

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

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February 18, 2026

Erin Morris, Director
Advance Planning
City of Vacaville
650 Merchant St
Vacaville, CA 95688

Dear Erin Morris:

RE: Review of Vacaville's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66313 - 66342)

Thank you for submitting the City of Vacaville (City) ADU Ordinance No. 2001 (Ordinance), adopted January 14, 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 does not comply with State ADU Laws in the manner noted below. Under 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 March 16, 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 in the following respects:

1. 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).

2. Senate Bill (SB) 1211 (Chapter 296, § 3, Statutes of 2024) – As of January 1, 2025, the Legislature changed Government Code section 66323. Subdivision (a)(4)(A)(ii) and (iii), now allows for the following:
 - (ii) 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.
 - (iii) On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units.
3. *Assembly Bill (AB) 2533 (Chapter 834, Statutes of 2024)* - As of January 1, 2025, there are changes to Government Code section 66332. Subdivisions (a) and (b) were changed and subdivisions (d) – (f) were added. Changes include permitting previously unpermitted ADUs, adding the same protections for JADUs, and setting additional requirements for local agencies. The City should review these new requirements and adjust the Ordinance to comply with State ADU Law.
4. Section 14.09.270.040 B.1. – *Unit Allowance* – The Ordinance states, “One accessory dwelling unit is allowed in all areas zoned to allow single family or multifamily dwelling residential uses and where there is an existing or proposed dwelling on site, subject to the standards of this chapter. The accessory dwelling unit may be attached to, detached from, or located entirely within the living area of the existing primary single-family dwelling.”

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 units, or any combination of the following units: (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 an enumeration of by right ADU types permitted indicate that any of these ADU types can be combined on a lot zoned for single-family dwellings.

This permits a homeowner, who meets specified requirements, to create one converted ADU; one detached, new construction ADU; and one 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 setbacks pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for a JADU under this section.

Additionally, these allowances reflect only the units and formats described in Government Code section 66323, subdivision (a). Units created subject to Government Code section 66314 must also be reflected in the Ordinance to enable maximum unit allowances. Therefore, the City must amend the Ordinance to allow for all state-mandated unit combinations and allowances.

5. Section 14.09.270.040 B.2. – *JADUs on Multifamily Zones* – The Ordinance states, “Junior accessory dwellings are not permitted within multifamily dwelling structures or sites.” However, Government Code section 66333, subdivision (a), requires that local ADU ordinances “[l]imit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.” While junior accessory dwelling units (JADUs) may not be created with multifamily primary dwelling structures, the use of the word “sites” is vague and may cause conflict in the case that one or more single-family dwellings be situated on a lot zoned for multifamily residential development. A lot with one or more single-family dwellings may have one JADU *per lot*. The City must clarify this allowance.
6. Section 14.09.270.040 C.2. – *Alternative Discretionary Review* – The Ordinance states, “When a request for an accessory dwelling unit does not comply with the provisions of this section, the applicant may elect to use any of the following alternative discretionary review processes...” However, discretionary review procedures may only be required for a unit that exceeds State ADU Law. Government Code section 66316 requires local jurisdictions “...shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units...” The language as written provides the alternative review for units that do not comply with the Ordinance, whereas alternative review may only be required for units that do not comply with State ADU Law. The City must amend the Ordinance to clarify that only units beyond the scope of State ADU Law may be subject to the alternative discretionary review process.
7. Section 14.09.270.040 C.2.b. and D.10.d. – *Historical Preservation* – The Ordinance states, “If a proposed accessory dwelling unit is on any site that contains any resource listed in the California Register of Historic Resources or on any abutting site, the applicant shall have the application reviewed using the historic design review process described in Chapter 14.09.130 of this code, Historic Preservation (HP) Overlay District. The decision maker shall allow exterior alterations to the building or site provided the applicable historic review criteria are met.” It later states, “If the unit is created on a site adjacent to a historic property and would be visible from the historic property, the unit shall be located as far as possible from the property line of the historic property and still meet the standards of this chapter.”

