DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
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August 28, 2026

Peter Gilli, Director
Community Development Department, Planning Division
567 El Camino Real
San Bruno, CA 94066

Dear Peter Gilli:

RE: Review of San Bruno's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66310–66342)

Thank you for submitting the City of San Bruno (City) ADU Ordinance No. 1958 (Ordinance), adopted January 28, 2025, to the California Department of Housing and Community Development (HCD). The Ordinance was received on November 14, 2025. HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Ordinance fails to comply with State ADU Laws in the manner noted below. Pursuant to Government Code section 66326, subdivision (b)(1), 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 September 27, 2026, with a plan to either amend the current ordinance or adopt a resolution with findings.[1] Responses should be submitted formally on agency letterhead.

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

1. Please note, recent legislation amended State ADU Law. Language relevant to these changes should be incorporated into the Ordinance as it is updated. The bills referenced below are relevant to State ADU Law:

    - Assembly Bill (AB) 130 (Chapter 22, Statutes of 2025)—Effective June 30, 2025
    - AB 462 (Chapter 491, Statutes of 2025)—Effective October 10, 2025
    - AB 1154 (Chapter 507, Statutes of 2025)—Effective January 1, 2026
    - Senate Bill (SB) 9 (Chapter 510, Statutes of 2025)—Effective January 1, 2026
    - SB 543 (Chapter 520, Statutes of 2025)—Effective January 1, 2026

[1] Gov. Code, § 66326, subd. (b)(2)(B).

2. Section 12.90.020. – *ADU Definition* – The Ordinance defines an ADU as, "an interior, attached or a detached residential dwelling unit located on a single lot with a proposed or existing single-family residence or existing multifamily residence which provides complete independent living facilities for one or more persons." However, State ADU Law defines an ADU as, "an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence."[2] In addition, State ADU Law provides for the creation of attached, detached, or converted ADUs on lots that are zoned to allow multifamily residential use and includes an existing or proposed dwelling.[3] The definition of an ADU and provisions in State ADU Law listed above explicitly allow ADUs to be developed on a lot with a proposed multifamily dwelling, but the Ordinance definition of an ADU precludes that as an option. Therefore, the City must amend the Ordinance so that ADUs created on a lot with a proposed multifamily dwelling are included in the Ordinance definition of an ADU.

3. Section 12.90.030. B. and C.2. – *Single Family Unit Combination* – The Ordinance says, "A junior accessory dwelling unit may be developed on the same lot as an accessory dwelling unit that meets the following standards: 1. A detached, new construction accessory dwelling unit not exceeding eight hundred square feet in size and sixteen feet in height, with at least four-foot side and rear setbacks; or 2. An accessory dwelling unit developed within: a. The space of a proposed or existing single-family dwelling unit, or b. A legally established existing accessory structure which may include an expansion of up to one hundred fifty square feet beyond the existing physical dimensions to accommodate ingress and egress only." The Ordinance also states, "One accessory dwelling unit is permitted per residential lot containing an existing or proposed single family residence." This does not fully and accurately state what is allowed by State ADU Law. Government Code section 66314 authorizes the creation of at least one detached, attached, or conversion ADU that is subject to the objective standards in a local ADU ordinance. The standards in Government Code section 66314 are limited to regulating the physical characteristics of the unit and applicable review procedures. Nothing in Government Code section 66314 permits a local jurisdiction to prohibit an ADU authorized under that section from being constructed in combination with the ADUs permitted under Government Code section 66323. Government Code section 66323, subdivision (a)(1) provides for the creation of one junior accessory dwelling unit (JADU) and one conversion ADU created within the space of an existing or proposed single-family dwelling, or in the case of an ADU, within the existing space of an accessory structure. In addition, Government Code section 66323, subdivision (a)(2) provides for the creation of one new construction detached ADU that meets the height requirements specified in Government Code section 66321, subdivision (b).

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[2] Gov. Code, § 66313, subd. (a).
[3] Gov. Code, §§ 66314, subds. (d)(2), (d)(3); 66323, subds. (a)(3), (a)(4).

SB 543 (Chapter 520, Statutes of 2025) amended State ADU Law, effective January 1, 2026, to expressly confirm the ability to combine the ADUs described in Government Code section 66323, subdivision (a)(1) and (2). Therefore, the City must amend the Ordinance to allow, on a lot with an existing or proposed single-family dwelling, all of the ADU and JADU combinations permitted under Government Code section 66323 and at least one unit as described in section 66314 and update the height limitation applied to detached ADUs on single-family lots.

