

MEMO

DATE: June 3, 2021

TO: Sonoma County Planning Commission

FROM: Katrina Braehmer and Nina Bellucci

SUBJECT: Proposed ADU Ordinance Errata

Commissioners,

Since publication of the draft Accessory Dwelling Unit (ADU) Ordinance that is scheduled for a public hearing with the Planning Commission on June 3, 2021, staff has identified two issues requiring edits to the proposed ordinance.

1. The following language has been added to the draft ordinance to include an amendment of the definition of Accessory Dwelling Units and Junior Accessory Dwelling Units in Sonoma County Code Sections 26-24-020(A) and 26-24-190(A), and remove the standard disallowing Accessory Dwelling Units on property subject to a Williamson Act contract:

Section IV. Sonoma County Code section 26-24-020 is amended to read as follows:

1. **Definition.** An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the single-family or multifamily dwelling is or will be situated. An ADU may be an efficiency unit, as defined in state Government Code § 65852.2; or a manufactured home, as defined in state Government Code § 65852.2.
2. **Standards.**
 - a. See Section 26-88-060 (Accessory Dwelling Units).

Section V. Sonoma County Code section 26-24-190(A) is amended to read as follows:

Definition. A dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

2. The following language has been revised in Exhibit A of the draft ordinance, modifying proposed Section 26-88-060(h)(4)(iii) to clarify that ADUs may be constructed above a detached residential accessory structure on a lot with a multifamily dwelling in General Plan Urban Service Areas.

Attached to or converted from the entirety of or a portion of an accessory structure:
On lots with single family or multifamily dwellings, the ADU shall be limited to the current height of the accessory structure, or 16 feet for new construction. In General Plan-designated Urban Service Areas, and where the unit is proposed to be located above an accessory structure, the maximum height shall be that established for the primary dwelling in the base zoning district.

The revised ordinance and Exhibit A are attached. Staff will present the changes at the public hearing, and will be available to answer questions from the Commission or the public. This memo and the revised ordinance will also be published on the Planning Commission website.



Sonoma County Permit and Resource Management Department
2550 Ventura Avenue Santa Rosa CA 95403-2859 (707) 565-1900
www.PermitSonoma.org



ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, REPEALING AND REPLACING SONOMA COUNTY CODE SECTIONS 26-88-060 AND 26-88-061 AND FINDING THE ORDINANCE EXEMPT FROM CEQA UNDER PUBLIC RESOURCES CODE § 21080.17

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Sonoma County Code section 26-4-020(A)(1) is amended to read as follows:

Accessory Dwelling Unit (ADU). An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the single-family or multifamily dwelling is or will be situated. An ADU may be an efficiency unit, as defined in state Government Code § 65852.2; or a manufactured home, as defined in state Government Code § 65852.2.

Section II. Sonoma County Code section 26-4-020(E)(1) is amended to read as follows:

Efficiency Kitchen. A cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the dwelling unit.

Section III. Sonoma County Code section 26-4-020(J)(1) is amended to read as follows:

Junior Accessory Dwelling Unit (JADU). A dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Section IV. Sonoma County Code section 26-24-020 is amended to read as follows:

A. **Definition.** An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the single-family or multifamily dwelling is or will be situated. An ADU may be an efficiency unit, as defined in state Government Code § 65852.2; or a manufactured home, as defined in state Government Code § 65852.2.

B. **Standards.**

1. See Section 26-88-060 (Accessory Dwelling Units).

Section V. Sonoma County Code section 26-24-190(A) is amended to read as follows:

Definition. A dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Section VI. Sonoma County Code section 26-88-060 is repealed and replaced in its entirety as shown in Exhibit A.

Section VII. Sonoma County Code section 26-88-061 is repealed and replaced in its entirety as shown in Exhibit B.

Section VIII. Adoption of the ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) per Public Resources Code § 21080.17 and CEQA Guidelines §15282(h), which provide a statutory exemption for ordinances implementing Gov. Code § 65852.2 regarding accessory dwelling units.

