

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

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February 18, 2025

Trevor Hawkes, Supervising Planner  
Planning, Building, & Environmental Services  
County of Napa  
1195 Third Street, Suite 210  
Napa, CA 94559

Dear Trevor Hawkes:

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

Thank you for submitting the County of Napa (County) ADU Ordinance No. 1495 (Ordinance), adopted September 10, 2024, 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 junior accessory dwelling unit (JADU) Laws in the manner noted below. Under 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 March 20, 2025.

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

1. *Senate Bill (SB) 1211 (Chapter 296, Statutes of 2024)* – As of January 1, 2025, there are changes to Government Code section 66323. Subdivision (a)(4)(A)(ii), now allows for up to 8 detached ADUs to be created on a lot with an existing multifamily dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot, and up to 2 detached ADUs on a lot with a proposed multifamily dwelling. Additionally, subdivision (b) now states, "A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a)." Therefore, the County must adjust the Ordinance to account for these changes.
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. *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 County must amend the Ordinance to refer to the correct code sections.
4. 18.104.180 A.1.a – *Transient Occupancy* – The Ordinance states, “Accessory dwelling units are allowed on a legal lot... that contains an existing or proposed single family dwelling or an existing or proposed multifamily unit that is **precluded from transient occupancy**.” 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.” Imposing the extra standard that ADUs only be permitted on lots where the primary dwelling(s) do not allow transients is inconsistent with State ADU Law. Therefore, the County must amend the Ordinance to remove this additional standard.
5. 18.104.180 A.9 – *Deed Restriction* – The Ordinance states, “Prior to the issuance of a building permit for the accessory dwelling unit, the owner shall record a covenant with the Napa County Recorder’s Office in a form approved by county counsel to prohibit renting the accessory dwelling unit for fewer than 30 consecutive calendar days.” However, a deed restriction cannot be imposed on an ADU. 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.” While State ADU Law requires rental terms longer than 30 days for ADUs, a deed restriction to enforce such a requirement would be an “additional standard” and thus cannot be imposed. The County must remove this provision from the Ordinance.
6. 18.104.180 B.3.e – *Parking Exceptions* – The Ordinance lists conditions under which parking may not be required, but omits reference to the conditions of 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.” Therefore, the County must amend the Ordinance to include all parking exceptions provided by State ADU Law.

The County has two options in response to this letter.<sup>1</sup> The County can either amend the Ordinance to comply with State ADU Law<sup>2</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>3</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>4</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  
Senior Housing Accountability Manager  
Housing Policy Development Division

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

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

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

<sup>4</sup> Gov. Code, § 66326, subd. (c)(1).

## State ADU/JADU Law Statutory Conversion Table

| New Government Code Sections                        | Previous Government Code Sections                         |
|-----------------------------------------------------|-----------------------------------------------------------|
| <b>Article 1. General Provisions</b>                |                                                           |
| 66310                                               | 65852.150 (a)                                             |
| 66311                                               | 65852.150 (b)                                             |
| 66312                                               | 65852.150 (c)                                             |
| 66313                                               | General Definition Section<br>65852.2 (j)<br>65852.22 (j) |
| <b>Article 2. Accessory Dwelling Unit Approvals</b> |                                                           |
| 66314                                               | 65852.2(a)(1)(A), (D)(i)-(xii), (a)(4)-(5)                |
| 66315                                               | 65852.2 (a)(8)                                            |
| 66316                                               | 65852.2 (a)(6)                                            |
| 66317                                               | 65852.2 (a)(3), (a)(7)                                    |
| 66318                                               | 65852.2 (a)(9), 65852.2 (a)(2)                            |
| 66319                                               | 65852.2 (a)(10)                                           |
| 66320                                               | 65852.2 (b)                                               |
| 66321                                               | 65852.2 (c)                                               |
| 66322                                               | 65852.2 (d)                                               |
| 66323                                               | 65852.2 (e)                                               |
| 66324                                               | 65852.2 (f)                                               |
| 66325                                               | 65852.2 (g)                                               |
| 66326                                               | 65852.2 (h)                                               |
| 66327                                               | 65852.2 (i)                                               |
| 66328                                               | 65852.2 (k)                                               |
| 66329                                               | 65852.2 (l)                                               |
| 66330                                               | 65852.2 (m)                                               |
| 66331                                               | 65852.2 (n)                                               |
| 66332                                               | 65852.23.                                                 |
| <b>Article 3. Junior Accessory Dwelling Units</b>   |                                                           |
| 66333                                               | 65852.22 (a)                                              |
| 66334                                               | 65852.22 (b)                                              |
| 66335                                               | 65852.22 (c)                                              |
| 66336                                               | 65852.22 (d)                                              |
| 66337                                               | 65852.22 (e)                                              |
| 66338                                               | 65852.22 (f)-(g)                                          |
| 66339                                               | 65852.22 (h)                                              |
| <b>Article 4. Accessory Dwelling Unit Sales</b>     |                                                           |
| 66340                                               | 65852.26 (b)                                              |
| 66341                                               | 65852.26 (a)                                              |
| 66342                                               | 65852.2 (a)(10)                                           |