## Gautho, Julia

**From:** Sophie Haugen <sophie@calhdf.org>
**Sent:** Thursday, September 10, 2026 4:09 PM
**To:** City Clerk
**Cc:** Goldstein, Jamie; Planning; Herlihy, Katie; mtran@bwslaw.com
**Subject:** Public Comment re item 9D for tonight's City Council Meeting
**Attachments:** Capitola - ADU Ordinance - 9_10_2026.pdf

Dear City of Capitola,

The California Housing Defense Fund (CalHDF) submits the attached public comment re item 9D for tonight's city council meeting, the proposed amendments to the ADU ordinance.

Sincerely,

Sophie Haugen
California Housing Defense Fund
Sophie@calhdf.org
CalHDF is grant & donation funded
Donate today - https://calhdf.org/donate/;

Sep 10, 2026

City of Capitola
420 Capitola Ave
Capitola, CA 95010

By Email: cityclerk@cityofcapitola.gov;

CC: jgoldstein@cityofcapitola.gov; planning@cityofcapitola.gov; kherlihy@cityofcapitola.gov; mtran@bwslaw.com;

**Re: Proposed Amendment to the City's Accessory Dwelling Unit Ordinance**

Dear City of Capitola,

The California Housing Defense Fund (CalHDF) submits this letter as a public comment concerning item 9D for the Council meeting of September 10th, 2026, a proposed amendment to the City's code sections governing the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

We appreciate that the City is updating its ordinance to keep pace with changes in state law. However, the proposed ordinance does not comply with state ADU law for the reasons discussed in this letter. The City must amend the proposed ordinance in order to address these issues.

## Background

The law gives local governments authority to enact zoning ordinances that implement a variety of development standards on ADUs. (Gov. Code, § 66314.) The standards in these local ordinances are limited by state law so as not to overly restrict ADU development. (See *id.)* Separately from local ADU ordinances, Government Code section 66323 establishes a narrower set of ADU types that local governments have a ministerial duty to approve. "Notwithstanding Sections 66314 to 66322 ... a local agency shall ministerially approve" these types of ADUs. (*Id.* at subd. (a).) This means that ADUs that satisfy the minimal requirements of section 66323 must be approved regardless of any contrary provisions of the local ADU ordinance. (*Ibid.*) Local governments may not impose their own standards on such ADUs. (Gov. Code, § 66323, subd. (b) ["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)."].)

In addition, ADUs that qualify for the protections of Government Code section 66323, like other ADUs, must be processed by local governments within 60 days of a complete permit application submittal. (Gov. Code, § 66317, subd. (a).)

State law also prohibits creating regulations on ADU development not explicitly allowed by state law. 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."

## Impermissible Discretionary Process

Code section 17.74.030(B), 17.74.070, and 17.74.100 all require Planning Commission approval of a design permit while 17.74.070(B) explicitly excludes "accessory dwelling units approved pursuant to Section 17.74.050." However, state law does not allow any such process for any ADU type.

Government Code section 66316:

> "An existing accessory dwelling unit ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes ..."

Government code section 66317, subdivision (a):

> " A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing ..."

If the City wishes to create a path for approval of certain ADUs that are taller or larger than a given threshold, then it should write objective criteria into its code and allow ministerial approval by City staff.

While the City may think that is helping applicants by providing a more flexible, discretionary path, on the contrary it is vastly more helpful to establish clear rules and objective criteria that are approved ministerially, rather than let an applicant embark on a longer, more challenging and expensive discretionary path.

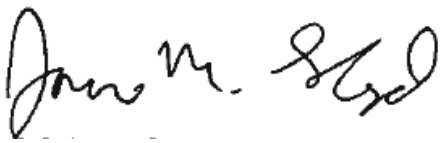
We applaud the City for updating its ADU as state law changes. However, the City must amend its ADU ordinance to address the above issues.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations