

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

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April 24, 2025

Craig Schlatter, AICP, Director
Community Development Department
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95842

Dear Craig Schlatter:

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

Thank you for submitting the City of Ukiah's (City) ADU Ordinance No. 1244 (Ordinance), adopted September 4, 2024, to the California Department of Housing and Community Development (HCD). The Ordinance was received on September 5, 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 May 24, 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.

The Ordinance does not currently list any of this information. The City must add new language reflecting these allowable uses.

2. *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 City 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 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.
4. Section 9056.1 (E) – *Conversion ADUs* – The Ordinance states, “Accessory dwelling units may be attached to existing single-family or multiple-family residences or detached as separate structures.” However, Government Code section 66314, subdivision (d)(3) states, “The accessory dwelling unit is 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” (emphasis added). The Ordinance does not mention the option of a conversion ADU, and that an ADU can be attached to an accessory structure. Therefore, the City must amend the Ordinance to clarify that an ADU may be formed by conversion or addition to an existing accessory structure.
5. Section 9056.2 (A) – *Review Process* - The Ordinance states, “Applications for a building permit for an ADU shall be deemed approved if the local agency has not **acted on** the completed application within 60 days” (emphasis added). However, State ADU Law requires: “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.”¹ The Ordinance uses the words “acted on”, but State ADU Law requires the City to “approve or deny” the application. Therefore, City must amend the Ordinance to replace “acted on” with “approve or deny”.
6. Section 9056.2 (B)(a) – *Conversions of Accessory Structures* – The Ordinance states, “An ADU may be attached to an existing primary residence converted from a portion of the existing living area of the primary residence, detached and on the same legal lot as a primary residence, converted from the entirety of or a portion of an existing accessory structure, or attached to an existing or proposed accessory structure”. However, State ADU Law requires, “The accessory dwelling unit is 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

¹ Gov. Code, § 66317, subd. (a).

dwelling, including detached garages.”². The Ordinance does not make clear that an ADU may be converted from an attached garage. Therefore, the City must amend the Ordinance to allow attached garages to be converted to ADUs.

7. Section 9056.2 (B)(b) – *Unit Combinations* – The Ordinance states, “The number of ADUs allowed on a single lot shall be: (i). On a lot that contains an existing or proposed single-family dwelling: One (1) ADU attached or detached, (ii). On a lot that contains an existing multifamily dwelling: Two (2) ADUs, detached from the multifamily structure, and up to 25 percent of the number of units in the existing multifamily dwelling converted from existing non-livable space in a multifamily structure. (iii) On a lot that contains a proposed multifamily dwelling: Two (2) ADUs, detached from the multifamily structure.”

However, pursuant to Government Code section 66323, subdivision (a), “Notwithstanding Sections 66314 to 66322, inclusive, a local agency shall ministerially approve an application...to create any of the following: (A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling...(i) 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.” Additionally, subparagraph (B) 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 ADU types permitted under Government Code section 66323, indicate that any of these ADU types can be combined on lots with existing or proposed 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. ADU types can be combined on lots with existing or proposed single-family dwellings. Therefore, the City must amend the Ordinance to provide for all ADU combinations described in Government Code section 66323.

8. Section 9056.2 (C) – *Maximum Floor Area of Detached ADU* – The Ordinance states, “The maximum size of the detached ADU shall be one thousand and two hundred (1,200) square feet. The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to size requirements.” However, Government Code, section 66323, subdivision (a)(4), requires the local agency to approve ADUs that are detached from the multifamily dwelling structure. Detached ADUs on multifamily lots do not have a floor area restriction under Government Code, section 66323, subdivision (a)(4). The City must remove this restriction from the Ordinance.

² Gov. Code, § 66314, subd. (d)(3).

