

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

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February 26, 2025

Jennifer Paige, AICP, Director
Planning & Community Development Department
City of Pasadena
175 Garfield Avenue
Pasadena, CA 91101

Dear Jennifer Paige:

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

Thank you for submitting the City of Pasadena's accessory ADU Ordinance No. 7420 (Ordinance), adopted April 15, 2024, to the California Department of Housing and Community Development (HCD). The Ordinance was received on May 29, 2024. 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 28, 2025.

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

1. *Senate Bill (SB) 1211 (Chapter 296, § 3, Statutes of 2024)* – As of January 1, 2025, the Legislature changed Government Code section 66323. Subdivision (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.

Assembly Bill (AB) 2533 (Chapter 834, 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 County should review these new requirements and adjust the Ordinance to comply with State ADU Law.

2. *Statutory Numbering* - The Ordinance contains several references to code sections that were deleted 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 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.
3. Section 17.50.275 B.2. – *Number of Units, Single-Family Lots* – The Ordinance allows only one “exemption ADU” on lots with an existing or proposed single-family dwelling, which includes the ADUs in Government Code section 66323, subdivision (a)(1) and (2) and includes a junior accessory dwelling unit (JADU). 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 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 (or proposed) 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. 17.50.275.D.5.a.1. – *Front Lot Line* – The Ordinance states, “With the exception of Exemption ADUs, newly constructed ADUs shall comply with the front-yard setback requirements of the underlying zone.” 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 [ADU], 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.” (emphasis added). The City’s Ordinance limits attached ADUs of 800 square feet from existing in the front set back. Therefore, the City must amend the ordinance to clarify this additional exception.

5. 17.50.275.D.5.c.1. – *Attached New Construction ADU Height* – The Ordinance states that attached new construction ADUs “Shall not exceed 25 feet and two stories in height or the maximum permitted in the underlying zone, whichever is less when attached to an existing or proposed single-family dwelling.” However, Government Code section 66321, subdivision (b)(4)(D) precludes a local agency from requiring less than “A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for [ADU] that is attached to a primary dwelling. This subparagraph shall not require a local agency to allow an [ADU] to exceed two stories.” (Emphasis added). Two stories are provided for, no more. The City’s Ordinance provides for the second story ambiguously, which might lead to the second story being seen as options, thus possibly limiting development. Therefore, the City should amend the Ordinance to clarify that the second story is not optional.
6. 17.50.275.D.6. – *Attached New Construction ADU Height* – The Ordinance states, “One parking space per unit or bedroom whichever is less, shall be provided on-site for the accessory dwelling unit....” However, Government Code section 66323, subdivision (b) requires that no development or design standards not contained within section 66323 can be imposed on such a unit. The City’s Ordinance does not indicate that the parking and circulation standards do not apply to section 66323 ADUs. Therefore, the City must clarify that section 66323 ADUs (“Exemption ADU” units) have no parking requirements.

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

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).

Jennifer Paige, Director
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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 Michael McLaughlin at Michael.McLaughlin@hcd.ca.gov if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Jamie Candelaria". The script is fluid and cursive, with the first letter of each word being capitalized and prominent.

Jamie Candelaria
Senior Housing Accountability Manager
Housing Policy Development Division

Enclosures

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)