

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING SONOMA COUNTY CODE SECTION 26-88-060 TO MODIFY STANDARDS FOR ACCESSORY DWELLING UNITS AND AMENDING THE OFFICIAL ZONING DATABASE TO REMOVE THE “Z” ACCESSORY DWELLING UNIT EXCLUSION COMBINING DISTRICT FROM APPROXIMATELY 1,924 SPECIFIED PARCELS LOCATED IN THE LIA, LEA, AND DA ZONING DISTRICTS

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

Section I. Purpose and Findings. The Board finds and declares that adoption of this ordinance is necessary to protect the public health, safety, and welfare. The Board further finds that the ordinance is substantially consistent with pertinent provisions of the Sonoma County General Plan and Zoning Ordinance (Sonoma County Code, Chapter 26) for the reasons outlined below.

1. General Plan consistency

- a. Land Use Element. The ordinance is substantially consistent with the goals, objectives and policies of the General Plan Land Use Element.
 - i. Residential use is already permitted in the applicable General Plan land use category for each of the parcels that would be reclassified by this ordinance to remove the “Z” combining district. The ordinance does not increase residential density on agricultural land or in community separators; pursuant to state law, an accessory dwelling unit (“ADU”) is a residential use that is consistent with the existing general plan and zoning and does not exceed the allowable density for the lot on which the ADU is located. (Gov. Code, § 65852.2(a)(1)(C).)
 - ii. Consistent with Goal LU-5 and its objectives and policies, the potential addition of an ADU that is permitted and constructed in accordance with the standards provided in Sonoma County Code § 26-88-060 as amended by this ordinance, would not alter the current, “largely open or natural character with low intensities of development” conditions in designated community separators.
 - iii. Moreover, accessory dwelling units are prohibited from being used as transient occupancy (vacation) rentals, and may not be sold separately from the primary dwelling on the same parcel. The ordinance provides that in cases where a parcel would otherwise qualify for agricultural employee housing, such as farmworker housing, caretaker units, and farm family units, a proposed ADU would not be permitted in addition to the maximum number of agricultural employee units; instead, an ADU would be permitted as a substitute for one of those units. The parcels reclassified

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by this ordinance were identified based on specified environmental suitability criteria, and the amendments to Section 26-88-060 were designed to, and will, avoid unmitigated significant environmental impacts, in keeping with Policy LU-6b and Goals LU-7, LU-8, and LU-10 and their implementing objectives and policies. The environmental suitability criteria used to identify parcels for removal of the “Z” combining district and the text of Section 26-88-060, including amendments enacted by this ordinance, limit development on lands that are especially vulnerable or sensitive to environmental damage, including but not limited to parcels located in very high fire hazard severity areas and lands in sensitive groundwater areas.

- iv. Finally, the Board finds that the ordinance is substantially compatible with Goal LU-9, related to protection of agricultural lands. Accessory dwelling units are already a permitted use under the base zoning for parcels in the LIA, LEA, and DA zones. This ordinance merely removes the “Z” combining district, where appropriate; all uses on affected parcels will be subject to the same regulations and standards regarding permitted uses, including ADUs, as provided in the existing zoning code for the applicable base zoning district and any other applicable combining districts.
- b. This proposal is substantially consistent with the goals, objectives and policies of the Housing Element, as follows.
 - i. General Plan Housing Element Policy HE-3c provides for review of the “Z” combining district restrictions on agricultural parcels of less than 10 acres county-wide, and that the Board of Supervisors should consider removing the restrictions where appropriate. The Board finds that it is appropriate to remove the “Z” district from the parcels identified in Exhibit A, which includes parcels 10 acres and larger. The parcels listed in Exhibit A were identified following application of specific, environmentally protective screening criteria. Moreover, application of Section 26-88-060 as amended will limit the possibility of undesirable impacts, as discussed elsewhere in this Section I. The criteria established and described in the Staff Report, dated August 6, 2019, are as effective in determining site suitability for removing the “Z” combining district” from agriculture-zoned parcels of 10 acres and larger as from agricultural parcels of less than 10 acres. Nothing in Policy HE-3c directs that parcels 10 acres or larger may not be considered for removal of the “Z” combining district. Thus, removing the “Z” combining district from the approximately 1,924 identified parcels is compatible with Policy HE-3c and the overall policy goals and objectives of the Housing Element.
 - ii. This ordinance would remove a prohibition on accessory dwelling units from specified parcels, creating an opportunity for property owners to apply to create a type of housing which, according to county data, is limited in size and accordingly often made available as an affordable housing option. This project is accordingly consistent with Housing

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Element Goal 3 to promote production of affordable housing units and Objective HE-3.1 to eliminate unneeded regulatory constraints to the production of affordable housing.

