

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

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October 3, 2023

Alma Robles, Director of Community Development  
Planning Department  
City of Norco  
2870 Clark Ave  
Norco, CA 92860

Dear Alma Robles:

**RE: Review of Norco's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the City of Norco (City) accessory dwelling unit (ADU) Ordinance No. 1093 (Ordinance), adopted February 15, 2023, 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 65852.2, subdivision (h). HCD finds that the Ordinance does not comply with section 65852.2 in the manner noted below. Under that statute, 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 November 2, 2023.

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

- 18.30.46 (C) – *Separate Sale* – The Ordinance states, “Except as otherwise provided by law, accessory dwelling units and junior accessory dwelling units ...may not be sold or otherwise conveyed separate from the primary residence.” However, Government Code section 65852.26 provides a narrow exception for separate sale of an ADU to a qualified buyer if the property was built or developed by a qualified nonprofit corporation, among other things. The City should amend the Ordinance accordingly.
- 18.30.46 (E)(1)(a) – *Bedrooms* – The Ordinance creates maximum sizes for attached ADUs “with zero to one bedroom, 850 square feet; two bedrooms, 1,000 square feet.” Government Code section 65852.2 states that a local agency may set a maximum square footage of not less than “1,000 square feet for an accessory dwelling unit that provides more than one bedroom.” Thus, the statute allows for an ADU to have more than two bedrooms ADU. The City must amend the Ordinance to clarify that an ADU with “more than one bedroom” is allowed.

- 18.30.46 (E)(5) – *Number of Units* – The Ordinance allows “[f]or lots with proposed or existing single-family residence: one accessory dwelling unit provided the lot contains no other accessory dwelling unit. The lot may contain one junior accessory dwelling unit in addition to the accessory dwelling unit.” The Ordinance allows for a maximum of one ADU and one junior accessory dwelling unit (JADU) on a lot with an existing or proposed single-family dwelling. The Ordinance states that multifamily dwellings may either create ADUs from existing non-livable space or build two new detached units. The Ordinance does not make both options available to the applicant.

However, Government Code section 65852.2, subdivision (e)(1), states, “Notwithstanding subdivisions (a) to (d), 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: (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.” 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 an enumeration of by right ADU types permitted indicate that any of these ADU types can be combined on a lot zoned for single-family dwellings.

This permits a homeowner, who meets 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 setbacks pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for a JADU under this section. HCD notes that the Legislature, in creating the list, did not use “or” or “one of” to indicate only one or another would be applicable to the exclusion of the other. This subdivision applies equally to ADUs created pursuant to Government Code section 65852.2, subdivisions (e)(1)(C) and (D), on lots with proposed or existing multifamily dwellings. Limiting single-family lots to one ADU would prevent property owners from creating ADUs by right under subdivision (e)(1). Therefore, the City must amend the Ordinance to comply with State ADU Law.

- 18.30.46 (E)(17) – *Unknown Citation* – The Ordinance states, “Subject to the requirements of the Health and Safety Code Section 17890.12, this section shall not validate any existing illegal unit.” It appears that this citation is intended to refer to section 17980.12. The City should review and cite the correct statute.

- 18.30.46 (F)(6) – *JADU and Entry* – The Ordinance states, “A junior accessory dwelling unit shall have an interior entry to the primary dwelling's main living area, independent of an exterior entrance of the junior accessory and primary dwelling.” However, Government Code section 65852.22, subdivision (a)(5)(B), states, “If a permitted junior accessory dwelling unit does not include a separate bathroom, the permitted junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.” The City may not require an interior entry if a JADU does not share a bathroom with the primary dwelling. Therefore, the City must amend the Ordinance to comply with State ADU Law.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City's response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

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 contact Mike Van Gorder, of our staff, at (916) 776-7541 or at [mike.vangorder@hcd.ca.gov](mailto:mike.vangorder@hcd.ca.gov) if you have any questions or would like HCD's technical assistance in these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal flourish extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability