

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

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June 17, 2026

Darlene Nicandro, Director
Development Services Department
City of Oceanside
300 N. Coast Hwy
Oceanside, CA 92054

Dear Darlene Nicandro:

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

Thank you for submitting the City of Oceanside (City) ADU Ordinance No. 26-OR0104-1 (Ordinance), adopted March 25, 2026, to the California Department of Housing and Community Development (HCD). The Ordinance was received on April 2, 2026. 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 17, 2026, with a plan and timeline 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 3006 A.2. – *JADU Owner Occupancy Requirement* – The Ordinance states in the definition of a junior accessory dwelling unit (JADU), “Owner occupancy of either primary dwelling or JADU is required by state law unless the owner is another governmental agency, land trust, or housing organization or has separate sanitation facilities from the primary dwelling unit.” However, State ADU Law clarifies that “(o)wner-occupancy shall not be required if the junior accessory dwelling unit has separate sanitation facilities, or if the owner is another governmental agency, land trust, or housing organization.”² The Ordinance fails to appropriately reflect State ADU Law. The City must amend the Ordinance to state “or if the JADU has separate sanitation facilities.”

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

² Gov. Code, § 66333, subd. (b).

2. Section 3006 A.6. – *Interior Livable Space* – The Ordinance states, “Allowable square footage: The net square footage of interior livable space for a proposed ADU or JADU.” State ADU Law defines livable space as “space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.”³ The Ordinance refers to interior livable space without defining it. The City must define livable space consistently with State ADU Law in its Ordinance and apply the definition of livable space in practice when determining maximum floor areas and fees for ADUs.
3. Section 3006 B.2.f. – *ADU and JADU Combinations* – The Ordinance states, “The following shall be permitted within a residential or mixed-use zone consistent with Government Code 66323.” and then describes the ADUs and JADUs listed in subdivision (a) of Government Code section 66323 (“66323 units”). However, State ADU Law uses a different phrase when introducing 66323 units: “...a local agency shall **ministerially approve** [emphasis added] 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.”⁴ The Ordinance lacks clarity regarding the nondiscretionary ministerial approval of the specified unit types and combinations authorized pursuant to Government Code section 66323. Furthermore, Government Code section 66314 provides a separate pathway for approval of ADUs, which requires local agencies to approve at least one ADU per qualifying lot (i.e., a lot in a residential or mixed-use zone) that is attached, a conversion, or detached.⁵ The City must amend the Ordinance to permit “any of the following units, or any combination of the following [Government Code section 66323] units” and to allow at least one ADU under Government Code section 66314 to be combined on a qualifying lot to achieve the maximum number of authorized ADUs/JADUs.
4. Section 3006 B.2.f. – *Height Allowances* – The Ordinance makes the following citation: “A height limitation as provided in subparagraph (A), (B), or (C) of subdivision (b) of Government Code Section 66321.” However, State ADU Law describes the height allowances in: “...subparagraph (A), (B), or (C) of paragraph (4) of subdivision (b) of Section 66321.”⁶ The Ordinance is missing clarity, along with the correct statutory citation, which includes paragraph (4). The City must amend the Ordinance to correct the error and accurately reflect State ADU Law.
5. Section 3006 B.3. – *JADU Location* – The Ordinance states, “A Junior ADU (JADU) may be established within the space of the primary dwelling, including an attached garage or accessory structure.” However, State ADU Law defines an accessory structure as “...a structure that is accessory and incidental to a dwelling located on the same lot” and defines a JADU as being “contained

³ Gov. Code, § 66313, subd. (e).

⁴ Gov. Code, § 66323, subd. (a).

⁵ Gov. Code, § 66314, subd. (d)(3).

⁶ Gov. Code, §§ 66323, subds. (a)(2)(B), (a)(4)(A)(i); 66321, subd. (a)(4).

entirely within a single-family residence.”⁷ In the context of State ADU Law, an accessory structure is a detached structure. Since the JADU must be within a single-family residence, by definition, it may not be located in a (detached) accessory structure. The City must amend the Ordinance to delete the reference to an accessory structure, and specify that an ADU may be formed by converting a garage that is attached to a single-family residence.

