

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: CLARE HARTMAN, DIRECTOR  
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
SUBJECT: HOUSING LEGISLATION ZONING CODE TEXT AMENDMENT

AGENDA ACTION: ORDINANCE INTRODUCTION

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RECOMMENDATION

It is recommended by the Planning Commission and the Planning and Economic Development Department that the Council introduce an Ordinance amending Title 20 of the Santa Rosa City Code by modifying Zoning Code Chapter 20-31, and Sections 20-36.040, 20-50.020, and 20-70.020, and adding Chapter 20-33, to bring the Zoning Code into compliance with State Legislation, as required by law.

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EXECUTIVE SUMMARY

The purpose of the State Legislation Zoning Code text amendment is to ensure that the City Code remains in compliance with any State laws which preempt local regulations. In 2022, the Governor of the State of California signed a series of bills related to housing that affect local regulations. These bills govern parking mandates (AB 2097), parking at religious institutions (AB 2244), the Density Bonus Ordinance (AB 682 and AB 2334), the development of housing on commercial parcels (AB 2011 and SB 6) and on land owned by local educational agencies (AB 2295). These State bills make changes to State law to remove barriers and create greater opportunity for building housing in the State of California. These changes require revisions to the City of Santa Rosa Zoning Code for consistency. Staff has combined these revisions into a single Zoning Code text amendment for approval by the City Council.

BACKGROUND

During the last 5 years, the State of California by mandate, has required changes to local regulations to increase the availability of housing. These changes have been far reaching, including but not limited to, making it easier to build Accessory Dwelling Units (ADUs); allowing by-right housing for jurisdictions that have not yet met their Regional Housing Needs Allocation (RHNA) targets (SB 35); and simplifying the process of adding units and subdividing single family lots (SB 9). These changes to State law have been an ongoing legislative effort to address the statewide shortfall of housing.

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The State forecasts that during the next 8-year planning cycle, 2.5 million homes are needed to meet the housing demand, with at least one million of these needed for lower-income households.

PRIOR CITY COUNCIL REVIEW

In 2004 the Council adopted a Density Bonus Ordinance and amended the law further in 2012 and 2019. The California State Density Bonus Law (California Government Code Section 65915) was adopted in 1979 to help address affordable housing needs in the state.

In 2016, the Council adopted the Housing Action Plan (HAP) to facilitate the construction of "*Housing for All*", specifically meeting the housing needs of the full spectrum of household income groups including those currently living in the City and those relocating to the City in the future. Its objectives included building 5,000 housing units, including 2,500 affordable units, during the 2015-2022 Housing Element Cycle.

On January 15, 2019, the Council adopted a Density Bonus Ordinance update, which raised the maximum State level density bonus to 35 percent. In addition to the changes to the Density Bonus Ordinance required by State law, the City adopted a Supplemental Density Bonus program that enables eligible projects located within the boundaries of the Downtown Station Area Specific Plan or North Santa Rosa Station Area Specific Plan ("Station Area Plans") to increase residential density up to 100% above the existing General Plan limit. Eligible projects include housing developments of five or more units that provide affordable units, senior housing, a land donation for the construction of affordable housing, childcare facilities, or specialized housing for transitional foster youth, disabled veterans, homeless persons, or student housing.

On January 14, 2020, the City Council reviewed and adopted a Housing Legislation Package addressing how local governments process housing development entitlements.

On March 2, 2020, the Council adopted an Urgency Ordinance to amend the Zoning Code to update the provisions related to Accessory Dwelling Units and Junior Accessory Dwelling Units, in compliance with State law.

On December 22, 2021, the State Department of Housing and Community Development sent a letter to the City, noting some inconsistencies between the State law and local Density Bonus ordinance (**Attachment 1**).

On February 14, 2023, the City Council adopted the 2023-2031 Housing Element which was certified by the State Housing and Community Development Department on April 7, 2023.

On March 14, 2023, the Council adopted an Urgency Ordinance amending City Code Section 20-42.130, related to Accessory Dwelling Units and Junior Accessory Dwelling Units, in compliance with State law.

