

**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



February 24, 2026

Arturo Cervantes, Deputy Director
1444 W Garvey Avenue S
Room 208
West Covina, CA 91790

Dear Arturo:

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

Thank you for submitting the City of West Covina (City) ADU Regulations adopted in Ordinance No. 2519 (Ordinance), adopted February 20, 2024, 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 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 March 26, 2026.

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

1. Section 26-137 – *Statutory Numbering* – The Ordinance states, “This division is intended to retain the maximum ability of the City to regulate accessory dwelling units and to comply with the requirements California Government Code Sections 65852.2 and 65852.22.” However, these code sections were deleted by SB 477, effective March 25, 2024, and 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 Government Code sections.
2. Section 26-139.a.1 – *Attached ADU Definition* – The Ordinance defines an attached ADU, “An accessory dwelling unit that is created as a result of a new construction which is attached to an existing or proposed primary dwelling, such as through a shared wall, floor or ceiling. *An attached accessory dwelling unit can also be constructed within an existing or proposed primary dwelling*” (emphasis added). However, State ADU law draws a clear distinction between a new construction ADU that structurally abuts a primary dwelling and a conversion ADU “located within” an existing primary dwelling or accessory structure. The City must amend the Ordinance to establish a definition for attached ADUs that does not confuse attached ADUs with conversion ADUs, and that reflects State ADU Law.

3. Section 26-139.a.3 – *Conversion ADU Definition* – The Ordinance describes ADU types that may be approved. Regarding conversion ADUs, the Ordinance states a property can seek to create, “One ADU and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU... is either: within the space of a proposed single-family dwelling; within the space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure.” However, the City’s description of converted ADUs is silent on a property owner’s right to create conversion ADUs on lots with multifamily primary dwellings which is expressly allowed by State ADU Law. Specifically, Government Code section 66323, subdivision (a)(3) provides that ADUs may be created within the portions of existing multifamily structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages. Government Code section 66314, subdivisions (d)(2) and (3) provide that a property owner may create one ADU on a lot zoned to allow multifamily dwelling residential use that includes a proposed or existing dwelling. The ADU may be located within the proposed or existing primary dwelling, 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. The City must amend the Ordinance so that it does not prevent property owners from creating conversion ADUs within multifamily primary dwellings as authorized by State ADU Law.
4. Section 26-139.a.4 – *Junior accessory Dwelling Unit (JADU) Definition* – The Ordinance states, “A junior accessory dwelling is a dwelling unit that meets the following:
 - (i) Is no more than *500 square feet* in size and contained entirely within a single-unit primary dwelling. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.
 - (ii) Is located and contained entirely within an existing or proposed single-unit primary dwelling.
 - (iii) Has a separate entrance from the main entrance to the existing or proposed single-unit dwelling.
 - (iv) Has a bathroom that is either shared with or separate from those of the primary dwelling.
 - (v) Includes an efficiency kitchen” (emphasis added). However, State ADU Law defines a JADU as “a unit that is no more than *500 square feet of interior livable space* in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure” (emphasis added); livable space is defined as “space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.”¹ The Ordinance must be amended to clearly reflect State ADU Law.

¹ Gov. Code, § 66313 subds. (d) – (e).

State ADU Law includes additional requirements for JADUs must be included in a local ADU ordinance that are missing from the City's Ordinance. Government Code section 66333, subdivision (b) specifies that when a JADU has shared sanitation facilities with the existing structure, the Ordinance 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 junior accessory dwelling unit has separate sanitation facilities, or if the owner is another governmental agency, land trust, or housing organization." Therefore, the City must amend the Ordinance so that owner-occupancy for a JADU is only required when the JADU shares sanitation facilities with the primary dwelling and exempts owner-occupancy when the owner is a governmental agency, land trust, or housing organization.

5. Section 26-140.a – b and Section 26-140.k.1 – *ADU Allowance on Single-Family Lots* – The Ordinance states, "The following types of accessory dwelling units shall be approved, regardless of whether the accessory dwelling unit meets the development standards contained in this title...For single family dwelling lots in residential zones, either...One (1) accessory dwelling unit and one (1) junior accessory dwelling unit per lot may be constructed...or (2) One (1) detached, new construction, accessory dwelling unit" as specified (emphasis added). This appears to be implementing Government Code section 66323, subdivisions (a)(1) and (2). However, Government Code section 66323 requires ministerial approval of one JADU, one attached ADU and one new construction ADU within the proposed space of a single-family dwelling, in combination with approval of units subject to Government Code section 66314.

