

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

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March 17, 2026

Hensley Craig, Community Development Director
Community Development Department
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

Dear Hensley Craig:

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

Thank you for submitting the City of Duarte's (City) ADU Ordinance No. 916 (Ordinance), adopted April 25, 2023, to the California Department of Housing and Community Development (HCD). The Ordinance was received on August 11, 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 April 16, 2026.

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

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 Government Code sections.
2. *Assembly Bill (AB) 2533 (Chapter 834, Statutes of 2024)* - As of January 1, 2025, there are changes to Government Code section 66332. Subdivisions (a) and (b) were changed and subdivisions (d) – (f) were added. Changes include permitting previously unpermitted ADUs, adding the same protections for JADUs, and setting additional requirements for local agencies. The County should review these new requirements and adjust the Ordinance to comply with State ADU Law.

3. Please note, there is recent legislation that amended State ADU Law. Language relevant to these changes should be incorporated into the Ordinance as it is updated. The bills referenced below are relevant to State ADU Law:

- a. Assembly Bill (AB) 130 – Effective June 30, 2025
- b. AB 462 – Effective October 10, 2025
- c. AB 1154 – Effective January 1, 2026
- d. Senate Bill (SB) 9 – Effective January 1, 2026
- e. SB 543 – Effective January 1, 2026

4. Section 19.60160 A.2. – *Deed Restriction* – The Ordinance states “A deed restriction shall be required for all ADUs/JADUs. Prior to obtaining a building permit for an ADU/JADU, a deed restriction shall be approved by the Community Development Director or his/her designee and the City Attorney, which shall include the restrictions and limitations identified in this Paragraph...”

Although deed restrictions are required for junior accessory dwelling units (JADUs), they cannot be imposed on ADUs. 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 amend the Ordinance and omit this requirement.

5. Section 19.60160 A.2.b. – *Separate Sale* – The Ordinance states, “The ADU/JADU shall not be sold separately from the primary residence, except as permitted by Government Code 65852.26, or as the section may be amended from time to time.” However, Government Code 65852.26, has moved to Government Code section 66341. The City must amend the Ordinance and cite the updated code section.
6. Section 19.60160 A.2.d. and A.2.e. – *Owner Occupancy* – The Ordinance states, “Owner-occupancy for all ADU/JADUs shall be required after January 1, 2025.” However, AB 976 (Chapter 751, Statutes of 2023) amended Government Code section 66315 to prohibit owner-occupancy requirements for ADUs. The section now states, “No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement...”

In addition, AB 1154 (Chapter 507, Statutes of 2025), Government Code section 66333 (b), effective January 1, 2026, limits the scope of the owner-occupancy requirement as follows: “If the junior accessory dwelling unit has shared sanitation facilities with the existing structure, [the ordinance shall] require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or

the newly created junior accessory dwelling unit. Owner-occupancy *shall not be required* if the junior accessory dwelling unit has separate sanitation facilities, or if the owner is another governmental agency, land trust, or housing organization.” Therefore, the City must amend the Ordinance and remove owner occupancy requirements for all ADUs and only require owner occupancy for JADUs if sanitation facilities are shared with the primary dwelling.

7. Section 19.60160 B.1. – *Size* – The Ordinance states, “Studio and one-bedroom ADUs shall not exceed 850 square feet of total floor area. ADUs with more than one bedroom shall not exceed 1,000 square feet of total floor area. In no case shall the ADU be less than 150 square feet.” However, Government Code section 66323, subdivision (a)(4), requires the local agency to approve ADUs that are detached from the multifamily dwelling structure. Detached ADUs on multifamily lots do not have a floor area restriction under Government Code section 66323, subdivision (a)(4). The City must amend the Ordinance to remove the size limitation on detached multifamily ADUs.
8. Section 19.60160 4. – *Height* – The Ordinance states, “A detached ADU shall be limited to a maximum height of 18 feet and one story in height. Two story detached ADUs that include heights above 18 feet are allowed for existing or proposed detached garages where the first-floor garage is maintained as off-street parking for two or more vehicles, and the second floor ADU is equal to or less than the footprint of the first-floor garage itself.”

However, there is no limit on the number of stories contained in State ADU Law. A local agency must allow at least two stories, and an attached ADU may be built to the height of the zoning for the primary dwelling or up to 25 feet, whichever is lower.¹ In addition, Government Code section 66321, subdivision (b)(4) provides for heights of 16, 18, or 20 feet for detached ADUs given stated conditions. The City must amend the Ordinance to provide for the various height allowances within State ADU Law.

