letter, HCD detailed where the Ordinance is inconsistent with State ADU Law. In its March 6, 2023, letter, the City responded point by point to the findings as they were presented in HCD's letter. On March 8, 2023, HCD met with City staff to discuss some of the outstanding issues. HCD's understanding from this meeting was that the City would adopt an amended ordinance, potentially with a resolution to discuss findings with which the City still disagreed with HCD. Between that time and April of this year, HCD had not heard anything from the City regarding the ADU ordinance.

HCD became aware in the fall of 2024 that the City had not made any changes to its ADU ordinance. Multiple emails sent to City staff in late 2024 and early 2025 received no reply. HCD called the City in April 2025, after which City staff engaged with HCD. Notably, City staff shared that they made no changes to their ADU ordinance because

they were waiting for further instruction from HCD. This is contrary to the clear instructions at the end of HCD's February 3, 2023, findings letter and the tone of the March 8, 2023, meeting, which prompted HCD staff to believe that the City would take action to address the items in their ADU ordinance that HCD found were inconsistent with State ADU Law.

This letter addresses the City's responses regarding HCD's findings, particularly numbers 2, 4, and 6, which the City has not adequately resolved, and provides additional findings regarding state laws that have gone into effect since the City's last adoption.

### **HCD's Original Finding 2**

HCD had previously found that Very High Fire Hazard Severity Zone (VHFHSZ) designation was not in itself adequate grounds to restrict ADU development. HCD subsequently discussed the issue on a call with the City on March 13, 2023.

While it is true that Government Code section 66314, subdivision (a), allows a jurisdiction to designate areas where ADUs may be developed, Government Code section 66326 requires that if a jurisdiction disagrees with HCD and adopts an ordinance in conflict with HCD's assessment, "The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department." The City has not adequately demonstrated that ADUs will impact public safety in the VHFHSZ and that a prohibition based on two vehicular routes of egress is therefore justified. Neither the Ordinance nor the City's reply letter contain findings in support of potential restrictions. Such findings must be fact-based and demonstrate a clear connection to the issue at hand. For example, HCD challenged a jurisdiction's<sup>1</sup> use of a traffic study in support of a hillside ADU restriction as it made no specific reference to ADUs and JADUs. HCD has corrected ADU restrictions in areas without two means of vehicular access in Rancho Palos Verdes,<sup>2</sup> Berkeley,<sup>3</sup> and Los Angeles County.<sup>4</sup>

The City's March 6, 2023, letter's principal concern on this point appears to stem from the assumption that more ADUs will correlate with more cars, and such cars will increase risk in an evacuation event. However, there is no evidence provided to support this assumption. There are six references to vehicle-related complications that could

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<sup>1</sup> Review of Berkeley's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2), October 17, 2022, available at <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/ordinance-review-letters/Berkeley-ADU-101722.pdf>.

<sup>2</sup> [City of Rancho Palos Verdes' Accessory Dwelling Unit \(ADU\) Ordinance – Letter of Technical Assistance](https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/ordinance-review-letters/RanchoPalosVerdesADU-TA082922.pdf), August 29, 2022, available at <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/ordinance-review-letters/RanchoPalosVerdesADU-TA082922.pdf>.

<sup>3</sup> Ibid.

<sup>4</sup> County of Los Angeles Very High Fire Hazard Severity Zone (VHFHSZ) and Accessory Dwelling Units – Letter of Technical Assistance, June 22, 2023

stem from by right ADU allowances, but only one reference to risks posed by the ADUs, and only indirectly, when it states, “tripling the number of dwelling units increases the potential for loss of life and destruction of property....” The City claims that approval of ADUs in accordance with State ADU Law would lead to a tripling of housing units in fire-prone areas. This implies that every homeowner in such areas would choose to develop all developable units on their properties and would have the means to do so. It also implies that such units would be fully occupied, and that each tenant would have their own vehicle. If the City has data to support these claims, it must provide such data as findings in the adoption of a new ordinance per Government Code section 66326, subdivision (b)(2)(B).

In addition, the discretionary review process of the “Fire Safety Review,” which allows for the Director to “determine... sufficient fire safety measures,” must be removed, or the ordinance is inconsistent with Government Code section 66316, which requires “only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units....” Moreover, Government Code section 66314 allows only “objective standards” to be applied by local ADU ordinances. The City may not, by ordinance or otherwise, create or maintain any discretionary approval processes or subjective standards for any unit subject to State ADU Law.

Lastly, Government Code section 66323, subdivision (a) requires the City to “ministerially approve an application for a building permit within a residential or mixed-use zone to create” units subject to section 66323, and subdivision (b) prohibits the City from “impos[ing] any objective development or design standard that is not authorized by [section 66323] upon any [ADU] that meets the requirements of [section 66323, subdivision (a)]. The City’s response does not address these requirements. Even if the City adopts findings that support a localized restriction on ADU development and HCD accepts those findings, such a restriction may not preclude an ADU or a combination of ADUs subject to section 66323.

#### **HCD’s Original Finding 4**

AHMC section 9283.2 (2) is not consistent with Government Code section 66321, subdivision (b)(3). The Ordinance requires that ADUs within the VHFHSZ “must maintain a 10-foot separation between the accessory dwelling unit and any other structure.” However, pursuant to Government Code section 66321, subdivision (b)(3), a local agency may not establish by ordinance “[a]ny...limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.” HCD’s concern is that a ten-foot separation requirement would limit the placement of an 800 square foot ADU. Therefore, the City should revise the Ordinance to clarify that these standards do not apply when they preclude an ADU of at least 800 square feet

## HCD's Original Finding 6

Government Code section 66314, subdivision (a), allows jurisdictions to determine areas where ADUs may be located. The City is not using this aspect of State ADU Law in Section 9283.2 (4) to determine ADU locations but instead to require the replacement of parking in the event of a garage conversion, which violates Government Code section 66314, subdivision (d)(11). Section 66314, subdivision (a), does not empower jurisdictions to selectively disregard other parts of State ADU Law.

