

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: GABE OSBURN, DIRECTOR
PLANNING AND ECONOMIC DEVELOPMENT
SUBJECT: STATE LEGISLATION ZONING CODE TEXT AMENDMENT

AGENDA ACTION: INTRODUCTION OF ORDINANCE

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 to modify Zoning Code Chapter 20-31 (Density Bonus and Other Incentives), Section 20-12.020 (Zoning Code Rules of Interpretation), Section 20-36.050 (Adjustments to Parking Requirements), and Section 20-42.130 (Accessory Dwelling Units).

EXECUTIVE SUMMARY

The purpose of the State Legislation Zoning Code text amendment is to ensure the City Code remains in compliance with any State laws which preempt local regulations. In fall 2023 and 2024, Governor Newsom signed a series of housing related bills which affect local government regulations. The intent of these bills is to remove barriers and increase opportunities for housing development in California.

This package of zoning code amendments addresses Assembly Bill 1287 (AB 1287) and Assembly Bill 323 (AB 323), which concern density bonuses, Assembly Bill 821 (AB 821), which addresses zoning and general plan consistency, and Assembly Bill 894 (AB 894), which addresses shared parking, and Assembly Bill 976 (AB 976), Assembly Bill 2533 (AB 2533), and Senate Bill 1211 (SB 1211) which address Accessory Dwelling Units (ADUs).

Staff proposes modifications to the City's ADU Ordinance to address scenarios where property owners increase residential units under Senate Bill 9 (SB 9). These regulations are proposed to minimize safety and quality of life issues within the City.

BACKGROUND

During the last several years, the State of California has required changes to local regulations to increase the availability of housing. These changes have made it easier to build accessory dwelling units and expanded provisions for of "by-right" housing

approval for projects that meet specified criteria. These changes to state law have been part of an ongoing legislative effort to address the statewide need for housing.

The City of Santa Rosa has continued to respond to changes in state law over the years and has amended its Zoning Code to ensure that local regulations reflect and implement State law. The most recent package of code amendments was adopted by the City Council in 2023.

Most of the items covered in this staff report are derived from recently enacted legislation. However, staff is recommending updates to the Zoning Code in response to Senate Bill 9 (SB 9), which took effect on January 1, 2022. SB 9 permits most residential homeowners to either build two primary units on a single lot or subdivide an existing lot into two. The City's Zoning Code currently lacks provisions regarding the number of ADUs or JADUs permitted in SB 9 developments. While ADUs and JADUs are exempt from the General Plan's density requirements, the addition of these units in SB 9 projects could lead to challenges such as fire safety concerns, traffic congestion, and limited parking in certain areas. The proposed amendments would limit the number of ADUs and JADUs for properties adding units under SB 9 within the City's Wildland Urban Interface (WUI) and outside of the WUI on streets with limited width.

Two ADU bills which were signed by Governor Newsom in October 2024 are also included in this Zoning Code text amendment due to their effective date of January 1, 2025. Starting January 1, 2025, Santa Rosa's ADU and JADU regulations will be void until the proposed amendments take effect due to conflicts with new State law. Consequently, projects meeting State standards will be automatically approved, with no local protections or allowances applied until the Council adopts a State-aligned ordinance. AB 2533 extends amnesty to ADUs built before 2020 and prohibits connection fees as part of legalization and SB 1211 increases the number of allowable accessory dwelling units on a parcel from 2 to 8, depending on the situation.

On December 12, 2024, the Planning Commission held a public hearing on the proposed Zoning Code Text Amendments. The Commission voted 6-0 recommending approval to the Council.

PRIOR CITY COUNCIL REVIEW

Not applicable.

ANALYSIS

1. General Plan

The [General Plan](#) addresses issues related to the physical development and growth of Santa Rosa and guides the City's planning and zoning functions. Several relevant goals

and policies from the General Plan related to this Zoning Code amendment are listed below.

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|-------------|--|
| H-F-4 | Continue to implement the City's Density Bonus Ordinance, consistent with state law. |
| UD-G | Design residential neighborhoods to be safe, human-scaled, and livable by addressing compact development, multi-modal connectivity and reducing energy use. |
| NS-G | <i>Minimize the potential for wildland fires.</i> |
| NS-G-1 | Require proposed developments in the Wildland Urban Interface zone, including the Very High Fire Hazard Severity zone, to investigate a site's vulnerability to fire and to minimize risk accordingly. |
| NS-G-6 | Minimize single-access residential neighborhoods in development areas near open space, and provide adequate access for fire and other emergency response personnel. |

As highlighted by General Plan policy H-F-4, regular updates to the City's Zoning Code to implement State housing law remain a priority. The proposed amendments to limit ADU development in specific areas supports the above goals and policies by reducing housing density in neighborhoods within the City's Wildland Urban Interface (WUI), enhancing wildfire management and emergency response.

