DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
651 Bannon Street, Suite 400
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

June 24, 2025

Stewart Patri, Deputy Director of Administration
Planning and Development
County of Santa Clara
70 W. Hedding St., East Wing, 7th Floor
San Jose, CA 95110

Dear Stewart Patri:

RE: Review of Santa Clara County's Accessory Dwelling Unit (ADU) and Senate Bill (SB) 9 Ordinance under State Law (Gov. Code, §§ 66310 – 66342, 65852.21 and 66411.7)

Thank you for submitting the County of Santa Clara (County) ADU and SB 9 Ordinance No. NS-1200.383 (Ordinance), adopted January 24, 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 66326, subdivision (a) and Government Code section 65585, subdivision (j). HCD finds that the Ordinance does not comply with State ADU and SB 9 Laws in the manner noted below. The County has up to 30 days to respond to these findings.[1] Accordingly, the County must provide a written response to these findings no later than July 23, 2025.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU and SB 9 Laws in the following respects:

ADU Findings (Gov. Code, §§ 66310 - 66342)

1. *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 code sections.

2. Section 4.10.015 B – *Moveable Tiny Homes* – The Ordinance states, "For the purposes of this section, one movable tiny home per lot is allowed in lieu of one standard ADU." While moveable tiny homes are an innovative type of living quarters, they may not meet the statutory definition of an ADU. Pursuant to Government Code section 66314, subdivision (d)(8), ADUs must comply with "[l]ocal building code requirements that apply to detached dwellings."

[1] Gov. Code § 66326, subd. (b)(1)

Government Code section 66313, subdivision (a), defines an ADU to mean “an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons...It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (1) An efficiency unit. (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.” While some tiny homes may be considered ADUs, moveable tiny homes may be more akin to recreational vehicles, as defined in the California Health and Safety Code section 18010, than ADUs.

Additionally, this implies that the presence of a movable tiny home may preclude the ministerial approval of an ADU. However, 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.” Furthermore, units subject to section 66323 may not be precluded by local development standards. The City must amend the Ordinance to clarify that moveable tiny homes are not ADUs and that ADUs may not be precluded by the presence of “moveable tiny homes”.

3. Section 4.10.015 B.1, D.7 – *Unit Allowance* – The Ordinance states, that “Only one accessory dwelling unit and one junior accessory dwelling unit are allowed per legal lot,” for single family primary dwellings and later states “For properties with a multifamily dwelling, no more than two detached accessory dwelling units may be located on the same property.”

   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 indicates that any of these ADU types can be combined on a lot zoned for single-family dwellings.

   This permits a homeowner to create one converted ADU; one detached, new construction ADU; and one junior accessory dwelling unit (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 this section, the local agency cannot deny the application, nor deny a permit for a JADU under this section.

This section also requires the ministerial approval of detached ADUs in combination with units created in portions of multifamily primary dwellings that are not used as habitable space. Therefore, the County must amend the Ordinance to provide for all ADU combinations described in Government Code section 66323.

4. Section 4.10.015 B.2 – *Denial* – The Ordinance states that ADU applications shall be "…either approved or disapproved within 60 days after the County receives a complete application." However, Government Code section 66317, subdivision (b) expands on this to state, "If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subdivision (a), the permitting agency shall, within the time period described in subdivision (a), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant." The County must amend the Ordinance to provide for the timely return of written comments upon denial of an application.

5. Section 4.10.015 B.3 – *Separate Sale* – The Ordinance states, "No standard ADU or junior ADU may he sold separately from the primary residence or the real property upon which the primary residence is located. This provision does not apply to property built or developed by a qualified nonprofit corporation described in Government Code Section 65852.26." Please note that Government Code section 66342 gives local jurisdictions the additional option of adopting an Ordinance to govern the separate sale of ADUs, beyond what section 66341 requires.

6. Section 4.10.015 C.3, D.3 – *Height* – The Ordinance states that ADUs "Shall not exceed sixteen (16) feet in height if the dwelling unit does not comply with the setback limitations for a single-family residence, prescribed by the applicable zoning district…." However, Government Code section 66321, subdivision (b)(4) requires height allowances of 16, 18, 20 or 25 depending on the circumstances. The County must amend the Ordinance to allow State-mandated height maximums.

7. Section 4.10.015 D.1, D.6 – *Size Maximums* – The Ordinance states that detached ADUs "Shall have a maximum floor area not exceeding 1,200 square feet." It later states, "The cumulative square footage of both accessory dwelling units shall not exceed 1,700 square feet." However, local development standards may not preclude a converted unit created subject to Government Code section 66323, subdivision (a)(1) regardless of size. The County must amend the Ordinance to incorporate this exception.

