

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

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May 20, 2026

Libby Tyler, Community Development Director
Community Development
City of San Pablo
1000 Gateway Ave
San Pablo, CA 94806

Dear Libby Tyler:

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

Thank you for submitting the City of San Pablo (City) ADU Ordinance No. 2025-005 (Ordinance), adopted December 15, 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 June 19, 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. *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. The City must amend the Ordinance to refer to the correct Government Code sections.
2. Please note, there is recent legislation that 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 – Effective June 30, 2025
 - AB 462 – Effective October 10, 2025
 - AB 1154 – Effective January 1, 2026
 - Senate Bill (SB) 9 – Effective January 1, 2026
 - SB 543 – Effective January 1, 2026

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

3. Section 17.60.070 D.1., D.2.c. – *Unit Combinations* – The Ordinance states, “Up to one attached ADU, one detached ADU and one JADU may be allowed on a lot with an existing or proposed single-family dwelling.” It later states that “...the total number of ADUs for existing multifamily developments is three or more, including up to twenty-five percent of the number of existing multifamily units as internal conversions plus up to two detached ADUs on each multifamily lot.” This caps the number of developable units by the numbers and formats specifically described in Government Code section 66323.

However, this restricts units created subject to Government Code section 66314. Section 66317 states that a permitting agency “...shall either approve or deny the application to create or serve” an application subject to section 66314, which subdivision (d)(3) states may be “...either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling, including detached garages.” Since the statute mandates that a local agency “shall approve or deny” an application under section 66314, while also requiring that “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 units, or any combination of the following units” under section 66323, the City must amend its Ordinance to allow the full allotment and combination of both 66314 and 66323 for lots with both single-family and multifamily primary dwelling units.

4. Section 17.60.070 D.2. – *ADUs with Proposed Multifamily Primaries* – The Ordinance describes unit allowances for existing multifamily primary dwellings but omits reference to proposed multifamily primary dwellings. Government Code section 66323, subdivision (a)(4)(A)(iii) requires ministerial approval of, “On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units.” The City must amend the Ordinance to provide for two detached ADUs with a proposed multifamily primary dwelling.
5. Section 17.60.070 D.2. – *Detached ADU Allowance with Existing Multifamily Primaries* – The Ordinance allows “...up to two detached ADUs on each multifamily lot.” However, Government Code section 66323, subdivision (a)(4)(A)(ii) requires ministerial approval of, “On a lot with an existing multifamily dwelling, not more than eight detached accessory dwelling units. However, the number of accessory dwelling units allowable pursuant to this clause shall not exceed the number of existing units on the lot.” The City must amend the Ordinance to provide existing multifamily primaries up to eight detached ADUs, not to exceed the number of primary dwellings on the lot.
6. Section 17.60.070 I. – *Deed Restrictions* – The Ordinance requires a deed restriction for “an ADU or a JADU”. However, a deed restriction cannot be imposed on an ADU. 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.” Although deed restrictions are required for junior accessory dwelling units (JADUs), they are prohibited for ADUs. The City must amend the Ordinance to remove the deed restriction requirement for an ADU.

Updated Draft Ordinance Review

While the department was processing this letter, the City sent an updated draft ordinance and requested informal review. To maintain consistency with our processes, HCD has added these additional findings relevant to the updated draft ordinance. As some language is the same in both the current ordinance and the draft ordinance, this section addresses only findings from the draft ordinance.

1. Section 17.60.070 C. – *Application Procedures* – The Draft Ordinance omits reference to the requirements for both timing and completeness for applications as described in Government Code section 66317. The City should review this section of State ADU Law and must provide for all the requirements therein.
2. Section 17.60.070 D.1.c. – *Attached ADU with Single-Family* – The Draft Ordinance states, “Up to one ADU is permitted as an attachment to an existing or proposed single-family dwelling or an existing attached accessory structure, subject to the following requirements...” It then describes such a unit as being combinable with a JADU. This implies that such a unit, which would be consistent with Government Code section 66314, would be mutually exclusive with units created subject to section 66323. As described above, the City must provide for the ministerial combination of units created subject to sections 66323 and 66314.
3. Section 17.60.070 D.1.e. – *Detached ADU with Single-Family* – The Draft Ordinance states “Up to one detached new construction ADU on a lot with a proposed or existing single-family dwelling may be allowed subject to the following requirements...” However, a detached ADU may be created subject to either Government Code sections 66314 or 66323; as these may be combined, the limitation to one detached ADU per lot is inconsistent with State ADU Law. The City must provide for all state-mandated ADU combinations.

Section 17.60.070 D.1.e.v.(A) – *Size Maximum* – The Draft Ordinance allows a detached ADU to be “eight hundred square feet or less of interior livable space”. However, size maximums for detached units created subject to Government Code section 66314 may be no less than 850 square feet or 1,000 square feet for units with more than one bedroom per section 66321, subdivision (b)(2). The City must provide for these maximum sizes.

4. Section 17.60.070 F.2.a. – *Front Setbacks* – The Draft Ordinance states “An ADU must comply with all requirements relating to yards (front setbacks, side, and rear) and building height that are generally applicable to residential construction in the zone in which the property is located, except as otherwise provided in this section.” However, Government Code section 66321, subdivision (b)(3) prohibits “Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.”. Additionally, local design standards such as front setbacks may not preclude units created subject to Government Code section 66323. Therefore, the City must amend its Ordinance to remove any set back greater than four-foot side and rear yard, and where applicable, less than four feet, consistent with all ADU and JADU combinations authorized by Government Code section 66323 and note the exceptions for Front Setbacks.

The City has two options in response to this letter.² The City can either amend the Ordinance to comply with State ADU Law³ or 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.⁴ If the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, 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.⁵

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 if you have any questions.

Sincerely,



Jamie Candelaria
Section Chief, ADU Policy
Housing Policy Development Division

² Gov. Code, § 66326, subd. (c)(1).

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

⁴ Gov. Code, § 66326, subd. (b)(2)(B).

⁵ Gov. Code, § 66326, subd. (c)(1).