Senate Bill 543 amended the language of section 66323, effective January 1, 2026, to expressly clarify this requirement: "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 units, or any combination of the following units...". Government Code section 66317, subdivision (a) mandates that a local agency "approve or deny" an application under section 66314, and "ministerially approve an application for a building permit within a residential or mixed-use zone" to create the maximum combinations set forth therein. Thus, the County must amend the Ordinance to provide for the allowance of all ADU and JADU combinations described in sections 66323 and 66314.

6. Section 26-140.c.1 – 2 and Section 26-140.k.2.ii – *ADU Allowance on Multifamily Lots* – The Ordinance states that on a lot with an existing multi-family residential use "Accessory dwelling units may be constructed in areas that are not used as livable space within an existing multi-family dwelling structure... The number of interior accessory dwelling units permitted on the lot shall not exceed twenty-five (25) percent of the current number of units of the multi-family complex on the lot and at least one (1) such unit shall be allowed; and up to two (2) detached accessory dwelling units may be constructed, provided they are no taller than sixteen (16) feet, and they have at least four (4) feet of side and rear yard setbacks. Detached accessory dwelling units constructed pursuant to this subsection (b) shall not exceed one thousand (1,000) square feet in floor area per unit."

However, Government Code section 66323, subdivision (a)(4) provides that up to eight detached ADUs may be constructed on a lot with an existing multifamily dwelling, not to exceed the number of existing units on the lot, and on a lot with a proposed multifamily dwelling, up to two detached ADUs. These ADUs do not have a minimum or maximum square footage, but they must have side and rear side setbacks of no more than four feet and comply with the height requirements of Government Code section 66321, subdivision (b)(4). State ADU Law also provides that these multifamily detached ADUs may be combined with the multifamily conversion ADUs described in Government Code section 66323, subdivision (a)(3).

Senate Bill 543 amended the language of section 66323, effective January 1, 2026, to expressly clarify this requirement: “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 units, or any combination of the following units...”. Government Code section 66317, subdivision (a) mandates that a local agency “approve or deny” an application under section 66314, and “ministerially approve an application for a building permit within a residential or mixed-use zone” to create the maximum combinations set forth therein. Thus, the County must amend the Ordinance to provide for the allowance of all ADU combinations described in sections 66323 and 66314.

7. Section 26-140.f.2 – *Mixed Use Zones* – The Ordinance states, “An accessory dwelling unit or junior accessory dwelling unit subject to a Second Unit Review, as described under section 26-139 above may be constructed on a lot that is zoned for single-family or multi-family residential uses.” However, State ADU Law states that a local ADU Ordinance shall require that an ADU be located on a lot that is “zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.”² Therefore, a lot in a mixed use zone that includes a proposed or existing dwelling is eligible for an ADU pursuant to State ADU Law. The City must amend the Ordinance so that it allows the development of an ADU in a mixed-use zone that permits single-family or multifamily dwelling residential use and includes a proposed or existing dwelling. Notwithstanding this finding, the City is allowed to designate areas where accessory dwelling units may be permitted.³
8. Section 26-140.h.3 – *Front Setback Requirements* – The Ordinance states, “The accessory dwelling unit shall adhere to the required front setback of the underlying zone, unless it can be demonstrated by the applicant that an accessory dwelling unit of up to 800 square feet is not feasible on the subject property. In this case, there shall be no required front yard setback for an accessory dwelling unit of up to 800 square feet.” 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 unit that meets the requirements of subdivision (a).” As a result, local agencies are prohibited from mandating an alternate location for a unit that is developed pursuant to Government Code section 66323, even if an ADU of up to 800 square feet can be sited elsewhere on the

² Gov. Code, § 66314 subd. (d)(2).

³ Gov. Code, § 66314 subd. (a).

property. Therefore, the City must amend the Ordinance to provide that ADUs permitted under Government Code section 66323 may be placed at the property owner's discretion, including in the front setback.

9. Section 26-140.h.4 – *Distance Between Detached ADUs and Other Structures* – “The Ordinance establishes that the “...minimum required distance between a detached accessory dwelling unit and the primary dwelling unit, and all other structures, including garages, on the property, shall be ten (10) feet.” 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 unit that meets the requirements of subdivision (a).” A distance requirement between a detached ADU and other structures on the lot beyond what is necessary for fire and safety is precluded by State ADU Law.⁴ Therefore, the City must amend the Ordinance to remove the 10 ft distance requirements for ADUs developed pursuant to Government Code section 66323.
10. Section 26-140.l – *Fire Sprinklers* – The Ordinance states that “...fire sprinklers shall not be required if they are not required for the primary residence.” However, Government Code section 66314, subdivision (d)(12) also establishes that the construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling. The City must amend the Ordinance to add that the construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
11. Section 26-140.n.2 – *Parking Exemption* – The Ordinance fails to specify the parking exemption for an accessory dwelling unit application submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot. State ADU Law states, “A local agency shall not impose any parking standards for an accessory dwelling unit... 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.”⁵ The City must amend the Ordinance to add this parking exemption to the list of exemptions included in the Ordinance.
12. Section 26-140.q – *ADU Deed Restrictions* – The Ordinance requires, as part of the permitting process, ADUs to file City approved deed restrictions that declares “(1) The accessory dwelling unit shall not be sold separately from the primary residence, except for instances allowed by Government Code section 65852.26; (2) The accessory second unit is restricted to the maximum size allowed per the development standards set forth in this section; (3) The restrictions shall be binding upon any successor in ownership of the property...In the event of violation, the property owner shall be responsible for all fees and penalties, as well as the City's enforcement costs.” 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