2. Zoning Code

The following is a summary of the bills that are part of this housing legislation package, in addition to a proposed modification to the Zoning Code which will allow for greater compatibility with developments allowed under Senate Bill 9.

Density Bonus Law

The 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 more units to their project above the jurisdiction's allowable zoned density for the site ("density bonus").

Assembly Bill 1287 provides incentives to build housing for middle income residents, allowing more units and higher buildings. It can only be used when a project maximizes the production of very low, low, or moderate income units, as allowed by existing California Density Bonus Law. Only when those maximums are met does an additional bonus become available when a project deed restricts an additional percentage of moderate income homes. The bill makes the following changes to the State Density Bonus Law:

- (1) Revises the definitions of “Maximum Allowable Residential Density” and “100 Percent Affordable Housing” and
- (2) Allows projects that meet the State’s 50 percent density bonus provisions to qualify for an additional 50 percent density bonus, up to a combined maximum of 100 percent over the base density of the project.

The bill requires the City to grant a density bonus in the following circumstances:

- (1) An applicant proposes to construct a housing development that conforms to specified requirements;
- (2) The applicant agrees to include additional rental or for-sale units affordable to very low income households or moderate income households, as specified;
- (3) The housing development conforms to specified requirements and provides 24 percent of the total units to lower income households, conforms to specified requirements and provides 15 percent of the total units to very low-income households, or conforms to specified requirements and provides 44 percent of the total units to moderate income households.

Assembly Bill 323 requires developers to sell inclusionary or density bonus units to income-eligible purchasers. There is an exception to this requirement for situations when a unit is not purchased within 180 days from issuance of a Certificate of Occupancy. In this situation, a developer may sell a unit to a qualified nonprofit housing corporation that will ensure owner occupancy by an income eligible household, pursuant to the income limitation on the deed or other instrument defining the terms of conveyance eligibility.

The bill also modifies the definition of a “*Qualified Nonprofit Housing Corporation.*” For the purposes of this section, a qualified nonprofit housing corporation means a nonprofit corporation that meets all of the following requirements:

- (1) The nonprofit housing corporation has a determination letter from the Internal Revenue Service affirming its tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code and is not a private foundation a that term is defined in Section 509 of the Internal Revenue Code.
- (2) The nonprofit corporation is based in California.
- (3) All the board members of the nonprofit have their primary residence in California.
- (4) The primary activity of the nonprofit corporation is the development and preservation of affordable home ownership housing in California.

Zoning and General Plan Consistency

Assembly Bill 821 provides that if the City receives an application for development where the zoning is inconsistent with the General Plan, one of the following actions

must occur:

- 1) amend the zoning within 180 days from receipt of the application or
- 2) process the application based on the general plan standards and ignore inconsistent zoning standards.

Rezoning for General Plan consistency is a component of the current General Plan update. While this action will address immediate issues of inconsistency, a Zoning Code amendment is proposed to ensure Santa Rosa meets state law should any future inconsistencies arise.

Section 20-12.020 (D) provides Zoning Code Rules of Interpretation. More specifically, Section (D) 2 addresses conflicting requirements of the Zoning Code and development agreements and specific plans. The proposed amendment (additions are underlined) is to add reference to the General Plan to this text as follows:

D. Conflicting requirements. Any conflicts between different requirements of this Zoning Code, or between this Zoning Code and other regulations, shall be resolved as follows:

3. Development Agreements, the General Plan or Specific Plans. In the event of any conflict between the requirements of this Zoning Code and standards adopted as part of any Development Agreement, the General Plan or a Specific Plan, the requirements of the Development Agreement, the General Plan, or a Specific Plan shall control.

This amendment will address any unanticipated future inconsistencies between the Zoning Code and the General Plan and will comply with state law.

Shared Parking

Assembly Bill 894 mandates that local governments allow shared parking plans if parking is underutilized (at least 20 percent of parking spaces in a development are vacant during the time the parking will be shared) and the entities proposing shared parking provide an agreement that meets specific criteria.

While Santa Rosa's Zoning Code already includes provisions for shared parking, it does not include language that specifically addresses the criteria of AB 894. The following code amendment is proposed to ensure consistency with the legislation.

Zoning Code Section 20-36.050 addresses adjustments to parking requirements. The following language, with new text underlined, is proposed to be added at the end of this section after the first two paragraphs related to shared parking.

20-36.050 Adjustments to parking requirements

C. Shared underutilized parking. Underutilized parking for any land use may be shared through a shared parking agreement in accordance with California Government Code Section 65863.1. A shared parking agreement shall be allowed through a Minor Conditional Use Permit approval. Underutilized parking is where 20 percent or more of a development's parking spaces are not occupied during the period in which shared parking is proposed.