6. Section 3006 B.4. – *JADU Combinations with ADUs* – The Ordinance states, “A JADU may be established within the space of the primary dwelling in combination with the construction of one ADU as follows.” However, subdivisions (a)(1) and (a)(2) of Government Code section 66323 allow “[o]ne accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling” and “[o]ne detached, new construction, accessory dwelling unit”; and Government Code section 66314 allows at least one ADU that is either attached, a conversion, or detached. As noted in Finding 3, State ADU Law allows a JADU to be combined with multiple ADUs. The City must amend the Ordinance to note that a JADU may be combined with the maximum number of ADUs authorized under State ADU Law.
7. Section 3006 B.5.d. – *Multifamily Conversion ADUs* – The Ordinance states, “Existing livable space of multi-family dwelling units shall not be converted to ADUs.” However, while this statement is valid in the context of ADUs allowed by subdivision (a)(3) of Government Code section 66323, State ADU Law allows the following under Government Code section 66314: “The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling...”⁸ Under Government Code section 66314, it is possible for an applicant to permit an ADU within the livable space of a multifamily primary dwelling. The Ordinance may limit the number of ADUs permitted under Government Code section 66314 to one per qualifying lot, but cannot preclude ADUs within the existing primary dwelling. Accordingly, the City must amend the Ordinance to remove this prohibition and accurately reflect State ADU Law.
8. Section 3006 B.5.e. – *Height Allowances* – The Ordinance states, “Detached ADUs may be constructed above existing detached accessory structures, including garages or similar structures, subject to maximum height and setback requirements of the underlying zoning district.” However, State ADU Law prohibits local height restrictions on ADUs that are detached from the primary dwelling that do not allow heights of at least 16 feet, 18 feet, or 20 feet, as applicable, depending on factors such as proximity to certain transit stops, roof pitch, and the primary dwelling type.⁹ The Ordinance applies the height limits from underlying zones rather than the required minimum height allowances in

⁷ Gov. Code, § 66313, subds. (b) & (d).

⁸ Gov. Code, § 66314, subd. (d)(3).

⁹ Gov. Code, § 66321, subds. (b)(4)(A)–(C).

State ADU Law. The City must amend the Ordinance to reflect the minimum height allowances in State ADU Law.

9. Section 3006 C.2. – *Building Standards* – The Ordinance states, “ADUs and JADUs shall comply with all applicable Building Code requirements.” However, State ADU Law requires an ADU ordinance to require compliance with “[l]ocal building code requirements that apply to detached dwellings, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety.” The Ordinance fails to note the occupancy exception. The Ordinance refers to the “Building Code” (capitalized) which is the proper name for a specific part of the California Building Standards Code (CBSC)¹⁰, even though for some ADUs other parts of the CBSC (e.g., the Residential Code) apply. The City must amend the Ordinance to include the special rule quoted above about changes in occupancy. Additionally, the City must amend the Ordinance to refer to the California Building Standards Code instead of referring to the Building Code.
10. Section 3006 C.5. – *Fire Sprinklers* – The Ordinance states, “ADUs shall not be required to provide fire sprinklers if they are not required for the primary dwelling.” However, State ADU Law extends this concept further: “Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.” The Ordinance is missing the second sentence about the construction of an ADU not triggering a fire sprinkler requirement in the primary dwelling. The City must amend the Ordinance to include the entirety of State ADU Law regarding fire sprinklers.
11. Section 3006 C.7. – *Passageways* – The Ordinance states, “No passageway to the primary dwelling shall be required.” However, State ADU Law requires that “[n]o passageway shall be required in conjunction with the construction of an accessory dwelling unit” and defines a passageway as “a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.”¹¹ The Ordinance is not aligned with State ADU Law here because it describes a passageway as extending to the primary dwelling,

¹⁰ The CBSC is Title 24 of the California Code of Regulations (CCR). All ADUs, except for manufactured homes, must comply with any applicable part of this code and any valid local amendments to it. The California Building Code is Part 2 of Title 24 of the CCR.

