

CITY OF SANTA ROSA  
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
STAFF REPORT FOR PLANNING COMMISSION  
**June 22, 2017**

**PROJECT TITLE**

**FILE NUMBER**

Accessory Dwelling Unit Zoning Code  
Text Amendment

REZ17-006

**ADDRESS/LOCATION**

**FURTHER ACTIONS REQUIRED**

Citywide

Approval by City Council

**PROJECT PLANNER**

**RECOMMENDATION**

Eric Gage

Recommend Approval to City Council

Agenda Item # \_\_\_\_\_  
For Planning Commission Meeting of: June 22, 2017

CITY OF SANTA ROSA  
PLANNING COMMISSION

TO: CHAIR CISCO AND MEMBERS OF THE COMMISSION  
FROM: ERIC GAGE, CITY PLANNER  
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
SUBJECT: ACCESSORY DWELLING UNIT ZONING CODE TEXT  
AMENDMENT

AGENDA ACTION: RESOLUTION

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RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Planning Commission, by resolution, recommend to City Council approval of an ordinance amending Zoning Code Sections 20-22.030, 20-36.040, 20-42.130, and 20-70.020 to allow for Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with State law and in support of the City's Housing Action Plan.

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EXECUTIVE SUMMARY

Recent revisions to the California Code of Regulations reduce the requirements for new Accessory Dwelling Units (ADUs), and create opportunities for the development of Junior ADUs, necessitating revisions to local government codes for consistency. In addition, City Council has provided direction in the Housing Action Plan to reduce obstacles to ADU construction. Staff has combined these revisions into a single Zoning Code text amendment for recommendation to the City Council.

BACKGROUND

The State of California requires cities and counties to adopt a Housing Element as part of their General Plan and identify existing and projected housing needs. Through the State-mandated Regional Housing Needs Assessment (RHNA) process, jurisdictions identify the number of housing units needed to accommodate anticipated population growth.

In order to meet the RHNA housing goals, the City Council's priority-setting process set broad goals for fiscal years 2015 through 2017 including development of a comprehensive housing strategy. These efforts culminated in the creation of the

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Housing Action Plan accepted by City Council in Fall of 2016 ([srcity.org/housingactionplan](http://srcity.org/housingactionplan)). The objectives of the Plan include construction of 2,500 new affordable housing units and a total of 5,000 housing units by 2023, consistent with the RHNA housing unit allotments for the RHNA planning cycle from 2014 to 2022.

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. One of the strategies in the Housing Action Plan to achieve the goal is to remove barriers to construction of ADUs. The Plan strategies include reconsidering the parking requirements and the owner occupancy deed restriction requirement, which requires the owner of a property with an accessory unit to live on the property in one of the two units.

On September 27, 2016, Governor Brown signed bills AB 2299 and SB 1069 into law, reducing the requirements for establishing ADUs, and superseding local ordinances that were not consistent with the new state law when it went into effect on January 1, 2017. A separate bill, Assembly Bill 2406, also created a new optional sub-category of Accessory Dwelling Unit referred to as the Junior Accessory Dwelling Unit (JADU).

To address the interim period when the current Zoning Code regulations are superseded by the State, City staff have provided written guidance outlining the State regulations and made them available on the City website ([srcity.org/adu](http://srcity.org/adu)). The State JADU bill is optional, however, and would not become effective until the City Council were to approve it by ordinance. The proposed revised ADU ordinance is outlined in the Analysis section of this report.

## ANALYSIS

The proposed revisions to the Santa Rosa Zoning Code include modifications for consistency with State law, including the optional JADU. These consist of waivers of parking, setback and fee requirements in specific cases. Also proposed are modifications as directed by the City Council in the Housing Action Plan, including removing the owner occupancy deed restriction requirement, square footage and bedroom restrictions, and other minor edits and clarifications.

The following includes a summary of the proposed amendments, which are described in more detail in the Zoning Code Amendments section of this report:

- Parking requirements for ADUs will be waived if the ADU is an internal conversion of an existing structure, or within a half-mile of a bus stop, or in a historic preservation district.
- With some exceptions, setback requirements for ADUs will be waived if the ADU is an internal conversion of an existing structure or built over an existing garage.