⁴ Gov. Code, § 66323, subd. (a)(1)(C).

⁵ Gov. Code, § 66322, subd. (a)(6).

requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer.” Although deed restrictions are required for JADUs to prohibit the sale of the JADU unit separate from the sale of the single-family residence, along with statutory size restrictions such restrictions are prohibited for ADUs. Accordingly, the City must amend the Ordinance to remove the deed restriction requirement for ADUs.

13. Section 26-140.s – *Additional Design Requirements* – The Ordinance states, “All new accessory dwelling units must comply with the following design requirements...

(1) The exterior materials, colors, roof design (e.g. gable, hipped, flat) and architecture shall match the primary unit... (3) Exterior staircases serving second-floor accessory dwelling units shall not be located in between the side property line and the existing building. (4) Lighting shall be shielded so that light rays are not spilled onto neighboring lots. (5) Any attached accessory dwelling unit shall be attached to the living area of the primary dwelling unit by a common wall or floor/ceiling, and not simply by an attached breezeway, porch, or patio.” 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 unit that meets the requirements of subdivision (a).” The Ordinance includes subjective design requirements that are prohibited under State ADU Law. Therefore, the City must amend the Ordinance to remove the design requirements.

14. Section 26-140.s.2.i – *Two-Story ADUs* – The Ordinance states, “...new two-story homes shall require the approval of an Administrative Permit per Article VI of this Code.” 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 unit that meets the requirements of subdivision (a).” The requirements for an administrative permit that requires public notification and public hearing exceed what is authorized by Government Code section 66323, subdivision (a). Similarly, 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.”

The standards described in Government Code section 66314 address the physical characteristics and specific review procedures. The requirements to receive public notification and public hearing exceed what is authorized by Government Code section 66314. In addition, Government Code section 66317, subdivision (c) establishes that “No local ordinance, policy, or regulation, other than an accessory dwelling unit ordinance consistent with this article shall be the basis for the delay or denial of a building permit or a use permit under this section.” Therefore, the City must amend the Ordinance to remove the public notice and hearing requirements, consistent with the ministerial nondiscretionary process required by State ADU Law.

15. Section 26-140.s.2.ii – *Roof Pitch* – The Ordinance states that when a detached ADU “...is located [on a lot] within a half-mile of a major transit stop or high-quality transit corridor” then the detached ADU “may be constructed up to 18 feet in height. In no case shall the City require ADUs to match the roof pitch of the main house” (emphasis added). However, Government Code section 66321, subdivision (b)(4)(B) establishes that a local agency shall not establish by Ordinance “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” (emphasis added). Therefore, the City must amend the Ordinance to remove the 18-foot height limitation for detached ADUs near qualifying transit and specify an additional 2-foot roof pitch when matched to the roof pitch of the primary dwelling.
16. Section 26-142.c – *JADU Owner Occupancy* – The Ordinance states, “...the owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a primary residence either the primary dwelling or the junior accessory dwelling. Owner-occupancy is not required if the owner is a governmental agency, land trust, or “housing organization” as that term is defined in Government Code section 65589.5(k)(2), as that section may be amended from time to time.” As detailed in Finding 4 above, State ADU Law specifies that if a JADU has shared sanitation facilities with the existing structure, the Ordinance 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 junior accessory dwelling unit has separate sanitation facilities, or if the owner is another governmental agency, land trust, or housing organization.”⁶ Therefore, the City must amend the Ordinance to accurately reflect State ADU Law such that owner-occupancy for a JADU is required only in instances where the JADU shares sanitation facilities with the primary dwelling.
17. Section 26-142.j – *JADU Deed Restriction* – The Ordinance states, “Prior to the issuance of a building permit for a junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the City that includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, requires owner-occupancy consistent with subsection (c) above, does not permit rentals for periods thirty (30) days or shorter, and restricts the size and attributes of the junior dwelling unit to those that conform with this section.”

⁶ Gov. Code, § 66333 subd. (b).

