

ORDINANCE NO. ORD-2023-003

URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA
AMENDING TITLE 20 OF THE SANTA ROSA CITY CODE – AMENDING SECTION 20-42.130 - REGULATING ACCESSORY DWELLING UNITS TO ENSURE CONSISTENCY WITH STATE LAW

WHEREAS, Santa Rosa faces a significant shortage of housing, particularly that available for moderate and lower income families; and

WHEREAS, in October 2016, the City Council accepted the Housing Action Plan, and its constituent programs to address how Santa Rosa can increase production, achieving a goal of “housing for all”; and

WHEREAS, the Housing Action Plan identifies policies to incentivize “affordable by design” housing that is smaller in scale, efficiently designed and less expensive to construct, and directs staff to evaluate financial obstacles and reduce development costs of accessory dwelling units (also known as “ADUs”); and

WHEREAS, in June 2017, the Council adopted the City’s top priorities for the year, which included implementation of a comprehensive housing strategy, “housing for all”; and

WHEREAS, in February 2018, the Council adopted the City’s top priorities for the year, which included the comprehensive housing strategy as a Tier 1 priority; reaffirming the Council’s housing goals; and

WHEREAS, on December 12, 2017, the Council adopted Ordinance No. ORD2017-024, amending Title 20 of the City Code and implementing changes to the Code with respect to ADUs in compliance with State law and in support of the City’s Housing Action Plan; and

WHEREAS, on October 2, 2018, the Council adopted Ordinance No. ORD2018-020 to clarify the application of water and wastewater connection fees for ADUs in order to incentivize the development of smaller ADUs consistent with California State Government Code Section 65852.2 (f)(2); and

WHEREAS, in February 2019, the Council adopted the City’s top priorities, which included the comprehensive housing strategy as a Tier 1 priority; further reaffirming the Council’s housing goals; and

WHEREAS, in October 2019, the Governor of California signed Assembly Bill 61, Assembly Bill 881, Senate Bill 13, Assembly Bill 670, and Assembly Bill 587 which impacted how Accessory Dwelling Units and Junior Accessory Dwelling Units were regulated across the State; and

WHEREAS, on March 3, 2020, the Council adopted an Accessory Dwelling Unit Urgency Ordinance to remain compliant with State law while protecting the City's hillside areas, creeks, Preservation districts, and residential neighborhoods; and

WHEREAS, in October 2022, the Governor of California signed Assembly Bill 2221 and Senate Bill 897 (Statutes) which impact how Accessory Dwelling Units are regulated; and

WHEREAS, on January 1, 2023, these Statutes became effective and voided the City of Santa Rosa's local Accessory Dwelling Unit regulations which include a number of local protections including those to protect steep and prominent hillside areas, creeks, Historic Preservation Districts, and which provide clarity on fire protection and public improvements; and

WHEREAS, this urgency ordinance incorporates new language into the City's Zoning Code to comply with recent changes to State law which became effective January 1, 2023, and will allow for locally tailored provisions and clarifications to remain immediately following adoption; and

WHEREAS, pursuant to Sections 36934 and 36937 of the California Government Code, the City may adopt an urgency ordinance if it is for the immediate preservation of the public peace, health or safety; and

WHEREAS, Section 8 of the Santa Rosa City Charter allows the City Council to adopt an urgency measure to take effect immediately upon its adoption for preserving the public peace, health or safety if such ordinance contains the reasons for its urgency and if passed by a five-sevenths vote of the City Council; and

WHEREAS, (1) There exists a current and immediate threat to the public peace, health, and safety, requiring this urgency Ordinance because on January 1, 2023, the City's Accessory Dwelling Unit became void, and therefore, the City must rely on State law which does not address the size, siting, and massing of Accessory Dwelling Units in the City's hillside areas, the siting of Accessory Dwelling Units within creek setbacks, or the compatibility of Accessory Dwelling Units within the City's Preservation Districts and residential neighborhoods generally. The City's loss of local protections due to the effective date of these Statutes has the potential to be injurious to neighboring property owners, causing incompatibilities with the City's visual quality, neighborhood character, compromising privacy, and affecting light and air; and (2) Action must be taken immediately to preserve the public peace, health, and safety because, but for the Zoning Code Amendments becoming effective immediately, any application for an Accessory Dwelling Unit consistent with State law will not be subject to local ADU controls; and

WHEREAS, for the reasons set forth above, this Ordinance is declared by the City Council to be necessary for the preserving the public peace, welfare, health or safety and to avoid a current, immediate impact to the peace, health, safety or welfare of the community and the recitals above taken together constitute the City Council's statements of the reasons for adopting this Ordinance on an urgency basis.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that amending Title 20 (Zoning) of the Santa Rosa City Code, as follows, is required for compliance with State law and in support of the City's Housing Action Plan.

Section 2. Amend Santa Rosa Zoning Code Section 20-42.130(B)(5) to read and provide as follows:

"5. Shall not be sold or otherwise conveyed separate from the primary residence."

Section 3. Amend Santa Rosa Zoning Code Section 20-42.130(C) to read and provide as follows:

"C. Permit requirements. An application for an *accessory dwelling unit* or *junior accessory dwelling unit* that complies with all applicable requirements of this Section shall be approved ministerially.

a. If the Department, together with utility providers and County Environmental Health when a septic system is utilized, has not approved or denied the completed application within 60 days, the application shall be deemed approved. If the Department denies an application for an *accessory dwelling unit* or *junior accessory dwelling unit*, it shall provide in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

b. A permit shall not be denied due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the *accessory dwelling unit*.

c. A permit shall not be denied for an unpermitted *accessory dwelling unit* that was constructed before January 1, 2018, 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.

d. A demolition permit for a detached garage that is to be replaced with an *accessory dwelling unit* shall be reviewed with the application for the *accessory dwelling unit* and issued at the same time. The applicant is not required to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an *accessory dwelling unit*."

Section 4. Amend Santa Rosa Zoning Code Section 20-42.130(D) to read and provide as follows:

"D. Accessory Dwelling Units - Application and processing requirements.

1. Step one—Submittal. The application for an *accessory dwelling unit* permit shall be submitted to the Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for an *accessory dwelling unit* permit shall include all of the following (except as noted below):

a. Plot plan. A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the *accessory dwelling unit*; the location and dimensioned setbacks of all existing and proposed structures on the site and structures located within 50 feet of the site; all easements, building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.

b. Floor plan. A floor plan, drawn to scale, showing the dimensions of each room, and the resulting floor area. The use of each room shall be identified, and the size and location of all windows and doors shall be clearly shown.

c. Elevations. Architectural elevations of each side of the proposed structure showing all wall height dimensions, openings, exterior finishes (including siding and window materials), original and finish grades, paint color, and roof pitch. The color of the existing or proposed primary residence shall be included if necessary to demonstrate compliance with Subsection E.6. or E.14., below.

Applications for *accessory dwelling units* which do not modify a building's exterior are not required to submit elevations per Subsection c above.

2. Step two—Decision. The Department shall approve or deny an application for an *accessory dwelling unit* permit within 60 days of submittal of a complete application. The *accessory dwelling unit* permit shall be issued only if the proposed *accessory dwelling unit* complies with all applicable standards in this Section.

3. Utility connections and fees.

a. Except as provided in Subsection D.3.b, a separate new utility connection and payment of a connection fee or capacity charge pursuant to State law and City fee schedule will be required for any new *accessory dwelling unit*.

b. No new or separate utility connection or related connection fee or capacity charge will be required for *accessory dwelling units* that are internal conversions of existing space within a single-family residence or an *accessory* structure, or for *accessory dwelling units* that are 750 square feet or smaller. Any impact fee charged for an *accessory dwelling unit* of 750 square feet or more shall be charged proportionately in relation to square footage of the primary dwelling unit.”

Section 5. Amend Santa Rosa Zoning Code Section 20-42.130(E) to read and provide as follows:

“E. Accessory Development standards. An *accessory dwelling unit* permit shall be issued only if the *unit* complies with the following development standards:

1. General. No development standards shall be applied that would prohibit up to an 800 square foot *accessory dwelling unit* that is no more than 16 feet in height with four-foot side and four-foot rear setbacks to be constructed in compliance with all other local development standards.

2. Setbacks.

a. Single-family residential districts including single-family PD districts.

An *accessory dwelling unit* shall comply with the following setback requirements:

(1) A new attached or detached 800 square foot *accessory dwelling unit* shall provide a minimum four-foot side and four-foot rear setback, and a front setback consistent with that of the primary *dwelling unit* in a standard zoning district, or the most similar zoning district in the case of a PD. An 800 square foot *accessory dwelling unit* that complies with all other development standards may be built within the front yard setback of a lot if it is otherwise physically infeasible to build an *accessory dwelling unit* on other areas of the lot while maintaining the minimum rear and side yard setbacks outlined in this Subsection. Side-corner setbacks shall be a minimum of eight feet.

b. Multifamily districts including multifamily PD districts.

An *accessory dwelling unit* shall comply with the following setback requirements.

(1) A new attached or detached *accessory dwelling unit* shall provide a minimum four-foot side and four-foot rear setback, except when abutting an R-3 zoning district, in which case no minimum side or rear setback is required. The front setback shall be consistent with a primary *dwelling unit* in the applicable standard zoning district, or the most similar standard zoning district in the case of a PD. Side-corner setbacks shall be a minimum of eight feet.

(i.) If the existing multifamily dwelling exceeds height requirements or has a rear or side setback of less than four feet, the Department shall not require modification of the existing multifamily dwelling as a condition of approving the application to construct an *accessory dwelling unit*.

c. No setback shall be required for an existing legally constructed living area, garage, or other *accessory* structure that is converted to an *accessory dwelling unit* with independent exterior access from an existing or proposed residence. A setback of five feet from the side and rear property lines is required for an *accessory dwelling unit* constructed above an existing legally constructed or proposed garage.

d. Any new attached *accessory dwelling unit*, detached *accessory dwelling unit* or expansion of the single-family *dwelling* to support the internal conversion for

an *accessory dwelling* shall be designed to maintain appropriate setbacks, as described in Subsection (E)(2)(a) and (b) above, from the future width of any abutting public streets. Future street configurations shall be based on the widths, standards and right-of-way lines in the circulation element of the Santa Rosa General Plan, the City Street Design and Construction Standards, City street lists or specifically addressed in a resolution adopted by the City Council.

3. Maximum floor area.

a. New detached *unit*. No newly constructed detached *accessory dwelling unit* may contain habitable space in excess of 1,200 square feet.

(1) An automatic fire sprinkler system shall be installed throughout structures that exceed 1,200 square feet total floor area.

b. New attached *unit*. No newly constructed attached *accessory dwelling unit* may contain habitable space in excess of 50 percent of the existing residential square footage except that 850 square feet total floor area must be allowed for studio or one-bedroom ADUs, and 1,000 square feet total floor area must be allowed for more than one-bedroom ADUs.

(1) An automatic fire sprinkler system shall be installed throughout all buildings that undergo any combination of substantial remodel, addition or both that exceed 50 percent of the existing total floor area.

c. Internal conversion. An *accessory dwelling unit* created entirely by the internal conversion of an existing single-family *dwelling* shall not occupy more than 45 percent of the existing habitable space of the residence, excluding the garage, nor shall it exceed 1,200 square feet except that 850 square feet total floor area must be allowed for studio or one-bedroom ADUs, and 1,000 square feet total floor area must be allowed for more than one-bedroom ADUs. An *accessory dwelling unit* created entirely by the internal conversion of a detached *accessory* structure shall not exceed a maximum of 1,200 square feet.

(1) An automatic fire sprinkler system shall be installed throughout all buildings that undergo any combination of substantial remodel, addition or both that exceed 50 percent of the existing total floor area.

