YIMBY LAW

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Delay by Design: How San Mateo's ADU Process Undermines State Law

An analysis of the City of San Mateo's ADU policies and permit process.

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Executive Summary

Accessory Dwelling Units (ADUs) are a central component of California's strategy to increase housing supply. To streamline their development, state law requires local jurisdictions to approve or deny complete ADU applications within 60 days. However, some localities take advantage of the lack of clarity around completeness determinations and subsequent resubmittals, resulting in applicants–particularly in the City of San Mateo–to experience significant delays in receiving ADU approvals.

Data from the California Department of Housing and Community Development shows that San Mateo's average approval process is nearly twice as long as intended by state law, slowing construction and limiting the effectiveness of ADUs as a housing solution. These delays are driven in part by conflicts between San Mateo's ADU ordinance and California state law, including rules related to setbacks, unit size, design standards, parking requirements, and development impact fees. These inconsistencies create confusion for applicants and increase the likelihood of incomplete applications and extended review cycles.

The greater issue, however, is that local staff frequently use the full 60-day review window to issue extensive comment letters identifying deficiencies, which force applicants to revise and resubmit materials and restart the review timeline. As a result, even straightforward ADU projects can take six months or more to receive approval.

While San Mateo has begun updating its ADU ordinance to better align with state law, meaningful reform requires both regulatory changes and improved administrative practices. Aligning local regulations with state requirements and streamlining the review process would reduce delays, lower costs for homeowners, and enable ADUs to more effectively contribute to San Mateo's housing supply.

Introduction

California has made Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) a major part of its housing strategy. Since 2016, state ADU laws have evolved to reduce barriers to development of more affordable housing. According to a study by the California Department of Finance, ADUs made up 20% of new home construction in 2023. State law aims to streamline the process of entitling and permitting ADUs through a 60-day review process (Cal. Gov. Code § 63317(a)(3)) in order to prevent localities from unreasonably restricting the ability to create ADUs and JADUs. While jurisdictions are not explicitly violating the law, they continue to circumvent the intent of the law and delay ADU projects by abusing the 60-day approval review period.

The City of San Mateo is one of these jurisdictions. While the City does not necessarily *fail* to meet the 60-day statutory requirement for ADU application review, the City does utilize the ambiguity surrounding completeness determinations and resubmittals in order to delay permitting timelines and, thus, delay construction of new homes. This delay is characterized by local zoning regulations clashing with state law, leading to confusion among applicants, which in turn result in defective or deficient applications as well as the locality maintaining significant local control over ADU approvals, empowering staff and third-party reviewers to repeatedly return applications with numerous comments and prolonging the approval timeline. As a result, the City must update its local zoning ordinance to be consistent with requirements under state law as well as properly use ministerial review to prevent delays during the entitlement and permitting process.

Streamlining ADU Approval

The California legislature has enacted and continues to enact new laws to improve the state's ADU and JADU laws, with the purpose of clarifying and easing the approval process. Section 63317(a)(3) of California Government Code imposes a timeline where a permitting agency "shall either approve or deny the application to create or serve an accessory dwelling unit **within 60 days** from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot."

Applications that are neither denied or approved within those 60 days are deemed automatically approved.

When an application for an ADU is denied, the permitting agency shall "return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant." If there is a subsequent application, the 60-day period is reset. This resetting of the clock is not explicitly mentioned in the law, but by HCD in its January 2025 ADU Handbook.

Until recently, state law was silent on application-incompleteness determinations, subsequent resubmittals, and appealing local decisions on ADU applications. Under the Permit Streamlining Act, a local permitting agency has 30 calendar days after receiving an application for a development project to determine whether application is complete. If the application is determined to be incomplete, the agency "shall provide the applicant with an exhaustive list of items that were not complete." When the application is resubmitted, a new 30-day review period begins, during which the permitting agency determines application completion. However, some localities instead use the 60-day period under § 66317(a)(3) as the completeness determination period, resulting in applications being returned after 60-days with written comments on deficiencies.

By establishing timelines for completeness determinations and project approval, the California legislature clearly meant to prevent localities from prolonging the ADU approval process. Localities like San Mateo continue to work against this intent, delaying ADU approvals through unnecessary requests for information and disincentivizing developers and homeowners from building more housing in the city.