## Additional Findings

As the City has not updated its Ordinance since receiving HCD's February 3, 2023, letter, HCD's original findings stand. Upon review, and given the changes to State ADU Law in effect as of January 1, 2024, and January 1, 2025, HCD provides these additional findings:

1. Section 3 – *JADUs and Attached Garages* – The Ordinance defines Junior Accessory Dwelling Units (JADUs) as “a unit that is no more than 500 square feet in size and contained entirely within a single-family residence, *excluding an attached garage*.” (Emphasis added.) However, Government Code section 66333, subdivision (d), states that local JADU ordinances must “[r]equire a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence. For purposes of this subdivision, enclosed uses within the residence, *such as attached garages*, are considered a part of the proposed or existing single-family residence.” (Emphasis added.) Therefore, the City must amend the Ordinance to provide for JADUs in attached garages.
2. Section 9283.1, subdivision 1.d – *Multifamily Primary Dwelling Allowance* – The Ordinance allows “[n]o more than two detached ADUs on a lot that has an existing multifamily dwelling....” However, Government Code section 66323, subdivision (a)(4)(A)(ii), states, “On a lot with an existing multifamily dwelling, not more than eight detached accessory dwelling units... not [to] exceed the number of existing units on the lot” and subdivision (a)(4)(A)(iii) states, “On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units.” Therefore, restricting detached ADUs with multifamily primaries to two units, and only with *existing* multifamily primary units, is inconsistent with State ADU Law. The City must amend the Ordinance to provide for all state-mandated ADU combinations.
3. Section 9283.1, subdivision 2. – *Denial* – The Ordinance states, “An application for an ADU Permit for an ADU that satisfies the requirements of this Section shall be ministerially approved by the Community Development Director (or the Director's designee) within 60 days after receipt of a complete application consistent with Government Code Section 65852.2.” However, there is no reference to the conditions required in the event of a denial. Government Code section 66317, subdivision (b), states, “If a permitting agency denies an

application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subdivision (a), the permitting agency shall, within the time period described in subdivision (a), return in writing 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." Therefore, the City must amend the Ordinance to comply with State ADU Law.

4. Section 9283.3, subdivision 2. – *Covenants* – The Ordinance requires a covenant for "each new ADU or JADU." However, deed restrictions cannot be imposed on an ADU or JADU. Government Code section 66315 states, "No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer." A deed restriction would be an "additional standard" and thus cannot be imposed. Therefore, the City must remove the requirement for a covenant.
5. Section 9283.4 – *JADUs and Interior Connection* – The Ordinance omits any reference to sanitation for JADUs. Government Code section 66333, subdivision (e)(2), states, "If a permitted junior accessory dwelling unit does not include a separate bathroom, the permitted junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area." Therefore, the City should amend the Ordinance to include sanitation requirements for JADUs.
6. Section 9283.5, subdivision 5 – *Front Setbacks* – The Ordinance states, "An ADU shall comply with all front yard setback requirements applicable to the lot's primary residence." However, Government Code section 66321, subdivision (b)(3), prohibits "[a]ny requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." Therefore, the omission of an exemption for any ADU 800 square feet or smaller from the underlying front setback requirements is inconsistent with State ADU Law. The City must note the exceptions in the Ordinance.
7. Section 9283.5, subdivision 7 – *Parking Requirements* – The Ordinance provides exceptions to parking requirements that match the conditions listed in Government Code section 66322, subdivisions (a)(1) through (a)(5), but omits any reference to the conditions of subdivision (a)(6), which state, "When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this subdivision." Therefore, the City should amend the Ordinance to include the exception under Government Code section 66322, subdivision (a)(6).

## Conclusion

Please note that the City has two options in response to HCD's findings of a non-compliant ordinance.<sup>5</sup> The City can either amend the Ordinance to comply with State ADU Law<sup>6</sup> or adopt the Ordinance without changes and include findings in its resolution adopting the Ordinance that explain the reasons the City believes that the Ordinance complies with State ADU Law despite HCD's findings.<sup>7</sup>

Given the substantial amount of time since the Ordinance's adoption in 2023, the City should promptly amend the outdated, non-compliant Ordinance to meet the standards of State ADU Law or repeal the Ordinance and implement State ADU Law in its place. Repealing the Ordinance would have the additional benefit of clarity for ADU applicants who may otherwise rely on an ordinance that is still included in the City's Code of Ordinances but is not compliant with State ADU Law.

Should the City decide not to take steps to modify its Ordinance in the manner outlined in this letter, it should be aware of the impacts of an ADU ordinance that does not comply with State ADU law. Government Code section 66326, subdivision (c) authorizes HCD to notify the Office of the Attorney General that the City is in violation of State ADU Law.

As noted above, HCD will not take action authorized pursuant to Government Code section 66326 before allowing the City an opportunity to respond to this letter. HCD looks forward to receiving the City's plan of action to bring its Ordinance into compliance pursuant to Government Code section 66326, subdivision (b)(2) by June 7, 2025.

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 reach out to Mike Van Gorder, of our staff, at [Mike.VanGorder@hcd.ca.gov](mailto:Mike.VanGorder@hcd.ca.gov) with any questions.

Sincerely,



Jamie Candelaria  
Senior Housing Accountability Manager  
Housing Policy Development Division

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<sup>5</sup> Gov. Code, § 66326, subd. (c)(1).

<sup>6</sup> Gov. Code, § 66326, subd. (b)(2)(A).

<sup>7</sup> Gov. Code, § 66326, subd. (b)(2)(B).