



Jan 12, 2026

City of Oceanside
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Oceanside, CA 92054

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planningstaff@oceansideca.org; jmullen@oceansideca.org;
CityManager@OceansideCa.org

Re: Proposed Amendments to the City's ADU Ordinance

Dear Oceanside Planning Commission,

The California Housing Defense Fund ("CalHDF") submits this letter as a public comment regarding item 4 for the Planning Commission meeting of January 12, 2026. an amendment to the City code sections governing the construction of accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs").

There are areas where the proposed ADU ordinance violates state law, and the City must address these issues prior to passing the ordinance.

Background

The law gives local governments authority to enact zoning ordinances that implement a variety of development standards on ADUs. (Gov. Code, § 66314.) The standards in these local ordinances are limited by state law so as not to overly restrict ADU development. (See *id.*) Separately from local ADU ordinances, Government Code section 66323 establishes a narrower set of ADU types that local governments have a ministerial duty to approve. "Notwithstanding Sections 66314 to 66322 ... a local agency shall ministerially approve" these types of ADUs. (*Id.* at subd. (a).) This means that ADUs that satisfy the minimal requirements of section 66323 must be approved regardless of any contrary provisions of the local ADU ordinance. (*Ibid.*) Local governments may not impose their own standards on such ADUs. (Gov. Code, § 66323, subd. (b) ["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).”].)

In addition, ADUs that qualify for the protections of Government Code section 66323, like other ADUs, must be processed by local governments within 60 days of a complete permit application submittal. (Gov. Code, § 66317, subd. (a).)

State law also prohibits creating regulations on ADU development not explicitly allowed by state law. 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.”

Impermissible Size Limit for ADUs on Multifamily Parcels

Code section 3006(D)(1)(b) restricts detached ADUs to 1,200 square feet in size. Additionally, code section 3006(D)(1)(d) limits 66323 ADUs (also known as “statewide exemption” ADUs) to 1,000 square feet in size.

However, the City should be aware that such a size restriction is not permitted for new construction, detached ADUs on multifamily parcels. Government Code section 66323 subdivision (a)(4) allows up to eight detached ADUs on multifamily parcels without size restrictions. Size restrictions are plainly forbidden by Government Code, section 66323, subdivision (b), which explicitly exempts statewide exemption ADUs from all local standards: “(b) 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).” Because Government Code section 66323 subdivision (a)(4) does not contain a size limit for new construction, detached ADUs on multifamily parcels, the City may not unilaterally impose one.

HCD reaffirms this requirement of state law on page 20 of the January 2025 HCD ADU [Handbook](#) (emphasis added):

A local agency **may not impose development or design standards**, including both local standards and standards found in State ADU Law, on 66323 Units that are not specifically listed in Government Code section 66323. (Gov. Code, § 66323, subs. (a), (b).) This includes, but is not limited to, parking, height, setbacks, or **other zoning provisions** (e.g., lot size, open space, floor area ratio, etc.).

The City must exempt ADUs developed pursuant to Government Code section 66323, subdivision (a)(4) from all size restrictions.

Impermissible Front Setbacks

Code section 3006(D)(3)(c) imposes front setbacks of the underlying zoning district on all new construction, detached ADUs that exceed 800 square feet in size. Code section 3006(D)(3)(a) also imposes underlying setbacks on ADUs greater than 1,000 square feet in size or greater than 16 feet in height..

However, Government Code section 66323, subdivision (a) does not permit any imposition of front setback requirements if the ADUs qualify for the protections of that section of law. The City therefore must allow front yard ADUs that comply with the standards in Government Code section 66323, subdivision (a) both on single family and on multifamily properties.

The City's exception for ADUs up to 800 square feet is insufficient, because detached ADUs on multifamily parcels developed pursuant to Government Code section 66323 are not subject to any size restrictions. This is because Government Code section 66323, subdivision (b) prohibits the application of any local standards to section 66323 ADUs. A size limit on detached ADUs on multifamily parcels is a local standard not provided in section 66323, and it is therefore prohibited.

Additionally, the 16 foot height limitation is also insufficient. Government Code section 66323, subdivision (a) allows new detached ADUs on multifamily and single family parcels to use the height limits of section 66321, subdivision (b)(4). At a minimum, this means that the City must allow 66323 ADUs on multifamily parcels with existing multistory buildings to be up to 18 feet in height.

HCD has issued guidance under its authority in Government Code section 66327 (that guidance is located in the January 2025 HCD ADU [Handbook](#), page 18) affirming the duty of local agencies to allow ADUs protected by Government Code section 66323 in the front setback under all circumstances. This applies whether the property is a single family home or a multifamily building. From page 18 of the Handbook: "... 66323 Units do not have to comply with lot coverage, **front setbacks**, and design standards." (emphasis added)

The City must amend this ordinance to eliminate underlying setback requirements, including front setback requirements, for section 66323 ADUs, as is required by state law.

Impermissible Parking Requirements

Code section 3006(D)(5) imposes parking requirements on all ADUs with some exceptions. However, for ADUs that meet the requirements of Government Code Section 66323, subdivision (a), the City may not impose any parking requirements at all. This is because Government Code section 66323, subdivision (b) exempts section 66323 ADUs from all local standards, which includes parking.

From page 20 of the January 2025 HCD ADU [Handbook](#) (emphasis added):

A local agency may not impose development or design standards, including both local standards and standards found in State ADU Law, on 66323 Units that are not specifically listed in Government Code section 66323. (Gov. Code, § 66323, subds. (a), (b).) This includes, but is not limited to, **parking**, height, setbacks, or other zoning provisions (e.g., lot size, open space, floor area ratio, etc.).

The City must exempt all section 66323 ADUs from parking requirements.

Out-of-Date Reference

Code section 3006(E)(1) references Government Code section 65852.26. However, state ADU law has been reorganized. This code section should reference Government Code section 66341.



It is laudable that the City is updating its ADU regulations as state law changes. However, the City should make sure that its zoning code for ADUs complies with state law.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dylan Casey".

Dylan Casey
CalHDF Executive Director

A handwritten signature in black ink, appearing to read "James M. Lloyd".

James M. Lloyd
CalHDF Director of Planning and Investigations