

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

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June 26, 2025

Diana Robinson, Planning Division Manager  
Planning Division  
Imperial County  
801 Main St  
El Centro, CA 92243

Dear Diana Robinson:

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

Thank you for submitting the Imperial County (County) Code of Ordinances, Title 9, Division 4, Chapter 5 Code of Ordinances to the California Department of Housing and Community Development (HCD). The Code of Ordinances was received on March 10, 2025. HCD has reviewed the Code of Ordinances and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Code of Ordinances fails to comply with State ADU 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 July 25, 2025.

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

1. *Statutory Numbering* - The Code of Ordinances 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 Code of Ordinances to refer to the correct Government Code sections.
2. Section 90405.03 K. – *Multiple Detached Primary Dwellings* – The Code of Ordinances states “A lot where there are multiple detached single-family dwelling is eligible for a creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure and by building a new detached AUD subject to certain development standards.”

However, multiple single-family dwellings on a single lot would be a nonconforming zoning condition. Government Code section 66322, subdivision (b) states "The local agency shall not deny an application for a permit to create an accessory dwelling unit 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 accessory dwelling unit." Therefore, one of each of the full allowance of units afforded single-family primary dwellings must be permitted. The County must amend the Code of Ordinances to remove this section.

3. Section 90405.03 O. – *Detached ADUs with Multifamily Dwellings* – The Code of Ordinances omits language to support units subject to Government Code section 66323, subdivision (a)(4):

"(A) (i) Multiple accessory dwelling units, not to exceed the number specified in clause (ii) or (iii), as applicable, that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation in subparagraph (A), (B), or (C) of paragraph (4) of subdivision (b) of Section 66321, as applicable, and rear yard and side setbacks of no more than four feet.

(ii) On a lot with an existing multifamily dwelling, not more than eight detached accessory dwelling units. However, the number of accessory dwelling units allowable pursuant to this clause shall not exceed the number of existing units on the lot. (iii) On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units."

This appears to be accidental, as the Code of Ordinances states "The above four categories may be combined. For example, local governments must allow (A) and (B) together or (C) and (D) together" while not providing (D). Lastly, note that the County has here cited *capital letter* subdivisions such as (A) while appearing to intend to refer to sections O.a through O.c, which are *lower-case* subdivisions. The capital letter sections are development standards - i.e. A.: "The unit may be sold separately from the primary residence pursuant to Government Code Section 65852.26." Capital and lower-case letters are not interchangeable in citations. The County must amend the Code of Ordinances to address the omission and correct the citations.

4. Section 90405.05 – *Specific Zones* – The Code of Ordinances states "An Accessory Dwelling Unit shall only be allowed in a specific zone if the County finds that the required public services can be provided efficiently, effectively and safely, and further creates no adverse effect on capacity of services such as water, sewer, police and/or fire protection." However, the Code of

Ordinances does not elaborate upon these processes, nor define what it considers “efficient”, “effective”, or “safe”. Government Code section 66314, subdivision (a) states that local ordinances may “Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.” The jurisdiction appears to consider these factors at the level of the individual application rather than the *designation of areas* as is allowed by State ADU Law. To come into consistency with State ADU Law, the County must designate areas where ADUs may be created and provide findings of inadequate water or sewer capacity or conflicts relevant to traffic flow or public safety to support restriction of ADUs in other areas.

5. Section 90405.07 E. – *Parking* – The Code of Ordinances states, “For ADUs with one (1) bedroom shall provide one (1) parking space. For two (2) or more bedrooms shall provide two (2) parking spaces.” However, Government Code section 66314, subdivision (d)(10)(A) states “Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less.” Therefore, the County must amend the Code of Ordinances to reduce the required parking, where applicable, to one space per ADU.
6. Section 90405.07 J. – *“Compatible”* – The Code of Ordinances states that ADUs must be “compatible” with the existing primary dwelling. However, Government Code section 66314, subdivision (b) allows only “objective standards on accessory dwelling units”, and the term “compatible” is subjective. The County must remove this section or use only objective terms.
7. Section 90405.07 Q.<sup>1</sup> – *ADU Formats* – The Code of Ordinances states “The four categories of ADU are...” before listing the four categories relevant to Government Code section 66323, the so-called “by-right” formats that must be approved without reference to local development standards. This omits reference to units subject to section 66314, which *would* be subject to local development standards, and may be either attached or detached from the primary dwelling. The County must amend the Code of Ordinances to clarify that such ADUs are also permissible.
8. Section 90405.07 Q.1.d - *Detached Multifamily Unit Allowance* – The Code of Ordinances allows “Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and four-foot rear and side yard setbacks.” However, although the County can limit a lot with a proposed multifamily dwelling to two ADUs, current Government Code section 66323, subdivision (a)(4), as quoted in finding 3 above, allows up to eight ADUs with an existing multifamily primary dwelling, and does not restrict

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<sup>1</sup> Please note that the Code of Ordinances has two “Q” sections, one “Q.” and one “Q”.

the heights of those units to 16 feet. The County must amend the Code of Ordinances accordingly.

9. Section 90405.10 – *Denial* – The Code of Ordinances states, “The ADU application must be approved or denied within sixty (60) days of receipt...” Government Code section 66317, subdivision (b) requires “If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subdivision (a), the permitting agency shall, within the time period described in subdivision (a), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.” Omission of reference to the requirements triggered by a denial is inconsistent with State ADU Law, and the County must add language accordingly.

The County has two options in response to this letter.<sup>2</sup> The County can either adopt an Ordinance to comply with State ADU Law<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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 feel free to contact Mike Van Gorder at [Mike.VanGorder@hcd.ca.gov](mailto:Mike.VanGorder@hcd.ca.gov) if you have any questions.

Sincerely,



Jamie Candelaria  
Section Chief, ADU Policy  
Housing Policy Development Division

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<sup>2</sup> Gov. Code, § 66326, subd. (c)(1).

<sup>3</sup> Gov. Code, § 66326, subd. (b)(2)(A).

<sup>4</sup> Gov. Code, § 66326, subd. (b)(2)(B).

<sup>5</sup> Gov. Code, § 66326, subd. (c)(1).