



Jul 14, 2025

City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

Re: Proposed Amendments to City's ADU Ordinance

By email: [planningcommission@newportbeachca.gov](mailto:planningcommission@newportbeachca.gov)

Cc: [gleung@newportbeachca.gov](mailto:gleung@newportbeachca.gov); [aharp@newportbeachca.gov](mailto:aharp@newportbeachca.gov);  
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Dear Newport Beach Planning Commission,

The California Housing Defense Fund ("CalHDF") submits this letter as a public comment for the Planning Commission meeting of July 17, 2025 regarding item 3, proposed amendments to the City's regulations for ADUs and JADUs.

The City's proposed ADU regulations fail to comply with state law in several ways, and the City should address these issues before adopting 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 Limit on ADUs on Multifamily Parcels Standards**

City code section 20.48.200(D)(3) allows existing multifamily parcels to have up to two detached ADUs. However, this limit violates state law.

Government Code section 66323, subdivision (a)(4) requires the City to allow up to eight detached ADUs on parcels with existing multifamily buildings.

The City should amend its ADU ordinance to allow up to eight detached ADUs on parcels with existing multifamily buildings, as is required by state law.

### **Impermissible Historic Standards**

City code section 20.48.200(j) imposes historic preservation regulations on all ADUs, including section 66323 ADUs.

However, as discussed *supra*, the City may not impose any such development standards on ADUs eligible for the protections of Government Code section 66323, subdivision (a) beyond the height and setback requirements specified by state law. (Gov. Code, § 66323, subd. (b).) This means that the City may not impose any historic requirements on such ADUs.

Government Code section 66323, subdivision (b) is very clear on this point: “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).”

Page 20 of the January 2025 HCD ADU [Handbook](#) is instructive (emphasis added):

“What design, zoning, or other local standards can be imposed on 66323 Units?  
**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 should amend the code to specify that historic standards are not applicable to section 66323 ADUs.



CalHDF appreciates the City's effort to implement state law governing ADU construction. However, the City should amend its ordinance to ensure that it 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](http://www.calhdf.org).

Sincerely,

A blue ink handwritten signature, appearing to read "Dylan Casey", with a long horizontal flourish extending to the right.

Dylan Casey  
CalHDF Executive Director

A black ink handwritten signature, appearing to read "James M. Lloyd", written in a cursive style.

James M. Lloyd  
CalHDF Director of Planning and Investigations