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- The requirement for an owner occupancy deed restriction for ADUs would be removed.
- A minimum 30-day rental period will be placed on all ADUs.
- Utility fee and connection requirements for ADUs will be waived if the ADU is an internal conversion of an existing structure.
- The maximum square footage of an ADU will be increased to 1,200 square feet, and the limitation of only one bedroom will be removed.
- The requirement for a permanent foundation will also be removed.
- Standards will be provided for the development of ADUs in hillside areas and historic preservation districts.
- Addition of a category for Junior Accessory Dwelling Units (JADUs).

### 1. General Plan

The proposed Zoning Code amendments implement several goals and policies of the General Plan, including the following:

LUL-F-3 Maintain a balance of various housing types in each neighborhood and ensure that new development does not result in undue concentration of a single housing type in any one neighborhood. Downtown is excepted.

UD-F Maintain and enhance the diverse character of Santa Rosa's neighborhoods. Promote the creation of neighborhoods – not subdivisions – in areas of new development.

UD-G Design residential neighborhoods to be safe, human-scaled, and livable by addressing compact development, multi-modal connectivity and reducing energy use.

H-A-1 Ensure adequate sites are available for development of a variety of housing types for all income levels, throughout the City, such as single- and multifamily units, mobile homes, transitional housing, and homeless shelters.

H-B-8 Review and document the performance of affordable housing programs annually. Report the number of affordable units developed from various funding sources, the number and income levels of households assisted through various programs, and the number of existing homes sold at affordable prices.

H-C-7 Promote the development of second units. Discuss this option with residential developers during initial development application meetings.

H-F-6 Ensure that regulations contained in the Santa Rosa Zoning Code provide development standards, parking requirements, and use allowances which facilitate the development of housing for all income groups.

The proposed amendments implement these goals and policies by facilitating development of a wider range of housing products, including attached and detached units typically smaller than, and renting for less than, a single-family residence. These units are appropriately scaled to existing neighborhoods and may be located on any single-family residential lot that has the space to accommodate them. There would likely be impacts to parking and additional noise to homeowners. In conducting this analysis, staff needed to balance impacts to homeowners against providing long-term housing opportunities to the local workforce.

## 2. Zoning Code Amendments

The proposed Zoning Code revisions appear in Sections 20-36.040, Number of Parking Spaces Required, 20-42.130, Residential Accessory Dwelling Units (formerly named Residential Second Dwelling Units), and 20-70.020, Definitions of Specialized Terms. The discussion below provides details of the proposed amendments to each section:

### a. Parking

The Housing Action Plan included City Council's direction to re-evaluate the parking requirement for ADUs. The State legislation has established reductions to the parking requirement based on ADU location, type of ADU and the unit's proximity to transit.

The Planning and Economic Development Department (Department) is recommending that the required parking for a new ADU remain at one additional on-site parking space, unless otherwise exempt.

Based on the State regulations, the parking requirement would be waived if the ADU is located within one-half mile of a public transit stop, within a historic preservation district, or within one block of a car share vehicle. No additional parking would be required for internal conversions of existing structures that do not extend the walls of the existing structure, including JADUs. However, it should be noted that, parking eliminated by a garage conversion must be replaced.

b. Setbacks

Currently, new detached or attached ADUs are generally subject to development standards and setbacks required for the primary residence, as specified in the Zoning Code. This requirement remains unchanged by the new State law. However, the Department is recommending the following exceptions to the standard setback requirement:

- A new detached single-story accessory dwelling unit would be subject to the accessory structure setbacks, which are generally as follows:

Front: 20 feet

Side Interior: 5 feet

Side Corner Lot: 15 to 20 feet (depending on the zone)

Rear: 5 feet

- A new detached two-story accessory dwelling unit would be subject to the primary structure setbacks, which are generally as follows:

Front: 15 to 20 feet (depending on the zone)

Side Interior: 5 feet to 10 feet (depending on the zone)

Side Corner Lot: 15 to 20 feet (depending on the zone)

Rear: 15 feet to 20 feet (depending on the zone)

- A new detached two-story accessory dwelling unit located in a residential small lot subdivision would be required to comply with the setback requirements of Section 20-42.140, which are identified below:

Front: 10 feet

Side Interior: 4 feet for single-story portions and 8 feet for two story

Rear: 15 feet

- An accessory dwelling unit that is fully contained within the existing space of a single-family residence or accessory structure and has independent exterior access from the existing residence shall provide side and rear setbacks sufficient for fire safety, as determined by the Santa Rosa Fire Department.

c. Unit Size and Bedroom Standards

The City's Zoning Code currently allows an ADU up to 700 square feet in size with a maximum of one bedroom. However, State law allows an ADU up to 1,200 square feet and does not restrict the number of bedrooms.

