

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: AMY NICHOLSON, SENIOR PLANNER
PLANNING AND ECONOMIC DEVELOPMENT
SUBJECT: ACCESSORY DWELLING UNIT URGENCY ORDINANCE

AGENDA ACTION: ADOPT AN URGENCY ORDINANCE

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council, by motion, adopt an urgency ordinance amending City Code Sections 18-12.015, 20-30.040, 20-32.050, 20-42.130 and 20-70.020 to allow Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with State law and in support of the City's Housing Action Plan, while preserving the visual character of the City.

EXECUTIVE SUMMARY

In 2019, five bills governing Accessory Dwelling Units (ADUs) were signed by the Governor of California. These State bills (Statues) limit local control of ADUs and create further opportunities for the development of Junior ADUs (JADUs), necessitating revisions to the City of Santa Rosa Zoning Code for consistency.

Housing remains a Tier One Council priority. The non-State mandated modifications in the proposed Ordinance reduce obstacles to ADU and JADU construction and include protections for the City's hillside areas and neighborhoods, including Preservation Districts. Staff has combined these revisions into a single Zoning Code text amendment for approval by the City Council.

BACKGROUND

California Planning and Zoning Law authorizes the City of Santa Rosa to provide for the creation of ADUs and JADUs in single-family and multi-family residential zones. In 2019, five bills (AB 61, AB 881, SB 13, AB 670, and AB 587) regarding ADUs and JADUs were signed by the Governor. Due to the January 1, 2020, effective date of these Statues, the City of Santa Rosa's existing ADU and JADU regulations are considered void. This is because the City's local regulations are inconsistent with recent State law. As a result, projects that comply with the State's standards have

ACCESSORY DWELLING UNIT URGENCY ORDINANCE
PAGE 2 OF 7

automatically been approved. No local protections or allowances can be implemented until the Council adopts an Ordinance, consistent with State law.

In 2016, the Council adopted the Housing Action Plan, to help spur the construction of housing units within the City. One of the programmatic goals of the Housing Action Plan is to achieve “affordability by design”, that is to promote construction of compact, economically designed dwelling units that cost less to build and are smaller in footprint, and, as a result, are more affordably priced. Another Housing Action Plan goal is to remove barriers to construction of ADUs.

In an effort to support the construction of housing within the City and implement the Housing Action Plan, the proposed ordinance includes a number of local to incentivize ADUs and JADUs, through limiting both regulation and potential costs associated with public improvements and plan submittals.

PRIOR CITY COUNCIL REVIEW

No changes related to these recent State bills have been reviewed by the Council.

ANALYSIS

State Amendments

The following is a summary of the Statues which mandate changes to the City’s Zoning Code. Additional measures are included in the State bills that are not included in this text amendment because the City’s now voided ADU ordinance was previously in compliance.

Assembly Bill 881 (AB 881), amended the California Planning and Land Use law to limit the type and specifications of development standards affecting the production of Accessory Dwelling Units; as follows:

1. Prohibits agencies from requiring an owner-occupancy deed restriction.
2. Prohibits requiring a setback that exceeds four feet for side or rear for 16-foot tall ADUs.
3. Prohibits requiring a maximum lot coverage if it would preclude an 800 square foot ADU.
4. Requires ADUs on any residentially zoned property with an existing or proposed single-family residence, or an existing multifamily residence.
5. Requires that at least one accessory dwelling unit be permitted within an existing multifamily dwelling and that up to 25 percent of the existing multifamily dwelling units be permitted.
6. Limits detached, 16-foot ADUs to a maximum of two, per multifamily property.
7. Reduces the maximum ADU application review time from 120 days to 60 days.
8. Specifies “public transit” to include various means of transportation that charge set fees, run on fixed routes and are available to the public.

ACCESSORY DWELLING UNIT URGENCY ORDINANCE
PAGE 3 OF 7

9. Clarifies that no parking is required if ADU is within one-half “*walking*” mile from public transit.
10. Prohibits replacement parking for an existing residential dwelling when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU.

