

ORDINANCE 2026-###

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO REPEALING AND REPLACING THE SAN PABLO ZONING CODE CHAPTER 17.60, SPECIAL RESIDENTIAL USES, SECTION 17.60.070, ACCESSORY DWELLING UNITS, TO UPDATE DEVELOPMENT STANDARDS AND REGULATIONS IN ORDER TO REFLECT CURRENT STATE LAW AND PROMOTE THE DEVELOPMENT OF ACCESSORY DWELLING UNITS (ADUS).

The City Council of the City of San Pablo does ordain as follows:

Section 1. The City Council makes the following findings, pursuant to Section 17.22.040 of the San Pablo Municipal Code:

- A. This ordinance was initiated by the City of San Pablo staff as a means of amending the San Pablo Zoning Ordinance to update development standards and regulations in order to reflect current State law and promote development of Accessory Dwelling Units (ADUs), and has been recommended for approval by the Planning Commission of the City of San Pablo following a duly noticed public hearing on July 28th, 2026.
- B. A duly noticed public hearing of the City Council was scheduled on August 3, 2026 to consider this amendment to the Zoning Ordinance of the City of San Pablo, codified as Title 17 of the San Pablo Municipal Code.
- C. Pursuant to San Pablo Municipal Code section 17.22.040, the proposed ordinance is consistent with the goals, policies, and implementation programs of the General Plan 2035 and 2023-2031 Housing Element.

The proposed amendment would implement policies and programs of the 2023-31 Housing Element, helping to promote increased housing development across all levels of affordability and expand the range of housing options available in San Pablo, by further promoting the development of ADUs and JADUs. The proposed ordinance would promote further ADU and JADU development by clarifying regulations and increasing the allowed height and square footage of ADUs.

- D. Pursuant to Public Resources Code Section 21080.17, the proposed amendment is statutorily exempt from the California Environmental Quality Act (CEQA).

The proposed amendment is exempt from CEQA as Public Resources Code Section 21080.17 states that CEQA does not apply to the adoption of an ordinance by a city or county implementing the provisions of Section 65852.2 of the California Government Code (State Accessory Dwelling Unit Law).

- E. Public notice of the hearing has been published in the West County Times, in accordance with the requirements of Government Code Section 65905.

A public hearing notice was published in the West County Times newspaper on Tuesday, July 14, 2026.

Section 2. Chapter 17.60, Section 17.60.070 of the San Pablo Zoning Code is to be repealed and replaced in its entirety as follows:

§ 17.60.070. **Accessory Dwelling Units (ADUs).**

- A. **Purpose.** The purposes of this section are to authorize accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs); to establish a procedure for reviewing and approving their development to ensure and maintain healthy and safe residential living environments; to establish location and development standards for accessory dwelling units; to implement the general plan; and to comply with Government Code Sections 66310-66332, as may be amended from time to time, which require local agencies to consider applications for accessory dwelling unit and junior accessory dwelling unit permits ministerially without discretionary review or a public hearing, subject to the requirements of this section.
- B. **Effect of Compliance.** An ADU or JADU that complies with the standards in this section will not be:
1. Deemed to be inconsistent with the City's General Plan land use designation and zoning district for the lot on which the ADU or JADU is located.
 2. Deemed to exceed the allowable dwelling unit density for the lot on which the ADU or JADU is located.
 3. Required to correct a Nonconforming Zoning Condition, as defined in subsection (C)(9) below. Notwithstanding the foregoing, nothing herein prevents the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12.
- C. **Definitions.** As used in this section, terms are defined as follows:
1. **Accessory Dwelling Unit (ADU).** 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. An accessory dwelling unit also includes the following:
 - a. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - b. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
 2. **Accessory Structure.** A structure that is accessory and incidental to a dwelling located on the same lot.

3. **Complete Independent Living Facilities.** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated.
4. **Efficiency Kitchen.** A kitchen that includes each of the following:
 - a. A cooking facility with appliances.
 - b. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.
5. **Junior Accessory Dwelling Unit (JADU).** A residential unit that satisfies all of the following:
 - a. Is no more than 500 square feet of interior livable space in size;
 - b. Is contained entirely within an existing or proposed single-family dwelling structure. An enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;
 - c. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family dwelling structure;
 - d. Either contains a separate bathroom or contains an interior entrance to the main living area of the existing or proposed single-family structure in addition to an exterior entrance that is separate from the main entrance to the primary dwelling; and
 - e. Includes an efficiency kitchen, as defined subsection (C)(4) above.
6. **Livable Space.** A space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.
7. **Living Area.** The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
8. **Multi-Family Dwelling.** Any structure designed for human habitation that has been divided into two or more legally created independent living quarters.
9. **Nonconforming Zoning Condition.** A physical improvement on a property that does not conform with current zoning standards.
10. **Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
11. **Proposed Dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting.
12. **Single-family Dwelling.** Any structure designed for human habitation that has been legally created for a single independent living quarters.

