



Sonoma County Planning Commission STAFF REPORT

FILE: ORD21-0002
DATE: June 3, 2021
TIME: At or after 1:05 p.m.
STAFF: Katrina Braehmer and Nina Bellucci, Project Managers

A Board of Supervisors hearing on the project will be held at a later date and will be noticed at that time.

SUMMARY

Applicant: County of Sonoma (File No. ORD21-0002)
Address: Countywide, except Coastal Zones
Supervisorial District(s): All
Description: Update Accessory Dwelling Unit and Junior Accessory Dwelling Unit ordinances in compliance with state law
CEQA Review: Exempt from the California Environmental Quality Act pursuant to Section 21080.17 of the Public Resources Code and Section 15282(h) of the CEQA Guidelines (Other Statutory Exemptions) for adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Government Code Section 65852.2.
General Plan Land Use: All, except Coastal Zones
Ordinance Reference: Sonoma County Code Chapter 26 – Sonoma County Zoning Regulations



RECOMMENDATION

Approve a resolution finding that the proposed ordinance is statutorily exempt from CEQA under Public Resources Code 21080.17 and recommending that the Sonoma County Board of Supervisors adopt the ordinance repealing and replacing Sections 26-88-060 and 26-88-061 of the Sonoma County Zoning Code related to Accessory Dwelling Units and Junior Accessory Dwelling Units, and amending relevant definitions in Article 4 – Glossary.

EXECUTIVE SUMMARY

In the beginning of 2020, changes to state law took effect that further limited local discretion in regulating accessory dwelling unit (ADU) and junior accessory dwelling unit (JADU) development and nullified the County's existing ordinances. Revisions to the Sonoma County Zoning Code are necessary for compliance with state law. Changes include, but are not limited to:

- Reducing the maximum ADU and JADU application review time from 120 days to 60 days;
- Allowing for ADUs on multifamily properties;
- Removing the minimum parcel size requirement;
- Removing size restrictions on conversion ADUs;
- Reducing required setbacks for ADUs; and
- Removing replacement of off-street parking requirements.

The ordinance amending the Zoning Code is intended to align Sonoma County's ADU regulations with state law. Policy changes beyond state mandates are not part of this ordinance. Non-substantive changes, including minor reformatting of code subsections, will provide clarity for the public, staff, and other code users to facilitate easy permitting.

PROJECT CONTEXT

BACKGROUND

In January 2020, local jurisdictions had to adapt their review and processing of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) applications based on a number of recent state laws that went into effect: AB 3182 (2020) and SB 13, AB 68, AB 881, AB 587, AB 670, and AB 671 (2019).

State law rendered local ordinances that did not meet the new requirements null and void until a compliant ordinance could be adopted. The County's existing ADU and JADU ordinances became non-compliant, and since January 2020 the County has been reviewing new ADU and JADU applications using the standards enacted by state law. The major changes that the County implemented in order to comply with state law include a 60-day review period for all ADU applications, allowance for ADUs on multifamily properties, and elimination of the requirement for a zoning permit and the minimum parcel size requirement. All ADUs that comply with the standards in State law are approved ministerially, meaning that applications that comply with applicable objective standards are approved without discretionary review or CEQA review.

State law is difficult for the general public to interpret, and the lack of a valid local ordinance does not allow continued implementation of certain policies that the County had previously adopted (e.g., making exceptions to the height limits in urban areas to allow an ADU above a garage). Adopting an ordinance would make the County's regulations more understandable, and allow for some flexibility within the parameters of existing law.



The California Department of Housing & Community Development reviews all local ordinances for compliance with state law, and will review the County’s ordinances, if and when they are adopted.

ZONING CODE MODERNIZATION PROGRAM

In February 2021, the Board of Supervisors approved changes to the County’s zoning code described as Phase 1 and 2 of the Zoning Code Modernization Program. The goal of those changes was to make the code easier to read and use, and to update older regulations to comply with current federal and state law. Phase 3 is intended to simplify application processes and reduce processing timelines. In mid-2020, the County applied for and received a \$500,000 Local Early Action Planning Grant from the California Department of Housing and Community Development (HCD). The grant funded a number of projects under the banner of the County’s Zoning Code Modernization Program, designed to streamline local planning processes to accelerate housing production, including:

1. Establishing Zoning Administrator program to improve project review timelines,
2. Developing objective design standards for multifamily housing, and
3. Adopting an ADU and JADU ordinance to reflect changes in State law.

A Board of Supervisors workshop to discuss and define the scope of the LEAP-funded projects is scheduled for September of 2021. At the September meeting, the Board is also expected to hold a public hearing to consider the Planning Commission’s recommendations on, and potentially adopt, the proposed ADU and JADU ordinances that are before the Planning Commission at the June 3rd public hearing. The Planning Commission will review the other two projects once staff implements the Board of Supervisors’ direction, conducts public outreach, and develops draft ordinance updates.

