

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

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July 7, 2026

Alex Othon, Senior Planner
Planning Department
City of Larkspur
10 Rose Lane
Larkspur, CA 94939

Dear Alex Othon:

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

Thank you for submitting the City of Larkspur (City) ADU Ordinance No. 1090 (Ordinance), adopted August 20, 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 August 6, 2026, with a plan to either amend the current ordinance or adopt a resolution with findings.¹ Responses should be submitted formally on agency letterhead.

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

1. Section 18.23.030 – *Nonconforming Conditions and Junior Accessory Dwelling Units (JADUs)* – The Ordinance states, “A JADU shall be permitted on a lot zoned for single-family residences with one (1) existing or proposed single-family dwelling....” However, Government Code section 66324, subdivision (c) states, “A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.” Limiting JADUs to lots with only one single-family primary dwelling would prohibit JADUs on lots with a nonconforming secondary dwelling or a second primary dwelling pursuant to Senate Bill (SB) 9 (Chapter 510, Statutes of 2025), which

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

would be inconsistent with State JADU Law and SB 9. The City must remove this limitation from the Ordinance.

2. Section 18.23.040 C. – *Completeness* – The Ordinance states, “If the application is complete and an existing dwelling is on the lot, the City shall approve or deny the application ministerially within sixty (60) days from the date the City received the complete application.” However, the Ordinance fails to provide the precise timelines that the City is obligated to meet in its determination of a permit application for an ADU set forth in Government Code section 66317, subdivisions (a)(2)(A) through (a)(2)(F). The City must amend the Ordinance to include all timelines and substantive determination requirements reflected in State ADU Law.
3. Section 18.23.060 A. – *Unit Allowance* – The Ordinance states, “The City shall not permit more than two (2) total ADUs and one (1) JADU, in addition to the primary residence (no more than four dwellings on a lot).” It further states, “No new attached ADU shall be allowed for a parcel with a single-family residential use and an existing detached ADU or existing ADU converted from existing space....No new detached ADU shall be allowed for a parcel with a single-family residence and existing detached ADU.” Lastly, it restricts ADUs on multifamily parcels to review pursuant to Government Code section 66323.

These restrictions are inconsistent with State ADU Law. Government Code 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) provides 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.” Section 66317 unequivocally 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 following” under section 66323. These two allowances are not mutually exclusive and must be authorized and combined to result in a cumulative maximum. This is true for both single-family primary dwellings and multifamily primary dwellings. Therefore, the City must amend its Ordinance to allow, on any lot with any primary dwelling, the full allotment of section 66323 units with at least one unit of any format authorized by section 66314.

4. Section 18.23.060 J.1. – *Subjective Terms* – The Ordinance states, “All external construction shall be constructed of the same or similar exterior materials, finishes, or family of colors as the primary dwelling...” However, “similar” and “family of colors” are subjective terms. Government Code section 66314, subdivision (b)(1) allows local ordinances to apply only “objective standards on

accessory dwelling units,” and section 66313, subdivision (i) states, “‘Objective standards’ means standards that 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.” Therefore, the City must remove the subjective terms “similar” and “family of colors” from the Ordinance and impose only objective development standards.

5. Section 18.23.060 N. – *JADU Terms* – The Ordinance states, “JADU rentals shall exceed thirty (30) days when permitted by State law.” Please note that Government Code section 66333, subdivision (g) states that local JADU ordinances must “[r]equire that a rental of a junior accessory dwelling unit be for a term longer than 30 days.” The City must amend the Ordinance to precisely reflect this requirement.
6. Section 18.23.060 V. – *Local Historic Registers* – The Ordinance creates additional requirements for units created on a site “that contains a historic resource listed on the Larkspur Historic Resources Inventory or eligible for listing on the Larkspur Historic Resources inventory.” However, Government Code section 66314, subdivision (b)(1) allows additional development standards only to “prevent adverse impacts on any real property that is listed in the *California* [emphasis added] Register of Historical Resources,” which shall not include “minimum lot size.” State ADU Law does not acknowledge local registers. Therefore, the City must amend this section to refer to the California Register of Historical Resources.
7. Section 18.23.070 A. – *Owner-Occupancy* – The Ordinance states, “The Owner shall reside in either the remaining portion of the primary residence or the newly created JADU.” However, Government Code section 66333, subdivision (b) only requires owner-occupancy “[i]f the junior accessory dwelling unit has shared sanitation facilities with the existing structure.” The City must amend the Ordinance to accurately reflect State JADU Law.

The City has two options in response to this letter.² The City can either 1) amend the Ordinance to comply with State ADU Law³ 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.⁴ 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

² Gov. Code, § 66326, subd. (b)(2).

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

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

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.⁵

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 Mike Van Gorder at Mike.VanGorder@hcd.ca.gov if you have any questions or wish to discuss any of HCD's findings.

Sincerely,

A handwritten signature in cursive script that reads "Jamie Candelaria".

Jamie Candelaria
Section Chief, ADU Policy
Housing Accountability Unit

⁵ Gov. Code, § 66326, subd. (c)(1).