

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

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July 7, 2026

Joshua Menvielle, Planning Manager
Planning & Development Services
San Diego County
5510 Overland Ave, Suite 310
San Diego County, CA 92123

Dear Joshua Menvielle:

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

Thank you for submitting the County of San Diego (County) ADU Governance as it appears in County Code of Ordinances (Ordinance), as of June 2026, 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 Law in the manner noted below. Pursuant to Government Code 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 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 6156 x.A.4. – *Interior Livable Space* – The Ordinance defines all size maximums in terms of “square feet.” However, State ADU Law² defines size maximums in terms of “square feet of interior livable space.” The County must amend the Ordinance to refer to “square feet of interior livable space.”
2. Section 6156 x.A.22. and x.B. – *Unit Allowance* – The Ordinance allows “one detached ADU, one ADU within the proposed space of a single-family dwelling or existing space of a single -family dwelling or accessory structure, and one JADU...” on a lot with a single-family primary dwelling. However, this impermissibly restricts units created subject to Government Code section 66314,

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

² Gov. Code, §§ 66313, subd. (d); 66321, subds. (b)(2), (b)(3); 66323, subd. (a)(2).

which pursuant to subdivision (d)(3) 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.” In other words, numerous ADU types that are not described in section 66323 may be created under section 66314, such as new construction attached ADUs, new construction detached ADUs larger than 800 square feet, and smaller converted and detached units, at an applicant’s choice. This allowance of at least one unit subject to section 66314 applies equally to both single-family and multifamily primary dwellings.

Additionally, limiting the number of units to the types described in section 66323 would unlawfully limit an application for a unit subject to section 66323 if a unit subject to section 66314 already exists on the lot. For example, if a new construction detached unit with a size of 1,000 square feet is approved under section 66314, this provision of the Ordinance would preclude the subsequent ministerial approval of a new construction 800 square foot detached unit subject to section 66323, subdivision (a)(2). Therefore, the County must amend the Ordinance to allow for at least one unit subject to section 66314 to be combined, in any order, with any unit subject to Government Code section 66323.

3. Section 6156 x.B.3.iii. – *Junior Accessory Dwelling Unit (JADU) and Owner-Occupancy* – The Ordinance states, “The JADU shall be considered legal only so long as either the primary residence, or the ADU, is occupied by the owner of record of the property...” However, Government Code section 66333, subdivision (b) requires owner-occupancy only “[i]f the junior accessory dwelling unit has shared sanitation facilities with the existing structure...” Therefore, the County must amend the Ordinance to delete the “considered legal language” and specify that owner-occupancy is only required in the case of shared sanitation.
4. Section 6156 x.B.3.g. – *JADU and Ministerial Approval* – The Ordinance states, “If a JADU is to be attached to an ADU, ministerial review is unavailable.” However, any JADU that is consistent with State ADU³ and JADU Laws⁴ must be ministerially considered without the County’s exercise of discretion. Moreover, if it meets the statutory definition of a JADU⁵, a unit may not be denied due to its incidental adjacency to an ADU. The County must remove this section completely to accurately reflect State ADU and JADU Law.
5. Section 6156 x.B.3.h. – *JADUs and Replacement Parking* – The Ordinance states, “When an existing garage, carport, or covered parking space is being demolished in conjunction with the construction of a JADU or converted into a

³ Gov. Code, § 66323, subd. (a)(1).

⁴ Gov. Code, § 66333.

⁵ Gov. Code, § 66313, subd. (d).

JADU, any required off-street parking spaces for the lot must be replaced.” However, Government Code section 66334 states, “A junior accessory dwelling unit ordinance adopted pursuant to Section 66333 shall not require additional parking as a condition to grant a permit.” The impact of unlawfully requiring replacement parking is to create an additional parking space, which is inconsistent with State JADU Law. Accordingly, the County must remove this section.

The County has two options in response to this letter.⁶ The County can either 1) amend the Ordinance to comply with State ADU Law⁷ or 2) adopt the Ordinance without changes and include findings in its resolution accompanying the Ordinance that explain the reasons the County believes that the Ordinance complies with State ADU Law despite HCD’s findings.⁸ If the County 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 County’s findings and explanations, 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.⁹

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 if you have any questions or wish to discuss any of HCD’s findings.

Sincerely,



Jamie Candelaria
Section Chief, ADU Policy
Housing Accountability Unit

⁶ Gov. Code, § 66326, subd. (c)(1).

⁷ Gov. Code, § 66326, subd. (b)(2)(A).

⁸ Gov. Code, § 66326, subd. (b)(2)(B).

⁹ Gov. Code, § 66326, subd. (c)(1).