

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

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June 24, 2026

Steve Fowler, Director
Community & Economic Development Department
City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

Dear Steve Fowler:

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

Thank you for submitting the City of El Monte (City) ADU Ordinance No. 3053 (Ordinance), adopted May 14, 2025, 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 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 July 24, 2026, with a plan to either amend the current ordinance or adopt a resolution with findings.¹ Responses should be submitted formally on the City's letterhead.

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 Senate Bill (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 sections 66310–66342. The County must amend the Ordinance to refer to the correct Government Code sections.
2. Please note, recent legislation amended State ADU Law. Language relevant to these changes should be incorporated into the Ordinance as it is updated. The following bills amended State ADU Law:

¹ Gov. Code, § 66326, subd. (b)(2)(B).

- Assembly Bill (AB) 130—Effective June 30, 2025
 - AB 462—Effective October 10, 2025
 - AB 1154—Effective January 1, 2026
 - SB 9—Effective January 1, 2026
 - SB 543—Effective January 1, 2026
3. Section 17.110.030. B.1. & B.2. – *ADU Applications* – The Ordinance states, “ADUs/Junior ADUs Submitted Separately with Existing Improvements. The city shall ministerially, and without discretionary review or a hearing, act on the application to create an ADU or a Junior ADU which complies with this section within 60 days from the date the city receives a completed application. There must be an existing single-family or primary dwelling or multiple-family structure on the subject property.” However, a local agency must determine whether an application is complete and approve or deny the application, not merely “act” on an application.² Moreover, State ADU Law requires, “The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit within 60 days from the date the permitting agency receives a **completed** application...”³ (emphasis added). This clarifies that, while the City has 15 business days to determine completeness, the 60-day clock to approve or deny the application begins when the application is submitted, not when it is determined to be complete. Additionally, section 66317 provides for processes and timelines regarding the appeals process. The same timeframes are required for junior accessory dwelling units (JADUs).⁴ The City must amend the Ordinance to include the proper completeness and approval timelines as well the process for appeals.
4. Section 17.110.030 B.2. – *New Primary Dwellings* – The Ordinance states, “If the permit application to create an ADU or a Junior ADU is submitted with a permit application to create a new single-family dwelling on the subject property, the City may delay acting on the permit application for the ADU or the Junior ADU until the City acts on the permit application to create the new single-family dwelling.” However, the City must also allow ADU applications submitted concurrently with proposed multifamily dwellings.⁵ The City must also “approve or deny” an application to create or serve an ADU or JADU within 60 days of approving the application for the new primary dwelling.⁶
5. Section 17.110.030 B.3. – *Required Standards* – The Ordinance states, “ADUs/Junior ADUs shall be subject to the requirements of this section and

² Gov. Code, § 66317, subd. (a).

³ Ibid.

⁴ Gov. Code, § 66335, subd. (a).

⁵ Gov. Code, § 66317, subd. (a)(3).

⁶ Gov. Code, § 66317, subd. (a)(3).

approval of a Staff Level Zoning Clearance.” The City should integrate the exemptions found in Government Code section 66321, subdivisions (b) and (b)(3) into the Ordinance. These provisions require that, “...a local agency shall not establish by ordinance.... Any requirement for a zoning clearance or separate zoning review...that does not permit at least an accessory dwelling unit with at least 800 square feet of interior livable space and with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.” The City should ensure ADUs of up to 800 interior habitable space with side and rear setbacks of at least four feet and in compliance with all other local development standards are approved notwithstanding a required zoning clearance and that no local development or design standards are imposed on units built under Government Code section 66323.⁷

