

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

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May 17, 2024

Elise McCaleb, Community Development Director  
Community Development  
City of Hawaiian Gardens  
21815 Pioneer Blvd  
Hawaiian Gardens, CA 90716

Dear Elise McCaleb:

**RE: Review of Hawaiian Gardens 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 Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Law have been re-numbered (Enclosure 1).

Thank you for submitting the City of Hawaiian Gardens (City) ADU Ordinance No. 2022-607 (Ordinance), adopted January 10, 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 June 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. Section 18.90.080 C.3.b – *Approvals* – The Ordinance states that the City “must act on an application within 60 days...” However, Government Code section 66317, subdivision (a) requires that local jurisdictions “**shall either approve or deny** the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days...” Therefore, the City must change the language from “must act” to “shall approve or deny” to comply with State ADU Law.
2. Section 18.90.080 D.1 – *JADUs and Zoning* – The Ordinance states, “(a) An ADU or JADU subject only to a building permit under subsection (C)(1) above may be created on a lot in a residential or mixed-use zone. (b) An ADU or JADU subject to an ADU permit under subsection (C)(2) above may be created

on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.” However, Government Code section 66333, allows JADUs “in single-family residential zones”. Therefore, allowing JADUs in multifamily zones is inconsistent with State ADU Law. The City must amend the Ordinance accordingly.

3. Section 18.90.080 D.3 – *JADU Terms* – The Ordinance states, “No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.” 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...” Section 66314 does not address rental term limits for JADUs. The requirement of a rental term 30 days or longer is not required in Government Code section 66333 et seq. Therefore, the City must remove the requirement and amend the Ordinance to comply with State JADU Law.
4. Section 18.90.080 D.5 – *Owner Occupancy* – The Ordinance states, “(a) An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement. (b) Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person’s legal domicile and permanent residence.” 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...” Therefore, the City must remove this section from the Ordinance.
5. Section 18.90.080 D.6 – *Deed Restriction* – The Ordinance states, “Prior to the issuance of a building permit 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 to the City’s satisfaction.” 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.” The City may not require a deed restriction and noncompliance as the basis of delay or denial of an ADU application and the issuance of a building permit.

Additionally, JADU deed restrictions are limited only to the conditions listed In Government Code section 66333, subdivision (c), namely: “A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers... A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.” Therefore, the City must amend the Ordinance to comply with State ADU Law.

6. Section 18.90.080 E.3.a – *Front Setback* – The Ordinance states that “An ADU that is subject to this subsection must conform to a 20 foot front-yard setback, subject to subsection (E)(1)(c) above.” However, subsection (E)(1)(c) governs size maximums and does not address placement of a unit on a lot. Government Code section 66323, subdivision (b)(3) prohibits development standards, and specifically front setbacks, from precluding a unit up to 800 square feet. Therefore, the City should note that front setbacks may not preclude any ADU 800 square feet or smaller.

In response to the findings in this letter, and pursuant to Government Code section 66326, subdivision (b)(2), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City’s response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 66326, subdivision (c)(1), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

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 Van Gorder, of our staff, at (916) 776-7541 or at [mike.vangorder@hcd.ca.gov](mailto: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