4. Section 12.90.030. C.1. – *Multifamily Unit Combination* – The Ordinance states, "the following may be permitted on a lot with an existing multifamily residential structure:" one ADU created from the portions of the multifamily structure that are not used as livable space, up to twenty-five percent of the number of existing dwelling units in the multifamily structure, "*or* [emphasis added] b. Multiple accessory dwelling units, as set forth in subparagraphs i or ii…provided that the height of the detached accessory dwelling unit does not exceed sixteen feet… i. On a lot with an existing multifamily dwelling, not more than eight detached accessory dwelling units shall be allowed… not [to] exceed the number of existing units on the lot; or ii. On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units shall be allowed." Existing multifamily primaries may have "at least one accessory dwelling unit…and up to 25 percent of the existing multifamily dwelling units" created in existing non-livable space per Government Code section 66323, subdivision (a)(3) and up to eight detached ADUs (not to exceed the number of existing units on the lot) per section 66323, subdivision (a)(4). Proposed multifamily primary dwellings may have up to two detached ADUs per section 66323, subdivision (a)(4)(iii). Section 66323 units must also be combined, in any order, with at least one unit created subject to local development standards per section 66314. In addition, the aforementioned detached ADUs must have rear yard and side setbacks of no more than four feet and comply with the height requirements of Government Code section 66321, subdivision (b).[4] Government Code section 66321, subdivision (b) allows a detached ADU on a lot with an existing or proposed multifamily dwelling to have a height greater than 16 feet if located within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor or the existing or proposed multifamily dwelling is a multistory dwelling. Therefore, the City must amend the Ordinance to allow the unit combinations required by State ADU Law as described above and update the height limitation applied to detached ADUs on multifamily lots to be compliant with State ADU Law.

[4] Gov. Code, § 66323, subd. (a)(4)(A)(i).

5. Section 12.90.040. – *ADU Application Denial Comments* – The Ordinance states, "Incomplete applications will be returned with an explanation of what additional information is required." However, Government Code section 66317, subdivision (a)(2)(A) states, "A permitting agency shall determine whether an application to create or serve an accessory dwelling unit is complete and provide written notice of this determination to the applicant not later than 15 business days after the permitting agency received the application," as specified. In addition, Government Code section 66317, subdivision (a)(3) states, "The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot," as specified. The City must amend the Ordinance to include the application review timeline established in State ADU Law.

6. Section 12.90.050. – *Private Sewage Systems Development Standards* – The Ordinance is silent on ADUs with private sewage systems. However, Government Code section 66314, subdivision (d) provides a list of ADU requirements that shall be included in an ADU Ordinance, and one requirement in that list is the "Approval by the local health officer where a private sewage disposal system is being used, if required."[5] Therefore, the City must amend the Ordinance to include this requirement.

7. Section 12.90.050. B. – *Fire Sprinklers* – The Ordinance states, "Junior accessory dwelling units and accessory dwelling units shall comply with all applicable building and fire code requirements, except fire sprinklers shall not be required in a junior accessory dwelling unit or accessory dwelling unit if they are not required for the primary residence." However, Government Code section 66314, subdivision (d)(12) also establishes that, "The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling." While ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence, and the construction of an ADU may not trigger the requirement for fire sprinklers to be installed in the existing primary dwelling, Government Code section 66314, subdivision (d)(8) requires ADUs to follow local building code requirements, including defers to local building code requirements for other fire and life safety standards. Government Code section 66314, subdivision (d)(12) and section 66323, subdivision (d) do not prohibit local agencies from requiring other fire mitigation or life safety standards as applicable to non-sprinklered buildings to ADUs constructed without fire sprinklers. Therefore, the City must amend the Ordinance so that the creation of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

[5] Gov. Code, § 66314, subd. (d)(9).

8. Section 12.90.050. D.2. – *JADU Size Requirements* – The Ordinance states, "A junior accessory dwelling unit shall be no larger than five hundred *square feet* in size…" However, Government Code section 66313, subdivision (d) defines a JADU as, "a unit that is no more than 500 *square feet of interior livable space.*" [emphasis added] Therefore, the City must amend the Ordinance to provide that JADU size shall be calculated by measuring the square footage of interior livable space.

9. Section 12.90.050. E.4.a. – *ADU Size* – The Ordinance states, "The floor area of an attached or detached accessory dwelling unit on a lot with a proposed or existing single-family dwelling shall not exceed eight hundred fifty *square feet* for a studio or one bedroom and shall not exceed one thousand *square feet* for a unit that contains more than one bedroom for lots less than seven thousand five hundred square feet. For lots greater than or equal to seven thousand five hundred square feet, the floor area of an attached or detached accessory dwelling unit shall not exceed one thousand two hundred square feet for a unit that contains more than one bedroom." [emphasis added] However, Government Code section 66321, subdivision (b)(2) been amended to state that the Ordinance shall not establish, "A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following: (A) Eight hundred fifty *square feet of interior livable space*. (B) One thousand *square feet of interior livable space* for an accessory dwelling unit that provides more than one bedroom." [emphasis added] Therefore, the City must amend the Ordinance to provide that ADU size shall be calculated by measuring the square footage of interior livable space.

