

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

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October 18, 2024

Mark Muenzer, Planning and Development Director
Planning and Development Department
City of Culver City
9770 Culver Blvd
Culver City, CA 90232

Dear Mark Muenzer:

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

Please Note: As of March 25, 2024, with the Chaptering of Senate Bill (SB) 477 (Chapter 7, Statutes of 2024), the sections of Government Code relevant to State ADU and Junior Accessory Dwelling Unit (JADU) Law have been re-numbered (Enclosure 1).

Thank you for submitting the City of Culver City (City) ADU Ordinance No. 2023-005 (Ordinance), adopted October 9, 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 does not comply with State ADU and JADU Laws in the manner noted below. Under 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 17, 2024.

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

1. *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 City must amend the Ordinance to refer to the correct code sections.
2. Section 17.400.095 B.3 – *Height* – The Ordinance states, “Development standards in this Title shall apply to the extent they do not prohibit the construction of an accessory dwelling unit of up to 800 square feet that is up to 18 feet in height if detached...” However, Government Code section 66321,

subdivision (b)(4)(B) requires that “A detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code.... a local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.” Therefore, the City must amend the Ordinance to include the allowance of the additional two feet of height to accommodate roof pitch.

3. Section 17.400.095 E.1.b.i. – *Unit Allowance* – The Ordinance states, “A new construction attached accessory dwelling unit may be constructed in lieu of the new construction detached accessory dwelling unit.” This permits the creation of an attached new construction ADU subject to Government Code section 66314 in combination with a converted ADU subject to Government Code section 66323, subdivision (a)(1), but precludes the combination of a new construction attached ADU subject to Government Code section 66314 with a detached ADU subject to Government Code section 66323, subdivision (a)(2).

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 indicate 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 City must amend the Ordinance to provide for all ADU combinations described in Government Code section 66323.

4. Section 17.400.095 I. – *Internal Access* – The Ordinance states, “Accessory dwelling units are entirely fully habitable, and shall include independent kitchen and bathroom facilities. Accessory dwelling units shall be independent from the

main dwelling without internal access.” However, local design standards provided by the Ordinance pursuant to Government Code sections 66314 through 66322 may not preclude a unit built subject to Government Code section 66323. Therefore, internal access cannot preclude the creation of a unit subject to Government Code section 66323. The City must amend the Ordinance to remove the requirement to have internal access for ADUs described in Government Code section 66323.

5. Section 17.400.095 K.1. – *Front Setbacks* – The Ordinance states, “An accessory dwelling unit shall abide by the front yard setback requirements of the zone in which it is located.” 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 allow at least an 800 square foot ADU.
6. Section 17.400.095 L.3.a.iii. – *Interior Connection and JADUs* – The Ordinance states, “A junior accessory dwelling unit may share significant interior connection to the primary dwelling if they are sharing a bathroom facility.” However, 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 change “may” to “must” to comply with State ADU Law.
7. Section 17.400.095 N.3. – *Fee Proportionality* – The Ordinance states, “Prior to Building Permit issuance, projects resulting in the addition of 750 square feet or more for an accessory dwelling unit located at the subject property shall pay all impact fees....” However, Government Code section 66324, subdivision (c)(1) states, “Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.” Therefore, the City must amend the Ordinance to ensure impact fees are charged proportionately in relation to the square footage of the primary unit.

Please note that 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 adopting 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 contact Mike VanGorder, 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,



Jamie Candelaria
Senior Housing Accountability Manager
Housing policy Development Division

Enclosure

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).

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)