

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

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April 7, 2025

Taylor Bateman, Community Development Director
Planning Department
City of Scotts Valley
1 Civic Center Drive
Scotts Valley, CA 95066

Dear Taylor Bateman:

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

Thank you for submitting the City of Scotts Valley (City) ADU Ordinance No. 16.142 (Ordinance), adopted December 4, 2024, to the California Department of Housing and Community Development (HCD). The Ordinance was received on January 17, 2025. 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 May 7, 2025.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law as follows:

1. Assembly Bill (AB) 2533 (Chapter 834, § 1, Statutes of 2024) - As of January 1, 2025, there are changes to 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 as applicable to comply with State ADU Law.
2. Section 17.57.020, subdivision B.2 – *Permitting Timelines* – The Ordinance states, "If an ADU is proposed as part of an application to create a new single-family or multifamily dwelling, the City may delay acting on the ADU application until the City acts on the permit application for the new dwelling. The City shall approve or deny the ADU application without a public hearing or discretionary review within 60 days of action on the new dwelling." This appears to mirror the language in Government Code section 65852.2, subdivision (a)(3) (which has now been repealed), prior to

AB 2221 (2022) taking effect. However, Government Code section 66317, subdivision (a), states, "The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create or serve the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing." As of January 1, 2023, this provision was amended to clarify that a local agency must "approve or deny" an application within the 60-day timeframe, rather than simply "act" on it. Therefore, the City should amend this section to reflect the requirement to "approve or deny" an application in accordance with State ADU Law.

3. Section 17.57.030, subdivision B.1. – *Unit Combinations* – The Ordinance states, "No more than one ADU is permitted on a lot with a single-family dwelling, except as allowed by state law." 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 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." 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 a list of permitted ADU types indicate 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 space, and the owner subsequently applies for a detached ADU (or vice versa) that meets the size and setback requirements of 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.

4. Section 17.57.030, subdivision B.2. – *ADUs Multifamily Lots* – The Ordinance states that "[t]he number of ADUs on a lot with multifamily dwellings shall not exceed:"

a. Up to 25 percent of existing multifamily dwellings within portions of existing multifamily dwelling structures that are not used as livable space as provided in 17.57.060.C (Non-Livable Multifamily Space); and

b. Up to eight detached ADUs as provided in Section 17.57.060.D (Detached ADUs on Multifamily Lots)

However, no part of 17.57.060 addresses ADUs on multifamily lots. The City should amend this section to remove or correct this reference.

5. Section 17.57.030, subdivision N.3. – *Public Transit* - The Ordinance states, “As defined in Government Code Section 66313(l), public transit means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.” However, the definition of “public transit” is found in Government Code section 66313, subdivision (m). Therefore, the City must amend this section to correct this citation.
6. Sections 17.57.030, subdivision E.3., and 17.57.050, subdivisions A.2.a., and E. – *Objective Standards* – The Ordinance states “Limits on floor area, lot coverage, open space, and front setbacks... must permit at least an 800-square-foot detached or attached ADU... if the proposed ADU complies with all other development standards. The Community Development Director shall grant an exception to a Specified Standard if...:3. There is no feasible alternative to achieve a Baseline ADU without the exception.”

Additionally, the Ordinance includes Tables 1 and 3, which address maximum floor area and maximum height, respectively, based on the size of the lot for the proposed ADU. However, Government Code section 66314, subdivision (b)(1) states, “The ordinance shall do all of the following... Impose objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. These standards shall not include requirements on minimum lot size.” The use of the term “feasible” in the Ordinance is subjective, and as such, is in violation of State ADU Law; minimum lot size is also precluded from applicable objective standards. Therefore, the City must amend this section to remove the subjective criteria, and minimum lot size requirements.

7. Section 17.57.030, subdivision N.3.e. – *Parking* – The Ordinance states, “As used in this section, a car share vehicle means a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization that meet all the following criteria:
 - (1) Provides hourly or daily service;

- (2) Vehicle reservations are processed and paid for using an on-line system;
- (3) Vehicles can be accessed where they are parked without having to go to a different physical location to execute a contract and/or pick up keys; and
- (4) Fleet has more than five cars in Scotts Valley and more than 20 cars in Santa Cruz County.”

However, Government Code section 66322, subdivision (a)(5), states, “A local agency shall not impose any parking standards for an accessory dwelling unit... When there is a car share vehicle located within one block of the accessory dwelling unit.” The additional criteria used in the Ordinance to define the term “car share vehicle” is outside the maximum standards which may be applied to parking exemptions under Government Code section 66322, subdivision (a). Therefore, the City must amend this section to remove the additional criteria.

- 8. Section 17.57.030, subdivision Q. – *Additional Standards* – The Ordinance states, “The requirements in this section apply to all ADUs subject to this chapter... Hillside Residential Combining District. An ADU within the HR Hillside Residential Combining District shall comply with all objective standards in Chapter 17.40.” 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 accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).” Imposing objective criteria from another section of the City’s zoning code would be a violation of State ADU Law. Therefore, the City must amend this section to remove this requirement.
- 9. Sections 17.57.040, subdivision B.2., and 17.57.050, subdivision E. – *Height* – The Ordinance provides a maximum height for detached “Statewide Exemption ADUs” on a lot with an existing or proposed single family dwelling of 16 feet, and for all others, “The height of an ADU shall not exceed the maximum shown in Table 3.” Table 3 addresses height but does not capture the full extent of the minimum height allowances within State ADU Law. Government Code section 66321, subdivision (b)(4)(B) states “a local agency shall not establish by ordinance any of the following:

- (4) Any height limitation that does not allow at least the following, as applicable:

- (A) A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

- (B) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an

additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(C) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(D) A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This subparagraph shall not require a local agency to allow an accessory dwelling unit to exceed two stories.”

Additionally, Government Code section 66323, subdivision (a)(2) states “...a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create...

(2) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling.... A local agency may impose the following conditions on the accessory dwelling unit...:

(B) A height limitation as provided in subparagraph (A), (B), or (C) of paragraph (4) of subdivision (b) of Section 66321, as applicable.”

Restricting units under the “Statewide Exemption ADUs” to 16 feet does not comply with State ADU Law, as it restricts the height allowances permitted under Government Code section 66321, subdivision (b)(4). Finally, Table 3 in the Ordinance does not include a provision which allows for an additional two feet of height to match roof pitch. Therefore, the City must amend these sections to provide for the minimum height allowances in State ADU Law.

10. Section 17.58.030 – *JADU Standards* – The Ordinance includes the majority of State ADU Law’s JADU provisions, beginning with Government Code section 66333. However, the Ordinance does not include an owner occupancy requirement pursuant to Government Code section 66333, subdivision (b), which states, “The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall... Require owner-occupancy in the single family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.” Allowing an owner who is not a governmental agency, land trust, or housing organization to construct a JADU without occupying either the JADU or the remainder of the single-family dwelling does not comply with State ADU Law. Therefore, the City must amend this section to include the owner-occupancy restriction.

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 feel free to contact Tyler Galli at Tyler.Galli@hcd.ca.gov if you have any questions.

Sincerely,



Jamie Candelaria
Senior Housing Accountability Manager
Housing Policy Development Division

Enclosure

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)