10. Section 12.90.050. E.5. – *Clarity* – The Ordinance states, "Notwithstanding the above, no design standards shall be required accessory dwelling units that meet the requirements of Government Code Section 66323(a) Sections 1 through 4." This appears to be a typo and it should likely say "…no design standards shall be required ***for*** accessory dwelling units that meet the requirements of Government Code Section 66323(a) Sections 1 through 4." The City must amend the Ordinance to avoid confusion regarding the requirement.

11. Section 12.90.050. E.6. – *Balconies and Openings* – The Ordinance states, "windows within five feet of the property line shall utilize one of the following techniques to lessen the privacy impacts onto adjacent properties: obscured glazing, window placement above five feet, six inches (eye level), window orientation toward the existing on-site residence, or screening treatments." However, Government Code section 66323, subdivision (b) states, "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)." Therefore, the City must amend the Ordinance to establish that ADUs developed

pursuant to Government Code section 66323 are exempt from the window requirements established in Section 12.90.050.E.6.

12. Section 12.90.050. E.9.c. – *Parking* – The Ordinance states, "On-site parking is not required for an accessory dwelling unit in any of the following instances," and provides a list of ADU types that are exempt from parking requirements. The list is missing one instance that is required by State ADU Law. Government Code section 66322, subdivision (a)(6) states that parking shall not be required, "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 City must amend the Ordinance to include this provision.

13. Section 12.90.050. E.9.d. – *Replacement Parking* – The Ordinance states, "Replacement parking is not required when a garage, carport, or covered parking structure is demolished for the construction of an accessory dwelling unit or converted to an accessory dwelling unit." However, in addition to the instances listed, Government Code section 66314, subdivision (d)(11) also establishes that the Ordinance shall not require replacement parking when an uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU. In addition, Government Code section 66314, subdivision (e) stipulates that an ADU Ordinance must, "Require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the ADU and issued at the same time." The City must amend the Ordinance to include these requirements.

14. Section 12.90.060 – *Group R Occupancy* – Government Code section 66314, subdivision (d) provides a list of items that an ADUs must comply with and one requirement in that list is "the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this paragraph shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this article."[6] The Ordinance is silent on this provision. Therefore, the City must update the Ordinance to establish that the construction of an ADU does not constitute a Group R occupancy change under the local building code, unless the local agency makes a written finding based on substantial evidence in the record that the

[6] Gov. Code, § 66314, subd. (d)(8).

construction of the ADU could have a specific, adverse impact on public health and safety.

15. Section 12.90.060. B.2. – *JADU Code Reference* – The Ordinance establishes a size restriction for JADUs, "that conforms with Government Code Sections 66333 through 66339." However, JADU Law can be found in Government Code sections 66333 through ***66339.5***. The City must amend the Ordinance to reference the correct Code sections.

16. Section 12.90.080. A. – *Expansion of SFD for JADU* – The Ordinance states, "For an accessory dwelling unit or junior accessory dwelling unit within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and which may include an expansion of not more than one hundred fifty square feet beyond the same physical dimensions as added for ingress/egress and that otherwise complies with Government Code Section 66323(a)(1), a new or separate utility connection directly between the accessory dwelling unit and the utility is not required." As written, this provision of the Ordinance suggests that JADUs may be created in an accessory structure and may include an expansion of up to one hundred fifty square feet for ingress and egress. However, as defined in Government Code section 66313, subdivision (d), JADUs must be "contained entirely within a single-family residence." State ADU Law also specifies that enclosed uses within the residence, such as attached garages, are considered a part of the residence.[7] The City must amend the Ordinance to align its JADU provisions with the definition of a JADU in State ADU Law so that the Ordinance does not expand or modify the statutory definition of a JADU.

17. Section 12.90.080. C. – *Incorrect Code Reference* – The Ordinance states, "No impact fees, as defined in Government Code Section 66324(c), shall be imposed on any junior accessory dwelling unit or accessory dwelling unit." However, the provisions related to impact fees have been renumbered to Government Code section 66311.5. The City must amend the Ordinance to provide the correct Code reference.

The City has two options in response to this letter.[8] The City can either 1) amend the Ordinance to comply with State ADU Law[9] or 2) adopt the Ordinance without changes and include findings in its resolution accompanying the Ordinance that explain the reasons the City believes that the Ordinance complies with State ADU Law despite HCD's findings.[10] If the City fails to take either course of action, or if HCD finds that the newly adopted Ordinance remains out of compliance with State ADU Law despite the

[7] Gov. Code, § 66333, subd. (d).
[8] Gov. Code, § 66326, subd. (c)(1).
[9] Gov. Code, § 66326, subd. (b)(2)(A).
[10] Gov. Code, § 66326, subd. (b)(2)(B).

City's findings and explanations, HCD must notify the City and may notify the California Office of the Attorney General that the City is in violation of State ADU Law.[11]

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 feel free to contact Reshma Lal at Reshma.Lal@hcd.ca.gov if you have any questions or wish to discuss any of HCD's findings.

Sincerely,



Jamie Candelaria
Section Chief, ADU Policy
Housing Accountability Unit

[11] Gov. Code, § 66326, subd. (c)(1).