

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

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February 25, 2025

Matt Machado, Director  
Community Development and Infrastructure  
County of Santa Cruz  
701 Ocean St., 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

Dear Matt Machado:

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

Thank you for submitting the County of Santa Cruz (County) (ADU) Ordinance No. 5382 (Ordinance), adopted October 19, 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 junior accessory dwelling units (JADU) Laws in the manner noted below. Under 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 March 27, 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, § 3, Statutes of 2024)* – As of January 1, 2025, the Legislature changed Government Code section 66323. Subdivisions (a)(4)(A)(ii) and (iii), 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 [i.e., 66323] upon any accessory dwelling unit that meets the requirements of any

of paragraphs (1) to (4), inclusive, of subdivision (a).” Therefore, the County must make adjustments to 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) – (b) and added subdivisions (d) – (f) were added. Changes include permitting previously unpermitted ADUs, added the same protections for JADUs, and set 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 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 County must amend the Ordinance to refer to the correct code sections.
4. Section 13.10.681 (D)(3)(a) – *Unit Mixture* – The Ordinance allows “[o]n parcels with existing or proposed single-family dwellings: one ADU and one junior accessory dwelling unit (JADU) are allowed per single-family dwelling.” It later states, in subdivision (D)(3)(a)(ii), “Properties with dwelling groups (multiple single-family dwellings) are allowed one ADU and one JADU per single-family dwelling if the dwelling group is conforming with maximum density for the zone district.”

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 if all of the following apply:(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."

Government Code section 66323, subdivision (a)(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" (i.e., “create any of the following”) followed by a list 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 the 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 setback requirements pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for

a JADU under this section. This is the case for any lot with at least one existing or proposed single-family primary dwelling unit. Therefore, the County must amend the Ordinance to provide for all ADU combinations described in Government Code section 66323.

5. Section 13.10.681 (D)(7)(a)(ii)(A) – *Height and Setbacks* – The Ordinance states, “An eight-foot rear yard setback is required for any portion of an ADU that is more than 16 feet tall.” However, Government Code section 66314, subdivision (d)(7), states, “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.” Therefore, the County must amend the Ordinance so that the application of setbacks accurately reflects State ADU Law.
6. Section 13.10.681 (D)(7)(d)(ii)(D) – *Parking* – The Ordinance states, “No additional parking for an ADU shall be required if the ADU is located within one-half mile walking distance of any public transit stop, within a designated historic district, or within one block of a dedicated parking space reserved for a publicly available car share vehicle.” However, this omits the conditions described in Government Code section 66322, subdivision (a)(4), “When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit,” and 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 the additional instances.
7. Section 13.10.681 (D)(10)(a)(i) – *Sprinklers* – The Ordinance states, “Fire sprinklers shall not be required for an ADU or JADU where they are not also required for the primary dwelling, except sprinklers are required for detached ADUs larger than 1,200 square feet and ADUs that constitute or are part of an addition to the primary dwelling equal to more than 50% of the existing primary dwelling square footage per California Residential Code Section R313.2.” However, Government Code section 66314, Subdivision (d)(12), states, “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.” Therefore, the County must amend the Ordinance to accurately reflect State ADU Law.

8. Section 13.10.681 (G)(4)(a) – *Owner Occupancy* – The Ordinance states that “The property owner or relative of the property owner shall permanently reside, as evidenced by a homeowner’s property tax exemption, or by other satisfactory documentation of residence, on the parcel in either the primary dwelling unit, ADU or JADU.” 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, while JADUs are subject to owner occupancy requirements, no owner occupancy requirement may be imposed on any ADU. The County must amend the Ordinance to remove the owner occupancy requirement for ADUs.
  
9. Section 13.10.681 (G)(4)(b) – *Deed Restriction* – The Ordinance states, “Prior to the issuance of a building permit, the property owner shall provide to the Planning Department proof of recordation of a declaration of restrictions containing reference to the deed under which the property was acquired by the present owner and containing the following provisions...” 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.” A deed restriction is an “additional standard” and thus cannot be imposed. The County must remove this provision from the Ordinance.

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 to 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>

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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).

Matt Machado, Director

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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,

A handwritten signature in black ink that reads "Jamie Candelaria". The signature is written in a cursive, flowing style.

Jamie Candelaria  
Senior Housing Accountability Manager  
Housing Policy Development Division

**State ADU/JADU Law Statutory Conversion Table**

<b>New Government Code Sections</b>	<b>Previous Government Code Sections</b>
<b>Article 1. General Provisions</b>	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 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)