## ANALYSIS

During the 2022, legislative session, the State Legislature continued to make changes in State law to support development of additional housing, including housing affordable to all income groups, as described below. The following is a summary of the Statues which require changes to the City's Zoning Code.

### **Parking Mandates**

Assembly Bill 2097 (AB 2097), amended California Planning and Land Use law to limit parking mandates for residential, commercial, or other development near transit (effective January 1, 2023):

- Prohibits a public agency from imposing a minimum automobile parking requirement on any residential, commercial, or other development project located within a half mile of public transit, except where a local agency makes written findings, supported by a preponderance of evidence, that not imposing a minimum automobile parking requirement would cause a substantially negative impact.

The findings do not apply if the project dedicates a minimum of 20 percent of units to very low-, low-, or moderate-income households, seniors, the elderly, or persons with disabilities; if the project contains fewer than 20 units; or if other parking reductions apply to the project.

### Zoning Code text amendments pertaining to AB 2097

Subsections 20-36.040(H)-(O) have been added indicating that residential, commercial, and other development projects are not required to provide on-site automobile parking if the site is located within one-half mile of a Major Transit Stop, unless the City makes required findings.

Assembly Bill 2244 (AB 2244), amended California Planning and Land Use law to ease parking requirements for Religious Institution Affiliated Housing (effective January 1, 2023):

- Allows reductions in parking of up to 50 percent at existing or proposed religious facilities that propose religious institution affiliated housing. This does not preclude requirements imposed on new development to provide electric vehicle supply equipment (i.e., EV Chargers and related infrastructure), or parking spaces that are accessible to persons with disabilities.

Zoning Code text amendments pertaining to AB 2244

Section 20-36.040, Table 3-4, Recreation, Education, and Public Assembly, has been amended to add Note (2) which clarifies that the City allows the reduction of up to 50 percent of the required number of parking spaces for a newly constructed religious facility, or 50 percent of the available parking spaces for an existing religious facility, that proposes the construction of a religious institution affiliated housing development project. The amendment clarifies that the reduction in parking spaces does not reduce parking below one space per unit, unless the parcel is located within a half mile of a Major Transit Stop, or there is a car share vehicle located within a block of the parcel. It also does not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new development to provide electric vehicle supply equipment installed parking spaces or spaces that are accessible to persons with disabilities that would otherwise apply.

**Density Bonus Law**

Density bonus law, originally enacted in 1979, provides incentives to encourage housing developers to produce affordable units which can be offered at below market rates. In return for including affordable units, housing developers receive the ability to add additional units to their project above the jurisdiction's allowable zoned density for the site ("density bonus").

Assembly Bill 682 (AB 682), amended California Planning and Land Use law to clarify the types of facilities where the law applies (effective July 1, 2022):

- Adds "Shared Housing Buildings" to the definition of some categories of housing developments that are eligible for density bonuses, such as cohousing, where 10 percent of total units are maintained for lower income households, 5 percent for very low-income households, senior housing developments, or one in which 100 percent of all units are affordable for lower income households (Developments where 100 percent of the housing is for lower income (with an allowance for up to 20 percent for moderate income) households receive the most generous density bonus). The definitions of "Shared Housing Unit" and "Total Units or Total Dwelling Units" were also added.
- Clarifies the City cannot require a minimum unit size or a minimum number of bedrooms; minimum sizes are established by the Health & Safety Code.

Zoning Code Text Amendments to address AB 682

Section 20-31.020, "Definitions", has been amended to expand the definition of "Development Standard"; and to revise the definitions of "Located within one-half mile of a Major Transit Stop", "Major Transit Stop", and "Maximum Allowable Density",

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Section 20-31.020, Definitions, has been amended to add definitions for “Shared Housing Building”, “Shared Housing Unit”, “Total Units or Total Dwelling Units”, and “Very Low Vehicle Travel Area”.

Section 20-31.050, Eligibility Criteria for Density Bonus, (5) Specialized Housing Projects has been amended to include the following text: “Ten percent of the total units of a Housing Development for Specialized Housing”, as defined in Section 20-31.020, and “(9) One Hundred Percent Lower- and Moderate-Income Projects. One hundred percent of all units in the development, including total units and density bonus units, but exclusive of a manager’s unit or units, are for lower income households, as defined herein, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined herein”. For purposes of this subparagraph, “development” includes a shared housing building development.

Assembly Bill 2334 (AB 2334) amended California Planning and Land Use law to add Incentives or Concessions in Very Low Vehicle Travel Areas (effective January 1, 2023).

Existing laws entitles projects that are 100 percent affordable to lower income households and that are within a half mile of a Major Transit Stop, to construct an additional three stories, or 33 feet in height, over existing height limitations, and to construct projects that are not subject to maximum density controls. This law extends the provision of additional height and adds the provision of unlimited density to 100 percent affordable projects located within urbanized “Very Low Vehicle Travel Areas” (areas generating Vehicle Miles Traveled (VMT) below 85 percent of either the region or city’s per capita VMT), as follows:

- 100% affordable projects (at least 80 percent of units reserved for lower-income households, and not more than 20 percent of the units for moderate income households) are entitled to an additional three stories, or 33 feet, over existing height limits, and are not subject to maximum density controls if located in a “very low vehicle travel area.”

For determining “Maximum Allowable Density,” where there is inconsistency between the Land Use Element of the General Plan and the Zoning Ordinance, the greater of the two allowable densities prevails.

Zoning Code Text Amendments to address AB 2334

Section 20-31.020 has been amended to clarify that where there are discrepancies in the Maximum Allowable Density between the Zoning Ordinance and the Land Use Element of the General Plan or Specific Plans, the greater of the allowable density prevails.

Section 20-31.090 has been amended to indicate that 100 percent affordable projects within Very Low Vehicle Travel Areas are entitled to an additional three stories, or 33 feet in height, over existing height limitations, and are not subject to maximum density controls.

**Additional Changes to the Density Bonus Ordinance**

The City of Santa Rosa received a letter from the Housing and Community Development Department, dated December 22, 2021, regarding corrections needed in the Density Bonus ordinance (**Attachment 1**).

The amendments to address these corrections are noted below.

Zoning Code Text Amendments to correct text and tables

Section 20-31.060 has been amended to correct the total maximum density bonus of 50 percent. Revisions include corrections to Table 3.1.

Section 20-31.090, Table 3.5 has been corrected to indicate that minimum low-income percentages were reduced from 20 to 17 percent for two concessions, and from 30 percent to 24 percent for three concessions.

Section-20-31.100, Table 3.6 was amended to correct parking requirements.

**City of Santa Rosa Supplemental Density Bonus Ordinance**

The City of Santa Rosa has its own Supplemental Density Bonus regulations (Section 20-31.070) that apply to the Downtown Station Area and North Station Area Specific Plan areas. In these two areas, developers may receive density bonuses of up to 100 percent over the number of allowable units in the applicable Land Use Designation, or as calculated for project areas governed by Floor Area Ratio (FAR). While not part of the State initiated zoning code changes, the Supplemental Density Bonus Ordinance is being amended to remove its sunset date of January 1, 2024, to provide developers in Santa Rosa ongoing flexibility to construct additional units.

Table 1 below clarifies the maximum supplemental densities allowed when added to the State densities. The other provisions of the supplemental density bonus (eligibility points) adjust to complement this change.