6. Section 17.110.030 C.3. – *Prohibition on ADUs with “Urban Dwellings”* – The Ordinance states, “No ADU or junior ADU shall be permitted on a property developed with an urban dwelling as outlined in Section 17.110.110 of this chapter.” While Section 17.110.110 is related to the implementation of SB 9 (2021),⁸ in certain situations State ADU Law and SB 9 work in tandem with each other. Current guidance on the topic states, “Pursuant to SB 9, two-unit projects may be proposed on single-family lots (not created through an urban lot split) with any number of ADU as permitted by ADU law.”⁹ Therefore, the City must amend the Ordinance to allow the correct number of ADUs with “Urban Dwellings.”
7. Section 17.11.030 F.2. – *Stories* – The Ordinance limits attached ADUs to “A maximum height of 25 feet (1½ stories) in the One-family Dwelling (R-1C) zoning district.” However, Government Code section 66321, subdivision (b)(4)(D) states, “This subparagraph shall not require a local agency to allow an accessory dwelling unit to exceed two stories,” indicating that local agencies must permit ADUs with two stories, not one and a half stories. The City must amend the Ordinance to reflect State ADU Law.
8. Section 17.110.030 H. – *Parking Requirements* – The Ordinance states, “...parking requirements shall not apply to ADUs in any of the following circumstances,” and then lists several circumstances where parking is not required in conformance with State ADU Law. However, the City must also not impose parking standards “(w)here the accessory dwelling unit is located within an architecturally and historically significant historic district.”¹⁰ The City must

⁷ Gov. Code, § 66323, subd. (b).

⁸ Gov Code, §§ 66411.7; 65852.21.

⁹ See HCD’s Technical Assistance Letter to Temple City found at:
<https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/temple-city-ta-021926.pdf>

¹⁰ Gov. Code, § 66322, subd. (a)(2).

amend the Ordinance to include this parking requirement exception for architecturally and historically significant districts.

9. Section 17.110.030 L.2. – *Separate Conveyance* – The Ordinance states, “Attached ADUs or junior ADUs shall not be sold or otherwise conveyed separate from the primary residence.” However, the City must allow for the separate conveyance of ADUs under Government Code section 66341. The City must amend the Ordinance to provide for separate conveyance of ADUs in these narrow circumstances.
10. Section 17.110.030 M.1. – *JADU Entrance Design* – The Ordinance requires, for JADUs, that “the entrance shall be located on the side or rear of the primary dwelling,” and that, “In addition, there shall be no exterior staircase leading to or from an attached ADU or junior ADU.” However, the City cannot impose additional design and development standards on JADUs and is limited to the design and development standards in Government Code sections 66323, subdivision (a)(1)(A) and 66333.¹¹ Therefore, the City must amend its Ordinance to remove these restrictions from JADUs.
11. Section 17.110.030 M.1. – *Attached ADU Entrance Design* – The Ordinance also requires, for attached ADUs, that “the entrance shall be located on the side or rear of the primary dwelling,” and that, “In addition, there shall be no exterior staircase leading to or from an attached ADU or junior ADU.” However, Government Code section 66315 states, “No additional standards, other than those provided in Section 66314, shall be used or imposed...” The City must remove the requirement for the entrance to be located in a specific location and the disallowance of exterior staircases.
12. Section 17.100.030 M.3. – *Visibility* – The Ordinance states, “For detached ADUs, the entrance shall not face, or be visible from the public right-of-way.” However, “visible from the public right of way” is a subjective concept, the use of which is inconsistent with Government Code section 66314, subdivision (b)(1), which requires “objective standards” to be applied to ADUs. The City must remove these restrictions.
13. Section 17.110.030 M.5. & 6. – *Additional Standards* – The Ordinance requires, “ADUs and junior ADUs shall comply with Chapter 17.140 (Design Guidelines) of this title,” and also that “ADUs and junior ADUs shall comply with Chapters 17.72 (Landscape Regulations) and 17.74 (Water Efficiency) of this title.” While this provision might be applicable to ADUs proposed under Government Code section 66314, it is not applicable to JADUs.¹² Moreover, Government Code section 66321, subdivision (b)(3) mandates that, “Any requirement for a zoning clearance

¹¹ Gov. Code, §§ 66323, subd. (b); 66333.

¹² See Finding 10.

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 accessory dwelling unit with at least 800 square feet of interior livable space and with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.” While the City can impose objective design and landscaping requirements on ADUs created under Government Code section 66314, it cannot impose them on JADUs.¹³ The City must amend this section to remove the references to JADUs and ensure that only objective design and landscape standards found in other portions of the municipal code are applied to section 66314 units.