9. Section 19.60160 B.5. – *Floor Area Ratio* – The Ordinance states, “The maximum lot coverage for the underlying zone may be exceeded to accommodate the construction of ADUs equal to or less than 800 square feet in total floor area. For ADUs greater than 800 square feet in total floor area, the Duarte Development Code requirements related to lot coverage, minimum landscape area, maximum hardscape area, and all other local development standards.” However, Government Code, section 66323, subdivision (a)(4), requires the local agency to approve ADUs that are detached from the multifamily dwelling structure that do not have a floor area restriction. The City must amend the Ordinance to remove the floor area restriction on detached Government Code, section 66323 ADUs on multifamily lots.

¹ Gov. Code § 66321, subd. (b)(4)(d).

10. Section 19.60160 B.6.7. – *Architecture* – The Ordinance states, “An ADU shall be in similar in the building materials, color, style, massing, and form of the primary residence. Architectural details including, but limited to, wall modulation, windows, roof pitch and lines, eaves, fascia boards, and trim shall match the primary residence on the property, provided that no ADU shall include any second story balcony or similar open space on the second story.

However, Government Code section 66316 requires “an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units.” The terms “similar,” “architectural details,” “material” and “color” are subjective and inconsistent with Government Code section 66314, subdivision (a)(2), which allows local jurisdictions to apply “objective standards on accessory dwelling units.” Objective standards 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. Additionally, design standards not found in Section 66323 of the Government Code cannot be imposed on ADUs created under this section. Therefore, the City must amend the Ordinance and only include objective standards for ADUs.

11. Section 19.60160 B.8. – *Visibility* – The Ordinance states, “An ADU shall have a separate exterior access. The exterior access shall be a standard exterior door and shall be located in a manner that will preserve, to the greatest extent feasible, the privacy of the primary residence and any adjoining residences and, to the greatest extent feasible, shall not be visible from the street. Access from the exterior access point of the ADU to the street are encouraged to be provided on a decorative paved pathway.” However, local development standards may not preclude a unit created subject to Government Code section 66323. The City must amend this section to include the exception and codify ministerial approval.

12. Section 19.60160 B.10. – *Fire Sprinklers* – The Ordinance states, “When an ADU is attached to or converted within a primary dwelling that is required to have fire sprinklers, then the ADU shall also install fire sprinklers.” However, Government Code, section 66314, subdivision (d)(12) and section 66323, subdivision (c) both states, “The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed...” in the existing primary dwelling. Therefore, the City must amend the Ordinance to add that the addition of an ADU shall not trigger a requirement for fire sprinklers.

13. Section 19.60160 B.12. – *Parking Exceptions* – The Ordinance lists five conditions under which parking is not required for an ADU but omits reference to the conditions listed in Government Code section 66322, 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 subdivision.” The City must amend the

Ordinance to include all parking exceptions provided by State ADU Law and reference the updated code section.

14. Section 19.60160 B.13. – *Uncovered Parking* – The Ordinance states, “ When the ADU is created by converting or demolishing a garage, carport or covered parking structure, replacement of covered parking space(s) eliminated by the construction of the ADU shall not be required as long as the ADU remains in use as a legal ADU.” However, Government Code, section 66314, subdivision (d)(11), states, “A local agency may not require off-street parking spaces to be replaced when a garage, carport, covered parking structure, or *uncovered parking* space is demolished in conjunction with the construction of an ADU or converted to an ADU.” Therefore, the City must amend the Ordinance to include non-replacement of *uncovered parking* when *uncovered parking* is used to construct or is converted to an ADU.
15. Section 19.60160 B.14. – *Local Development Standards*– The Ordinance states, “Required parking space(s) shall be a minimum of 20 feet in length. For single-family residential properties, the Ordinance requires allowable driveways leading to required parking spaces shall be paved in Portland cement concrete.” However, parking requirements do not apply to ADUs approved pursuant to Government Code section 66323 because “[a] local agency shall not impose any objective development or design standard that is not authorized by this section [66323] upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).” Therefore, the City must amend the Ordinance and clarify that the requirements listed in this section are not applicable to units created pursuant to Government Code section 66323.

The City has two² options in response to this letter. The City can either amend the Ordinance to comply with State ADU Law³ 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.⁴ 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.⁵

² Gov. Code, § 66326, subd. (c)(1).

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

⁴ Gov. Code, § 66326, subd. (b)(2)(B).

⁵ Gov. Code, § 66326, subd. (c)(1).

Hensley Craig, Community Development Director.

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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

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
Section Chief, ADU Policy
Housing Accountability Unit