**Table 1: Maximum Supplemental Density Bonus (Section 20-31.070, Table 3.2)**

	Maximum Supplemental Density Bonus for a Project in a Station Specific Plan, on Eligible Land Use Designations pursuant to this Section <sup>1</sup> , and Located:					
	In an eligible Land Use only (A) <sup>2</sup>	(A) and ½ Mile to Major Transit Stop (B) <sup>3</sup>	(A) and ½ Mile to a School Facility (C) <sup>3</sup>	All of (A), (B) and (C)	In Medium-Low Density Land Use and (B) and (C) <sup>2</sup>	On a Housing Opportunity Site

Supplemental Bonus Amount	10% <sup>2</sup>	4530%	4530%	6550%	10%	50%
Total Maximum Bonus, <u>not to exceed</u> (with 35% State Density Bonus)	60% <sup>2</sup>	80%	80%	100%	60%	100%

Notes:

- (1) Pursuant to Subsection 20-31.070.C.2, within Historic Preservation Districts, only the Retail and Business Services, Transit Village Medium, and Transit Village Mixed Use Land Use Designations are eligible for a supplemental density bonus pursuant to this table.
- (2) Properties in the Medium-Low Density General Plan Land Use that are not located both within ½ Mile of a Major Transit Stop and School Facility are not eligible for a Supplemental Density Bonus.
- (3) Distances to a Major Transit Stop or a School Facility shall be measured as the shortest distance from the edge of the property boundaries of the project and facility.

Zoning Code Text Amendments to the Supplemental Density Bonus Ordinance

Section 20-31.070 A, Duration of Supplemental Density Bonus, including the sunset date of January 15, 2024, has been removed.

Section 20-31.070, Table 3.2, has been amended to clarify how the Maximum Supplemental Density Bonus is achieved.

Section 20-50.020 Authority for Land Use and Zoning Decisions

Table 5-1, Review Authority, was revised to clarify that the Director makes the decision regarding Density Bonus/Affordable Housing Incentives, and the Zoning Administrator makes the decision regarding Supplemental Density Bonus projects. Supplemental Density Bonus projects require a Minor Conditional Use Permit and therefore may be appealed to the Planning Commission.

**Housing on Commercially Zoned Land**

Assembly Bill 2011 (AB 2011), amended California Planning and Land Use law to address residential development on commercially zoned land. The law is designed to

facilitate intensifying use of underutilized malls and strip commercial developments, by integrating housing (operative July 1, 2023):

- Creates a ministerial (by right), CEQA exempt, time-limited (sunsets in 2033) approval process for multifamily housing development on commercially zoned property.
- Applies to two types of Projects:
  - (1) 100 percent Below Market Rate (BMR)
  - (2) Mixed Income Projects
    - (Rental Projects: 8 percent very low income, 5 percent extremely low income or 15 percent lower income; Owner occupied: 30 percent moderate income or 15 percent lower income)
- Projects must pay prevailing wages and meet some site and project eligibility criteria.

#### Zoning Code text amendments to address AB 2011

Chapter 20-33, Residential Development on Commercial or Educational Lands, was added to the Zoning Code.

Section 20-33.010 was added to incorporate Chapter 4.1 (commencing with Section 65912.100), Division 1 of Title 7 of the Government Code, the “Affordable Housing and High Road Jobs Act of 2022,” by reference.

Senate Bill 6 (SB 6), amended California Planning and Land Use law to provide another avenue for developing residential development on commercially zoned land (operative July 1, 2023):

- Allows residential development on property zoned for retail and office space without needing rezoning.
- Utilizes the existing approval process via the Housing Accountability Act (HAA). This is not a ministerial process.
- Requires applicants to commit to prevailing wages and use of a “skilled and trained workforce” for project labor (unless fewer than two bidders apply).

#### Zoning Code text amendments to address SB 6

Chapter 20-33, Residential Development on Commercial or Educational Lands, was added to the Zoning Code.



Section 20-33.010 was added to incorporate Chapter 4 section 65852.24, Division 1 of Title 7 of the Government Code, “the Middle-Class Housing Act of 2022,” by reference.

### **Housing on Land Owned by Local Educational Agencies**

Assembly Bill 2295 (AB 2295), amended California Planning and Land Use law to allow housing development projects on land owned by local educational agencies (effective January 1, 2024):

- Deems a housing development project an allowable (or permitted) use on any real property owned by a local educational agency, if the project complies with local objective zoning standards, objective subdivision standards, and objective design standards. If it meets these standards, the housing development would be deemed consistent, compliant and in conformity with local development standards, zoning codes, or maps, and the general plan.
- Authorizes the land used for the development of housing to be jointly used or occupied by the local educational agency and any other party.
- A housing development proposed under this law would be exempt from various requirements regarding the Surplus Land Act.