8. Section 4.10.015 D.3 – *Subjective Standard* – The Ordinance states that "Detached accessory dwelling units exceeding sixteen (16) feet in height shall incorporate a hip, gable, or other similar styled roof design." However, Government Code section 66314, subdivision (b) requires local Ordinances to

"Impose objective standards on accessory dwelling units". The term "similar styled roof design" is not objective and is therefore inconsistent with State ADU Law. The County must amend the Ordinance to remove the subjective language.

9. Section 4.10.015 I. 3. – *Parking Exceptions* – The Ordinance provides parking exceptions that match the conditions for Government Code section 66322, subdivisions (a) through (e) but omits reference to the conditions described in subdivision (f): "When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this subdivision." The County must amend the Ordinance to add the relevant language.

SB 9 Findings (Gov. Code, §§ 65852.21; 66411.7)

1. Section 2.10.030 – *Definition of an Urban Primary Unit* – The County Code defines an Urban Primary Unit (UPU) as, "A second residential dwelling unit, limited to 1,600 square feet, that provides independent living facilities and is located on a legal parcel that is wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau when the application is approved, and is located in a single-family residential zone. This use classification also applies to a second dwelling unit on any eligible lot that resulted from an urban lot split, as described in section C12-44, on or after January 1, 2022. The dwelling unit may exist as a separate structure or within a common structure. An Urban Primary Unit is not an ADU or Junior ADU. This use classification is intended to implement Government Code Sections 65852.21 and 66411.7, as amended from time to time…". The UPU definition suggests that only the second primary dwelling constructed on a lot would be considered an UPU and thus eligible for review under SB 9. However, SB 9 provides that, "A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, if the proposed housing development meets all of the following requirements...".[2] Therefore, SB 9 is applicable in a scenario where construction results in either one or two primary dwelling units on a lot. Both the first and the second primary dwelling unit constructed on a lot is eligible for SB 9 . The County Code must be modified to clarify that both first and second primary dwelling units are eligible for SB 9 processes and applicable development standards.

2. Sections 2.20.020 and 2.20.030 – *Site Eligibility/Single-Family Zones* – The County Code states that an Urban Primary Unit is allowed within the Rural Residential (RR), the R1 (One Family Residence), R1E (One Family Residence-Estate), RHS (Urban Hillside Residential), and R1S (Low-Density Campus Residential) zones.[3] The County Code, however, does not include the A

[2] Gov. Code § 65852.21, subd. (a).
[3] County of Santa Clara Ordinance Code § 2.30.

(Exclusive Agriculture), AR (Agricultural Ranchlands) or HS (Hillside) zones among the eligible zones.[4] The County Code also does not appear to specify which zones are eligible for Urban Lot Splits. SB 9 provides that, "two residential units within a single-family residential zone shall be considered ministerially."[5] Additionally, the law further provides that, "…a local agency shall ministerially approve…an urban lot split…if the parcel is located within a single-family residential zone."[6] Table 2.20-1 (Residential Uses in Rural Base Districts) of the County Code states that single-family residences are permitted by right in the A, AR and HS Zones and multi-family uses are not permitted in these zones. Therefore, these zones should be considered single-family for purposes of SB 9 because they allow single family residences by right and do not allow multi-family uses. The County must modify the Ordinance to include these zones among the SB 9 eligible areas.

3. Sections 4.10.387 and C.12-44 – *Limitations on Location-Fire Hazard Zones* – The County Code contains site exclusions applicable to urban lot splits and urban primary unit development. The Code states, "The parcel is not in a high or very high fire hazard severity zone as determined by the California Department of Forestry and Fire Protection unless the parcel will comply with fire hazard mitigation measures adopted pursuant to existing building standards or state fire mitigation measures applicable to the development." Under SB 9, recently amended by Senate Bill 450, the applicable exclusion language now states, "Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development." The County should review the fire exclusion language in the County Code to confirm it complies with the recently amended SB 9 exclusion pursuant to SB 450.

4. Limitations on Location – *Earthquake Fault Zones* – State law provides that an SB 9 development shall not be located, "Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of

[4] County of Santa Clara Ordinance Code § 2.20.
[5] Gov. Code § 65852.21, subd. (a)
[6] Gov. Code § 66411.7, subd. (a)

Division 1 of Title 2."[7] The County Code does not contain this language and must be amended to include it.

