

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

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October 8, 2025

Brian Pedrotti, Director of Community Development
Planning Division
City of Arroyo Grande
300 E. Branch Street
Arroyo Grande, CA 93420

Dear Brian Pedrotti:

**RE: Review of City of Arroyo Grande's Accessory Dwelling Unit (ADU) Ordinance
under State ADU Law (Gov. Code, §§ 66310 - 66342)**

Thank you for submitting the City of Arroyo Grande's ADU Ordinance No. 733 (Ordinance), adopted December 10, 2024, to the California Department of Housing and Community Development (HCD). The Ordinance was received on January 21, 2025. HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Ordinance fails to comply with State ADU Laws in the manner noted below. Pursuant to Government Code section 66326, subdivision (b)(1), 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 November 7, 2025.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law as follows:

1. Section 16.52.150 (D) (1) (b) (i) – *Rear and Side Setbacks*– The Ordinance states, “One detached, new construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection D. 1. a above), if the detached ADU satisfies each of the following limitations: (i). The side- and rear- yard setbacks are *at least* four feet.” However, Government Code section 66314, subdivision (d)(7) requires that “A setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.” The Ordinance’s language of at “*least four-feet*,” contradicts State ADU Law as it indicates a larger set-back than four feet rather than the statutory requirement of not more than four feet. Therefore, the City must amend the Ordinance to require a setback of “no more than four feet.”

2. Section 16.52.150 (E) (7) (a) – *Owner Occupancy* – The Ordinance states, “ADUs created under this section on or after January 1, 2020, are not subject to an owner-occupancy requirement.” However, Government Code section 66315 states, “Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. 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.” Therefore, the City must remove the owner-occupancy requirement for all ADUs from its Ordinance.
3. Section 16.52.150 (E) (8) – *Deed Restriction* – The Ordinance states, “Prior to issuance of a certificate of occupancy for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community- Development Department. The- deed restriction must run with the land and bind all future owners.” However, Government Code section 66315 requires that no additional standards, other than those provided in Government Code Section 66314, shall be used, or imposed on accessory dwelling units. Although State ADU Law requires deed restrictions for JADUs, they are strictly prohibited for ADUs. Therefore, the City must amend the Ordinance to remove the requirement of a deed restriction for ADUs.
4. Section 16.52.150 (F) (1) (b) – *Size* – The Ordinance states, “An ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.” However, Government Code section 66321, subdivision (b)(3) prohibits “Any 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 City must amend the Ordinance to permit the minimum ADU size of 800 square feet, even if it would exceed 50 percent of the primary dwelling.
5. Section 16.52.150 (F) (2) (b) – *Front Setbacks* – The Ordinance states, “ADUs that are subject to this subsection F must conform to 4-foot side and rear setbacks. ADUs that are subject to this subsection F must conform to 20- foot front setbacks, subject to subsection F. 1. c above.” However, Government Code section 66321, subdivision (b)(3) prohibits “Any 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.”. Additionally, local design standards such as front setbacks may not preclude units created subject to Government Code section 66323. Therefore, the City must amend its Ordinance to remove any set back greater than four-foot side and rear yard, and where applicable, less than four feet, consistent with all accessory dwelling unit and junior accessory dwelling unit combinations authorized by Government Code section 66323 and note the exceptions for Front Setbacks.

6. Section 16.52.150 (F) (4) (a) – *Parking* – The Ordinance states, “Generally, one off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking, as defined by subsection C. 12 above.
 - i. Parking may be located on an existing driveway but shall not block sidewalk access or encroach into the public right-of-way.
 - ii. Parking spaces located wholly or partially within a side yard must have: a minimum clear space width- of ten-(10.)’feet. Vehicles shall not block exterior Windows- or” doors of a dwelling or access to utility- boxes: or. Meters.
 - iii. Vehicles: must be’ parked on a concrete, asphalt, gravel, brick, or permeable paver surface.
 - iv. No more than fifty (50) percent of a front yard shall be dedicated to vehicle parking.”

However, Government Code section, 66314, subdivision (d) (10) (A), states, “Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.” This means the parking requirement for an efficiency unit is zero since an efficiency unit does not have a separate bedroom.

Additionally, Government Code section, 66314, subdivision (d) (10) (B), requires off-street parking to be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions. Therefore, the City must amend the Ordinance to remove the unlawful parking restrictions and to reflect the statutory findings necessary for anything other than off street or tandem parking in compliance with State ADU Law.

7. Section 16.52.150 (F) (5) – *Architectural Requirements* – The Ordinance enumerates architectural and design standards for ADUs. However, Government Code sections 66314, subdivision (b) and 66323 require that all standards on ADUs must be objective, involve no personal or subjective judgment by a public

official and be uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. Standards such as requiring “similar exterior materials”, “fluorescent ” neon”, “ Day-Glo”, and windows that “maximize privacy” are subjective. Therefore, the City must amend the Ordinance to remove all subjective standards and include only objective standards for ADU design.

8. Section 16.52.150 (F) (6) – *Historical Protections* – The Ordinance states, “An ADU that is on or within 500 feet of real property that is listed in the California Register of Historic Resources must be located so as to not be visible from any public right-of-way.” However, Government Code section 66314, subdivision (b)(1) allows the local agency to only “Impose objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources.” The City’s requirement that an ADU not be visible from any public right-of-way is subjective and therefore in violation of State ADU Law. Therefore, the City must amend the Ordinance to remove this requirement.
9. Section 16.52.150 (I) – *Nonconforming ADUs and Discretionary Approval* – The Ordinance states, “Any proposed ADU or JADU that would otherwise be allowed under this section but that does not conform to the objective design or development standards set forth in subsections A through H of this section may be allowed by the city with a conditional use permit, in accordance with the other provisions of this title.”

However, Government Code section 66332 provides that “notwithstanding any other law, and except as otherwise provided in subdivision (b), a local agency shall not deny a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2020, due to either of the following: (1) The accessory dwelling unit or junior accessory dwelling unit is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code. (2) The accessory dwelling unit or junior accessory dwelling unit does not comply with this article or Article 3 (commencing with Section 66333), as applicable, or any local ordinance regulating accessory dwelling units or junior accessory dwelling units.” Therefore, the City must amend the Ordinance to remove discretionary approval and the requirement of a conditional use permit and include the City’s strict limitation on denial of a pre January 1, 2020 unpermitted ADU or JADU only if the City makes the findings required pursuant to Government Code section 66332, subdivision (b).

The City has two options in response to this letter.¹ The City can either amend the Ordinance to comply with State ADU Law² or adopt the Ordinance without changes and include findings in its resolution accompanying the Ordinance that explain the reasons the City believes that the Ordinance complies with State ADU Law despite HCD's findings.³ If the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD must notify the City and may notify the California Office of the Attorney General that the City is in violation of State ADU Law.⁴

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 Reshma Sen at Reshma.Sen@hcd.ca.gov if you have any questions.

Sincerely,



Jamie Candelaria
Section Chief, ADU Policy
Housing Policy Development Division

¹ Gov. Code, § 66326, subd. (c)(1).

² Gov. Code, § 66326, subd. (b)(2)(A).

³ Gov. Code, § 66326, subd. (b)(2)(B).

⁴ Gov. Code, § 66326, subd. (c)(1).