However, Government Code section 66314, subdivision (b)(1) allows local jurisdictions to “Impose objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural

review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources.” This section allows *objective standards* to be applied to an ADU application involving a property listed on the State Historical Register, not additional discretionary *approvals processes*. Additionally, the application of such requirements on units based on “visibility” from a site with a historic property is not objective and is therefore inconsistent with State ADU Law.

Lastly, local development standards provided by Government Code sections 66314 – 66322 cannot preclude a unit created subject to section 66323. Therefore, the City must amend the Ordinance to use only objective approvals processes and standards and note the exemption for the units that must be ministerially approved subject to section 66323.

8. Section 14.09.270.040 D.3.a – *Minimum Living Area* – The Ordinance states, “The minimum living area of an accessory dwelling unit shall be 190 square feet.” However, Government Code section 66313, subdivision (a) defines “accessory dwelling unit” as also including an “efficiency unit”, which is defined in the Health and Safety Code section 19758.1 as having a minimum size of 150 square feet. The City must amend the Ordinance to allow this minimum size requirement.
9. Section 14.09.270.040 D.3.b.i and D.3.b.iv – *Maximum Living Area* – The Ordinance sets a maximum size of an ADU at “50 percent of the living area of the primary dwelling or 1,200 square feet, whichever is less.” However, local development standards provided by Government Code sections 66314 – 66322 cannot preclude a unit created subject to section 66323. The City must note the exceptions.
10. Section 14.09.270.040 D.3.d – *Size Compared to Primary* – The Ordinance states, “In all cases, the smaller dwelling unit shall be considered the accessory dwelling unit, and the larger unit shall be considered the primary dwelling unit.” 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 development standards provided by Government Code section 66314 cannot preclude a unit created subject to section 66323 – for example, a unit converted subject to section 66323, subdivisions (a)(1) or (a)(3) may be of any size. Therefore, the City must remove this section from the Ordinance.
11. Section 14.09.270.040 D.4 – *Front Setbacks* – The Ordinance makes numerous references to ADUs being subject to yard, setback and height standards otherwise applicable “...to an addition to the primary single-family dwelling” or to “accessory structures” or to “the primary single-family dwelling” and so on.

However, there is no reference to an exemption required by Government Code section 66321, subdivision (b)(3), which 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.” Therefore, the City must provide an exception clause which notes that underlying front setback requirements may not preclude a unit 800 square feet or smaller.

12. Section 14.09.270.040 D.4.c.ii – *Illegal Structures* – The Ordinance states, “Illegally constructed structures may not be converted to an accessory dwelling unit.” However, Government Code section 66322, subdivision (b) states, “The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.” Therefore, the legal status of an existing structure may not by itself disqualify ADU conversion. The City must amend the Ordinance accordingly.
13. Section 14.09.270.040 D.6 – *Architectural Requirements* – The Ordinance states, “The following architectural requirements shall be subject to new detached accessory dwelling units and new or expanded accessory dwelling units in building over 800 square feet...” before introducing several objective standards. However, local development standards provided by Government Code sections 66314 – 66322 cannot preclude a unit created subject to section 66323, some of which may be larger than 800 square feet. The City must note the exceptions.
14. Section 14.09.270.040 D.8 – *Sprinklers* – The Ordinance states, “Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary dwelling.” Government Code section 66314, subdivision (d)(12) contains a similar provision but goes further by clarifying that: “The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.”

To fully comply with state law, the City must amend its Ordinance to include this additional language from Government Code section 66314, subdivision (d)(12).

15. Section 14.09.270.040 F.3 – *Deed Restriction* – The Ordinance requires “...a deed restriction in the official records of Solano County....” 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.” A deed restriction is not described in 66314 and may therefore not be required. The City must remove this requirement.

The City has two options in response to this letter.² The City can either 1) amend the Ordinance to comply with State ADU Law³ 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.⁴ 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 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.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 VanGorder at Mike.vangorder@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

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).