

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

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March 19, 2025

Jeannie Naughton, Community Development Director  
Planning Department  
City of Rolling Hills  
4045 Palos Verdes Drive North  
Rolling Hills Estates, CA 90274

Dear Jeannie Naughton:

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

Thank you for submitting the City of Rolling Hills Estates (City) accessory dwelling unit (ADU) Ordinance No. 745 (Ordinance), adopted January 24, 2023, 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 units (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 April 19, 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 the following:
  - (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.

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 City must adjust the Ordinance to account for these changes.

2. *Assembly Bill (AB) 2533 (Chapter 834, § 1, Statutes of 2024)* - As of January 1, 2025, the Legislature changed 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 City 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 repealed 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 the 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.
4. Section 17.56.030 A.1, 17.56.030 B, 17.56.060 C.5, 17.56.110 B – *Neighborhood Compatibility Review* – The Ordinance states, “A two-story attached ADU will require review and approval of a neighborhood compatibility determination.” 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.” Therefore, a local jurisdiction may not require a neighborhood compatibility review for any ADU subject to State ADU Law. The City must remove references to “neighborhood compatibility”.
5. Section 17.56.030 A.2 and C – “*Shall Act*” – The Ordinance states that the City “Will act on an application to create an ADU within 60 days from the date the city receives a completed application.” It later states, “Upon written request from the applicant, review and act on the ADU together with the separate construction as part of a single application.” However, Government Code section 66317 states, “The permitting agency **shall either approve or deny** the application...” The City must amend the Ordinance to match the language in State ADU Law.
6. Section 17.56.030 A.2.a.2 – *Denial* – The Ordinance states that the City has acted on the application if it “informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter and provides a list of items that are defective or deficient with a description of how the application can be remedied.” However, Government Code 66317 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.” As the

City must either only “approve or deny” an ADU application, the list of defective items must be provided upon denial. The City must amend the Ordinance to be consistent with State ADU Law.

7. Section 17.56.050 B.2 – *Unit Allowance* – The Ordinance states that a “Detached ADU may be combined only with a JADU as provided in subsection (A)(1) above.” This restricts ADU development to only one per lot. However, Government Code section 66323, subdivision (a), 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.” Paragraph (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 listing of permitted ADU types indicates 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 provide for all ADU combinations described in Government Code section 66323.

8. Section 17.56.060 A.3 – *Max Size Exemption* – The Ordinance states, “Notwithstanding subsections A(1) and (2) above, no attached ADU may exceed 50% of the floor area of 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.” Therefore, the City may not impose maximum size requirements that would exclude at least an 800 square foot ADU.
9. Section 17.56.060 D.1 – *Height Exemption* – The Ordinance exempts underlying setback requirements for a unit up to 800 square feet and 16 feet in height. However, Government Code section 66321, subdivision (b)(4), permits heights of 16, 18, 20 feet for detached units under certain specified conditions.

Therefore, the City must amend the Ordinance to reflect the lawful height limits provided in State ADU Law.

10. Section 17.56.060 G – *Entrances* – The Ordinance requires a separate entrance, “Which must be located on the side or at the rear of the primary dwelling unit and may also be served by a common entrance with the primary dwelling unit.” However, local development standards may not preclude units created subject to Government Code section 66323. Therefore, the City must note the exception to this design requirement.
11. Section 17.56.070 – *Subjective Design Standards* – The Ordinance requires that ADU permits be “administratively reviewed” for design elements that are “substantially the same”, “compatible”, and “similar” to the primary dwelling or other structures. However, Government Code section 66314, subdivision (b) requires “objective standards”, which section 66313, subdivision (h) defines as “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.” All listed terms above are subjective and inconsistent with State ADU Law. The City must amend the Ordinance to remove any subjective terms and use only objective requirements.
12. Section 17.56.090 A – *Owner Occupancy* – The Ordinance states, “Beginning January 1, 2025, the applicant for an ADU must be an owner- occupant.” However, the owner occupancy allowance that would have become permissible on January 1, 2025 was removed from State ADU Law with the adoption of AB 976 (Chapter 751, Statutes of 2023). Current 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.” Therefore, the City must amend the Ordinance to remove references to owner occupancy.
13. Section 17.56.100 B – *JADUs in Attached Garages* – The Ordinance states, “A JADU may have a maximum size of 500 square feet and must be contained entirely within an existing or proposed single-family dwelling.” However, Government Code section 66333, subdivision (d) states, “For purposes of this subdivision, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.” Therefore, the City must amend the Ordinance to provide for JADUs in attached garages.

14. Section 17.56.110 D – *Appeal* – The Ordinance states, “Any party aggrieved by the decision of the community development director may appeal the decision to the city manager within 15 days from the date of the director's decision.” However, this appears to allow any member of the community (or beyond) to appeal. If an ADU must be ministerially approved per State ADU Law, then the allowance of appeal by “any party” would constitute an additional standard and therefore be incompatible with Government Code section 66315. Therefore, the City must amend the Ordinance to clarify that appeal may only occur in the event of a denial and may not occur in the event of approval of an application that meets the requirements of ministerial approval.
15. Section 17.56.120 A – *Deed Restriction* - The Ordinance requires a “declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner.” However, a deed restriction for an ADU would be an additional standard and therefore inconsistent with Government Code section 66315. The City must remove all requirements for a deed restriction.

Please note that the City has two options in response to this letter.<sup>1</sup> The City 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 City believes that the Ordinance complies with State ADU Law despite HCD's findings.<sup>3</sup> 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.<sup>4</sup>

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 [mike.vangorder@hcd.ca.gov](mailto: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 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)                                           |