### Zoning Code Text Amendment to address AB 2295

Chapter 20-33, Residential Development on Commercial or Educational Lands, was added to the Zoning Code.

Section 20-33.030, By Right Housing on Educational Agency Lands, was added to clarify that a housing development is deemed to be an allowable use on any real property owned by a local educational agency if the housing development satisfies certain objective criteria, in accordance with Government Code section 65914.7. Section 20-33.020, Definitions, was added for definitions that pertain to this section only.

### Additional Zoning Code Text Amendments Applying to All Sections of the Code

Section 20-70-020 was amended to include definitions that apply to the Zoning Code at large, including “Housing Development Project”, “Located within one-half mile of a Major Transit Stop”, “Lower Income Households”, “Major Transit Stop”, “Religious Institution Affiliated Housing”, “Religious-Use Parking Spaces”, “Residential Hotel”, and “Very Low Vehicle Travel Area.”

### ZONING CODE TEXT AMENDMENT FINDINGS

Pursuant to Zoning Code Section 20-64.050(B), amendments to the text of the Zoning Code may be approved only if all the following findings are made:

- A. The proposed amendment is consistent with the goals and policies of the Santa Rosa General Plan 2035, and all applicable Specific Plans, in that the amendment furthers existing policies related to creating more housing, close to transit and services, and the changes are required for state law consistency.
- B. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that the amendments will increase housing opportunities and streamline the approval process to allow construction of residential development on commercially zoned properties, thereby creating opportunities to utilize existing strip commercial and mall areas more effectively. The amendment supports the public interest by creating more opportunities for affordable housing in areas that are well served by transit and services.
- C. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code, in that it makes changes to the Code that support the City's development model of focusing development downtown, close to the Downtown Station and North Station SMART (rail) stations, and within and close to commercial corridor nodes that extend out from the downtown along key transit routes.
- D. The proposed amendments are consistent with the City of Santa Rosa 2035 General Plan and General Plan Final Environmental Impact Report, adopted through Resolution No. 27509 (SCH No. 2008092114); the City of Santa Rosa Downtown Station Area Plan and Specific Plan Final Environmental Impact Report, adopted through Resolution No. 26949 (SCH No. 2006072104) and Final Subsequent EIR adopted through Resolution No. CC-RES-2020-158 (SCH No. 2006072104); and the North Station Area Specific Plan and Specific Plan EIR adopted through Resolution No. 28187(SCH No. 2011122034) (collectively, the "Final EIRS"). Pursuant to Section 15168 of the State CEQA Guidelines, the City of Santa Rosa has determined that the proposed amendments are within the scope of the earlier approved plans and the Final EIRs adequately describe and analyze the project for purposes of CEQA. The proposed amendments do not result in new significant effects beyond those analyzed in the Final EIRs. The City further determines the proposed action is exempt from CEQA review pursuant to: CEQA Guidelines section 15268 in that the proposed amendments are necessary to conform to and implement the ministerial approval processes mandated by state law (e.g., Gov. Code sections 65912.110, 65914.7, 65863.2; Pub. Res. Code sections 21080.25(b)(9)); CEQA Guidelines section 15183 in that the amendments are consistent with the City's General Plan and Specific

Plans for which the Final EIRs were certified by the City Council and there are no project specific impacts that were not previously analyzed in the Final EIRs; 15182 in that the amendments are consistent with the City's Downtown Station Area Specific Plan and North Station Area Specific Plan, for which EIRs were certified by the City Council; 15162 in that the proposed amendments are within the scope of the Final EIRs and are consistent with the Negative Declaration adopted for the Density Bonus Ordinance through Resolution No. RES-2019-002; and CEQA Guidelines section 15061(b)(3) in that there is no possibility the activity will have a significant effect on the environment.