D. **ADU Types.** ADUs and JADUs may be created as follows:

1. **ADUs and JADUs on Lots with Existing or Proposed Single-family Dwelling.**

- a. Interior Converted ADU/JADU. One ADU and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - i. Is either:
 - (1) Within the space of a proposed single-family dwelling;
 - (2) Within the existing space of an existing single-family dwelling; or
 - (3) Is an ADU within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - ii. Has exterior access that is independent of that for the single-family dwelling; and
 - iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes, and if a JADU, complies with the requirements of Government Code Sections 66333 through 66339.
- b. Standard Detached ADU on Lot with Single-family Dwelling. One detached, new- construction ADU on a lot with a proposed or existing single-family dwelling, if the detached ADU satisfies each of the following limitations:
 - i. The side and rear setbacks are at least four feet.
 - ii. The floor area is 800 square feet of interior livable space or smaller.
 - iii. The height does not exceed following limitations:
 - (1) A height of up to sixteen feet for a detached ADU on a lot with an existing or proposed single-family dwelling unit.
 - (2) A height of up to eighteen feet for a detached ADU on a lot with an existing or proposed single-family dwelling unit that is within one-half mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. Up to an additional two feet in height is permitted to accommodate a roof pitch on the ADU to allow for alignment with the roof pitch of the primary dwelling unit.
- c. Large ADU on Lot with Single Unit Dwelling. One attached, converted, or detached ADU on a lot with a proposed or existing single-family dwelling, if the ADU satisfies all of the following criteria:
 - i. The side and rear setbacks are at least four feet. Front setbacks are

consistent with the front setbacks of the zoning district of the parcel. Notwithstanding the foregoing, no setbacks are applicable for an ADU constructed in the same location and to the same dimensions as an existing structure.

- ii. The floor area does not exceed 1,200 square feet of interior livable space.
- iii. The height does not exceed 20 feet at the eave or 25 feet at the roof peak. For an attached ADU, the height shall not exceed 25 feet or the height limit of the zone, whichever is smaller.
- iv. The ADU is at least 6 feet from any other structure.

2. ADUs on Lots with Existing or Proposed Multi-Family Dwellings.

- a. **Converted ADU on Lot with Multi-Family Dwelling.** One or more ADUs within portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multi-family dwelling, up to a quantity equal to 25 percent of the existing multi-family dwelling units.
- b. **Detached ADU on Lot with Multi-Family Dwelling.** No more than two detached ADUs on a lot with a proposed multi-family dwelling, or up to eight detached ADUs on a lot with an existing multi-family dwelling, if each detached ADU satisfies all of the following criteria:
 - i. The side and rear setbacks are at least four feet. If the existing multi-family dwelling has a rear or side yard setback of less than four feet, the City will not require any modification to the multi-family dwelling as a condition of approving the ADU.
 - ii. The height does not exceed 20 feet at eave and 25 feet at roof peak.
 - iii. If the lot has an existing multi-family dwelling, the quantity of detached ADUs shall not exceed the number of primary dwelling units on the lot.
 - iv. Multiple detached ADUs on the same property are not required to be separated from one another.

E. ADU Approvals.

- 1. **Building Permit Required.** No ADU may be constructed without a building permit.