A reduction in spaces shall be allowed if a parking analysis prepared by professionals in the planning or parking fields determines the number of spaces that can be shared will fulfill parking requirements. Shared parking arrangements shall be formalized through an agreement recorded against the parcels that are part of the agreement.

Accessory Dwelling Units

Assembly Bill 976 permanently eliminates owner-occupancy requirements previously set to expire under AB 881 (2020). Property owners are no longer required to reside on-site in either the main residence or the ADU for construction or rental purposes.

Zoning Code Section 20-42.130 E. outlines the required standards for accessory dwelling units. The existing language related to ownership is proposed to be modified as follows:

17. Ownership. The Department shall not impose an owner-occupant requirement on an accessory dwelling unit. ~~before January 1, 2025.~~

Owner occupancy for junior accessory dwelling units remain a requirement.

Assembly Bill 2533 focuses on unpermitted ADUs and Junior Accessory Dwelling Units (JADUs). The bill modifies Government Code Section 66332 to address local agency actions when legalizing unpermitted units. The bill extends existing rules to cover JADUs and updates the construction cutoff date for eligible unpermitted units from January 1, 2018, to January 1, 2020. In addition, local agencies must find that correcting violations is necessary to meet health and safety standards under the Health and Safety Code before denying legalization permits.

Zoning Code Section 20-42.130 C. describes the permitting requirements for accessory dwelling units and junior accessory dwelling units. To comply with AB 2533, Zoning Code language related to unpermitted units is proposed to be modified as follows:

4. A permit shall not be denied for an unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, ~~2018~~ 2020, because, among other conditions, the unit is in violation of building standards or state or local standards applicable to accessory dwelling units, unless the Department finds that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure as identified in Health and Safety Code Section 17920.3 (Substandard Buildings).

Senate Bill 1211 significantly expands the number of detached Accessory Dwelling Units (ADUs) that can be built on multifamily residential properties. Previously, state law allowed up to two detached ADUs to be built on such properties. Under SB 1211, this limit increases to up to eight detached ADUs on lots with existing multifamily housing, provided that the number of ADUs does not exceed the number of existing multifamily units. Properties with proposed multifamily dwellings can still build two detached ADUs. Additionally, SB 1211 eliminates the requirement to replace uncovered parking spaces if they are removed during ADU construction on both multifamily and single-family properties.

Zoning Code Section 20-42.130 E.10 is proposed to be modified as follows to reflect the increase in detached ADUs allowed on multifamily properties:

- c. No more than two detached or attached ADUs are permitted on any multifamily lot ~~developed with an existing or a~~ proposed multifamily dwelling.
- d. No more than eight detached ADUs are permitted on any multifamily lot with an existing multifamily dwelling provided that the number of detached ADUs does not exceed the existing number of multifamily units on the lot.

Zoning Code Section 20-42.130 E.11 is proposed to be amended as follows to reflect changes to parking requirements:

- i. No replacement off-street parking spaces are required when an accessory dwelling unit is created through the conversion or demolition, of a garage, carport or covered parking structure or uncovered parking space.

In addition, a new definition will be added to the Zoning Code to define “livable space” which is defined as a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.” This definition clarifies which existing multifamily dwelling spaces are eligible to be converted into ADUs (Zoning Code Section 20-42.130 E.10.b.).

Senate Bill 9 (SB 9), effective since January 1, 2022, allows for additional development on single-family lots in two ways: (1) permitting a two-lot subdivision, known as an 'Urban Lot Split,' and (2) enabling the development of two primary residential units, referred to as a 'Two-Unit Development.' Local governments are required to approve these projects 'by-right', meaning without discretionary review or public hearings, provided they comply with objective zoning and design standards.

City staff have processed numerous SB 9 applications over the past three years, including three projects that utilized both the Urban Lot Split and the Two-Unit Development options. Under current law and the City's existing Accessory Dwelling Unit

Ordinance, a single-family property could potentially include up to 10 units: four primary units, 4 ADUs, and 2 JADUs.

SB 9 allows local agencies to prohibit or limit ADUs and JADUs on parcels utilizing both provisions contained within SB 9. The increased housing density permitted under SB 9, along with the addition of ADUs and JADUs, amplifies risks both within and outside Wildland-Urban Interface (WUI) areas. In WUI areas, additional units elevate fire hazards and can make evacuations more challenging. Outside the WUI, greater residential density can disproportionately affect neighborhoods with narrow streets by reducing parking availability, increasing traffic congestion, and hindering emergency vehicle access. For these reasons, City staff recommend limiting or prohibiting ADUs and JADUs to mitigate safety and logistical challenges.