HISTORY

The table below summarizes key project milestones and events.

Date	Project Event/Milestone
January 24, 2017	Board of Supervisors approved changes to the ADU Ordinance after significant changes in State law, to establish ministerial approval of ADUs and a 120-day review period, changing the nomenclature from “second dwelling unit” to “accessory dwelling unit,” and increasing the maximum size from 840 to 1,000 square feet. Also established a JADU Ordinance.
May 8, 2018	Board of Supervisors approved changes to the ADU Ordinance to allow 1,200 square foot ADUs and decrease the minimum parcel size for ADUs in urban areas
September 17, 2019	Board of Supervisors approved minor changes to the ADU Ordinance and zoning database amendments to remove the Z Accessory Dwelling Unit Exclusion Zone Combining District from about 2,000 parcels countywide.
June 9, 2020	Board of Supervisors authorized application for, and receipt of, a Local Early Action Planning Grant from the California Department of Housing and Community Development.
February 9, 2021	Board of Supervisors approved changes to the Zoning Code under Phase 1 and 2 of the Zoning Code Modernization Program.

PRIOR REVIEW

The Planning Commission and Board of Supervisors have not reviewed changes to Sonoma County’s ADU and JADU regulations since the recent state law amendments.



GENERAL PLAN CONSISTENCY

ADUs and JADUs are an important, easy-to-build form of housing for the unincorporated County, and on an individual household basis, provide additional housing units for family members or a source of income for homeowners. Based on data collected by the County, and approved by HCD, ADUs count toward the County’s moderate-income housing need, and make use of existing developed sites for housing construction, consistent with Goal 2 in the County’s General Plan Housing Element (Promote the Use of Available Sites for Affordable Housing Construction and Provide Adequate Infrastructure) and Policy HE-1f (Encourage retention and further construction of small rental units such as granny units, rental studios, and SRO units, as well as large rental units with more than 3 bedrooms).

ANALYSIS

STATE LAW

The following summarizes the unincorporated County’s ADU and JADU regulation changes required by state law. See Attachment 4 for a table overview of the changes to ADU regulations.

Permit Requirements

State law mandates that an application for an ADU or JADU shall be ministerially considered and acted on within 60 days of submittal of a complete application. The County’s existing regulations require a ministerial zoning permit for ADUs in addition to a building permit and other applicable construction permits, and that ADU applications be considered within 120 days, consistent with previous State law. To comply with the reduced application review timeframe, Permit Sonoma no longer requires a ministerial zoning permit for ADUs. As of January 2020, all ADUs are reviewed ministerially through the building permit process, removing redundancy in permitting and maintaining the same scope of review.

The proposed ordinance would memorialize the current permitting practice and specify that ADUs and JADUs are subject to ministerial approval only, which may include construction-related permits, within 60 days of Permit Sonoma’s receipt of a complete application.

Removal of Minimum Lot Size

State law bars local agencies from establishing minimum lot sizes for ADUs. The County’s existing regulations allowed ADU development with tiered floor area standards based on the type of water and sanitation service available and the lot size. Parcels that did not meet the minimum lot size for the available utility service were subject to a discretionary permitting process. The County required a groundwater study showing that the ADU would not result in a net increase in water use for parcels served by wells in Class 4 Groundwater Availability Areas and critical habitat areas.

The proposed ordinance would remove the minimum lot size requirement and allow for ministerial ADU approval of an ADU up to 1,200 square feet in size, or greater if the ADU is a conversion of existing space (see Development Standards – Unit Size), regardless of the type of water supply and sanitation service to the ADU. As with all residential construction permits, evidence of adequate water supply and wastewater disposal will still be required for ADUs, which includes a well yield test for ADUs within Class 3 and Class 4 Groundwater Availability Areas as provided for in Section 7-12 of the Building Regulations in the Sonoma County Code. The [net zero water use standards](#) for ADUs in Class 4 Groundwater Availability Areas will remain.



Multifamily Accessory Dwelling Units

State law mandates that ADUs be permitted on lots with existing or proposed multifamily dwellings. The County’s existing regulations prohibited ADUs on lots containing a duplex, triplex, apartment, or condominium.

In conformance with the minimum requirements of State law, the ordinance would allow for ADU development on multifamily lots. One ADU, up to 1,200 square feet in size, may be permitted with a proposed multifamily dwelling, as an attached or detached unit. ADUs proposed in conjunction with existing multifamily dwellings may be allowed as conversions or new detached construction. Conversions of existing, non-livable space in a multifamily structure are allowed to create up to 25 percent of the existing number of units onsite, or at least one unit. Alternatively, up to two detached ADUs limited to 1,200 square feet in size and 16 feet in height, with at least four-foot side- and rear-yard setbacks may be allowed on a lot with an existing multifamily structure. State law does not provide for a maximum size of ADUs converted from existing non-livable space in a multifamily structure. If an ADU is created simultaneously with a proposed multifamily structure, the lot is not permitted additional ADUs in the future as an existing multifamily dwelling.