9. Section 9056.2 (D) – *Off-site Improvements* – The Ordinance states, “Curb, gutter, sidewalk, paving and street trees, however, shall be required when that infrastructure does not exist, and the proposed building permit value is equal to or greater than one-third (1/3) of the value of the existing structure per UCC §9181”. 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.” Off-site improvements are an additional standard not authorized by State ADU Law. The City must remove these requirements from the Ordinance.
10. Section 9056.2 (G)(c) – *Fire Sprinklers* – The Ordinance states, “Fire sprinklers shall not be required in the ADU if the primary residence is not required to have fire sprinklers.” However, Government Code, section 66314, subdivision (d)(12) and section 66323, subdivision (c) state, “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 City must amend the Ordinance to reflect that and ADU may not trigger a requirement that fire sprinklers be installed in the primary dwelling.
11. Section 9056.4 (D) – *Uncovered Parking* – The Ordinance states, “If a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, the City shall not require that those off-street parking spaces be replaced.” However, Government Code, section 66314, subdivision (d)(11), states that “A local agency may not require off-street parking spaces to be replaced when a garage, carport, covered parking structure, or *uncovered parking* space is demolished in conjunction with the construction of an ADU or converted to an ADU.” Therefore, the City must amend the Ordinance to include non-replacement of *uncovered parking* when *uncovered parking* is used to construct or is converted to an ADU.
12. Section 9056.6 (A) and (D) – *Height limits* –Section 9056.6 (D), states, “ADUs above a garage (Attached or Detached) can be constructed to the maximum height for the zoning district in which it is located.” However, Government Code, section 66321, subdivision (b)(4) states that height limitations must be prescribed no lower than 16, 18, 20 or 25 feet under certain specified conditions. The City must amend the Ordinance to reflect the various height limits provided in State ADU Law.

13. Section 9056.7 – *Development Standards* – The Ordinance states, “Whenever an ADU is proposed that would involve uses or features that are not explicitly addressed by design and development standards set forth in this Code or State law, the Community Development Director shall determine whether the proposal is appropriate and whether it should be reviewed on a ministerial or discretionary basis.” However, Government Code section 66316, states, “An existing accessory dwelling unit ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this article.” The City may apply additional processes with a compliant Ordinance to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. These processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with State ADU Law. The City must amend the Ordinance to provide an approval process that includes only ministerial provisions for the approval of ADUs.

14. Section 9056.7 – *Development Standards* – Paragraphs (A), (B), (C), and (E), of section 9056.7 impose additional subjective development standards on ADUs which are not authorized by State ADU Law. State ADU Law requires that local agencies review ADUs ministerially without discretionary review and impose only objective standards on ADUs under the provisions of Government Code, section 66414, subdivision (b)(1). Objective standards are defined as “Standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.”³ The City must amend the Ordinance to remove subjective development standards.

15. Section 9057.1 – *JADU* – The Ordinance states, “The department shall **act on** an application to create a JADU within sixty (60) days from the date it receives a completed application if there is an existing single-family dwelling in the lot” (emphasis added). However, Government Code section 66335, subdivision (a) (2), states “[t]he permitting agency shall either approve or deny the application to create or serve a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application...” The term “act upon” is old language and was amended to read “approve or deny.” Acting on an application does not reflect State ADU Law. The City is required to issue an approval, or a denial with a full set of comments on how to remedy the application within 60 days of receiving a completed application. Therefore, the

³ Gov. Code, § 66313, subd. (h).

City must amend this section to reflect an application must be approved or denied vs acted upon.

16. Section 9057.1 (A) – *Permit and Fees* – The Ordinance states, “Construction permits (including, but not limited to a building, well, septic, and/or sewer permit) shall be required to establish a JADU.” However, JADUs shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed concurrently with a new single-family dwelling.⁴ The City must amend the Ordinance to remove the additional utility fees for junior accessory dwelling units (JADUs) unless it is constructed concurrently with a new single-family dwelling.
17. Section 9057.1 (D)(4)(i) – *Deed Restriction Typo* – The Ordinance states that “The property owner shall record a deed restriction that: (i) A prohibition on the sale of the junior accessory unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers; and.” That change would break the grammar for (ii), (iii), and (iv). Instead, the City should amend the Ordinance to correct the typing error and write “Includes a prohibition” under (i) instead of “A prohibition.”
18. Section 10.1 – *Severability* – The Ordinance states, “If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Ukiah hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences clauses or phrases hereof be declared invalid or unenforceable.” However, Government Code section, 66316 states, “If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this article, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this article for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this article.” The *Severability* clause implies that some parts of the Ordinance will be valid even if other parts are not valid. The City must remove the Severability clause and apply the standards under Government Code section 66316 when the existing accessory dwelling unit ordinance that fails to meet the requirements of this article.

⁴ Gov. Code, § 66324, subd. (b).

The City has two options in response to this letter.⁵ The City can either amend the Ordinance to comply with State ADU Law⁶, 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.⁷ 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.⁸

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 Reshma Sen at Reshma.Sen@hcd.ca.gov if you have any questions.

Sincerely,



Jamie Candelaria
Senior Housing Accountability Manager
Housing Policy Development Division

⁵ Gov. Code, § 66326, subd. (c)(1).

⁶ Gov. Code, § 66326, subd. (b)(2)(A).

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

⁸ 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)