2. Process and Timing.

- a. **Completeness.**

- i. Determination in 15 Days. The City will determine whether an application to create or construct an ADU or JADU is complete and will provide written notice of the determination to the applicant within 15 business days after the City receives the application submittal.
 - ii. Incomplete Items. If the City's determination under subsection (E)(2)(a)(i) above is that the application is incomplete, the City's notice shall list the incomplete items and describe how the application can be made complete. After receiving a notice that the application is incomplete, the applicant may cure and address the items that were deemed by the City to be incomplete.
 - iii. Subsequent Submittals. If the applicant submits additional information to address incomplete items, within 15 business days of the subsequent submittal, the City will determine in writing whether the additional information is sufficient to make the application complete. The City shall not require the resubmitted application to include an item that was not included in the original notice.
 - iv. Deemed Complete. If the City does not make a timely determination as required by this subsection, the application or resubmitted application is deemed complete for the purposes of subsection (E)(2)(c) below.
 - v. Appeal of Incompleteness. A decision of incompleteness for an ADU or JADU may be appealed in accordance with the appeal procedures set forth in Municipal Code Section 17.16.080, Appeals. The Planning Commission shall review the written appeal and affirm or reverse the completeness determination and provide a final written determination to the applicant within 60 business days after receipt of the appeal. Notwithstanding Section 17.16.080, the Planning Commission's decision on an appeal shall be final.
- b. No Discretion or Hearing. Permits for an ADU or JADU are considered and approved ministerially, without discretionary review or a hearing.
 - c. Deadline to Approve or Deny Ministerial Approvals. The City shall approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a complete application. If the City has not approved or denied the complete application within 60 days, the application is deemed approved unless either:
 - i. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay; or
 - ii. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling or multi-

family dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family dwelling or multi-family dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

- d. Denial. If the City denies an application to create an ADU or JADU, the City shall provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments shall be provided to the applicant within the 60-day time period established by subsection (E)(2)(c) above.
- e. Appeal of Denial. A denial of an ADU or JADU may be appealed in accordance with the appeal procedures set forth in Municipal Code Section 17.16.080, Appeals. The Planning Commission shall review the written appeal and affirm or reverse the denial and provide a final written determination to the applicant within 60 business days after receipt of the appeal. Notwithstanding Section 17.16.080, the Planning Commission's decision on an appeal shall be final.
- f. Concurrent Review of Demolition Permits. Any required demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU building permit and issued at the same time as the building permit.

F. **General Requirements.** The following requirements apply to all ADUs and JADUs:

1. **Zoning.**

- a. An ADU may be created on a lot in a residential or mixed-use zone.
- b. An ADU may be created on a lot that is zoned to allow single-family dwelling residential use or multi-family dwelling residential use.
- c. In accordance with Government Code Section 66333(a), a JADU may only be created on a lot zoned for single-family residences.

2. **Fire Sprinklers.** Fire sprinklers are required in an ADU or JADU if sprinklers are required in the primary residence. The construction of an ADU or JADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

3. **Rental Term.** No ADU or JADU may be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

4. **Owner-Occupancy.**

- a. ADUs. ADUs are not subject to an owner-occupancy requirement.
- b. JADUs.
 - i. Generally. As required by State law, JADUs are generally subject to

an owner-occupancy requirement under State law. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence.

ii. Exceptions. The owner-occupancy requirement in this subsection (E)(7)(b) does not apply in either of the following situations:

(1) The JADU has separate sanitation facilities (i.e., does not share sanitation facilities with the existing primary dwelling unit structure).

(2) The property is entirely owned by another governmental agency, land trust, or housing organization.

5. **Deed Restriction.** For all JADUs, a deed restriction shall be recorded against the title of the property in the Contra Costa County Recorder's office and a copy filed with the Director. The deed restriction shall run with the land and bind all future owners. The form of the deed restriction will be provided by the City, and shall include the following restrictions:

a. The JADU may not be sold separately from the primary dwelling.

b. The JADU is restricted to the approved size and to other attributes allowed by this section.

c. The deed restriction runs with the land and may be enforced against future property owners.

d. The deed restriction is enforceable by the Director or their 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, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

6. **Building and Safety.** All ADUs and JADUs shall comply with Title 15 of the San Pablo Municipal Code. Construction of an ADU does not constitute a Group R occupancy change under Title 15, as described in Section 310 of the California Building Code, unless the City Building Official makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection prevents the City from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

7. **Parking.**

a. Parking spaces are not required for ADUs.

b. **No Replacement Parking Required.** When a garage, carport, covered

parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

8. **Decks.** A deck may be allowed as part of an ADU/JADU provided such deck meets the requirements set forth in Section 17.42.040.

- G. **Utilities.** Converted ADUs and JADUs on a single-family dwelling lot, created under subsection (D)(1)(a) above, are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Notwithstanding the foregoing, a direct utility connection is required for separate conveyance of an ADU when separate conveyance is allowed under this Section.

