

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

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January 26, 2026

Jay Bradford, Community Development Director
Planning Department
Town of Los Altos Hills
26379 Fremont Road
Los Altos Hills, CA 94022

Dear Jay Bradford:

RE: Review of Lot Altos Hills Accessory Dwelling Unit (ADU) Governance under State ADU Law (Gov. Code, §§ 66310 - 66342) and Senate Bill 9 Governance under State Law (Gov. Code, §§ 66313 – 66342, 65852.21 and 66411.7)

HCD has reviewed the Municipal Code of the Town of Los Altos Hills (Town) and submits these written findings pursuant to Government Code section 66326, subdivision (a) and Government Code section 65585, subdivision (j). HCD finds that the Municipal Code does not comply with State ADU and SB 9 Laws in the manner noted below. The Town has up to 30 days to respond to these findings. Accordingly, the Town must provide a written response to these findings no later than February 25, 2026.

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

1. Section 10-1.1402 – *Primary Size* – The Municipal Code defines a primary dwelling unit as “...the larger of the two if there is an existing accessory dwelling unit on the property.” However, local development standards (such as this definition requiring that the primary dwelling be larger) may not preclude any unit created subject to Government Code section 66323, nor (in the case of a single-family home smaller than 800 square feet) restrict any unit subject to local development standards to a size of less than 800 square feet per Government Code section 66321, subdivision (b)(3). The Town must amend this provision to comply with State ADU law.
2. Section 10-1.1403 (f)(2) – *Stories & Height* – The Municipal Code states, “...maximum height of a detached accessory dwelling unit shall be one story and 16 feet on a lot with an existing or proposed primary dwelling unit.” However, Government Code section 66321, subdivision (b)(4) permits heights of 18 or 20 feet for detached ADUs given stated circumstances. Local development standards, such as a limit on the number of stories, may not preclude a unit created subject to Government Code section 66323. The Town must amend the Municipal Code to provide for these height exceptions.

3. Section 10-1.1405 (b) – *Sprinklers* – The Municipal Code states, “An accessory dwelling unit is only required to have fire sprinklers if they are required for the primary dwelling.” Government Code section 66314, subdivision (d)(12) expands on this to state, “The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.” The Town must amend the Municipal Code to add this provision.
4. Section 10-1.1406 – *Denial* – The Municipal Code states applications “...shall be approved or disapproved within 60 days after receiving the complete application.” Government Code section 66317, subdivision (b) expands on this to require that “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 Town must add language to the Municipal Code to provide for the requirements triggered upon the denial of an application.
5. Section 10-1.1407 (c)(1) – *JADU Incentive* – The Municipal Code states that if a JADU provides a parking space, “...the maximum size of the unit shall be increased to 650 square feet.” However, Government Code section 66313, subdivision (d) defines JADU as being “...no more than 500 square feet in size.” A unit larger than 500 square feet is not, by definition, a JADU. The Town must amend the Municipal Code to remove this inconsistency.
6. Section 10-1.1409 – *Pathway to Compliance* – The Municipal Code states, “Owners of existing non-permitted accessory dwelling units which were constructed or otherwise in existence prior to December 31, 2019, may apply for a building permit to legalize the unit subject to conformance with the regulations in this article...” However, Government Code section 66311.7, subdivision (a) states that the required pathway to compliance applies to units “...constructed before January 1, 2020.” The Town must amend the Municipal Code to adjust the pathway to compliance period accordingly.

SB9 Findings (Gov. Code, §§ 66313 – 66342, 65852.21 and 66411.7)

7. Section 10-1.1505 (a)(2)(C) – *ADUs on Split Lots* – The Municipal Code states that on split lots, “...no ADUs or JADUs are permitted.” However, Government Code section 65852.21, subdivision (f) states, “...a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels *that use both the authority contained within this section and the authority contained in Section 66411.7.*” Therefore, ADUs and JADUs may only be prohibited on parcels resulting from a lot split that also have a duplex; otherwise, split lots must permit one of the two allowed dwelling units to be an ADU or JADU. The Town must amend the Municipal Code to provide for these allowances.