Since the amendment mentioned above is not required by State law, the Council may consider the following options regarding the number of ADUs and JADUs permitted in SB 9 projects. Each of the following options is consistent with State law:

1. (Staff's Recommendation) Permit up to one ADU and one JADU on properties developed under both provisions of SB 9, but only outside the WUI and in cases when minimum street width requirements are met. This option would allow up to eight residential units (four of which are ADUs or JADUs) on single-family lots outside of the WUI and with adequate street width, and up to four residential units otherwise.
2. (Status Quo) Permit up to two ADUs and one JADU on properties developed under both provisions of SB 9, regardless of location within the WUI or street width. This option would allow up to 10 residential units on a single-family lot (six of which are ADUs or JADUs).
3. Limit the number of ADUs and JADUs on properties developed under both provisions of SB 9, regardless of location within the WUI or street width. This option would allow between six and eight residential units on a single-family lot (two to four of which are ADUs or JADUs). One example would be to allow only one ADU per lot.
4. Permit up to two ADUs and one JADU on properties developed under both provisions of SB 9, but only outside the WUI and in cases when minimum street width requirements are met. This option would allow up to 10 residential units on a single-family lot (six of which are ADUs or JADUs).
5. Prohibit ADUs and JADUs citywide on properties developed under both provisions of SB 9. This option would allow a maximum of four units on a single-family lot.

The following proposed Zoning Code amendments reflect option one above and balance the need for increased housing with the priority of ensuring resident safety, effective emergency response, and quality of life.

Zoning Code Section 20-42.130 E.10, which outlines the requirements for Accessory Dwelling Units is proposed to include the following addition:

- e. A maximum of one ADU per lot is allowed when both provisions of Senate Bill 9 - Government Code Sections 65852.21 (Two-unit development) and 66411.7 (Urban lot split) are invoked, provided the two following requirements are met.
 - (1) The parcel is located outside of the City's Wildland Urban Interface (WUI).
 - (2) The street to access the parcel is at least 36 feet wide, with parking provided on both sides or at least 30 feet wide, with parking limited to one side of the street.

No ADUs are permitted on lots created and developed as allowed by SB 9 which do not meet requirements 1 and 2 above.

Zoning Code Section 20-42.130 F., which outlines requirements for Junior Accessory Dwelling Units is proposed to include the following addition:

d. A maximum of one JADU per lot is allowed when both provisions of Senate Bill 9 - Government Code Sections 65852.21 (Two-unit development) and 66411.7 (Urban lot split) are invoked, provided the two following requirements are met.

- (1) The parcel is located outside of the City's Wildland Urban Interface (WUI).
- (2) The street to access the parcel is at least 36 feet wide, with parking provided on both sides or at least 30 feet wide, with parking limited to one side of the street.

No JADUs are permitted on lots created and developed as allowed by SB 9 which do not meet requirements 1 and 2 above.

3. Zoning Code Text Amendment Findings

Section 20-64.050 B. of the Zoning Code requires that the following findings are made to approve an amendment to the Zoning Code:

- a. The proposed amendment is consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan;
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;
- c. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA); and

- d. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

The required findings along with staff's analysis are included in the attached resolution to this staff report.

4. Public Comments

A letter from the California Housing Defense Fund (Attachment 8) was received on December 12, 2024, detailing ways in which the City's Accessory Dwelling Unit (ADU) Ordinance may be inconsistent with State law. After reviewing the letter, staff concluded that none of the proposed amendments addressed in the letter pertain to the current text amendments under consideration; instead, they relate to the existing language of the ADU Ordinance. In addition, the discussion regarding Senate Bill 9 was resolved prior to the Planning Commission's public hearing on December 12, 2024.

Once the proposed Zoning Code text amendments are adopted, Planning staff will submit the revised ADU Ordinance to the California Department of Housing and Community Development (HCD) for review. If HCD requires any amendments, Planning staff will draft the necessary changes and present them to the Council for review and approval at a future meeting.

FISCAL IMPACT

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

ENVIRONMENTAL IMPACT

The proposed amendments are exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) in that the amendments do not have the potential to cause a significant effect on the environment and are not subject to CEQA review. The proposed amendments are necessary to conform the Code to State law, and any conceivable impact of the proposed amendments would be speculative in the absence of specific development proposals.

The Accessory Dwelling Unit 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 the Government Code. In addition, Government Code Section 66333 exempts the adoption of an ordinance to provide for the creation of Junior Accessory Dwelling Units.

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 sent out via GovDelivery email and was 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 – Redline changes to the Zoning Code
- Attachment 2 – Government Code Section 65915 incorporating AB 1287 and AB 323
- Attachment 3 – Assembly Bill 821
- Attachment 4 – Assembly Bill 894
- Attachment 5 – Assembly Bill 976
- Attachment 6 – Assembly Bill 2533
- Attachment 7 – Senate Bill 1211
- Attachment 8 – Public Comment
- Attachment 9 – Planning Commission Resolution No. PC-2024-026
- Ordinance – Proposed Zoning Code Text Amendment

PRESENTER

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