H. **Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.**

1. **Generally.** The City shall not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

2. **Unpermitted ADUs and JADUs Constructed Before 2020.**

- a. **Permit to Legalize.** As required by State law, the City shall not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:
 - i. The ADU or JADU violates applicable building standards, or
 - ii. The ADU or JADU does not comply with the State ADU or JADU law or this Section 17.60.070.
- b. **Exceptions:**
 - i. Notwithstanding subsection (H)(2)(a) above, the City may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the City makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code Section 17920.3.
 - ii. Subsection (H)(2)(a) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.

I. **Provisions for Separate Sale.**

1. A JADU may not be sold or otherwise conveyed separately from the parcel and the primary dwelling (in the case of a single-family dwelling) or from the parcel and all of the dwellings (in the case of a multiple-unit dwelling).

2. An ADU may be sold or conveyed separately from the primary residence to a qualified buyer either as a Condominium, pursuant to Section K.2 below, or as tenancy in common.
3. Tenancy in Common for ADUs is allowed if the property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
 - a. The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.
 - b. A repurchase option that requires the qualified buyer to first offer the tenant in common to buy the property if the buyer desires to sell or convey the property.
 - c. A requirement that the qualified buyer occupies the property as the buyer's principal residence.
 - d. A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county. A preliminary change of ownership report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
 - e. Notwithstanding subsection (J)(3)(d) of this section, if requested by a utility providing service to the primary residence, the ADU has a separate water, sewer, or electrical connection to that utility.

J. Accessory Dwelling Unit Condominiums.

1. Purpose. The purpose of this Section is to establish standards, requirements, and procedures to allow separate sale or conveyance of a primary unit and an ADU or ADUs as condominiums pursuant to the regulations set forth in Government Code Section 66342, added by State Assembly Bill 1033 (AB 1033).
2. Separate Sale or Conveyance of ADUs as Condominiums. An ADU or ADUs shall be separately sold or conveyed as condominiums only under the conditions outlined in this Section.
3. ADU Condominium Requirements. All condominium projects subject to this Section shall be subject to the following requirements:
 - a. All condominium projects subject to this Section shall comply with all applicable provisions of the San Pablo Municipal Code.
 - b. The condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).
 - c. The condominiums shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2

(commencing with Section 66410)) and all objective requirements of Chapter 16.02.060, 16.04, and 16.10 9.54, Subdivisions. As provided in Section 16.02.060, projects that will result in four or fewer parcels require a tentative map and final parcel map or waiver of parcel map and are not subject to a final subdivision map and Planning Commission review.

- d. All condominium projects subject to this Section shall comply with the requirements of the California Government Code and Chapter 15.44, Condominium Conversion.
- e. Before recordation of the condominium plan, a safety inspection of the ADU shall be conducted as evidenced either through a certificate of occupancy from the local agency or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.
- f. Lienholder's consent required. Lienholder's consent shall be required as follows:
 - i. Neither a subdivision map nor a condominium plan shall be recorded with the county recorder in the county where the real property is located without each lienholder's consent. The following shall apply to the consent of a lienholder:
 - 1. A lienholder may refuse to give consent.
 - 2. A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.
- g. Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows: *"(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have."*
- h. The lienholder's consent shall be included on the condominium plan or a separate form attached to the condominium plan that includes the following information:
 - i. The lienholder's signature.
 - ii. The name of the record owner or ground lessee.
 - iii. The legal description of the real property.
 - iv. The identities of all parties with an interest in the real property as reflected in the real property records.

- v. The lienholder's consent shall be recorded in the office of the county recorder of the county in which the real property is located.
- i. The City shall include the following notice to consumers on any ADU or JADU unit submittal checklist or public information issued describing requirements and permitting for ADUs, including in any ADU building permit or condominium plan approval:

“NOTICE: If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any. In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

- A. Paying off your current lender.*
You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.
- B. Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.*
- C. Securing your lender's consent to the details of any construction loan or ground lease.*
This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct.”

- j. If an ADU is established as a condominium, the property owner shall notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.
- k. Existing Association Consent Required. Consent from existing

associations shall be required as follows:

- i. The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.
- ii. For purposes of this subdivision, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.

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First read at a regular meeting of the City Council of the City of San Pablo on August 3, 2026, and finally passed and adopted at a second meeting of the City Council held on September 8, 2026, by the following votes:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

Dorothy Gantt, City Clerk

Elizabeth Pabon-Alvarado, Mayor