Section IXVIII. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section IX. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on the ___ day of _____, 2021, and finally passed and adopted this ___ day of _____, 2021, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Rabbitt: Coursey: Gore: Hopkins:

Ayes: Noes: Absent: Abstain:

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton,
Clerk of the Board of Supervisors

EXHIBIT A:
SEC. 26-88-060 – ACCESSORY DWELLING UNITS

- (a) **Purpose.** This section implements the requirements of Government Code § 65852.2 and the provisions of the General Plan Housing Element that encourage the production of affordable housing by means of accessory dwelling units (ADUs).
- (b) **Definitions.** As used in this section:
- (1) “Multifamily” means a structure with two or more attached dwellings on a single lot.
 - (2) “Objective standards” mean numeric and/or fixed 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 applicant and the public official prior to submittal.
 - (3) “Primary residence” means an existing or proposed single-family dwelling or multifamily structure on the lot on which the ADU or ADUs is or are proposed to be established.
 - (4) “Accessory structure” means a legally permitted structure that is accessory and incidental to a primary residence located on the same lot.
 - (5) “Existing space” means floor area that is legally permitted or recognized as legal by the Director.
 - (6) “Floor area” shall be calculated by measuring the exterior perimeter of applicable areas and the length of any common walls.
 - (7) “Groundwater Availability Zone” means an area designated as Groundwater Availability Class 1, 2, 3, or 4 pursuant to the General Plan Water Resources Element and depicted on Sonoma County’s Groundwater Availability Map maintained by the Permit and Resource Management Department.
 - (8) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
 - (9) “Studio” means a dwelling unit in which the living area is not separated from the sleeping area.
- (c) **Applicability.**
- (1) ADUs shall be ministerially permitted in zoning districts that allow single-family or multifamily dwellings, in compliance with Government Code § 65852.2, the requirements of this section, and all other requirements of the applicable zoning district in which an ADU is permitted. The Department shall act on an application to create an ADU within 60 days from the date it receives a completed application if there is an existing single-family or multifamily dwelling on the lot.
 - (2) On lots in LIA, LEA, and DA zoning districts, ADUs shall be permitted in conjunction with a primary residence, except where a lot is eligible for one or more agricultural dwelling units and an application has been filed for an ADU,

that lot shall be eligible for one fewer agricultural dwelling unit. Where a lot contains the maximum agricultural dwelling units permitted on the lot, those units are deemed ADUs and no additional ADUs are permitted. In this section, "agricultural dwelling unit" includes farm family dwelling units, caretaker units, year-round farmworker housing, or agricultural employee dwelling units.

- (3) ADUs are prohibited in the Z (Accessory Dwelling Unit Exclusion) Combining District.
- (4) ADUs with water provided by a groundwater well or spring in Class 3 and 4 Groundwater Availability Zones shall be limited as follows:
 - (i) In Class 3 areas, ADUs shall be permitted only if:
 - (A) The domestic water source is located on the subject lot, or a mutual water source is available; and
 - (B) Groundwater yield is sufficient for the existing and proposed use, pursuant to Section 7-12 of the Sonoma County Code.
 - (ii) In Class 4 areas, or critical habitat areas as identified by the County and informed by State or Federal agency publications of critical habitat areas for fisheries, an ADU shall be permitted only if:
 - (A) Both requirements for Class 3 areas, above, are met; and
 - (B) The ADU can be shown to have a net zero increase in water usage on the lot, following the most recent guidance, policy, or procedure adopted by the Director of Permit Sonoma.
- (d) **Density.** As provided by Government Code § 65852.2, ADUs do not exceed the allowable density for the lot on which the ADU is located, and are consistent with the General Plan and zoning for the lot.
- (e) **Permit Requirements.** Construction permits (including, but not limited to, building, grading, well, septic, and sewer permits, as applicable) shall be required to establish an ADU. ADUs must comply with applicable building and fire codes, including providing evidence of adequate wastewater disposal capacity, water supply, access, and that any required permits have been obtained and all applicable fees have been paid. Water supply must be demonstrated pursuant to Section 7-12 of this Code.
- (f) **Fees.** Applicable development fees shall be charged proportionately by the square footage of the ADU in relation to the square footage of the primary residence. On a lot that contains a multifamily dwelling, the proportionality shall be based on the average square footage of the units within the multifamily dwelling structure. No fees shall be charged for ADUs of less than 750 square feet.
- (g) **Timing.** An ADU is allowed on a lot with an existing or proposed primary dwelling unit. A certificate of occupancy for an ADU shall not be issued prior to a certificate of occupancy for the primary residence. Existing dwellings meeting the standards of this ordinance may be re-designated as an ADU, when a new primary dwelling unit is proposed, and with the approval of a zoning permit.
- (h) **Development Standards.**