The Department is recommending adoption of the 1,200-square-foot maximum for new detached ADUs. For an attached ADU, the proposal is to allow up to 100% of the existing residential square-footage or 1,200 square-feet, whichever is less. Also proposed is deletion of the City requirement that ADUs be limited to one bedroom. Junior Accessory Dwelling Units, however, are limited by the State law to a maximum area of 500 square-feet and one bedroom. The Department has incorporated these requirements for Junior ADUs into the proposed zoning amendments.

One of the concepts included in the Housing Action Plan is “affordability by design”; the idea that units of a smaller size would generally rent at a relatively lower market rates and therefore be affordable to lower income households. A recent review of rental listings in the Santa Rosa area clearly demonstrate a trend that rents rise with an increase in square footage and number of bedrooms. Based on limited rental advertisement data, the size of units meeting the State criteria for moderate income is approximately 750 square-feet. Hence, ADU’s based on this limited size are routinely counted towards meeting the City’s RHNA (Regional Housing Needs Assessment) objectives for moderate income households.

Removing the bedroom and square footage standards is expected to facilitate the construction of more ADUs, however there is interest in keeping an affordable by design component to the ADU program. ADUs that exceed 750 square-feet, with more than one bedroom, are anticipated to rent at above moderate income rates, limiting anticipated affordability by design benefits. Thus, the Department is exploring an alternative fee structure that seeks to incentivize the construction of small ADUs, while still allowing for the market flexibility of constructing larger units. This concept is discussed further in the Issues section of this report.

d. Deed Restrictions

The City’s Zoning Code section on ADUs currently includes a requirement for the property owner to live in one of the two units, which is explicitly allowed by State law. The requirement must be documented by recording a restriction on the deed of the property.

The Housing Action Plan included City Council direction to eliminate the deed restriction requirement as an incentive to unit production, which is included in the proposed revisions. Although standard ADUs will not be required to record a deed restriction, Junior Accessory Dwelling Units are required by the State regulation to be owner occupancy deed restricted.

Any deed restrictions on existing ADUs will no longer be enforced by the City Code Enforcement Division, and a process to remove existing deed

restrictions at owner request will be established. Applicants would complete a Release of Deed Restriction, which would be reviewed by the City Attorney's Office and signed by the Director of Planning and Development. Then the document would be recorded on the title of the property by the applicant.

The original intent of the owner occupancy deed restriction requirement was to have owners on the property to address neighbor concerns and complaints regarding tenants. Some homeowners have expressed concern that the absence of a homeowner at the property could result in nuisance impacts to neighbors. Neighbors would still have the ability to contact City Code Enforcement or Police Department to address nuisance at a property with no homeowner on site. As noted above, in approving the Housing Action Plan the City Council gave specific direction to remove this requirement, resulting in the staff recommendation.

e. Minimum Rental Period

There is currently no minimum rental period for an ADU. The State legislation gives the City discretion to require the tenant rental period for an ADU to be a minimum of 30 days. The intent of this constraint is to make more rental housing available to full-time residents and minimize the number of dwelling units that are used for short-term tourist rentals. Eliminating the owner occupancy deed restriction and applying a minimum rental period to the ADU avoids a scenario where both units are used as tourist rentals, further reducing available housing for residents.

A review of short-term rental websites, such as Airbnb, identified over 100 units available for rent by travelers in the general Santa Rosa area. These units represent potential housing for long term residents, and suggest that new ADUs may be utilized for short-term vacation rentals. Therefore, inclusion of this State restriction in the City Zoning Code would likely help keep new accessory dwelling units available for full-time residents. Enforcement will initially be based on the investigation of complaints.

f. Utility Fees

Prior to the new State regulation, applicants for new ADUs were required to pay water and sewer connection fees. Under the new regulation, a new utility connection, meter, and associated water and sewer connection fees will still be required for new detached or attached ADUs that establish new square footage. However, ADUs created by internal conversion of a residence, or of an accessory structure will not be required to install new separate water or sewer utility connections, and no connection fees will be required. A second meter is not required but encouraged.

g. Permanent Foundation

The City Zoning Code currently includes a requirement for an accessory dwelling unit to have a permanent foundation. The Department proposes to delete this requirement to provide additional flexibility in foundation types governed by the California Building Code and the City's building permit process.

h. Discretionary Permits

The California Government Code prohibits local governments from requiring a discretionary review process (such as Design Review, Hillside Development or Landmark Alteration) to establish an accessory dwelling; however, a City can apply objective review standards. As such, additional development standards are proposed to address considerations in hillside areas and historic preservation districts, as outlined below:

- Standards for Hillside Areas

In areas with a slope of 10% or greater, the proposed ADU shall observe rear and side setbacks of 15 feet.