AB 881 further precludes a jurisdiction from prohibiting an ADU based on minimum lot size and requires that impact fees are based on the size of the ADU, with ADUs up to 750 square feet being exempt. In addition, local agencies are required to permit a minimum 850 square foot studio or one-bedroom unit, and 1,000 square foot two-bedroom unit. No changes for consistency with State law were required to the City’s Zoning Ordinance based on above-mentioned regulations.

Assembly Bill 68 (AB 68), amended California Planning and Land Use law to lessen regulations affecting Junior Accessory Dwelling Units; as follows:

1. Allows a permitted JADU to be constructed within the walls of a proposed or existing single-family residence.
2. Eliminates the required inclusion of an interior entry into the single-family residence.
3. Requires owner occupancy deed restriction.

Senate Bill 13 (SB 13), amended California Planning and Land Use law to reduce regulations affecting the enforcement of unpermitted Accessory Dwelling Units; as follows:

1. Allows five years to correct an ADU violation, if the violation is not a health and safety issue, as determined by a local agency’s enforcement agency.

SB 13 does not require any changes the City’s Zoning Code but will affect general practices for the Code Enforcement Division.

While not proposed for codification with this Zoning Code text amendment, Assembly Bill 670 voids covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use.

Local Amendments

While the proposed Zoning Code text amendment includes necessary measures to comply with the State law, it also includes a number of voluntary provisions. These include modifications to incentivize the construction of ADUs and JADUs, provide clarity, and to protect the visual quality of the City. These amendments are summarized as follows:

Limitations in Hillside Areas

The City's Zoning Code currently requires that development on slopes exceeding 10 percent comply with 15-foot side and rear setbacks, regardless of the primary zoning district. The City's previous ADU ordinance required that ADUs constructed within qualifying areas follow the more restrictive 15-foot setbacks.

Now, regardless of local provisions, State law prohibits jurisdictions from requiring a setback of more than four feet for a side or rear yard for ADUs less than 800 square feet in area and 16 feet in height. The draft Ordinance includes this new requirement with restrictions in hillside areas. Specifically, an ADU exceeding 800 square feet in area, or 16-feet in height, must comply with 15-foot side and 15-foot rear hillside development setbacks.

Outside of hillside areas, the proposed ordinance is written to allow ADUs up to 16-feet tall and 1,200 square feet, with four-foot side and rear setbacks.

Compatibility in Preservation Districts

The City has eight designated Preservation Districts, which are defined as areas having historical significance or representing one or more architectural periods or styles typical to the history of the City. State law requires ADUs to be processed in a ministerial manner, and as such, a Landmark Alteration Permit cannot be required for new ADUs. To ensure compatibility between proposed ADUs and existing residential dwellings, for the draft Ordinance includes ministerial standards which require architectural compatibility. This determination is made through demonstration of consistent color, siding material and pattern, *and* architectural features between the primary residence and ADU.

Compatibility in Neighborhoods Outside of Preservation Districts

The proposed ordinance addresses requirements for architectural compatibility outside of the City's Preservation Districts. This compatibility can be achieved through more flexible means, including demonstration of consistent color, siding material or pattern, *or* architectural features between an existing or proposed primary residence and ADU.

Accessory Structures Attached to ADUs

Accessory structures, including but not limited to garages, covered patios, and storage areas, are commonly proposed in conjunction with ADUs. In order to streamline the development review process and encourage ADUs over accessory structures the draft Ordinance includes standards for accessory structures attached to ADUs that are less than 50 percent of the ADU size.

Public Improvements for ADUs

The cost and regulatory uncertainty have been identified as potential obstacles toward ADU development. The draft Ordinance includes an exception for public improvements installations associated with ADUs. Specifically, the proposed Ordinance would include an exception for the following: 1) internal conversion of any existing residential square footage to an ADU or JADU, 2) attached or detached accessory dwelling units that have existing non-compliant frontage improvements that match the design of the surrounding properties and meet the street design standards in place at the time of installation, and 3) attached or detached ADUs that do not have permanent public improvements located at the property's street frontage or at one of the adjacent property boundaries.