5. Limitations on Location – *Floodways* – State law provides that an SB 9 development shall not be located, "Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site."[8] The County Code does not contain this exclusion and must be amended to include it.

6. Section 4.10.387 C.2. – *Urban Primary Unit Development Standards* – The County Code states that, for an Urban Primary Unit, "The first unit developed on a parcel shall comply with all setbacks applicable to a single-family residence use classification in the underlying zoning district, with the exception of an existing dwelling unit legally constructed prior to January 1, 2022, or a conversion as stated in § 4.10.387(D)." However, SB 9 states that for new construction of an SB 9 unit, "…a local agency may require a setback of up to four feet from the side and rear lot lines." SB 9 also states that for existing or reconstructed structures, "…no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure…"[9] Additionally, as discussed in comment No. 1, SB 9 standards are applicable to both the first primary dwelling unit as well as the second primary dwelling unit constructed on a lot. Therefore, any unit constructed pursuant to SB 9 shall be eligible for the maximum four-foot setback standard specified. Additionally, any existing structure is eligible for the SB 9 setback allowances as specified. Therefore, the County Code setback requirements for UPUs must be amended to reflect statutory allowances under SB 9.

[7] Gov. Code § 65913.4, subd. (a)(6)(F)
[8] Gov. Code § 65913.4, subd. (a)(6)(H)
[9] Gov. Code §§ 65852.21, subd. (b)(2)(B) and 66411.7, subd. (c)(3)

7. Section 4.10.387 E. – *Parking* – The County Code states that for an Urban Primary Unit, "One off-street parking space is required for an Urban Primary Unit." However, SB 9 states that when considering an application that will result in two residential units, "…a local agency may require…Off-street parking of up to one space per unit…".[10] SB 9 also states, "A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit."[11] Therefore, if a second primary dwelling is added to a site with an existing primary dwelling, a maximum of two parking spaces can be required for the two units. The County must modify the code to clarify that when a second primary dwelling is added to a site, a maximum of two parking spaces can be required on the site[12], one for each primary dwelling.

8. Section 4.10.387– *General Provisions and Development Standards* – The County Code contains requirements related to maximum unit size[13] for an Urban Primary Unit and providing public notice to owners within 300 feet.[14] However, SB 9 specifies that, "A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone…".[15] Individual development standards applied to SB 9 units cannot be more restrictive than those applied to non-SB 9 units in the same zone. The County Code appears to apply more restrictive development standards to SB 9 units that are not applied to non-SB 9 primary dwelling units in the same zone. The County must review and amend the code as needed to ensure all development standards and requirements applied to SB 9 units are not more restrictive than those applied in the underlying zone to non-SB 9 primary dwellings.

9. Section 4.10.387 A. – *Accessory Dwelling Unit Allowances* – The County Code states, "Eligible parcels that have not been subdivided under an urban lot split, as described in section C12-44, may contain no more than one single-family residence, one ADU, one Junior ADU, and one Urban Primary Unit." However, Government Code 66310 et seq. allows multiple combinations of accessory dwelling units (ADU) and/or a junior accessory dwelling unit (JADU). County Code must be modified to remove the limitation on ADUs and JADUs to allow for all unit combinations permitted under ADU law while still specifying a maximum of four units if at least one SB 9 unit is created.

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[10] Gov. Code § 65852.21, subd. (c)(1)
[11] Gov. Code § 65852.21, subd. (j)(1)
[12] Gov. Code 65852.21, subd. (c)(1)
[13] County of Santa Clara Ordinance Code § 4.10.387(C)(3).
[14] County of Santa Clara Ordinance Code § 4.10.387(B)(8).
[15] Gov. Code § 65852.21, subd. (b)(3).

10. Section 4.10.387 B. 5. – *Onsite Wastewater Treatment System (OWTS)* – The County Code states, “Urban Primary Units are subject to all other applicable requirements of the Ordinance Code, including, but not limited to, requirements applicable to on-site wastewater treatment systems or sewer connections, water supply, height limitations, and other objective standards in the Zoning Ordinance.” SB 9 states, “a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards…”[16]. Therefore, the County must review all underlying requirements referenced in this section to ensure all standards are objective and include exceptions in the code for any subjective standards to clarify that they do not apply to SB 9 units. Additionally, County Code Section 4.10.387(B)(5) should be amended to clarify that it refers only to other applicable **objective** requirements.