- (1) **Unit Type.** An ADU may be attached to an existing primary residence, converted from a portion of the existing living area of the primary residence, detached and on the same legal lot as a primary residence, converted from the entirety of or a portion of an existing accessory structure, or attached to an existing or proposed accessory structure.
- (2) **Number of Units.** The number of ADUs allowed on a single lot shall be:
 - (i) **On a lot that contains an existing or proposed single-family dwelling:** One ADU.
 - (ii) **On a lot that contains an existing multifamily dwelling:** Two ADUs, detached from the multifamily structure, or up to 25 percent of the existing units in the multifamily dwelling, but at least one, converted from existing non-livable space in a multifamily structure.
 - (iii) **On a lot that contains a proposed multifamily dwelling:** One ADU.
- (3) **Location.** ADUs shall be located subject to the following setbacks, and in conformance with any easements and building envelopes:
 - (i) **Front Yard Setback:** As established by the base zoning district.
 - (ii) **Side and Rear Yard Setbacks:** Four feet.
 - (iii) No setback shall be required for an ADU converted from existing space within the primary residence or an accessory structure, or for an ADU constructed in the same location and to the same dimensions as an existing accessory structure.
 - (iv) **Riparian Corridor Setbacks.** ADUs shall observe applicable setbacks of the Riparian Corridor (RC) Combining District as provided in Article 65 of this Code. If the setback would not permit an 800 square foot ADU that is no more than 16 feet in height, then the ADU shall provide a minimum of four-foot side and rear yard setbacks and comply with applicable permit requirements for development within the Riparian Corridor setback. An application for an ADU proposed within the RC setback shall not be considered complete until the applicable permit for development within the Riparian Corridor setback is obtained.
 - (v) ADUs shall adhere to subsection (m), Construction Standards.
- (4) **Height.**
 - (i) **Detached, new construction:**
 - (A) On lots with an existing or proposed single-family residence, ADUs shall be limited to the height limit for accessory structures established by base zoning district, except that the maximum allowed height shall not be less than 16 feet.
 - (B) On lots with existing or proposed multifamily dwellings, ADUs shall be limited to 16 feet in height.

(ii) **Attached to the primary residence, or converted from existing space in the primary residence:** The ADU shall comply with the height limit established by the base zoning district.

(iii) **Attached to or converted from the entirety of or a portion of an accessory structure:** [On lots with single family or multifamily dwellings.](#) The ADU shall be limited to the current height of the accessory structure, or 16 feet for new construction. In General Plan-designated Urban Service Areas, and where the unit is proposed to be located above an accessory structure, the maximum height shall be that established for the primary dwelling in the base zoning district.

(5) **Unit Size.**

(i) **Detached, new construction:**

(A) On lots with an existing or proposed single-family residence, the maximum floor area shall be 1,200 square feet.

(B) On lots with existing or proposed multifamily dwellings, the maximum floor area shall be 1,200 square feet.

(ii) **Attached to the primary residence or an accessory structure, new construction:** The maximum floor area shall be 1,200 square feet.

(iii) **Converted from existing space in a primary residence or an accessory structure:** The maximum size of an ADU created through the conversion of existing space shall be the dimensions of the structure plus an addition of no more than 150 square feet to accommodate ingress and egress. An expansion greater than 150 square feet may be permitted up to a maximum unit size of 1,200 square feet.

(6) **Lot Size.** No minimum lot size shall be required.

(7) **Lot Coverage.** The lot coverage limitation of the base zoning district shall be applied, unless it would not permit an ADU of 800 square feet, 16 feet in height, meeting four-foot side and rear yard setbacks.

(i) **Parking.** One parking space shall be provided. The parking space for an ADU may be located in an existing driveway as tandem parking.

(1) These parking requirements do not apply if the ADU meets any of the following criteria:

(i) The ADU is on a lot that is located within one-half mile walking distance to a transit stop.

(ii) The ADU is on a lot zoned HD (Historic District) Combining Zone.

(iii) The ADU is part of a proposed or existing primary residence or an existing accessory structure.

(iv) The ADU is located on a lot where on-street parking permits are required, but not offered to the occupancy of the ADU.