14. Section 17.110.030 P. – *Fire Sprinklers* – The Ordinance states, “ADUs shall not be required to install fire sprinklers if they are not required for the existing single-family dwelling.” The Ordinance is missing a required standard that “[t]he construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.”¹⁴ The City must amend the Ordinance to provide for this missing standard.
15. Section 17.110.030 Q. – *Building and Zoning Enforcement* – The Ordinance states, “The correction of nonconforming zoning conditions on the property shall not be required as a condition for ministerial approval of a permit application for the creation of an ADU or a junior ADU.” However, this only implements part of the required exemptions on site conditions. Government Code section 66322, subdivision (b) prohibits the denial of a permit “due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of” the ADU. The City’s ordinance restricts units whose protection is specifically provided for by statute by not allowing for the full scope of site condition exemptions. Therefore, the City should amend the Ordinance to clarify these prohibitions on the City’s ability to deny ADU applications.
16. Section 17.110.030 R. – *JADU Owner Occupancy* – The Ordinance states, “Either the existing primary dwelling or Junior ADU on a lot shall be occupied by the owner of the property, unless the owner is another governmental agency, land trust, or housing organization.” However, Government Code section 66333, subdivision (b) states, “Owner-occupancy shall not be required if the junior accessory dwelling unit has separate sanitation facilities...” The City’s existing Ordinance does not provide for this separate sanitation exception to owner-occupancy. The owner-occupancy requirement only applies if the JADU has

¹³ Gov. Code, §§ 66323, subd. (b); 66333.

¹⁴ Gov. Code, § 66314, subd. (d)(12).

shared sanitation facilities with the existing structure. Therefore, the City must amend its Ordinance to incorporate these owner-occupancy exceptions.

17. Section 17.110.030 U. – *Exempt Units* – The Ordinance states, “Notwithstanding any development standard or other limitation set forth in subsections A. through S. above, the city shall ministerially approve an application for a building permit within a residential or mixed-use zoning district to create any of the following units...” However, because the City appears to implement Government Code section 66323 in this provision, the City must also require ministerial approval notwithstanding subsection T.¹⁵ The City should amend the Ordinance to add subsection T to the list of subsections that an ADU or JADU application under Subsection U is not subject to.
18. Section 17.110.030 U.a.1. – *Unit Allowances* – The Ordinance states, “One junior ADU and one attached ADU **or** detached ADU per lot,” is permitted on lots with “One single-family structure or more than one detached ADU per lot...” (emphasis added). However, 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 units, or any combination of the following units: (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 requirement that a local agency must allow any “combination of the following units”, followed by a list of ADU types permitted under Government Code section 66323 means that any of these ADU types can be combined on a lot zoned for single-family dwellings. The same requirement holds true for lots with existing or proposed multifamily dwellings.

Moreover, section 66317 states that a permitting agency “shall either approve or deny the application to create or serve” an application subject to section 66314, which subdivision (d)(3) states may be “either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling, including detached garages.” Since the statute mandates that a local agency “shall approve or deny” an application under section 66314, while also requiring that “a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the

¹⁵ Gov. Code, § 66323, subd. (b).

following” under section 66323, the City must amend its Ordinance to allow the full allotment of 66323 units and at least one 66314 unit.

19. Section 17.110.030 U.1.a.ii. – *JADU Requirements* – The Ordinance states that a JADU “Shall be entirely within the square footage of an existing or proposed primary dwelling.” However, Government Code section 66333, subdivision (d) states that for the purposes of siting JADUs, “enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.” Therefore, the City must amend the Ordinance to include a reference to enclosed uses.

The City has two options in response to this letter.¹⁶ The City can either 1) amend the Ordinance to comply with State ADU Law¹⁷ or 2) 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.¹⁸ If the City fails to take either course of action, or if HCD finds that the newly adopted Ordinance remains out of compliance with State ADU Law despite the City’s findings and explanations, 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.¹⁹

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 Michael McLaughlin at Michael.McLaughlin@hcd.ca.gov if you have any questions or wish to discuss any of HCD’s findings.

Sincerely,



Jamie Candelaria
Section Chief, ADU Policy
Housing Accountability Unit

¹⁶ Gov. Code, § 66326, subd. (c)(1).

¹⁷ Gov. Code, § 66326, subd. (b)(2)(A).

¹⁸ Gov. Code, § 66326, subd. (b)(2)(B).

¹⁹ Gov. Code, § 66326, subd. (c)(1).