Methodology

The Housing Element Implementation and APR Data Dashboard maintained by the California Department of Housing and Community Development (HCD) is the most reliable source for identifying which jurisdictions are slowest to approve Accessory Dwelling Unit (ADU) projects. The dashboard compiles data from local governments' Annual Progress Reports and produces a Housing Development Timeline measuring the average number of days used for three stages of development: **Submitted to Entitled**, **Entitled to Permitted**, and **Permitted to Completed**.[1]

For this analysis, we filtered the dataset by City (San Mateo) and Structure Type (Accessory Dwelling Units) and examined Average Days by Jurisdiction.

This report focuses on the **Submitted to Entitled** and the **Entitled to Permitted** stage, where applicants most often encounter delays. Entitlement is typically more complex than permitting and frequently involves interpretation by local staff, which can lead to inconsistent application of the law and uncertainty for applicants. A project is considered entitled when a local agency approves the development of a structure for a specific use, based on its intended use, consistency with zoning and local plans, and the design of the proposed structure. Determining whether a project conforms to these requirements can be contentious and subjective, even where objective standards are required. Because standards and interpretations vary widely across jurisdictions, the path to entitlement can be unpredictable.

In contrast, the permitting stage is generally more technical and straightforward, focusing on compliance with health, safety, and building code requirements. However, ministerial review processes, such as in the City of San Mateo, can result in significant delays in the permitting stage. Applicants can face issues with City staff asking for unnecessary clarifications and details on projects that have met necessary development standards and moved directly to the building permit phase.

These figures do not capture every barrier to ADU development. In some cases, jurisdictions obstruct projects by refusing to process applications or delaying review long enough to make projects financially infeasible. Such practices may not appear in HCD's

[1] On the HCD Housing Element Implementation and APR Dashboard, "completed" refers to a constructed building that has received a certificate of occupancy.

data because the project never reaches the entitlement stage. Nevertheless, the data still shows whether localities, in particular San Mateo, are failing to meet statutory timelines, demonstrating that even projects that ultimately receive approval face significant delays.

Findings

The City of San Mateo often fails to consider ADU permits within 60 days.

Table 1: Average Length of Time from Submitted to Entitled and Entitled to Permitted

Process	San Mateo	Statewide	San Mateo v. State	San Mateo v State Law
Submitted to Entitled	172.86	102.94	69.92 days *slower* (50.7%)	112.86 days *slower* (96.93%)
Entitled to Permitted	215.38	175.70	39.68 days *slower* (20.3%)	155.38 days *slower* (112.85%)

The data shows that the City of San Mateo egregiously misses the mark on approving ADUs in 60 days. In fact, the City averages nearly twice as long as intended by state law to entitle ADUs, greatly inhibiting the ability for developers and homeowners to build more housing.

State Requirements v. San Mateo Requirements

On October 18, 2024, HCD issued a letter regarding its "Review of San Mateo's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law." In its letter, HCD found that the City's ADU Ordinance failed to comply with State ADU Law on nearly every front, from 'front setback' requirements to the definition of an ADU to development impact fees. When a local policy conflicts so greatly with state law, it inevitably leads to confusion in the application process, thus paving the way for deficient applications.

Table 2: Comparing San Mateo's Local ADU Ordinance and State ADU Law

	San Mateo	State Law
Front Setbacks	Does not permit ADUs within a required front setback.	City may not impose any zoning clearance based on front setbacks that would prohibit at least an 800 sq ft ADU with 4ft side and rear yard setbacks.
Maximum Unit Size	Imposes floor area size maximums for both attached and detached ADU development greater than 800 square feet based on underlying zoning district.	City must allow, at minimum, a maximum size of 850 square feet for ADUs with 1-bedroom or less, or 1,000 sq feet for ADUs with two or more bedrooms.
Maximum ADU Height	Allows maximum heights of 24 and 16 feet to the top plateline and 32 and 24 feet to roof peak as measured from existing grade.	Building height must be measured as the vertical distance from grade plane to the average height of the highest roof surface. ADUs converted from accessory structures may not be subject to height requirements.
Setbacks and Unpermitted Structures	Does not require setbacks for an existing legally permitted garage or accessory structure that is converted to an ADU constructed in the same location and to the same dimensions as the existing structure.	City cannot require setbacks for accessory structures that are converted to a portion of an existing ADU. ADUs of less than 800 sq ft in size may not be subject to any front