- (v) The ADU is on a lot located within one block of a car share vehicle.
 - (vi) The ADU is a studio.
- (2) Replacement parking shall not be required when the ADU is created by converting an existing garage that provides parking for the primary dwelling unit.
- (j) **Standards for Conversions of Legal Nonconforming Residential Accessory Structures.** ADUs converted from residential accessory structures determined to be Legal Nonconforming, pursuant to Article 94 of the Sonoma County Zoning Ordinance, shall be subject to the following requirements:
- (1) A Legal Nonconforming residential accessory structure that is converted to an ADU, or reconstructed as an ADU to the same footprint and dimensions as the original structure, shall not be subject to setback requirements.
 - (2) A legal nonconforming residential accessory structure that is converted to an ADU may be expanded to 1,200 square feet if the expansion will comply with the height limit and setbacks for new detached ADUs, except as provided in subsection (h)(5)(iii)(A).
 - (3) Expansion of floor area within a nonconforming setback is limited to 10 percent, or at least 150 square feet if necessary to accommodate ingress and egress.
- (k) **Standards for ADUs Used to Meet the Affordable Housing Program Requirement.** In addition to the standards set forth above, an ADU that is proposed to be made available for rent to another household in compliance with Article 89 requirements shall meet the following additional standards:
- (1) **Separate Parking and Pathway.** A designated parking space and a path of travel into the ADU that does not cross the private yard space of the main home.
 - (2) **Doorways.** No connecting doorways between the ADU and the main unit, except for a shared laundry room or vestibule; and
 - (3) **Yard.** Provision of a separate yard or open space area from that of the main dwelling. For ADUs located above other structures, this requirement may be met through the provision of a deck with no dimension of less than six feet.
- (l) **Design Standards.** ADUs involving addition of floor area shall meet all objective design standards that apply to the lot. No discretionary review or permits shall be required to establish an ADU.
- (m) **Construction Standards.** Not exclusive of other applicable State and local building and fire regulations, ADUs shall comply with the following requirements.
- (1) Structures within the State Responsibility Area (SRA) must comply with applicable local and State regulations for setbacks and fire-resistive construction.
 - (2) Structures outside of the SRA must comply with building code regulations for fire-resistive construction, unless more restrictive standards are required pursuant to state law or regulation.

- (3) Fire sprinklers shall not be required in the ADU if the primary residence is not required to have fire sprinklers. Fire sprinklers may be required if a structure containing an ADU is greater than 1,200 square feet.

(n) **Use Restrictions.**

- (1) **Ownership.** ADUs may be rented but shall not be sold or otherwise conveyed separate from the primary residence, except as specifically provided for by State law.
- (2) **Duration of Tenancy.** ADUs may not be rented for periods of less than 30 days.

EXHIBIT B:
SEC. 26-88-061 – JUNIOR ACCESSORY DWELLING UNITS

- (a) **Purpose.** This section implements the requirements of Government Code § 65852.22 and the provisions of the General Plan Housing Element that encourage the production of affordable housing by means of accessory dwelling units.
- (b) **Definitions.** As used in this section:
 - (1) “Single-family residence” refers to the existing or proposed dwelling unit within which the junior accessory dwelling unit is established.
- (c) **Applicability.** Junior accessory dwelling units (JADUs) shall be ministerially permitted in zoning districts that allow single-family dwelling units as permitted uses, in compliance with Government Code § 65852.22, the requirements of this section, and all other requirements of the applicable zoning district. The Department shall act on an application to create an JADU within 60 days from the date it receives a completed application if there is an existing single-family dwelling on the lot.
- (d) **Permit Requirements and Fees.** Construction permits (including, but not limited to, a building, well, septic, and/or sewer permit) shall be required to establish a JADU. A JADU shall not be considered a separate or new dwelling unit for purposes of applying building codes, fire codes, well and septic requirements, or collection of impact fees.
- (e) **Timing.** A JADU may be established after or concurrently with the single-family residence.
- (f) **Development Standards.**
 - (1) **Number of Units.** One JADU is allowed per lot, within a single-family residence.
 - (2) **Unit Size.** The floor area of a JADU shall not exceed 500 square feet. If the bathroom is shared with the single-family residence, it shall not be included in the floor area.
 - (3) **Location.** A JADU shall be created from space in an existing, fully permitted, or proposed single-family dwelling or garage attached to the single-family residence.
 - (4) **Access.** A separate, exterior entrance to the JADU shall be provided.
 - (5) **Bathroom.** A JADU may include separate sanitation facilities, or may share sanitation facilities with the single-family residence.
 - (6) **Kitchen.** A JADU shall include an efficiency kitchen.
- (g) **Use Restrictions.**
 - (1) JADUs may be rented but shall not be sold separate from the single-family residence.
 - (2) JADUs may not be rented for periods of less than 30 days.

- (3) The owner of the property must reside in either the single-family home or the newly created JADU.
- (4) **Deed Restriction.** The property owner shall record a deed restriction that:
 - (i) Prohibits sale of the JADU separate from the single-family residence;
 - (ii) Specifies that the deed restriction runs with the land and is enforceable against future property owners;
 - (iii) Restricts the size and attributes of the JADU to those established by this section and Government Code § 65852.22; and
 - (iv) Makes the County a third-party beneficiary of the deed restriction with the right to enforce the provisions of the deed restriction.