8. Section 10-1.1505(a) - *Number of SB 9 Units* – The Municipal Code states, “For parcels not created through an SB 9 Lot Split, the following unit types and count shall be permitted on one parcel... a primary dwelling and an SB 9 unit (or two SB 9 units)”. This suggests that the first unit put on a lot cannot be an SB 9 unit, it must be considered a “primary dwelling”. However, SB9 does not require that the first unit on a lot be a “primary dwelling” (as opposed to an SB9 unit), nor is such a lot required to have two units. The Town should amend the Municipal Code to clarify development options.
9. Section 10-1.505 (b), (g), (g)(2) – *Size and Height* – The Municipal Code states, “The maximum size and development area for one SB 9 unit shall be 900 square feet with a maximum height of 16 feet,” and later states, “...maximum height of an SB9 unit shall be 16 feet.” It provides, as an incentive for *additional* setbacks, “The maximum floor area (MFA) and maximum development area (MDA) permitted on the parcel shall be calculated in accordance with the requirements of the underlying zoning district per Sections 10-1.502 and 10-1.503.”

However, Government Code section 65852.21, subdivision (b)(3) states, “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...” Individual development standards applied to SB 9 units cannot be more restrictive than those applied to non-SB 9 units in the same zone, and the underlying zoning requirements may not be provided only as an incentive for additional restrictions. The Town must remove these sections.

10. Section 10-1.1505 (f) – *Objective Standards* – The Municipal Code states, “If an SB 9 Unit development project...damages in the course of construction, a heritage oak tree, the applicant shall be required to provide replacement trees...” Government Code section 65852.21, subdivision (b)(3) states, “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.” And SB 9 also states, “The terms “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. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances. There does not appear to be a standard by which “damage” is to be measured, rendering the standard subjective. The Town must amend the Municipal Code to provide an objective standard.

11. Section 10-1.1505 (h) and (i) – *Operable Doors* – The Municipal Code states, “All operable doors... shall be located at least ten (10) feet away from any property line. Operable doors shall not be located within ten (10) feet of the property line.” This has the effect of prohibiting doors on the side or rear of an SB 9 unit that is complying with SB 9 setbacks. This prohibition on doors on the sides or rear of dwellings does not appear to apply to the underlying zone. Government Code section 65852.21, subdivision (b)(3) prohibits, “design standards that do not apply uniformly to development within the underlying zone.” The Town must amend the Municipal Code to remove any standard that is not universal to or less restrictive than the underlying zoning.
12. Section 10-1.1505 (s) – *Deed Restriction* – The Municipal Code states, “In addition, a deed restriction in a form approved by the City Attorney's office shall be recorded stipulating that the duplex shall be maintained as two separate units.” However, Government Code section 65852.21, subdivision (b)(3) states, “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...” As underlying zoning standards do not require deed restrictions for this purpose, this requirement is inconsistent with State SB9 law. The Town must remove this requirement.
13. Section 9-1.1602 (f) – *Deed Restriction* – The Municipal Code requires, “A note on the parcel map and a recorded deed restriction in a form approved by the City Attorney's Office shall be applied to all newly created parcels indicating that the parcel was split using the provision of this article and that no further SB 9 Lot Split are permitted. The deed restriction shall also identify that the parcel shall be used for residential uses only and that it is subject to the requirements of Section 10-1.1505(a)(2) and Sections 10-1.502 and 503 of Article 15 of Chapter 1 of Title 10 of this code.” This requires, in a deed restriction, SB9 standards be applied to *all* development on a lot created by an SB9 lot split. However, Government Code 66411.7 may be used independently of 65852.21. The Town must amend the Municipal Code to remove the deed restriction.

Conclusion

ADU Governance

The Town has two options in response to this letter.¹ Town can either amend the Municipal Code to comply with State ADU Law² or adopt the Municipal Code without changes and include findings in its resolution adopting the Municipal Code that explain the reasons the Town believes that the Municipal Code complies with State ADU Law despite HCD's findings.³ If the Town fails to take either course of action and bring the Municipal Code into compliance with State ADU Law, HCD must notify the Town and

¹ Gov. Code, § 66326, subd. (c)(1).

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

³ Gov. Code, § 66326, subd. (b)(2)(B).

may notify the California Office of the Attorney General that the Town is in violation of State ADU Law.⁴ Please note, based on the Repeal Request sent December 5, 2025, HCD is aware

SB9 Governance

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.⁵

HCD appreciates the Town's efforts in the preparation and adoption of the Municipal Code and welcomes the opportunity to assist the Town in fully complying with State ADU Law. Please feel free to contact Mike Van Gorder at Mike.VanGorder@hcd.ca.gov if you have any questions.

Sincerely,



Jamie Candelaria
Section Chief, ADU Policy
Housing Accountability Unit

⁴ Gov. Code, § 66326, subd. (c)(1).

⁵ Gov. Code, § 65585, subd. (j).