11. Section 4.10.387 B. 6. and C12-44 b. 8. – *Findings for Denial* – The County Code states, “Notwithstanding any other provision in this Section, a proposed Urban Primary Unit application may be denied if the Building Official makes a written finding, based on a preponderance of the evidence, that a proposed project would have a specific, adverse impact on public health and safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” County Code Section C12-44(b)(8) contains similar Finding for Denial Language. However, the SB 9 findings for denial[17] were amended on January 1, 2025, by SB 450. This amendment removed the language “…or the physical environment and...”, Therefore, both sections of the County Code must be amended to reflect the revised language.

12. Section 4.10.387 B. 7. – *Rental Term* – The County Code states, “Urban Primary Units shall not be rented for terms shorter than 180 days. Future property owners shall be informed of this restriction through a recorded deed notice approved by the County.” SB 9 states, “A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.”[18] It also states that a local agency shall not impose objective standards that do not apply uniformly to development within the underlying zone unless they are more permissive than applicable standards in the underlying zone.[19] As the County Code does not appear to have a 180 day minimum rental term requirement in the underlying zone, it cannot be required for SB 9 units because it is more restrictive than the 30 days specified in state law. The County Code must be amended to reflect the minimum day 30 rental term but cannot require a longer term unless it is a requirement of the underlying zone.

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[16] Gov. Code § 65852.21, subd. (b)(1).
[17] Gov. Code §§ 65852.21, subd. (d); 66411.7, subd. (d).
[18] Gov. Code § 65852.21, subd. (e).
[19] Gov. Code § 65852.21, subd. (b)(3).

13. Section 4.10.387 B. and C12-44 b. 2. – *Historic Resource Site Exclusion* – The County Code states, “Parcels located in a -h combining district are not eligible for an Urban Primary Unit.”[20] County Code further states, “The "-h" combining zoning district is intended to provide for the preservation of historic sites, historic structures, buildings of architectural significance, and other natural and human-made heritage resources which are included in the National Register of Historic Places, or which are otherwise designated as a registered cultural heritage resource (see Section 1.30.030: Definitions of Terms).” [21] Additionally, it should be noted that the County Code refers to the term “registered cultural heritage resource” but does not contain a definition. The County Code does define the potentially related term “registered historic cultural resource”. To determine eligibility for a historic site, SB 9 states the parcel may not be located, “within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.”[22] The County must modify the County Code historic exclusion language to clarify the definition of a “registered cultural heritage resource” and ensure that the historic exclusion does not exceed that contained within SB 9.

14. Section C12-44 b. 3. – *Urban Lot Splits* – The County Code states, “Ministerial parcel map applications to establish an urban lot split shall be reviewed by all applicable County departments and other public agencies for conformance with applicable standards, including but not limited to the Subdivision Map Act, Government Code § 66410 et seq., without public hearing or discretionary review.” Under SB 9, “…a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that are related to the design or to improvements of a parcel…”. Therefore, the County must review all underlying requirements referenced in this section to ensure all standards are objective and include exceptions in the code for any subjective standards to clarify that they do not apply to urban lot splits. Additionally, County Code Section C12-44(b)(3) must be amended to clarify that it refers to “…applicable **objective** standards…” (emphasis added).

15. Section C12-44 b. 4. – *Easements for Urban Lot Splits* – The County Code states, “No off-site improvements or right-of-way dedications shall be required for an urban lot split. Easements granting access to the public right-of-way or for public utilities and services may be required (emphasis added).” However, SB 9 states, “a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

[20] County of Santa Clara Ordinance Code §§ 4.10.387, subd.(b)(2)(f); § C12-44, subd. (b)(2)(f).
[21] County of Santa Clara Ordinance Code § 3.50.010.
[22] Gov. Code § 65852.21, subd. (a)(5) and 66411.7, subd. (a)(3)(E).

Easements required for the provision of public services and facilities".[23] While an easement can be required to provide right-of-way access to either of the lots created by an urban lot split, an easement benefiting any other parcel(s) cannot be required, except "to provide public services and facilities". The County Code provision, "Easements granting access to the public right-of-way…may be required", exceeds what is allowed under SB 9 and must be modified or clarified so that it refers only to granting access to one of the new parcels in an urban lot split.

16. Section C12-44 b. 7. – *Water Availability* – The County Code states, "Each resulting parcel shall demonstrate adequate access to a potable water supply…Shared wells between dwelling units on different parcels are allowed…". However, Government Code 66411.7(c) states that, "…a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that are related to the design or to improvements of a parcel…". State law further states, "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean 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. The County Code's use of the language "demonstrate adequate access" is subjective and not knowable prior to submittal. This County Code language must be modified to be objective or refer to objective requirements contained in other County Code sections or documents. Alternatively, if this terminology is already codified in an objective manner, the County may modify the code to cite to that County Code reference.

