

CITY OF SANTA ROSA
CITY COUNCIL

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

AGENDA ACTION: URGENCY ORDINANCE

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council adopt an urgency ordinance amending City Code Section 20-42.130 to allow Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with State law. Five affirmative votes are necessary to adopt an urgency ordinance.

EXECUTIVE SUMMARY

In 2022, two bills governing Accessory Dwelling Units (ADUs) were signed by the Governor of California. These State bills (Statutes) 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 previously adopted and effective ADU Ordinance, which are proposed to remain in the attached Ordinance, reduce obstacles to ADU and JADU construction and include protections for the City's hillside areas and Preservation Districts. Staff has combined these revisions into a single Zoning Code text amendment for approval by the City Council.

BACKGROUND

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.

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On March 3, 2020, the Council adopted an urgency ordinance to amend the Zoning Code to update the Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with State law.

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 2022, two bills addressing ADUs and JADUs were signed by the Governor and became effective January 1, 2023. Upon the effective date of the Statutes, the City of Santa Rosa's existing ADU and JADU regulations became inconsistent with State law and are considered void. As a result, State law governs ADUs and JADUs, and no local protections or allowances can be implemented until the Council adopts an updated Ordinance that implements the Statutes consistent with State law.

ANALYSIS

The following is a summary of the Statutes which mandate changes to the City's Zoning Code. Additional measures are included in the State bills but are not included in this text amendment because the City's existing ADU ordinance is in compliance.

Assembly Bill 2221 (AB 2221), amended California Planning and Land Use law to limit the type and specifications of development standards affecting the production of Accessory Dwelling Units and Junior Accessory Dwelling Units as follows:

- Requires permitting agency to "approve or deny" an ADU or JADU application within 60 days of the application completeness determination. This section clarifies that "act" means to "approve or deny."
- If an application of an ADU or JADU is denied, the Agency must provide a full set of comments to the applicant with a list of items that are deficient and a description of how the application can be remedied. This section clarifies how agencies communicate with applicants when a denial is issued, but this is the practice of City staff currently.
- Allows development in the front setback to create an ADU compliance with this front setback would otherwise preclude the development of an 800 square foot ADU on the property. This is a new provision that does not permit the zoning district front setback to dictate the siting of an ADU if no other locations outside of the front setback are feasible.
- Allows an 18-foot ADU within ½ mile of transit, or high-quality transit corridor. This is an increase in the allowed maximum height of a 16-foot single-story ADU. However, this City's existing ADU regulations allow for a two-story ADU to be a maximum of 27-feet.
- Increases statewide allowable ADU height from 16 feet to 18 feet on parcels with existing multi-family or multi-story structure. This is an increase in the allowed

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maximum height of a 16-foot single-story ADU. However, this City's existing ADU regulations allow for a two-story ADU to be a maximum of 27-feet.

- An additional two feet (up to 18 feet) is permitted to accommodate a roof pitch on an ADU that is aligned with the roof pitch on the primary dwelling. This is an increase in the allowed maximum height of a 16-foot single-story ADU. However, this City's existing ADU regulations allow for a two-story ADU to be a maximum of 27-feet.
- A local agency cannot require the correction of nonconforming conditions when a permit is proposed to convert a structure (or part of a structure) into an ADU or when ADU is proposed elsewhere on the property, unless conditions pose a threat to public health.
- If the applicant is also proposing a primary dwelling, the agency is required to wait until that approval or denial has been issued.
- A local agency may not issue a certificate of occupancy for an ADU before the local agency issues a certificate of occupancy for the primary dwelling.
- An ADU that is detached from the proposed or existing single-family residence may include a detached garage.

Senate Bill 897 (SB 897), amended California Planning and Land Use law to limit the development standards, impact fees, utility connections and construction requirements as follows:

- Clarifies that the construction of an ADU (attached or detached) cannot trigger a requirement to install fire sprinklers in an existing multifamily dwelling.
- Cannot deny permit to legalize an unpermitted ADU constructed before January 1, 2018, due to building code violation, unless required to protect health and safety.
- Requires local agency to review and issue a demolition permit for a detached garage that is to be replaced by an ADU at the same time as it reviews and issues the permit for the ADU.
- Prohibits local agency from rejecting an application for an ADU because the existing multi-family dwelling exceeds applicable height requirements or has a rear or side setback of less than 4 feet.
- Prohibits local agency from imposing any parking standards on an ADU that is included in an application to create a new detached single-family unit or a new

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multi-family dwelling on the same lot, provided ADU meets other specified requirements.