		setback requirements if no other lot location can hold the ADU.
Parking Exemptions	Includes five conditions where no additional off-street parking is required for an ADU.	City must also waive all parking standards, not just additional off-street parking standards, in these cases. City also cannot impose parking standards when an application for an ADU is submitted with an application to create a new single-family or multifamily dwelling on the same lot.
Design Standards	Includes various architectural and design standards that are subjective: ex. “similar exterior materials” and windows that “maximize privacy.”	All standards on ADUs must be objective standards that are uniformly verifiable.
Development Impact Fees	Imposes impact fees set forth by City Council.	Regardless of local decisions on fee amount, local agencies cannot impose any impact fee on the development of ADUs 750 sq ft in size or less. Any impact fee charges for an ADU of 750 sq ft or more should be charged proportionately in relation to the square footage of the primary dwelling unit.

Development Impact Fees (II)	States that "All other zoning requirements shall be complied with unless an authorized variance is approved."	Locality can impose standards on ADUs through underlying zoning districts, but all approvals for ADU zoning requirements must be ministerial in nature.

These conflicts with the state ADU law require an update of the local ADU ordinance that aligns with statutory requirements and definitions and reduces confusion among applicants and local agencies.

Misuse of the 60-day Timeline

State ADU law requires a permitting agency to "either approve or deny the application to create or serve an accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot." Within those 60 days, if the permitting agency denies an application, it shall, "return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant." However, prior to 2025, state ADU law did not clarify what timeline applied to completeness determinations and subsequent resubmittals. In the City of San Mateo, ADU applications that meet all development standards go directly to the building permit process, with the first cycle supposedly being approximately 20 business days and subsequent cycles approximately 10 business days. The lack of clarity regarding state timelines has allowed localities like San Mateo to abuse the 60-day requirement and delay the entitlement process far past the 60-day timeline.

Along with HCD data, we obtained testimony from various ADU applicants in the City of San Mateo and found that staff would request particularly detailed information that should have no bearing on the approval process. For one local homeowner and resident, the ADU approval process took 6 months for an ADU that meets the state's ministerial criteria. By all intents and purposes, there was nothing about the ADU design that should have warranted any issues, yet local staff returned the application several times with multiple comments.

The property owner said, "They're not necessarily doing anything illegal by law, but they're dragging this process out by including incredibly detailed questions during every review round that no one else asks for in any other city. Questions that would make both my architect and general contractor say, 'Why do they want to know this right now? This is something relevant to the project in 6 months.'" These detailed questions prevent a quick response time because they require expert consultation and plan adjustments that delay the project and increase its cost.

The law allows localities to send back applications that are *defective* or *deficient*–such as applications with missing construction plans–not applications that are missing minute details that are irrelevant to the approval process. Ryan O'Connell, founder of How To ADU, states that "if the comments or corrections are not based on objective standards or building code, they may be unenforceable." However, since applicants do not often want to push back against the City in fear of being delayed even further, this back and forth becomes part of the process, regardless of whether the City is requesting necessary information or making reasonable comments.

To make matters worse, multiple homeowners claim that local staff would not return their ADU applications until the end of the state required 60-day period, setting off numerous chains of delay and resulting in even the simplest ADU approval taking 6 months rather than 60 days. One homeowner, currently in the process of designing an ADU, said, "It's clear that San Mateo staff understand the law. They have 60 days to respond to our application, so on the 59th day, we got a 15-page letter that outlined a bunch of questions. It took us 4 months to respond to that letter!" This misuse of the 60-day period is allowing local staff to drag out the ADU approval timeline and all the while, applicants are accruing likely unnecessary costs.

Sometimes these unnecessary costs come by the way of local staff requiring expertise that may not be required in other jurisdictions. Said the homeowner, "Another thing that slowed down everything is that, if you're disturbing more than 500 square feet (which is likely, since most ADUs are more than 500 square feet) you have to provide a landscape plan, which requires you to hire a landscape architect. This adds at least a month to the process, and thousands in added costs."

So long as the local staff feel empowered to exploit the 60-day period, there will continue to be delays in the ADU approval process. Further delays to entitlement will inevitably result in delays in construction, rendering ADUs an inefficient and futile strategy for tackling the housing shortage.

Policy Recommendations

The City boasts a proud record of issuing around 380 ADU permits (supposedly more than any other jurisdiction in San Mateo County), but with the clear evidence of delays, it is clear that the City is likely still falling short of its potential for ADU development. The City's blatant disregard for the purpose of streamlining ADU approval requires both a policy and practice change.