Development Standards – Unit Size

State law exempts ADUs constructed entirely by the conversion of existing space in a single-family residence or legally permitted residential accessory structure from development standards. The County’s existing regulations applied development standards uniformly to ADUs created by new construction or through conversion of existing space.

The proposed ordinance would maintain a 1,200 square foot maximum unit size for all ADUs created by new construction. The ordinance would not apply height, yard setbacks, unit size, or lot coverage requirements to ADUs created entirely by conversion of existing space in a legally permitted single-family residence or residential accessory structure. For ADUs created by conversion of a residential accessory structure greater than 1,200 square feet in size, a one-time expansion of 150 square feet may be permitted if necessary to accommodate ingress and egress.

Development Standards – Yard Setbacks

State law prohibits requiring a side- or rear-yard setback greater than four feet for an ADU created by new construction, and eliminates setback requirements for ADUs created by conversion of existing legally established space of a primary residence or accessory structure. The County’s existing regulations required ADUs to comply with all setbacks of the base zoning district, except that a reduced rear-yard setback of five feet was allowed in General Plan-designated Urban Service Areas within the RR (Rural Residential), R1 (Low Density Residential), R2 (Medium Density Residential), and R3 (High Density Residential) zoning districts.

The proposed ordinance would require a minimum four-foot side- and rear-yard setback for newly constructed attached or detached ADUs. Conversion of an existing legally established residential accessory structure or a portion thereof would not be subject to setback requirements. The front-yard setback for all ADUs will continue to be that established by the base zoning district, except for conversions of existing legally established space.

Development Standards – Exemptions

State law prohibits local agencies from applying any development standard that would preclude development of an ADU at least 800 square feet in size, 16 feet in height, with four-foot side- and rear-yard setbacks. These standards are considered the minimum required by State law for detached or attached ADUs. The size of an ADU was previously limited by lot coverage requirements under the County’s existing regulations.



The ordinance would allow the County to apply lot coverage or other criteria, only to the extent that it would not prevent development of an ADU that meets the above standards for size, height, and setbacks. For example, if applying a zoning district's 35 percent lot coverage requirement would only allow for a 600 square foot ADU, the County must allow the ADU to be at least 800 square feet if it is no more than 16 feet in height and would meet the four-foot side- and rear-yard setbacks.

Design Standards

State law allows the application of objective design standards to ADUs. Objective standards are defined in Government Code § 65913.4, subdivision (a)(5) as: "standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal." The County's existing regulations required that ADUs be similar or compatible with the primary residence in terms of certain architectural criteria, and building materials and colors. ADUs within the SR (Scenic Resource), HD (Historic District), and LG (Local Guidelines) Combining Districts were further required to meet the provisions of those districts. Many of these design requirements are discretionary and subjective in nature.

The proposed ordinance would require that ADUs meet all objective design standards that may apply to the lot. To meet the State's requirements for objective standards, Permit Sonoma will publish on its website a list of applicable design standards from the current Sonoma County Code. The website will be updated as needed to reflect code changes.

Replacement Parking

State law specifies that ADUs created by the conversion of a garage, carport, or covered parking structure are not required to provide replacement parking. The County's existing regulations required replacement parking if a garage or carport was demolished or converted in conjunction with construction of an ADU. The proposed ordinance would not require replacement parking pursuant to state law.

Junior Accessory Dwelling Units (JADUs)

Changes to state law require the following revisions to the County's existing JADU regulations:

- Reduce the maximum JADU application review time from 120 days to 60 days
- Allow a JADU to be constructed within the space of a proposed or existing single-family residence, eliminating the requirement that JADUs be constructed from an existing bedroom
- Remove the requirement for internal access between the JADU and the single-family residence

REFORMATTING

The draft ordinances would repeal and replace existing Section 26-88-060s and -061 in their entirety. They have been reformatted and reorganized for easier navigation and sections have been added for clarity. New sections include definitions, standards for conversions of legal nonconforming structures, and fire-safe construction standards. These sections codify existing requirements or department policy and are not new requirements. Development standards have also been consolidated under one section.

PUBLIC COMMENTS

This ordinance update is focused on restoring policies that the County previously adopted, with input from the public and stakeholder groups. State law allows little flexibility but this ordinance revision restores those areas in which the County retains some discretion, within the boundaries of state law.



ATTACHMENTS

1. Draft Resolution
2. Proposed Ordinance Draft Sections 26-88-060 and 26-88-061
3. Existing Ordinance Existing Sections 26-88-060 and 26-88-061
4. Table Overview of Changes to ADU Regulations