¹¹ Gov. Code, §§ 66313, subd. (j); 66314, subd. (d)(6).

whereas the statutory definition of a passageway states that it extends to an ADU. The City must amend the Ordinance to conform to State ADU Law.

12. Section 3006 D.1.a. – *50 Percent Rule* – The Ordinance states, “An ADU attached to an existing primary dwelling shall have a minimum size of 150 square feet and shall not exceed 50 percent of the total existing or proposed living area of the primary dwelling, except as provided by the Statewide Exemption ADU provisions in Section 3006 D.1.d.” However, State ADU Law provides: “...a local agency shall not establish by ordinance ... (2) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following: (A) Eight hundred fifty square feet of interior livable space. (B) One thousand square feet of interior livable space for an accessory dwelling unit that provides more than one bedroom.”¹² The Ordinance applies a maximum floor area based on 50 percent of the floor area of the existing primary dwelling (“50 percent rule”) without State ADU Law required limits on that standard. The City must amend the Ordinance to remove the arbitrary 50 percent rule, or qualify that the percentage does not limit an ADU’s floor area to less than 850 square feet or less than 1,000 square feet of interior livable space, depending on the number of bedrooms in the ADU.
13. Section 3006 D.1.d. – *Statewide Exemption ADUs* – The Ordinance states, “Statewide Exemption ADU By-Right Provision: An attached or detached ADU with a maximum size of 850 square-feet or 1,000 square-foot with more than one bedroom shall be permitted in any circumstance subject to four-foot side and rear setbacks, and compliance with all building codes. No minimum lot size or lot coverage requirement shall apply.” However, Government Code section 66323, subdivision (b) states, “A local agency shall not impose any objective development or design standard that is not authorized by this section upon any unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).” The term “statewide exemption ADU” is sometimes used to refer to Government Code section 66323 units, making it unclear whether this part of the Ordinance is intended to apply to such units. Government Code section 66323 units are not subject to maximum floor areas except for the single-family detached ADU described by subdivision (a)(2). The City must amend the Ordinance to limit this provision to ADUs authorized by Government Code section 66314.
14. Section 3006 D.2.b. – *JADU Interior Doorway* – The Ordinance states, “JADUs shall have an independent exterior entrance from the primary dwelling, but may also include shared access between the two units.” However, State ADU Law requires “If a permitted junior accessory dwelling unit does not include a separate bathroom, the permitted junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.”¹³ The Ordinance fails to specify that an interior doorway

¹² Gov. Code, § 66321, subd. (b)(2).

¹³ Gov. Code, § 66333, subd. (e)(2).

between the JADU and the single-family dwelling is required when the JADU does not have its own bathroom. The City must amend the Ordinance to include this requirement.

15. Section 3006 D.3.a. – *Setbacks* – The Ordinance states, “An attached or detached ADU not exceeding 850 square feet or 1,000 square feet with more than one bedroom, and a height no greater than 16 feet shall provide a setback of no more than four feet from the side and rear property lines. ADUs exceeding the maximum square footage or height specified in this provision shall be subject to compliance with setbacks of the underlying zoning district.” However, State ADU Law limits local setback requirements regardless of whether the ADU height exceeds 16 feet: “No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.”¹⁴ State ADU Law allows certain ADUs to exceed a height of 16 feet,¹⁵ and also limits setback requirements for those ADUs. Furthermore, ADUs detached from a multifamily dwelling under Government Code section 66323 are not subject to maximum floor areas.¹⁶ The City must amend the Ordinance to 1) not apply side or rear setbacks greater than four feet to new-construction ADUs that comply with the applicable height allowance, even if that allowance is greater than 16 feet, and 2) clarify that maximum floor areas do not apply in the context of subdivision (a)(4) of Government Code section 66323.
16. Section 3006 D.3.b. – *Projections Into Required Yards* – The Ordinance states, “Cornices and eaves may project into the required yards by no more than one foot.” However, the Oceanside Municipal Code allows cornices and eaves to project up to two feet for other project types.¹⁷ State ADU Law provides that “[i]t is the intent of the Legislature that an accessory dwelling unit or a junior accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units or a junior accessory dwelling unit and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units or junior accessory dwelling units in zones in which they

¹⁴ Gov. Code, § 66314, subd. (d)(7)

¹⁵ Gov. Code, § 66321, subd. (b)(4).

