

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

651 Bannan Street, Suite 400
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



October 23, 2024

Elizabeth Sparkman, Community Development Director
Planning Division
City of Rancho Cordova
2729 Prospect Drive
Rancho Cordova, CA 95670

Dear Elizabeth Sparkman:

**RE: Review of Rancho Cordova's 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 ADU and Junior Accessory Dwelling Unit (JADU) Law have been re-numbered (Enclosure 1).

Thank you for submitting the City of Rancho Cordova (City) ADU Ordinance No. 17-2021 (Ordinance), adopted September 7, 2021, 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 November 22, 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. *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 City must amend the Ordinance to refer to the correct code sections.
2. Section 23.901.060 E. – *Denial* – The Ordinance states, “Approval or denial of an Accessory Dwelling Unit or Junior Accessory Dwelling Unit is a ministerial action

and subject to compliance with the standards in this Section.” However, the Ordinance omits reference to state requirements for a denial. Government Code section 66317, subdivision (b) states “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.” Therefore, the City must amend the Ordinance to state the requirements for an application denial.

3. Section 23.901.060 G.2.d. – *JADUs and Shared Bathrooms* – The Ordinance requires that JADUs have “a bathroom that is either in the Junior ADU or in the primary dwelling.” However, Government Code section 66333, subdivision (e), states, “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.” Therefore, the City must amend the Ordinance to add this language to this section.
4. Section 23.901.060 H – *Unit Allowance* – The Ordinance permits “up to one attached or detached [ADU] and one [JADU] shall be allowed on a single parcel.” However, Government Code section 66323 states, “Notwithstanding Sections 66314 to 66322, inclusive, 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: (1) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling...(A) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single family dwelling or existing space of a single-family dwelling or accessory structure.” Subparagraph (2) permits “[o]ne detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks.” The use of the term “any” followed by an enumeration of by right ADU types permitted means that any of these ADU types can be combined on a lot zoned for single family dwellings.

This permits a homeowner, who meets specified requirements, to create one converted ADU; one detached, new construction ADU; and one JADU. Thus, if the local agency approves an ADU that is created from existing (or proposed) space, and the owner subsequently applies for a detached ADU (or vice versa) that meets the size and setbacks pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for a JADU under this section. Therefore, the City must amend the Ordinance to allow for all combinations of ADUs described in Government Code section 66323.

5. Section 23.901.060 I – *Multifamily and Local Design Standards* – The Ordinance states, “Attached [ADUs] in a multi-family development may be created only through the conversion of parts of existing multifamily dwelling structures that are

not used as livable space...” This satisfies Government Code section 66323, subdivision (a)(3); however, there is no allowance for the creation of new construction attached ADUs with multifamily dwellings. Government Code section 66314, subdivision (d)(2) permits an ADU subject to that section when a lot is “zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.” Therefore, the City must amend the Ordinance to comply with State ADU Law.

6. Section 23.901.060 J.1.C.i. and J.2.C.i. – *Front Setbacks* – The Ordinance requires, for both attached and detached ADUs, that the front setback be applied “Per the zoning standard for the primary dwelling.” However, Government Code section 66321, subdivision (b)(3) prohibits “Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, **front setbacks**, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.” (emphasis added). Additionally, local design standards such as front setbacks may not preclude any unit created subject to Government Code section 66323. The City must note the exceptions.
7. Section 23.901.060 J.1.f. and J.2.e. – *“Compatible”* – The Ordinance states that ADUs “shall be compatible with the architectural style, materials and colors of the primary dwelling unit.” However, Government Code section 66316 requires “an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units.” The terms “compatible,” “architectural style,” “material” and “colors” are subjective and inconsistent with State ADU Law. The City must amend the Ordinance to remove these terms.
8. Section 23.901.060 J.1.j. and J.1.g. – *Sprinklers* – The Ordinance states, “An attached Accessory Dwelling Unit shall not be required to provide fire sprinklers if they are not required for the primary dwelling.” However, Government Code section 66314, subdivision (d)(12) and section 66323, subdivision (c) both expand on this provision and require that, “The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing [primary dwelling].” Therefore, the City must amend the Ordinance to comply with State ADU Law.
9. Section 23.901.060 J.1.k., J.2.j., and J.2.k. – *Height Exception* – The Ordinance states, “No provisions within this Section shall preclude a...minimum 800 square foot accessory dwelling unit that is at least sixteen (16) feet in height with four-foot side yard and rear yard setbacks...” This refers to outdated statute. Current Government Code section 66321, subdivision (b)(3) excludes any specific height

in excepting 800 square foot units from layout standards. Pursuant to Government Code section 66321(b)(4) height limitations must be prescribed no lower than 16, 18, 20 or 25 feet in the respective statutorily required circumstances. The City must amend the Ordinance to clarify this and comply with State ADU Law.

10. Section 23.901.060 J.2.d – *Height* – The Ordinance states, “The maximum height of an [ADU] shall be 16 feet for new structures....” However, as noted above, Government Code section 66321, subdivision (b)(4) sets height maximums at 16, 18, 20 or 25 feet, depending on the respective statutory circumstances. The City must amend the Ordinance to comply with State ADU Law.
11. Section 23.901.060 J.1.j and J.2.i – *Deed Restriction* – The Ordinance requires that “A copy of the recorded deed restriction, which shall run with the land, using the City’s form pursuant to Government Code Section 65852.2.” However, State ADU Law does not permit the use of deed restrictions on ADUs. 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.” A deed restriction would be an “additional standard” and thus cannot be imposed. The City must amend the Ordinance to remove the additional standard.
12. Section 23.901.060 J.3.c. – *JADUs and Expansion* – The Ordinance creates specific setback requirements “If the primary dwelling unit is expanded to create the Junior Accessory Dwelling Unit...” However, Government Code section 66333, subdivision (d) “Require[s] a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence. For purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.” Therefore, JADUs may only be created in existing space, not as new construction attached or expansion of the primary dwelling, other than an attached garage. The City must amend the Ordinance to clarify construction of a JADU consistent with State ADU law and remove “Expansion” as it is misleading and confusing.
13. Section 23.901.060 L.1.b. – *Parking Exceptions* – The Ordinance notes five instances under which no parking may be required. However, Government Code section 66322, subdivision (a) notes six, including that of 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 paragraph.” The City must amend the Ordinance to add the additional instance.

Please note that the City has two options in response to this letter.¹ The City can either amend the Ordinance to comply with State ADU Law², or adopt the Ordinance without changes and include findings in its resolution adopting the Ordinance that explain the reasons the City believes that the Ordinance complies with State ADU Law despite HCD's findings.³ If the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, 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.⁴

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 if you have any questions or would like HCD's technical assistance in these matters.

Sincerely,



Jamie Candelaria
Senior Housing Accountability Unit Manager
Housing Policy Development Division

¹ Gov. Code, § 66326, subd. (c)(1).

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

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

⁴ Gov. Code, § 66326, subd. (c)(1).

State ADU/JADU Law Statutory Conversion Table

New Government Code Sections	Previous Government Code Sections
Article 1. General Provisions	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 65852.22 (j)
Article 2. Accessory Dwelling Unit Approvals	
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.
Article 3. Junior Accessory Dwelling Units	
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)
Article 4. Accessory Dwelling Unit Sales	
66340	65852.26 (b)
66341	65852.26 (a)
66342	65852.2 (a)(10)