

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

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August 11, 2026

Joel Rojas, Development Services Director  
Development Services  
City of San Juan Capistrano  
30448 Rancho Viejo Road  
San Juan Capistrano, CA 92675

Dear Joel Rojas:

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

Thank you for submitting the City of San Juan Capistrano (City) ADU Ordinance No. 1127 (Ordinance), adopted April 1, 2025, 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). 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 10, 2026, with a plan to either amend the current ordinance or adopt a resolution with findings.<sup>1</sup> 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. Section 9-3.501.1 – “*Square Feet*” – The Ordinance provides for size maximums in terms of square footage. However, current State ADU Law requires size maximums to be in terms of “square feet of interior livable space” in many sections. The City must amend the Ordinance to provide for “square feet of interior livable space” where appropriate.
2. Section 9-3.501.1 (d)(3) – *Completeness* – The Ordinance provides approval processes that do not account for completeness determinations as required by Government Code sections 66317 and 66335. The City must amend the Ordinance to provide for all the procedural steps listed in sections 66317 and 66335.

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<sup>1</sup> Gov. Code, § 66326, subd. (b)(2)(B).

3. Section 9-3.501.1 (e)(6)(A) – *Owner Occupancy* – The Ordinance states, “ADUs created under this section on or after January 1, 2020, are not subject to an owner-occupancy requirement.” 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...” Therefore, the date of construction does not determine if owner-occupancy is required for ADUs. The City must remove this section.
4. Section 9-3.501.1 (e)(7)(D) & (e)(7)(E) – *Deed Restriction* – The Ordinance requires that deed restrictions for junior accessory dwelling units (JADUs) state, “The deed restriction may be removed if the owner eliminates the JADU, as evidenced by, for example, removal of the kitchen facilities...” and, “The deed restriction is enforceable by the Director of Development Services or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity...” However, Government Code section 66333, subdivision (c) requires that JADU deed restrictions contain only “(1) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers. [and] (2) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this article.” The additional items may be applied generally in an Ordinance, but must be removed from a required deed restriction to be consistent with State JADU Law.
5. Section 9-3.501.1 (f)(2)(B) – *Front Setbacks* – The Ordinance states, “If the front yard setback is the only location on the lot where an ADU may be lawfully constructed, then the ADU may encroach into the required front yard setback as necessary to enable the construction of an 800 square foot unit.” However, units created subject to Government Code section 66323 may not be precluded by local development standards such as front setback requirements. The City must add this exception to the Ordinance.

The City has two options in response to this letter.<sup>2</sup> The City can either 1) amend the Ordinance to comply with State ADU Law<sup>3</sup> 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.<sup>4</sup> 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

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<sup>2</sup> Gov. Code, § 66326, subd. (c)(1).

<sup>3</sup> Gov. Code, § 66326, subd. (b)(2)(A).

<sup>4</sup> 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.<sup>5</sup>

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 Mike Van Gorder at [Mike.VanGorder@hcd.ca.gov](mailto:Mike.VanGorder@hcd.ca.gov) if you have any questions or wish to discuss any of HCD's findings.

Sincerely,

A handwritten signature in cursive script that reads "Jamie Candelaria".

Jamie Candelaria  
Section Chief, ADU Policy  
Housing Accountability Unit

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<sup>5</sup> Gov. Code, § 66326, subd. (c)(1).