Setbacks from Planned Roads and Right-of-Way Dedication

To provide clarity for design professionals and homeowners, two amendments are proposed regarding setbacks and right-of-way dedications. Specifically, that right-of-way dedication is required when indicated in the General Plan or any Specific Plan, as stated in Chapter 18 of the City Code. The draft Ordinance includes a clarifying modification stating setbacks are required from *planned* roads, shown in the circulation element of the General Plan, the City Street Design and Construction Standards, City street lists or specifically addressed in a resolution adopted by the City Council.

Fire Protection Measure Clarity

State ADU regulations provide some relief for fire sprinkler requirements compared to other new structure requirements. In consultation with City Fire Department staff, language within the draft Ordinance has been reviewed and amended to ensure requirements are clear and consistent with State and local law. This includes the requirement for fire sprinklers for any ADU attached to another structure when the overall area exceeds 1,200 square feet.

Reduced Requirements for JADUs

Prior to January 1, 2020, JADUs were required to include an interior connection to the primary dwelling unit. State law now gives local jurisdictions the choice to require an internal connection. Based on this new flexibility, the proposed ordinance eliminates the requirement to provide an interior connection as an incentive for homeowners to create JADUs. In addition, the proposed ordinance clarifies that the City will allow JADUs to be located within the walls of an attached single-family garage.

Reduced Application Submittal Requirements

After several years of ADU plan checks under the previous ordinance, City staff members evaluated the required materials for ADU applications. It was determined that cross sections, photographs, and color and materials boards are unnecessary for

review, and that the removal of these requirements would reduce the costs and time associated with ADU applications.

URGENCY ORDINANCE

An urgency ordinance allows for an ordinance to go into effect immediately following the first reading. This type of ordinance is allowed in specified circumstances, outlined in the Santa Rosa Charter and California law.

Staff is bringing this item as an urgency ordinance for the following reasons:

1. In October 2019, the Governor of California signed Senate Bill 13, Assembly Bill 68, Assembly Bill 881, Assembly Bill 670 and Assembly Bill 587 (Statutes) which relate to the creation of new ADUs and were intended to address California's ongoing housing affordability crisis by reducing local regulatory barriers to constructing new ADUs.
2. Due to the late review and adoption of these Statutes in the State legislative cycle during the November, 2019 power shutoffs and Kincaid fire federally declared disaster, and the suspension of regular business during this time period, there was insufficient time to draft and adopt the necessary local amendments prior to the effective date of the state legislation of January 1, 2020.
3. On January 1, 2020, State bills regulating ADUs became effective and voided the City of Santa Rosa's existing local ADU regulations.
4. The Statutes are written without regard to local development and design standards, topographical considerations, hazard mitigation, and without clarity on fire protection requirements.
5. The City's previously adopted and proposed local Accessory Dwelling Unit regulations are written to protect steep and prominent hillsides which define the City's visual character.
6. The City's previous and proposed local Accessory Dwelling Unit regulations are written to ensure compatibility between proposed Accessory Dwelling Units and the existing or proposed primary residence in Historic Preservation Districts, and throughout neighborhoods, generally, and without local protections would diminish neighborhood character.
7. The proposed urgency ordinance incorporates new language to comply with State law, and locally tailored provisions to preserve and protect the character of the City's hillsides, Preservation Districts, and neighborhoods, and provides clarity on fire protection, and would allow for these protections and clarifications to become effective immediately following adoption.
8. Sections 36934 and 36937 of the California Government Code and Section 8 of the Santa Rosa City Charter allows the City to adopt an urgency ordinance if it is for the immediate preservation of the public peace, health or safety.

FISCAL IMPACT

Approval of this action does not have a direct known fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

The proposed ordinance amendments are not subject to the provisions of the California Environmental Quality Act (CEQA). The ordinance and amendments are exempt from CEQA under statutory exemption 15282(h) to allow implementing regulations for accessory dwelling units consistent with Government Code Section 65852.2.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Redline Changes to City Code
- Attachment 2 – Assembly Bill 68
- Attachment 3 – Assembly Bill 881
- Attachment 4 – Senate Bill 13
- Ordinance

CONTACT

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