Update San Mateo's Zoning Ordinance

To reduce inefficiencies and improve the ADU approval process, the City of San Mateo needs, first and foremost, to update its zoning ordinance to align with state law. Fortunately, the City began this process on January 26, 2026, introducing an updated ADU ordinance to comply with state law and "respond to local experiences" since the last update to the ADU ordinance in 2022. The most significant changes involve parking requirements, height limits, and appeals process.

Currently, a minimum of one standard-sized off-street parking space for each ADU is required, with exemptions to providing off-street parking applied in accordance with state law. The updated ordinance will eliminate all required off-street parking for ADUs citywide. Heights limits will be updated from the current standard of 16 feet to top wall plate and 24 feet to roof peak to the new standard of 18 feet to top wall plate and 24 feet to roof peak, all measured from the existing grade. These updates will provide greater flexibility in ADU development and reduce costs and planning adjustments.

In addition, the City is updating one of its ADU review processes: Accessory Dwelling Unit Discretionary Review (ADUDR), which is an approval process for any ADU that does not meet the development standards of the ADU ordinance. The updated process will allow

ADU applications to be appealed to the City Manager or designee (such as a hearing officer). These changes are meant to reflect the City's response not only to HCD but also local concerns about the ADU approval process. While they are a great start to improving and streamlining the review process, there is still the issue of the misuse of the 60-day timeline.

Enforce SB 543 and Prohibit Abuse of the Shot Clock

Existing law has long required local agencies to approve or deny an ADU application within 60 days of receiving a complete application, but as noted above, the law did not specify a timeline for completeness determinations, subsequent resubmittals, or local appeals on ADU applications. In 2025, SB 543 was passed to address local governments incorrectly applying state ADU and JADU laws. Under this law, "a permitting agency shall determine whether an application to create or serve an accessory dwelling unit is complete and provide written notice of this determination to the applicant not later than 15 business days after the permitting agency received the application." If the permitting agency determines an application to be incomplete, it must "provide the applicant with a list of incomplete items and a description of how the application can be made complete. The list and description shall be provided with the written notice [required within 15 days]," and resubmitted applications must be reviewed for completeness within 15 business days.

The routine of staff taking nearly the entire 60 days allotted by state law to review an application only to turn it around with comments or issues that can take months to respond to and may even require the hiring of extra expertise, is unsustainable. This practice disincentivizes developers and homeowners from building in the community and hinders the ability to provide housing in a cost-effective manner without the need for additional land or major infrastructure upgrades. A change in statute *and* practice is required in order for the ADU review process to work as the state legislature intended. Therefore, while SB 543 attempts to reduce delays by limiting completeness determination periods to 15 days, localities like San Mateo should act in accordance with the *intent* of the law, which is to streamline ADU approvals, rather than using it as a tool for perpetuating delays.

Conclusion

State law requires a streamlined, 60-day ADU review process in order to reduce delays in ADU permitting and construction. However, localities instead use this 60-day timeline as a tool for *extending* the permitting process, waiting until the end of the review period to issue comments and information requests and restarting the clock when the application is resubmitted. As a result, the City of San Mateo takes nearly twice the expected time to approve ADUs. Compounding this problem, San Mateo's ADU ordinance contains multiple provisions that conflict with state ADU law, including restrictions related to setbacks, unit size, design standards, and impact fees. When local regulations diverge from state requirements, the application process can be confusing and unpredictable for applicants. This environment increases the likelihood of deficient applications and provides additional opportunities for prolonged review cycles.

Applicant testimony demonstrates how the City's review practices can exacerbate these delays. By using the full 60-day review window to issue lengthy comment letters or requests for additional documentation, staff effectively restart the review process multiple times. While technically permitted under state law, this practice undermines the legislative intent behind the 60-day timeline and results in approval processes that can stretch for months, even for relatively simple ADU projects.

ADUs are crucial for expanding housing supply. Although San Mateo is updating its ordinance and state legislature has provided some clarity and boundaries surrounding completeness determinations (SB 543), meaningful reform requires changes to administrative practice, clearer standards, and improved communication. Aligning local policies with state law and committing to a truly streamlined process would significantly increase ADU development, reducing costs for homeowners and helping San Mateo meet California's housing goals.