- Standards for Historic Preservation Districts

In preservation districts an applicant must reasonably demonstrate the consistency of the proposed design of the ADU with that of the time period of the residence's construction.

In addition, for properties that are identified as a contributor to the district, through the preparation of a report by an architectural historian, an applicant would be required to reasonably demonstrate that the proposed change will not negatively impact historic resources on the property.

i. Definition of Accessory Dwelling Unit and Junior Accessory Dwelling Unit

The proposed amendment includes elimination of the existing definition of a Second Dwelling Unit, and the creation of two new definitions for ADU and JADU, which are summarized below:

- An ADU is an independent dwelling unit located on a property containing a single-family residence. An ADU includes complete living facilities: sleeping quarters, bathing facilities, and kitchen.
- The JADU is defined by the State and consists of an interior

conversion of an existing bedroom in a primary residence, limited to 500 square feet. It must have access to both the exterior and the primary residence, and basic kitchen amenities. The unit does not require a dedicated bathroom, and may share a bathroom with the primary residence.

3. Community Outreach

Outreach efforts included development of interim guidance to assist applicants and City staff in interpreting the new State legislation, which was published on the City website. At the time of publication, a community meeting was announced through the Santa Rosa Community Advisory Board, neighborhood groups, and other stakeholders including developers, non-profits, and supportive service providers. The meeting invitation was also sent through social media such as Nextdoor and Twitter. The community meeting was held on February 8, 2017 with over 100 attendees.

In addition to the formally noticed community outreach, the Planning and Economic Development Department Director met with local realtor groups, appeared on local radio to discuss the topic, and provided information to Press Democrat.

Public feedback has been received via email and by phone. The primary feedback received through these interactions was that the various costs of permitting and construction were prohibitive to establishing ADUs with a size of 700 square feet. In response to this feedback, the 1,200-square-foot maximum from the State legislation was incorporated into the Zoning Code instead of the 700-square-foot limit. Similarly, the requirement for only one bedroom in an accessory dwelling unit was deleted. The removal of the size limitations provides owner-developers with greater return on investment in the form of increased rents and increased property value. In addition, the Department is exploring an alternative fee structure as discussed in the Issues section of this report.

FISCAL IMPACT

Negligible reduction in fee revenue from State-mandated waiver of some impact fees.

### ENVIRONMENTAL IMPACT

The amendments are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h), which exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code.

### CULTURAL HERITAGE BOARD REVIEW AND RECOMMENDATIONS

On June 7, 2017, the Cultural Heritage Board (Board) received a report on the proposed language for ADUs located in historic preservation districts. The Board recommended that references pertaining to the requirement for providing a historic report be reworded to be more precisely address both historic and archeological resources. In addition, it was recommended that language be included requiring applicants to obtain conceptual review by the Board prior to issuance of a building permit. The recommended changes will be forwarded to the Council for consideration.

### NOTIFICATION

Pursuant to Zoning Code Section 20-66.020(D), Alternative to Mailing, if the number of property owners to whom notice would be mailed would exceed 1,000, the City may, as an alternative to mailing and posting, provide notice by placing an advertisement of at least one-eighth page in at least one newspaper of general circulation 10 days prior to the hearing. The proposed Zoning Code revision would affect residential properties citywide, therefore, a one-eighth page advertisement was placed in the Press Democrat. The notice was also emailed to a list of stakeholders, including the City's Community Advisory Board, housing stakeholders, neighborhood groups, and other interested individuals. Attendees of the February 2017 community meeting were also notified of the hearing. In addition, the notice was posted at City Hall.

### ISSUES

There are three issue areas pertaining to the construction of ADUs that are not addressed by the proposed Zoning Code amendments and while they are of potential interest, they are not issues within the authority of the Planning Commission. These include permit fees, requirements for public improvements, and pre-reviewed building plans, which are discussed below. In addition, the State law also modifies fire safety regulations that are not part of the Zoning Code and are discussed below.

