

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

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December 24, 2024

Stanley Murakoa, Principal Planner
Contra Costa County Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Dear Stanley Murakoa:

**RE: Review of Contra Costa County's Accessory Dwelling Unit (ADU) Ordinance
under State ADU Law (Gov. Code, §§ 66310 – 66342)**

Thank you for submitting the County of Contra Costa (County) accessory dwelling unit (ADU) Ordinance No. 2023-13 (Ordinance), adopted June 27, 2023, 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 66326, subdivision (a). HCD finds that the Ordinance fails to comply with State ADU and junior accessory dwelling unit (JADU) Laws in the manner noted below. Pursuant to Government Code section 66326, subdivision (b)(1), 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 January 23, 2025.

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

1. *Senate Bill (SB) 1211 (Chapter 296, Statutes of 2024)* – As of January 1, 2025, there will be changes to Government Code section 66323. Subdivision (a)(4)(A)(ii), now allows for "...up to 8 detached ADUs to be created on a lot with an existing multifamily dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot, and up to 2 detached ADUs on a lot with a proposed multifamily dwelling." Additionally, subdivision (b) now states "A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a)." Therefore, the County must make adjustments to the Ordinance to account for these changes.
2. *Assembly Bill (AB) 2533 (Chapter 834, Statutes of 2024)* - As of January 1, 2025, there will be changes to Government Code section 66332, subdivisions (a) – (b) and added subdivisions (d) – (f) which makes changes to permitting unpermitted ADUs, added the same protections for JADUs, and set additional requirements for local agencies. The

County should review these new requirements and adjust the Ordinance to comply with State ADU Law.

3. *Statutory Numbering* - The Ordinance contains several references to code sections that were deleted by SB 477, effective March 25, 2024. These include Government Code sections 65852.2, 65852.22 and 65852.26. The contents of these sections were relocated to Government Code, Title 7, Division 1, Chapter 13 (sections 66310-66342, see Enclosure). The County must amend the Ordinance to refer to the correct code sections.
4. 82-24.006 (b)(1) – *Unit Allowance* – The Ordinance allows, “One internal conversion that is **either** an accessory dwelling unit **or** a junior accessory dwelling unit on a lot with a proposed or existing single-family dwelling....” Government Code section 66323, subdivision (a), states, “Notwithstanding Sections 66314 to 66322, inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following: (1) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling...(A) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single family dwelling or existing space of a single-family dwelling or accessory structure.” Paragraph (2) permits “[o]ne detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks.” The use of the term “any” followed by an enumeration of by right ADU types permitted means that any of these ADU types can be combined on a lot zoned for single family dwellings.

This permits a homeowner, who meets specified requirements, to create one converted ADU; one detached, new construction ADU; and one JADU. Thus, if the local agency approves an ADU that is created from existing (or proposed) space, and the owner subsequently applies for a detached ADU (or vice versa) that meets the size and setbacks pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for a JADU under this section. Therefore, the County must amend the Ordinance to provide for all ADU combinations described in Government Code section 66323.

5. 82-24.012 (e) – “*Subordinate*” – 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, Government Code section 66314, subdivision (b)(1), allows local ADU ordinances to “Impose objective standards on accessory dwelling units,” Additionally, section 66313, subdivision (h) states, “‘Objective standards’ means standards that involve no personal or subjective judgment by a public official and are 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.” The term “subordinate” is subjective and as such is inconsistent

with statute. The County must delete this term and only use objective standards in the Ordinance to comply with State ADU Law.

6. 82-24.012 (i)(3) – *Parking Exemption* – The Ordinance provides parking exceptions that match the conditions described in Government Code section 66322, subdivision (a)(1) through (a)(5). However, there is no mention of the conditions described in subdivision (a)(6): “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 paragraph.” Therefore, the County must amend the Ordinance to include all parking exceptions provided by State ADU Law.
7. 82-24.016 – *Deed Restriction* – The Ordinance states, “Before obtaining a permit authorizing the establishment of an accessory dwelling unit or junior accessory dwelling unit, the applicant shall...Enter into an agreement of restrictions with the county that refers to the deed under which the property was acquired by the applicant...” However, a deed restriction cannot be imposed on an ADU. 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.” Although deed restrictions are required for JADUs, they are prohibited for ADUs. The City must amend the Ordinance accordingly.

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

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).

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 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 black ink that reads "Jamie Candelaria". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Jamie Candelaria
Senior Housing Accountability Manager

State ADU/JADU Law Statutory Conversion Table

New Government Code Sections	Previous Government Code Sections
Article 1. General Provisions	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 65852.22 (j)
Article 2. Accessory Dwelling Unit Approvals	
66314	65852.2(a)(1)(A), (D)(i)-(xii), (a)(4)-(5)
66315	65852.2 (a)(8)
66316	65852.2 (a)(6)
66317	65852.2 (a)(3), (a)(7)
66318	65852.2 (a)(9), 65852.2 (a)(2)
66319	65852.2 (a)(10)
66320	65852.2 (b)
66321	65852.2 (c)
66322	65852.2 (d)
66323	65852.2 (e)
66324	65852.2 (f)
66325	65852.2 (g)
66326	65852.2 (h)
66327	65852.2 (i)
66328	65852.2 (k)
66329	65852.2 (l)
66330	65852.2 (m)
66331	65852.2 (n)
66332	65852.23.
Article 3. Junior Accessory Dwelling Units	
66333	65852.22 (a)
66334	65852.22 (b)
66335	65852.22 (c)
66336	65852.22 (d)
66337	65852.22 (e)
66338	65852.22 (f)-(g)
66339	65852.22 (h)
Article 4. Accessory Dwelling Unit Sales	
66340	65852.26 (b)
66341	65852.26 (a)
66342	65852.2 (a)(10)