4. Height limit.

a. A one-story *accessory dwelling unit* shall not exceed a maximum height of 16-feet, except as follows:

1. The Department shall allow an additional two feet in height (up to 18 feet) to accommodate a roof pitch on an *accessory dwelling unit* that is aligned with the roof pitch on the primary dwelling unit.

2. A detached *accessory dwelling unit* on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half mile walking distance of a major transit stop or a high-quality transit corridor shall not exceed a height of 18 feet.
3. A height of 18 feet is also permitted for a detached *accessory dwelling unit* on a lot with an existing or proposed multifamily, multistory dwelling. A height of 25 feet applies to an *accessory dwelling unit* that is attached to a primary dwelling. This provision does not require the Department to allow an *accessory dwelling unit* to exceed two stories.
 - b. A two-story *accessory dwelling unit* shall not exceed a maximum height of 27 feet. No *accessory dwelling unit* shall exceed 27 feet in height.
 - c. When an *accessory dwelling unit* is located above an existing or proposed garage, carport or other *accessory* structure, the entire combined structure shall not exceed 27 feet in height. No *accessory dwelling unit* shall exceed 27 feet in height.
5. Lot coverage. An *accessory dwelling unit* shall comply with the lot coverage requirements of the applicable zoning district or the most similar zoning district in the case of a PD, except as referenced in subsection (E)(1), above.
6. Architectural compatibility. Architectural compatibility between the *accessory dwelling unit* and primary *dwelling unit* shall be demonstrated by matching one or more of the following qualities of the *accessory dwelling unit* to the proposed or existing primary *dwelling unit*:
 - a. Color;
 - b. Siding material and style; or
 - c. Architectural features.
7. Exterior entrance. An *accessory dwelling unit* must include a separate exterior entrance.
8. Privacy. A balcony, window or door of a second story *accessory dwelling unit* shall be designed to lessen privacy impacts to adjacent properties. Appropriate design techniques include obscured glazing, window placement above eye level, screening treatments, or locating balconies, windows and doors toward the existing on-site residence.
9. Residential development. A residential *dwelling* must already exist on the lot or shall be constructed on the lot in conjunction with the construction of the *accessory dwelling unit*.

10. Number per lot.

- a. A maximum of one *accessory dwelling unit* and one junior *accessory dwelling unit* shall be permitted on any single-family lot zoned for single-family uses.
- b. The number of *accessory dwelling units* allowed within a multifamily *dwelling* are limited to not more than 25% of the existing number of multifamily *dwelling units* on the property, except that at least one *accessory dwelling unit* shall be allowed. These *accessory dwelling units* shall be allowed within the portions of *dwelling* structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each *unit* complies with state building standards for *dwelling*s.
- c. No more than two detached or attached ADUs are permitted on any multifamily lot developed with an existing or proposed multifamily *dwelling*.

11. Parking. One off-street parking space is required for an *accessory dwelling unit*, except as set forth below. The off-street parking shall be permitted uncovered, compact, tandem and in setback areas, unless the review authority determines that tandem parking or parking within a setback is not feasible due to specific site or topographical or fire and life safety conditions. No off-street parking shall be required if one or more of the following circumstances exist:

- a. The *accessory dwelling unit* is 750 square feet or less in area, or a studio *unit*.
- b. The *accessory dwelling unit* is located within one-half mile walking distance of public transit.
- c. The *accessory dwelling unit* is located within a historic preservation district.
- d. The *accessory dwelling unit* is part of the existing primary residence or an existing *accessory* structure.
- e. When on-street parking permits are required but not offered to the occupant of an *accessory dwelling unit*.
- f. When there is a car share vehicle located within one block of the *accessory dwelling unit*.
- g. When a permit application for an *accessory dwelling unit* is submitted with a permit application to create a new single-family dwelling or a new multi-family dwelling on the same lot.

h. To qualify for an exception, the applicant must provide supporting evidence, such as a map illustrating the location of the *accessory dwelling unit* and its proximity to a public transit stop or car share vehicle or its location within a historic preservation district, or proof of local parking permit 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.

j. A detached *accessory dwelling unit* is permitted to include an attached garage.