¹⁶ Gov. Code, § 66323, subd. (b).

¹⁷ Oceanside Municipal Code, § 3015, <https://www.ci.oceanside.ca.us/government/development-services/planning/codes-regulations-maps/zoning-ordinance#docaccess-4451e3241ad6d0e10bcd0346bd9b4dba>.

are authorized by local ordinance.”¹⁸ Accordingly, the City must amend the Ordinance to allow cornices and eaves on ADUs to project in the same manner as they are allowed to project for other projects.

17. Section 3006 D.3.c. – *Front Yard Setbacks* – The Ordinance states, “ADUs exceeding 800 square feet shall meet the front yard setback of the underlying zoning district.” However, State ADU Law requires that “[a] local agency shall not impose any objective development or design standard that is not authorized by this section upon any unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).”¹⁹ ADUs detached from a multifamily dwelling pursuant to subdivision (a)(4) of Government Code section 66323 are not subject to a maximum floor area or front setback requirements. The City must amend the Ordinance to note the exception.
18. Section 3006 D.3.e. – *Setbacks* – The Ordinance states, “No setback shall be required for an existing garage or accessory structure converted, or portion thereof, to an ADU and no setback shall be required for a new structure constructed in the same location and same dimensions as an existing structure.” However, State ADU Law provides: “No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.”²⁰ State ADU Law exempts an existing living area converted to an ADU from setback requirements. The City must amend the Ordinance to include this exemption.
19. Section 3006 D.3.f. – *Height and Setbacks* – The Ordinance states, “An ADU constructed above an existing garage or dwelling unit, exceeding 16-feet in height, shall meet the side and rear setbacks of the underlying zoning district.” However, as previously noted above, State ADU Law allows certain ADUs to exceed a height of 16 feet and applies the exemptions from setback requirements to ADUs that qualify for heights above 16 feet.²¹ The City must amend the Ordinance to remove this unlawful requirement, or modify it so that it only applies to ADUs which exceed the applicable height allowance in accordance with State ADU Law.
20. Section 3006 D.3.h. – *Stairway Setbacks* – The Ordinance states, “Staircases serving an ADU shall provide a setback of no less than four feet from the side and rear property lines subject to approval by the Fire Department.” However,

¹⁸ Gov. Code, § 66311.

¹⁹ Gov. Code, § 66323, subd. (b).

²⁰ Gov. Code, § 66314, subd. (d)(7).

²¹ Gov. Code, §§ 66314, subd. (d)(7); 66321 (b)(4).

State ADU Law requires, in the case of a single-family conversion ADU, that “[t]he side and rear setbacks are sufficient for fire and safety”²² and allows an addition of up to 150 square feet to such a conversion for ingress and egress.²³ The CBSC includes fire separation requirements, which may or may not apply depending on exterior wall design factors (e.g., in the case of an enclosed stairway) and fire setback requirements that apply in fire hazard severity zones.²⁴ Applying a uniform stairway setback of four feet is not acceptable for all ADUs. The City must amend the Ordinance to require that a stairway associated with a conversion ADU comply with CBSC fire prevention and safety requirements, and remove the uniform four-foot setback.