#### 1. Permit Fees

Through the public comment process, the primary feedback received by staff was that cost of construction for ADUs, including the City's permit fees, was prohibitive.

The State regulation does mandate that cities provide fee relief for internal conversions. As a result, the proposed amendments identify that internal conversion ADUs shall be exempt from water and sewer demand fees and connection fees.

In addition, the Department has been researching and developing a fee structure option for Council to consider that would further incentivize ADUs by granting fee reductions for small sized ADUs (affordable by design) or for voluntarily affordable ADUs (with affordability secured by a recorded contract). This alternative fee structure is still in development but outlined in concept as follows:

	Approximate Total (without Area Fees)
New Detached or Attached ADU (up to 1,200 s.f.)	\$26,000
New ADU Affordable by Design or Contract	\$15,000
Internal Conversion	\$5,000

- New detached or attached ADUs up to 1,200 square-feet that increase habitable square footage over the existing residential space will continue to be subject to all permit and impact fees.
- New attached or detached ADUs that are affordable by design or by contract are a second tier of ADUs that cannot benefit from the State waiver of water and sewer fees. However, they could be exempt from other City fees, such as Capital Facilities Fee (CFF) and Park Fee. Units that are affordable by design are characterized by their limited size (for example do not exceed 750 square feet.) Units that are affordable by contract can be of any size but are rent restricted through a contract between the owner and the City's Housing Authority. The fee savings for an ADU affordable by design or contract under this scenario would be approximately \$10,000.
- The third category of ADUs is internal conversions to existing residences that do not add new square footage. These ADUs automatically benefit from the State's fee waivers, as noted above. In addition to the state mandated waiver, the concept being explored is to provide an additional waiver from the CFF and Park Fees. The fee savings for an internal conversion under this scenario would be approximately \$20,000.
- The issue of fees is a matter for Council consideration and will be considered and heard separate from the Zoning Amendment proposal. The scenarios noted above are in concept development; fees will require further analysis and a public hearing prior to Council taking action.

2. Requirements for Public Improvements

Costs not captured by the permit fees identified above include the total cost of construction. One important component of the construction cost is required public improvements, such as sidewalks, curb and gutter, storm drains and planter strips. Requirements associated with these improvements are set forth in Chapter 18-12 of the City Code. Per current City Code requirements, residential additions valued at or exceeding \$100,000 trigger the requirement to improve the parcel's abutting street frontage to the full street width and configuration in accordance with current City standards. The cost of public improvements along unimproved roadways can be prohibitively high; however, relief could result in prolonged gaps in public infrastructure.

Pursuant to section 18-12.040 of the City Code, the City Engineer may grant a variance from any required public improvement if the nature or the extent of the improvement does not bare a reasonable relationship to the proposed use. A variance may also be granted if special circumstances applicable to the subject property such as size, shape, topography, location or existing improvements result in the strict application of the code causing unnecessary hardships or practical difficulties.

The Engineering division will continue to review ADU applications in accordance with all codes, polices and standards related to the installation of public improvements. The appropriate level of discretion will be applied to ensure that all ADU applications are conditioned in a fashion that supports orderly and logical development of the surrounding area, focuses on only the improvements in which the development proposal will clearly impact and avoids deferring improvements that are needed to address immediate safety issues.

3. Pre-Reviewed Building Plans

Another identified deterrent to the development cost of an ADU is the cost of building plan preparation. The Department is exploring the concept and potential funding sources to develop building plans that are pre-reviewed for consistency with building code requirements, available at a lower cost than comprehensive plan preparation.

4. Fire Sprinkler Requirements

The State law also modifies fire safety regulations that are not part of the Zoning Code. With some exceptions, fire sprinkler requirements for ADU's may be waived if no fire sprinklers are required for the primary residence, and Fire Department access and water supply requirements as adopted by the City of Santa Rosa can be met. State legislation and other local ordinances address

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these fire safety requirements, therefore it was deemed unnecessary to include these changes in the Zoning Code revisions.

ATTACHMENTS

Attachment 1 – Assembly Bill 2299, Senate Bill 1069, Assembly Bill 2406

Attachment 2 - Public Correspondence

Attachment 3 - Proposed Zoning Code Text Amendments (Strikeout/Underline)

Resolution 1

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