12. Standards for proposed *accessory* structures attached to an existing or proposed *accessory dwelling unit*.

a. A proposed *accessory* structure with a floor area less than 50 percent of the *accessory dwelling unit* floor area:

(1) Shall be processed ministerially in conjunction with the *accessory dwelling unit*.

(2) Shall comply with the lot coverage and setback requirements of this section.

(3) Shall comply with the 16-foot height limit for an *accessory* structure as required by Zoning Code Section [20-42.030](#).

b. A proposed *accessory* structure with a floor area that exceeds 50 percent of the total floor area of the *accessory dwelling unit*:

(1) Is subject to any discretionary review required by this Zoning Code.

(2) Shall comply with lot coverage, height, and setback requirements for an *accessory* structure in the applicable standard zoning district or the most similar standard zoning district in the case of a PD.

(3) Shall comply with any applicable hillside and/or creekside setbacks.

13. Standards for hillside areas.

a. Applicability. The development standards outlined below shall apply to *accessory dwelling unit* development on that portion of a site with a slope of 10 percent or greater.

b. Development standards. An *accessory dwelling unit* exceeding the applicable maximum height for a one-story *accessory dwelling unit* indicated in Subsection 4.a., or 800 square feet, shall observe 15-foot setbacks from side and rear property lines.

When a building site abuts another parcel with a difference in vertical elevation of three feet or more, the required side and/or rear yard shall be measured from the nearest toe or top of slope to the structure, whichever is closer.

Accessory dwelling units that are 800 square feet or less, and which comply with the maximum height requirements for a one-story *accessory dwelling unit* as described in Subsection 4.a., shall provide a minimum four-foot side and four-foot rear setback, consistent with this Section.

14. Standards for Historic Preservation Districts.

a. Applicability. The requirements outlined below shall apply to new *accessory dwelling units* within the Historic (-H) Combining District.

b. Architectural Compatibility. Architectural compatibility between the *accessory dwelling unit* and primary *dwelling unit* shall be demonstrated by one of the following means:

(1) Matching each of the following qualities of the *accessory dwelling unit* to the proposed or existing primary *dwelling unit*:

(A) Color,

(B) Siding material and pattern, and

(C) Architectural features; or

(2) Through the preparation of a historic resource survey by a qualified professional that concludes the proposed *accessory dwelling unit* will not negatively impact historic resources on the property, will be consistent with Secretary of the Interior Standards for Treatment of Historic Properties.

15. Standards for creekside development.

a. Applicability. The development standards outlined below shall apply to *accessory dwelling unit* development within the specified distances to waterways as indicated in Section [20-30.040](#) – Creekside Development.

b. Development standards. An *accessory dwelling unit* exceeding 16 feet in height, or 800 square feet, shall observe setbacks referenced in Section [20-30.040](#). *Accessory dwelling units* that are 800 square feet or less, and no greater than 16 feet in height, shall provide a minimum four-foot side and four-foot rear setback, consistent with this section.

16. Fire Sprinkler System. *Accessory dwelling units* shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an

accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in an existing primary dwelling or an existing multifamily dwelling.

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

Section 6. Amend Santa Rosa Zoning Code Section 20-42.130(F)(3)(b) to read and provide as follows:

“b. Step two—Decision. The Department shall approve or deny an application for a junior accessory dwelling unit permit within 60 days of submittal of a complete application. A junior accessory dwelling unit permit shall be issued only if the proposed *junior accessory dwelling unit* complies with all applicable standards in this Section. A permit for a *junior accessory dwelling unit* shall not be denied due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the *junior accessory dwelling unit*.”

Section 7. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15282(h) in that the project consists of the adoption of an ordinance regarding second units in a single-family or multifamily residential zone to implement the provisions of Sections 65852.2 and 65852.22 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

Section 8. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 9. Effective Date. The Ordinance shall be in effect immediately upon its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this 14th day of March, 2023.

AYES: (7) Mayor N. Rogers, Vice Mayor MacDonald, Council Members Alvarez
Fleming, Okrepkie, C. Rogers, Stapp

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney