permit SONOMA

County of Sonoma
Permit & Resource Management Department

Sonoma County Planning Commission
STAFF REPORT

FILE: **ORD25-0004**
DATE: **October 2, 2025**
TIME: At or after 1:05 pm
STAFF: Isabella Wotring, Comprehensive Planning

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, Permit Sonoma
Supervisorial District(s):	All
Description:	Ordinance to amend Sonoma County Code Chapter 26 (Zoning Code) pertaining to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) to clarify standards and permitting processes applicable in compliance with State law.
CEQA Review:	Statutorily exempt from the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.17.
Ordinance Reference:	Sonoma County Zoning Code Sections 26-04-020, 26-06-030, 26-08-030, 26-10-030, 26-12-030, 26-14-030, 26-24-020, 26-24-190, 26-04-020, 26-88-060, 26-88-061, 26-88-118, and 26-90-120

RECOMMENDATION

Permit Sonoma recommends that the Planning Commission adopt the attached resolution recommending that the Board of Supervisors:

1. Adopt an ordinance amending Sonoma County Code Chapter 26 (Zoning Code) pertaining to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) for compliance with State law, as shown in Exhibit A; and

2. Find the proposed ordinance statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080.17.

EXECUTIVE SUMMARY

The primary objective of the proposed ordinance is to align the County's inland Zoning Code with State law surrounding accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) while supporting the County's Housing Element goals and policies for the encouragement of small rental units. ADUs are small dwelling units permitted as accessory to a primary single-family or multifamily dwelling, complete with their own independent living facilities. A JADU is a special type of ADU no greater than 500 square feet that is converted from existing space within a single-family dwelling and may share sanitary facilities with the primary dwelling. This ordinance would update provisions for ADUs and JADUs and relocate them from Article 88 (General Use Provisions and Exceptions) to Article 24 (Residential Use Standards), amend ADU and JADU uses and code section references in land use tables for consistency, and add, modify, and relocate definitions in the ADU and JADU code sections and Article 04 (Glossary). Amendments also replace references to "second dwelling units" with "accessory dwelling units" and remove references where appropriate. In recent years, the State legislature has frequently enacted changes to State ADU Law (Chapter 13 of Division 1 of Title 7 of the Government Code pertaining to ADUs and JADUs) with the intent of decreasing arbitrary, excessive, or burdensome requirements that unreasonably restrict the ability of homeowners to create this valuable form of housing. State ADU Law sets parameters for the provisions that local agencies may and may not apply. The most recent legislation took effect at the start of 2025. The proposed ordinance would make updates to the County Zoning Code necessary to maintain compliance with State law and respond to an Ordinance Review Letter from the State Department of Housing and Community Development (HCD) that the County received in January 2025. Other proposed updates are elective and recommended in support of Housing Element goals and policies that encourage the creation and retention of small rental units, seek to provide housing for all household income cohorts in diverse neighborhoods, and encourage programs which reduce impervious surfaces associated with development.

PROJECT DESCRIPTION

Permit Sonoma proposes an ordinance that will update Zoning Code provisions for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) and reorganize the existing structure and location of relevant code sections for better clarity. Housing Element Subprogram 15b directed staff to update the Zoning Code to maintain compliance with State law for accessory dwelling units. This was accomplished in 2023 with the adoption of Ordinance No. 6458. However, State ADU Law has evolved since 2023, and additional updates are now required to maintain compliance. General Plan Policies HE-5g and HE-6e further direct the County to continue to encourage the construction and retention of small rental units such as accessory dwelling units, and to provide housing opportunities throughout the county for all household income cohorts while avoiding displacement of existing residents.

The proposed ordinance includes updates to standards and permitting provisions for compliance with State ADU Law while allowing flexibility in the types of ADUs a lot may contain and retaining certain existing local standards. This is achieved by allowing the minimum quantity of ADUs that must be permitted under Government Code Section 66323, while applying more permissive standards than those outlined in the State law. This approach allows the inclusion of ADU configurations that the County already permits, which would otherwise need to be separately provided for under Government Code Section 66314 in addition to the minimum allowable quantity mandated under Section 66323. The proposed amendments would allow for ADUs and JADUs in the quantities summarized in Table 1.

The proposed ordinance includes the following key elements:

1. Additions to, updates to, and reorganization of definitions.
2. Relocation of code sections and reorganization of code section structure.
3. Removal of redundant requirements and rewording of references to building and fire code requirements.
4. Adjustments to standards to accommodate a variety of ADU types in compliance with Government Code Section 66323, including:
    a. Elimination of minimum parking requirements.
    b. Reduction of front setback and lot coverage standard applicability.
    c. Increase to the maximum height for detached and attached ADUs.
    d. Elimination of special design standards for ADUs used to meet affordable housing requirements under Article 89.
5. Clarification of permitting processes and addition of permitting provisions for unpermitted ADUs and JADUs constructed prior to January 1, 2020.
6. Clarification of allowances for ADUs and JADUs where nonconforming zoning conditions exist.
7. Inclusion of uncovered spaces in replacement parking provisions for ADUs.
8. Removal of obsolete Net Zero groundwater use requirements for ADUs.
9. Removal of the preclusion of ADUs by agricultural employee housing units.
10. Clarifications regarding the applicability of the Riparian Corridor (RC) and other combining districts.

Table 1. Allowable ADU & JADU Combinations Under Proposed Ordinance

<table>
<tr><th rowspan="2">With Primary Dwelling:</th><th>Single-Family Dwelling (SFD)</th><th colspan="2">Multifamily Dwelling (MFD)</th></tr>
<tr><td>Existing or Proposed</td><td>Existing</td><td>Proposed</td></tr>
<tr><td colspan="4">Conventionally permitted ADUs & JADUs – any combination of the following shall be permitted by proposed standards compliant with Government Code Sections 66323 and 66333. Existing unpermitted units permitted under Section 66332 may count against these allowances.</td></tr>
<tr><td>JADU</td><td>One (1) JADU</td><td>-</td><td>-</td></tr>
<tr><td>Detached, new construction ADU</td><td rowspan="5">Two (2) ADUs of any type</td><td rowspan="3">Eight (8) ADUs of either type but not exceeding the number of existing primary units on the lot</td><td rowspan="2">Two (2) ADUs</td></tr>
<tr><td>ADU attached to an existing primary dwelling or accessory structure</td></tr>
<tr><td>ADU converted from an existing accessory structure</td><td>-</td></tr>
<tr><td>ADU converted from existing space within a primary dwelling structure</td><td>At least one (1) ADU or up to 25% of existing primary units on the lot –must be converted from non-livable space</td><td>-</td></tr>
<tr><td>ADU attached to a proposed single-family dwelling</td><td>-</td><td>-</td></tr>
</table>

Unpermitted ADUs and JADUs eligible for permitting under Government Code Section 66332 may count against allowances for conventionally permitted ADUs and JADUs but shall not affect or be limited by those already constructed.			
ADUs and JADUs constructed prior to 2020, and not in substandard condition	As many as eligible	As many as eligible	As many as eligible

BACKGROUND

State ADU Law

For purposes of this report, "State ADU Law" includes state provisions for ADUs and JADUs included in Title 7, Chapter 13 of the California Government Code (Sections 66310-66342). Substantial updates to State ADU Law went into effect January 1, 2025, with the passing of Senate Bill 1211 (2024) and Assembly Bill 2533 (2024). These bills prohibit local agencies from imposing any development standards on specific ADUs and JADUs that are not authorized under Government Code Section 66323; raise the quantity of detached ADUs allowed on multifamily lots from two to up to eight; and require jurisdictions to offer a specific pathway for the legalization of certain unpermitted ADUs and JADUs while enhancing amnesty protections.

Government Code Section 66323 establishes a minimum quantity of ADUs and JADUs a jurisdiction must allow per lot, subject to certain minimum allowances and maximum restrictions. These units are typically referred to as "State Mandated Units" or "Statewide Exempt Units". On lots with single-family dwellings, this includes a certain quantity of ADUs that are detached, converted from existing space, or attached to proposed primary dwellings, depending on the type and quantity of primary units, in addition to a JADU. Government Code Section 66314 provides for an optional allowance for ADUs not described in Government Code Section 66323. These provisions cater to ADUs attached to existing structures, as well as other detached or converted ADUs, which may be permitted in addition to State Mandated Units. Government Code Section 66325 provides that jurisdictions may apply standards that are less restrictive than those established by State law.

Under Government Code Section 66332, local jurisdictions must allow legalization of unpermitted ADUs and JADUs which were created prior to January 1, 2020, and are not in substandard condition pursuant to California Health and Safety Code Section 17920.3. No other standards may be applied to these units as a condition of legalization.

HCD Communication

Ensuring compliance with State ADU Law is critical to maintaining the County's Prohousing designation and certified status of the adopted Housing Element. On January 9, 2025, Permit Sonoma received a letter from the State Department of Housing and Community Development (HCD) regarding the County's ADU ordinance (Zoning Code Section 26-88-060). The letter identified various contents of the ordinance which appeared outdated or out of compliance with recently updated State ADU Law, and directed the County to amend its ADU ordinance or make findings under Government Code Section 66326(b)(2)(B) explaining why the County's ordinance is compliant with State ADU Law. This letter is included in Attachment 3. On February 7, 2025, Permit Sonoma responded to the January 9, 2025, ordinance review letter, committing to address HCD's requests and asking for further guidance. A copy of this response letter is included in Attachment 4. Since then, Permit Sonoma staff has continued engagement with HCD representatives to obtain guidance and clarification

pertaining to the restrictions and allowances that may be applied under State ADU Law. The proposed amendments seek to address HCD's comments and other identified inconsistencies with State ADU Law.

DISCUSSION

Addressing Comments From HCD

Objective Standards Applicable to State Mandated Units

HCD requested the County to make updates to accommodate the requirements of Government Code Section 66323, which limits the restrictive development standards that a jurisdiction may apply to certain ADUs and JADUs to those standards prescribed in Section 66323. This means ADUs described in this section cannot be subject to front setbacks, lot coverage limitations, parking requirements, or any other constraint not specifically listed. To comply with minimum allowances required under Section 66323 without rolling back more permissive local allowances, proposed code amendments would apply only standards that are more permissive than Government Code Section 66323 to include all configurations of ADUs currently permitted under local code while accommodating state minimums. This is authorized under Government Code Section 66325, which provides that jurisdictions may be more permissive than what is described by the preceding sections.

Provisions for Permitting Unpermitted ADUs and JADUs

HCD requested the County to include new provisions for permitting unpermitted ADUs and JADUs created prior to January 1, 2020, in accordance with Government Code Section 66332. Proposed amendments include the requested provisions and establish that any units permitted under this section may count against a lot's allowable quantity of conventionally permitted units, if not already exceeded, prohibiting additional conventionally permitted units. HCD has communicated that no limit may be imposed on the quantity of unpermitted ADUs and JADUs that must be permitted under this section, provided they meet the required standards. Therefore, a lot which already includes the maximum quantity of conventionally permitted ADUs (i.e. two on a single-family lot) may still be eligible for additional ADUs under this section. However, any combination of ADUs permitted under this section and or conventionally permitted that together meet or exceed the allowable quantity of conventionally permitted ADUs (i.e. two on a single-family lot) shall preclude additional conventionally permitted ADUs, but cannot preclude additional eligible unpermitted ADUs from being permitted under this section. Planning division staff will review eligibility criteria pertaining to creation date while Building division staff will review the application and conduct an inspection to confirm non-substandard conditions in accordance with Health and Safety Code Section 17920.3.

Statutory Numbering

HCD requested references to the Government Code to be updated to reflect provisions relocated by SB 477. Proposed amendments include updated references.

JADU Allowance

HCD requested the County's ADU code include provisions for JADUs as required by Government Code Section 66323 and 66333. Though the current code contains provisions for JADUs in Section 26-88-061, proposed amendments update these provisions and references to JADU allowances within the ADU code section to better comply with State ADU Law.

Definitions

HCD requested the phrases "legally permitted" and "recognized as legal by the Director" to be removed from definitions for "accessory structure" and "existing space" to avoid conflicts with State ADU Law regarding nonconforming zoning conditions, building code violations, unpermitted structures, and objective standards. Proposed amendments remove these phrases from definitions as requested and clarify standards for the conversion of nonconforming and unpermitted structures.

Denial Procedures

HCD requested the County to include ADU application denial procedures outlined in State ADU Law. These include returning, 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. Proposed amendments include these provisions.

Agricultural Employee Dwelling Units

HCD requested the County to clarify that ADU applications will be permitted without reference to other categories of dwelling units onsite, such as agricultural employee dwelling units. Proposed amendments remove provisions that allow agricultural employee dwelling units to preclude ADUs.

Z (ADU Exclusion) Combining District

HCD stated the County had not adequately demonstrated that new ADUs – as opposed to new single-family or multifamily residential development – would adversely impact public safety or water and sewer infrastructure in areas designated with the Z (Accessory Dwelling Unit Exclusion) Combining District (Zoning Code Article 76). HCD requested the County to either:

A. Amend the Ordinance to remove the Z Combining District and consider denial of ADU applications on a case-by-case basis rather than impose a general prohibition; or

B. Provide detailed analysis and findings of fact for each of the four conditions claimed by Article 76 to support the prohibition of ADU development in all areas the district has been applied.

The proposed ordinance removes reference to the Z Combining District from ADU code sections; however, staff need to conduct a thorough evaluation of the Z Combining District and will bring an item forward at a later date to review options to address the issues with Z Combining District raised by HCD. In the meantime, the Z Combining District will remain applied to affected parcels.

Specification of Primary Dwelling Type

HCD requested the County to clarify the allowable ADU type and quantity specific to primary dwelling type (i.e. on lots with single-family or multifamily primary dwellings). Proposed amendments clarify allowances with reference to primary dwelling type where needed.

RC (Riparian Corridor Combining) District

Initially, HCD found application of Riparian Corridor (RC) setback and permitting requirements to be inconsistent with State limitations on the applicability of setbacks and other standards (Government Code Sections 66314 and 66315) and requested the County to remove reference to the Riparian Corridor setback and permit requirements from the code. After continued conversation with HCD staff, it was agreed upon that locational provisions associated with combining districts such as the RC which prohibit primary dwellings uniformly with ADUs may be applied since State ADU Law only applies where primary dwellings are a by-right permitted use.

Roof Pitch and Height
HCD requested the County to increase height restrictions on certain ADUs to comply with Government Code Section 66321, including allowances for roof pitch in areas near transit. Proposed amendments comply with Section 66321 and simplify height restrictions on ADUs by applying the same height restriction applicable to primary dwellings (35 feet) to all new construction ADUs.

Lot Coverage
HCD requested the County to amend provisions regarding lot coverage applicability to clarify compliance with Government Code Section 66323. Proposed amendments reduce applicability of lot coverage limitations to ADU floor area which exceeds minimum allowances described in Section 66323.

Affordability Program Standards
HCD requested the County to clarify whether design standards applicable to deed-restricted affordable ADUs was intended to apply to ADUs created under Government Code Section 66323. State provisions would prevent this from being allowed. Proposed amendments remove special standards for deed-restricted ADUs.

Fire Sprinkler Requirements
HCD requested the County to amend its ordinance regarding fire sprinkler requirements for ADUs and structures containing ADUs to clarify compliance with State ADU Law. Proposed amendments remove the square footage-based trigger for fire sprinkler requirement in structures containing ADUs.

Additional State Law Conflicts Identified

Front Setbacks
Government Code Section 66323 does not list front setbacks as an authorized standard for specified ADUs. Proposed amendments reduce the applicability of front setbacks to only ADU floor area which exceeds minimum allowances described in Section 66323.

Parking
Proposed amendments include removal of parking requirements for ADUs as required to comply with Government Code Section 66323. In addition to being a state requirement, this aligns with General Plan goals and policies which aim to promote the construction of ADUs as well as reduce impervious surfaces. Parking requirements increase impervious surfaces associated with development and can serve as an economic or physical constraint on ADU production.

Net Zero Groundwater Use Requirements
Proposed amendments remove applicability of Net Zero groundwater use requirements to ADUs. Application of special groundwater-related standards to ADUs has historically been an effort to support water resource conservation goals but has not applied uniformly to other types of dwellings such as single-family dwellings. Current State ADU Law generally prohibits the restriction of ADUs in areas where such restriction does not also apply uniformly to primary dwellings. Since Net Zero requirements do not apply to primary single-family dwellings and since their application is not specified in Government Code Section 66323, the proposed ordinance must remove this requirement to ensure compliance with State ADU Law. Additionally, building code standards for water efficiency have advanced over the years with the adoption of CALGreen, and the current method for demonstrating ADU conformance with Net Zero requirements centers around ensuring new structures meet minimum water efficiency standards.

Additional Staff Recommended Updates Beyond Mandated Allowances

Flexibility in Types of ADUs

Proposed amendments include authorizing the minimum allowance of two ADUs on lots with single-family primary dwellings to be of any type (detached, attached, conversion, or a combination thereof). Additionally, proposed amendments allow attached ADUs on lots with multifamily dwellings as an option in place of detached ADUs. This provides flexibility in design to accommodate a variety of site constraints and can reduce costs associated with ADU construction. This aligns with General Plan goals and policies for encouraging ADU development.

Height

Proposed amendments simplify height limits on new construction ADUs to 35 feet, matching that applied to primary dwellings. County Code already applies various height limits to ADUs ranging between 18 and 35 feet depending on the type of primary residence, type of ADU, and the base zoning applied to the lot, with 35 feet applying in all zones except the R1 (Low Density Residential) district. General Plan goals and policies aim to promote the construction of ADUs, and a 35-foot height limit would more easily accommodate multistory ADUs, benefits of which include reduced construction cost per square foot of living space, the ability to fit on smaller or otherwise constrained sites, and reduced lot coverage. This amendment supports General Plan goals and policies for reducing impervious surfaces associated with development and increasing groundwater recharge and quality. Simplification to a 35-foot height limit also neatly includes the varying scenarios of height limitations offered by current code and State ADU Law, ensuring compliance while reducing barriers and improving code clarity.

General Plan Consistency

Proposed amendments are consistent with the goals, objectives, policies, and programs of the General Plan as discussed below:

Housing Element

- **General Plan Policy HE-5g** encourages the retention and construction of small rental units such as ADUs.

  Proposed amendments aim to clarify, simplify, and provide flexibility in the standards applied to ADUs, promoting their construction. Additionally, proposed amendments include provisions for permitting unpermitted ADUs and JADUs created prior to January 1, 2020, as required by Government Code Section 66332, further encouraging retention of existing units.

- **General Plan Policy HE-6e** aims to provide housing opportunities throughout the county for all household income cohorts while avoiding or mitigating displacement of existing residents.

  Because of the inherently lower rental cost of ADUs compared to typical primary single-family dwellings, ADUs allow for a variety of household income cohorts to access housing in diverse neighborhoods without displacing existing residents.

- **Housing Action Plan Program 15b** directs the County to ensure compliance with State laws related to accessory dwelling units through amendments to the Zoning Code.

Though this program was completed in 2023 with Ordinance No. 6458, State laws pertaining to ADUs and JADUs have since changed. Proposed amendments to the Zoning Code include updates necessary to maintain compliance with new state provisions for ADUs and JADUs, continuing implementation of this program.

- **Housing Action Plan Program 25d** strives for the reduction of penalties for existing unpermitted dwelling units and encourages programs to bring them up to code.

  Proposed amendments include provisions for permitting unpermitted ADUs and JADUs created prior to January 1, 2020, as required by Government Code Section 66332. Required provisions remove applicability of certain penalties under this section and an inspection by Permit Sonoma staff is required to verify non-substandard conditions. During this inspection, the inspector may make recommendations for compliance with applicable health and safety codes.

Water Resources Element

- **General Plan Policy WR-2e** directs the County to require proof of groundwater with a sufficient yield and quality to support proposed uses in Class 3 and 4 water areas.

  Chapter 7-12 of the Sonoma County Building Code provides standards for ensuring adequate groundwater yield for new dwellings including ADUs in Class 3 and 4 Groundwater Availability Areas. Removal of redundant standards from the ADU code section does not change applicable building code standards.

- **General Plan Policy WR-4b** encourages programs that reduce impervious surfaces to minimize runoff and increase groundwater recharge.

  Proposed amendments include simplification of height limitations on new construction ADUs to 35 feet. This provides better feasibility for multistory ADUs subject to the same square footage limitations, which can reduce impervious surfaces per square foot of living space, reducing runoff and increasing groundwater recharge.

Open Space and Resource Conservation Element

- **General Plan Policy OSRC-8e** prohibits development within streamside conservation areas except as specifically provided.

  Proposed amendments maintain applicability of streamside conservation area provisions associated with the Riparian Corridor Combining District while clarifying compliance with State ADU Law by specifying the uniform applicability of combining district locational provisions to both primary dwellings and ADUs.

Environmental Review

Adoption of the proposed ordinance amendments is statutorily exempt pursuant to Public Resources Code Section 21080.17 which provides that the adoption of an ordinance to implement State provisions for ADUs and JADUs is exempt from CEQA.

RECOMMENDATION

Permit Sonoma recommends that the Planning Commission adopt the attached resolution recommending that the Board of Supervisors:

1. Adopt an ordinance amending Sonoma County Code Chapter 26 (Zoning Code) pertaining to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) for compliance with State law, as shown in Exhibit A; and

2. Find the proposed ordinance statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080.17.

ATTACHMENTS

1. Draft Planning Commission Resolution

   Exhibit A. Proposed Code Amendments

2. Legal Noticing Affidavit

3. 01/09/2025 HCD's ADU Ordinance Review Letter to Sonoma County

4. 02/07/2025 Sonoma County Letter Responding to HCD's ADU Ordinance Review Letter