However, State ADU Law specifies the parameters of a JADU deed restriction as “...the recordation of a deed restriction, which shall run with the land, that includes both of the following: (1) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers. (2) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this article.”⁷ While prohibiting the rental of a JADU longer than 30 days is authorized by Government Code section 66333, subdivision (g), this restriction is not authorized to be included in a deed restriction that runs with the land.⁸ Therefore, the City must amend the Ordinance so that the requirements of a JADU deed restriction only include what is specifically authorized by State ADU Law.

18. Section 26-256.e and Section 26-256.e2.– *ADU Application Timeline and Process*– The Ordinance states, “The Planning Division must approve or deem the application to create an accessory dwelling unit, junior accessory dwelling unit, or urban dwelling unit incomplete within 60 days from the date that the Planning Division received a completed application. If the Planning Division has not approved or denied the completed application within 60 days, the application is deemed approved unless” specified criteria are met (emphasis added). However, Government Code section 66317, subdivision (a)(2)(A) specifies that “...a permitting agency shall determine whether an application to create or serve an accessory dwelling unit is complete and provide written notice of this determination to the applicant not later than **15** business days after the permitting agency received the application.” Government Code section 66317, subdivision (a)(3) further requires that, “The permitting agency shall either approve or deny the application to create or serve an 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” (emphasis added). The Ordinance fails to reference the correct statutory timelines, contents and accurate decision-making body that is bound by those timelines. State ADU Law requires an ADU application to be deemed complete or incomplete within 15 days and be deemed approved or denied within 60 days by the permitting agency, the City of West Covina. This means that State ADU Law requires all relevant building permits, such as “second unit” approvals, denials to be issued to the applicant within 60 days of submission of a completed application. And if denied, the City must 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.⁹

⁷ Gov. Code, § 66333 subd. (c).

⁸ Gov. Code, § 66333 subd. (c) and (g).

⁹ Gov. Code, § 66317 subd. (b).

Additionally, the Ordinance states, “When an application to create an accessory dwelling unit or junior accessory dwelling unit is submitted with a permit application to create a new single-family or multi-family dwelling on the lot, the City may delay *acting on* the application for the accessory dwelling unit or junior accessory dwelling unit until the City *acts on* the permit application to create a new single-family or multi-family dwelling.” The term “act” is misleading and inconsistent with the timelines and requirements of State ADU Law. State ADU Law authorizes “either approve or deny”, rather than ‘act(ing) on’ to facilitate the creation of ADUs and JADUs, consistent with the intent of the California Legislature.¹⁰ Accordingly, the City must amend the Ordinance to ensure ADU review timelines and processes reflect and align with State ADU Law as described in Government Code section 66317 and consistent with legislative intent.¹¹

19. *References to other Chapters and Articles of City Code* – The Ordinance includes references to other City Code sections. Government Code section 66317, subdivision (c) states that “No local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this section.” The City must amend the Ordinance to ensure that regulations outside of Chapter 26, Division 2: Accessory Dwelling Units And Junior Accessory Dwelling Units’ are not the basis for delay or denial of a building permit or a use permit that would delay or preclude in any manner a property owner from creating accessory dwelling units or junior accessory dwelling units as authorized by State ADU Law.
20. *Government Code section 66314, subdivision (d) and (e)* – The Ordinance fails to include three requirements pursuant to Government Code section 66314, subdivision (d), as well as the requirement set forth in subdivision (e). A local ADU Ordinance shall establish the following: ADUs may be rented separate from the primary residence, but shall not be sold or otherwise conveyed separate from the primary residence except as provided in Article 4 (commencing with Government Code section 66340); ADUs do not constitute a 13 Group R occupancy change under the local building code, unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety; ADUs utilizing a required private sewage disposal system shall require approval by the local health officer.”¹² In addition, local ADU Ordinances shall require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the ADU and issued at the same time.¹³ Therefore, the City must amend the Ordinance to include these statutory requirements.

¹⁰ Gov. Code, § 66317 subd. (a)(3); Gov. Code, § 66311.

¹¹ Gov. Code, § 66310 and 66311.

¹² Gov. Code, § 66314, subd. (d)(1), (8) and (9).

¹³ Gov. Code, § 66314, subd. (e).

The City has two options in response to this letter.¹⁴ The City can either amend the Ordinance to comply with State ADU Law¹⁵ 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.¹⁶ 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.¹⁷

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 Auzzie Sheard at Auzzie.Sheard@hcd.ca.gov if you have any questions.

Sincerely,



Jamie Candelaria
Section Chief, ADU Policy
Housing Accountability Unit

¹⁴ Gov. Code, § 66326, subd. (b)(2).

¹⁵ Gov. Code, § 66326, subd. (b)(2)(A).

¹⁶ Gov. Code, § 66326, subd. (b)(2)(B).

¹⁷ Gov. Code, § 66326, subd. (c)(1).