### PLANNING COMMISSION REVIEW AND RECOMMENDATIONS

On May 11, 2023, the Planning Commission held a public hearing regarding the proposed text amendments. There were no public comments. Commissioner Cisco had a question about the mapping that would be conducted to provide guidance for implementing the new housing laws and where the maps would be kept. Staff confirmed information would be maintained on the City's website. Commissioner Carter noted that there were many changes in the housing laws and questioned whether that was likely to continue. Staff confirmed that changes to housing laws are likely to continue. Commissioners expressed support for the amendment moving forward. The Commission voted to approve the resolution recommending approval of the Housing Legislation Zoning Code Text Amendment by a vote of 6-0 (one member absent).

### FISCAL IMPACT

This ordinance has been developed with existing staff resources. Approval of this action does not have a direct known fiscal impact on the General Fund.

### ENVIRONMENTAL IMPACT

The proposed amendments are consistent with the City of Santa Rosa 2035 General Plan and General Plan Final Environmental Impact Report, adopted through Resolution No. 27509 (SCH No. 2008092114); the City of Santa Rosa Downtown Station Area Plan and Specific Plan Final Environmental Impact Report, adopted through Resolution No. 26949 (SCH No. 2006072104) and Final Subsequent EIR adopted through Resolution No. CC-RES-2020-158 (SCH No. 2006072104); and the North Station Area Specific Plan and Specific Plan EIR adopted through Resolution No. 28187 (SCH No. 2011122034) (collectively, the "Final EIRS"). Pursuant to Section 15168 of the State CEQA Guidelines, the City of Santa Rosa has determined that the proposed amendments are within the scope of the earlier approved plans and the Final EIRs adequately describe and analyze the project for purposes of CEQA. The proposed amendments do not result in new significant effects beyond those analyzed in the Final EIRs. The City further determines the proposed action is exempt from CEQA review pursuant to: CEQA Guidelines section 15268 in that the proposed amendments are

necessary to conform to and implement the ministerial approval processes mandated by state law (e.g., Gov. Code sections 65912.110, 65914.7, 65863.2; Pub. Res. Code sections 21080.25(b)(9)); CEQA Guidelines section 15183 in that the amendments are consistent with the City's General Plan and Specific Plans for which the Final EIRs were certified by the City Council and there are no project specific impacts that were not previously analyzed in the Final EIRs; 15182 in that the amendments are consistent with the City's Downtown Station Area Specific Plan and North Station Area Specific Plan, for which EIRs were certified by the City Council; 15162 in that the proposed amendments are within the scope of the Final EIRs and are consistent with the Negative Declaration adopted for the Density Bonus Ordinance through Resolution No. RES-2019-002; and CEQA Guidelines section 15061(b)(3) in that there is no possibility the activity will have a significant effect on the environment.

### 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 on-site posting, provide notice by placing an advertisement of one-eighth page in at least one newspaper of general circulation 10 days prior to the hearing. The proposed Zoning Code text amendments would affect properties Citywide, therefore, a one-eighth page advertisement was placed in the Press Democrat. The notice was also posted at City Hall and the City website. Pursuant to Government Code Section 65091, where necessary, the City has incorporated notice procedures to the blind, aged, and disabled communities. These procedures include audio amplifier/assistive listening device support at public meetings, closed captioning, and optical character recognition conversion of electronic notices.

### ATTACHMENTS

- Attachment 1 – City of Santa Rosa Density Bonus Law – Letter of Technical Assistance, dated December 22, 2021
- Attachment 2 – Assembly Bill 2097
- Attachment 3 – Assembly Bill 2244
- Attachment 4 – Assembly Bill 682
- Attachment 5 – Assembly Bill 2334
- Attachment 6 – Assembly Bill 2011
- Attachment 7 – Senate Bill 6
- Attachment 8 – Assembly Bill 2295
- Attachment 9 - Planning Commission Resolution
- Attachment 10 - Redline Changes to the Zoning Code Ordinance

PRESENTER

Nancy Woltering, Senior Planner