17. Section C12-44 b. 7. – *Onsite Wastewater Treatment Systems* – The County Code states, "Each resulting parcel shall demonstrate…connection to sanitary sewer or determination of septic feasibility meeting all requirements of Sections B11-60 through B11-95 of this Code…Shared onsite wastewater treatment systems (OWTS) serving multiple dwelling units on the same parcel are allowed, but OWTS are not allowed to serve multiple parcels." (Emphasis added.) However, SB 9 states, "...a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that are related to the design or to improvements of a parcel…"[24] Therefore, the County must review all underlying requirements referenced in this section to ensure all standards are objective and include exceptions in the code for any subjective standards to clarify that they do not apply to SB 9 urban lot splits.

[23] Gov. Code § 66411.7, subd. (e)(1).
[24] Gov. Code § 66411.7, subd. (c)(1).

18. Section C12-44 b. 11. – *Public Notice for Urban Lot Splits* – The County Code states, "Whenever a Tentative Map application for an Urban Lot Split is received by the County, notice of the project including a general description and the location of the development shall be provided to the owners of property within 300 feet of the exterior boundaries of the property involved in the application. Such notice shall be mailed to the last known name and address of such owners as shown upon the records of the County Assessor." However, under SB 9, "…a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that are related to the design or to improvements of a parcel…".[25] An informational public notice requirement is not related to the design or improvement of a parcel. The County Code must be modified to remove this requirement.

19. Section C12-51. – *Effective Time of Filing* – The County Code states, "The effective time of filing a tentative map shall be construed to be the time at which the Planning Office formally determines the application is complete by written notification to the applicant. Prior to the formal completeness determination, the map received shall be examined to determine if it is complete, in full compliance with this chapter, as to form and content. If the tentative map application is incomplete, the Planning Office shall notify the applicant in writing within 30 calendar days from the day the application was originally submitted as to those parts which are incomplete and what must be done to complete the application."[26] However, SB 9 states, "(B) An application for an urban lot split shall be considered and approved or denied within 60 days from the date the local agency receives a completed application. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved." SB 9 further states, "(C) If a permitting agency denies an application for an urban lot split pursuant to subparagraph (B), the permitting agency shall, within the time period described in subparagraph (B), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant." County Code must be clarified to include this specific timeline and procedure for SB 9 urban lot split applications.

20. *Offsite Improvements* – SB 9 states, "…a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section." Pursuant to SB 9, a local agency cannot require the construction of offsite improvements prior to approving or recording a parcel map for an urban lot split. Additionally, for an urban lot split, a local agency cannot require a condition of approval for offsite improvements to be constructed at a later date after map approval. HCD has received complaints suggesting that the County is not complying with this

[25] Gov. Code § 66411.7, subd. (c)(1).
[26] County of Santa Clara Ordinance Code § C12-51.

requirement. The County Code must be amended to make clear that offsite improvements will not be required for an urban lot split application.

Conclusion

ADU Regulations

The County has two options in response to the ADU component of this letter.[27] The County can either amend the Ordinance to comply with State ADU Law,[28] or adopt the Ordinance without changes and include findings in its resolution adopting the Ordinance that explain the reasons the County believes that the Ordinance complies with State ADU Law despite HCD's findings.[29] If the County fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD must notify the County and may notify the California Office of the Attorney General that the County is in violation of State ADU Law.[30]

SB 9 Regulations

HCD looks forward to assisting the City in its compliance with state housing laws and reminds the City that HCD has enforcement authority over SB 9, among other state housing laws. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a city's actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law.[31]

HCD appreciates the County's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the County in fully complying with State ADU and SB 9 Laws. Please contact Mike Van Gorder, of our staff, at Mike.VanGorder@hcd.ca.gov if you have any questions or would like HCD's technical assistance in ADU matters. For SB 9 specific questions, please contact Mindy Wilcox, of our staff, at mindy.wilcox@hcd.ca.gov.

Sincerely,

Jamie Candelaria

Jamie Candelaria
Section Chief, ADU Policy
Housing Policy Development Division

[27] Gov. Code, § 66326, subd. (c)(1).
[28] Gov. Code, § 66326, subd. (b)(2)(A).
[29] Gov. Code, § 66326, subd. (b)(2)(B).
[30] Gov. Code, § 66326, subd. (c)(1).
[31] Gov. Code, § 65585, subd. (j).