21. Section 3006 D.4.a. – *ADU Height* – The Ordinance states, “ADUs exceeding 850 square feet or 1,000 square feet with more than one bedroom, and/or a height of 16 feet shall comply with the height and maximum lot coverage of the underlying zoning district unless the ADU is constructed in accordance with Government Code Section 66323.” However, as noted above, State ADU Law establishes four different height allowances for ADUs based on various factors, some of which allow heights greater than 16 feet.²⁵ The Ordinance applies height limits from the underlying zone to ADUs taller than 16 feet, which has the potential to be more restrictive than the height allowances in State ADU Law. The City must amend the Ordinance to state that an ADU is entitled to the greatest applicable height described in subdivision (b)(4) of Government Code section 66321.

22. Section 3006 D.5.a. – *Parking* – The Ordinance states, “One additional off-street parking space shall be required per unit; with exceptions per Section 3006 D.5.g.” However, State ADU Law allows parking requirements of “one parking space per accessory dwelling unit or per bedroom, whichever is less”²⁶, unless an exception applies. For ADU efficiency units, which have zero bedrooms, no off-street parking may be required.²⁷ The City must amend the Ordinance to note this exception from parking requirements.

23. Section 3006 D.5.f. – *Replacement Parking Requirements* – The Ordinance states, “When a garage, carport, or covered parking structure that provides the required spaces for the primary dwelling is demolished or converted in conjunction with the construction of an ADU, no replacement parking shall be required.” However, State ADU Law provides: “When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory

²² Gov. Code, §66323, subd. (a)(1)(C).

²³ Gov. Code, § 66323, subd. (a)(1)(A).

²⁴ See for example, 2025 California Residential Code, § R302 & 2025 California Wildland Urban Interface Code, § 608.

²⁵ Gov. Code, § 66321, subd. (b)(4).

²⁶ Gov. Code, § 66314, subd. (d)(10)(A).

²⁷ An efficiency unit has a sleeping area that is part of larger living area but does not have a bedroom.

dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.”²⁸ The Ordinance omits uncovered parking spaces. The City must amend the Ordinance to reflect that when an uncovered parking space is replaced with an ADU, no replacement parking is required.

24. Section 3006 E.1. – *Separate Sale of ADUs* – The Ordinance states, “Except as otherwise provided in Government Code Section 66341, an ADU/JADU shall not be sold or otherwise conveyed separate from the primary dwelling.” While this is acceptable, the City may also permit ADUs to be sold separately as condominium units pursuant to Government Code section 66342. The City should consider amending the Ordinance to allow ADU condominium development.
25. Section 3006 E.5. – *Covenant* – The Ordinance states, “The property owner shall record a covenant, approved as to form by the City Attorney, declaring compliance with each and every condition referenced in this section.” However, while a deed restriction is required for JADUs, and for ADUs sold separately as affordable units,²⁹ State ADU Law provides, in the context of other ADUs, “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.”³⁰ The requirement for a covenant is a strictly prohibited additional standard in the context of other ADUs. Furthermore, in the JADU context, a covenant is limited to the contents described in subdivision (c) of Government Code section 66333: “(1) 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. (2) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this article.” The City must amend the Ordinance to 1) remove the covenant requirement for all ADUs which are not sold separately, and 2) limit the contents of the JADU covenant to those described in subdivision (c) of Government Code section 66333.
26. *Missing Required Standard* – State ADU Law requires ADU ordinances to include certain contents, including, the contents of subdivision (e) of Government Code section 66314, which states, an ADU ordinance must “[r]equire that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the accessory dwelling unit and issued at the same time.” The Ordinance is missing the required standard. The City must amend the Ordinance to include it.

²⁸ Gov. Code, § 66314, subd. (d)(11).

²⁹ Gov. Code, §§ 66333, subd. (c); 66341.

³⁰ Gov. Code, § 66315.

The City has two options in response to this letter.³¹ The City can either 1) amend the Ordinance to comply with State ADU Law³² 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.³³ 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.³⁴

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 David Barboza at David.Barboza@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

³¹ Gov. Code, § 66326, subd. (b)(2).

³² Gov. Code, § 66326, subd. (b)(2)(A).

³³ Gov. Code, § 66326, subd. (b)(2)(B).

³⁴ Gov. Code, § 66326, subd. (c)(1).