- Specifies that enclosed uses within the proposed or existing single-family residences, such as attached garages, are considered a part of the proposed or existing single-family residence. The City has been considering attached garages as a part of a single-family residence.
- Requires a JADU that does not include a separate bathroom to include a separate entrance from the main entrance, and an interior entry to the main living area.
- Local agency, special district or water corporation shall not require the applicant to install a new or separate utility connection, unless ADU is constructed with a new single-family dwelling.
- For a new proposed residence and new ADU, separate connections may be required, and new connection fees charged, but charges need to be proportional (based on square feet or the number of its drainage fixture unit (DFU) values), as defined in the Uniform Plumbing Code. This fee shall not exceed the reasonable cost of providing this service. No changes are required to the City's fees to comply with this requirement.
- An ADU shall not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling. No changes are required to the City's fees to comply with this requirement.

The proposed Zoning Code text amendment includes necessary measures to comply with the State law. Because the City's local Accessory Dwelling Unit regulations were voided on January 1, 2023, State law currently governs. Local amendments which are currently void but would be reinstated upon adoption of this Urgency Ordinance are summarized as follows. *No changes to local provisions are proposed with this Urgency Ordinance, except as related to maximum height limits in hillside areas, as required by State law:*

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.

In 2021, State law was revised to prohibit 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. In 2021, the City's Zoning Code was amended to reflect this limitation in hillside areas by stating that an 800 square foot ADU with a maximum height of 16 feet

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would be allowed in hillside areas with 4-foot side yard and 4-foot rear yard setbacks. *This draft ordinance amends the maximum height from 16-feet to 18-feet, as required in specified circumstances described above.* Any ADU exceeding 800 square feet in area, or the maximum height for a one-story ADU, must comply with 15-foot side and 15-foot rear hillside development setbacks.

Outside of hillside areas, ADUs up to two-stories tall and 1,200 square feet, with four-foot side and rear setbacks are allowed.

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 laws 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, the City's voided Accessory Dwelling Unit regulations include 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. No changes are proposed to this section of the City's ADU Ordinance.

Compatibility in Neighborhoods

The City's voided Accessory Dwelling Unit regulations address 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. No changes are proposed to this section of the City's ADU Ordinance.

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 City's voided Accessory Dwelling Unit regulations include standards for accessory structures attached to ADUs that are less than 50 percent of the ADU size. No changes are proposed to this section of the City's ADU Ordinance.

Setbacks from Planned Roads and Right-of-Way Dedication

To provide clarity for design professionals and homeowners, two amendments were adopted by the Council in 2021 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 City's voided

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Accessory Dwelling Unit regulations clarify that 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. No changes are proposed to this section of the City's ADU Ordinance.

URGENCY ORDINANCE

Section 8 of the City Charter authorizes adoption of an urgency ordinance, to take effect immediately upon passage, when deemed necessary by the Council to preserve the public peace, health or safety. In addition, Government Code section 36937(b) allows the Council to adopt an ordinance to take effect immediately, if it is an ordinance for the immediate preservation of public peace, health or safety, and it contains a declaration of the facts constituting the urgency.

Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

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

1. On January 1, 2023, State bills regulating ADUs and JADUs became effective and voided the City of Santa Rosa's local ADU regulations.
2. The City's local ADU regulations include a number of local protections including those to protect steep and prominent hillside areas, creeks, Historic Preservation Districts, and provide clarity on fire protection and public improvements;
3. The proposed urgency ordinance incorporates new language into the City's Zoning Code to comply with recent changes to State law, and will allow for locally tailored provisions and clarifications to remain, immediately following adoption.
4. 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. The City's residents are not protected until this Urgency Ordinance is adopted because the City's local Accessory Dwelling Unit Ordinance is void, and the State law that currently governs does not address protection of hillside areas, creeks, and Preservation Districts.

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

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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.

NOTIFICATION

Not applicable.

ATTACHMENTS

Attachment 1 – Redline Changes to Zoning Code

Attachment 2 – Assembly Bill 2221

Attachment 3 – Senate Bill 897

Ordinance

PRESENTER

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