- c. This proposal is substantially consistent and compatible with the Agricultural Resources Element, as follows.
 - i. Rezoning the identified parcels is consistent with Goal AR-3 to “maintain the maximum amount of land in parcel sizes that a farmer would be willing to lease or buy for agricultural purposes.” The minimum lot size for creation of new agricultural parcels is 60 acres (LEA), 20 acres (LIA), and 10 acres (DA) because it is recognized that such acreage may be necessary to support a typical agricultural operation. Many parcels in these zones were subdivided before these parcel size minimums were in place and may not be large enough to support agricultural operations. While agricultural operations may occur on parcels of any size, allowing accessory dwellings on parcels under 10 acres reduces the potential for residential uses to encroach on lands typically sought out for agricultural operations. Conversely, on smaller properties where agricultural operations do exist, an ADU may provide enough supplemental income to make a smaller agricultural operation viable.
 - ii. To reduce the potential that non-farming residences (ADUs) might result in over-development of agricultural parcels, the ordinance includes a provision that an ADU on a parcel zoned LIA, LEA, or DA would count as one of the eligible agricultural housing units on the property. While the ADU would not be limited to occupancy by an agricultural employee or farm family member, as agricultural housing units are, this amendment would allow both an ADU and agricultural housing units on a qualifying property, but would limit the total number of density-exempt housing units on a parcel so that the parcel would not exceed the maximum number of units already potentially allowed by the general plan and zoning code.
 - iii. General Plan Objective AR-3.1 is to “avoid the conversion of agricultural lands to residential or nonagricultural commercial uses.” ADUs may not exceed 1,200 square feet and do not represent a significant conversion of agricultural land.
 - iv. General Plan Goal AR-4 is to “allow farmers to manage their operations in an efficient economic manner with minimal conflict with nonagricultural uses,” and Policy AR-4a states that “residential uses in these areas shall recognize that the primary use of the land may create traffic and agricultural nuisance situations, such as flies, noise, odors, and spraying of chemicals.” This project would be consistent with this goal and policy because all properties in agricultural zones are subject to right-to-farm rules which limit the ability of residents in agricultural zones to pursue nuisance complaints against agricultural operations and which are used to inform potential buyers of the potential for such conditions.

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- d. The project is substantially consistent with the Public Safety Element, which among other things establishes policies to protect the community from unreasonable risks from a variety of natural hazards, including fire. This ordinance is consistent with Goal PS-3 to “prevent unnecessary exposure of people and property to risks of damage or injury from wildland and structural fires.” This ordinance does not remove the “Z” combining district from parcels located in designated high- and very high fire hazard severity zones. Parcels in moderate fire hazard severity zones are included in the eligible parcel list. These parcels are subject to the Sonoma County Fire Safety Ordinance (Chapter 13) which includes Fire Safe Standards (Article V) relating to emergency access, roadway width and condition, emergency water supply and fuel modification.
- e. This project is substantially consistent with the Open Space and Resource Conservation Element.
 - i. The ordinance is consistent with OSRC-1k (as amended by Measure K, approved by the voters in November 2016) because it does not modify the boundaries of a community separator or the land use designations or densities of land within a community separator. As discussed above, state law mandates that an accessory dwelling unit does not exceed the allowable density for the lot on which it is located. The ordinance is compatible with Policy OSRC-1a because it does not increase residential density in Community Separators. As discussed above, pursuant to state law the addition of an accessory dwelling unit does not increase the density of the parcel on which it is located.
 - ii. The ordinance is substantially consistent with Policy OSRC-1c because development in community separators will continue to be limited in scale and intensity. ADUs are limited to a maximum of 1,200 square feet, and because they are only accessory to a primary dwelling and do not change density as a matter of law, an ADU accordingly does not change the intensity of permitted uses.
 - iii. The ordinance is substantially consistent with Goal OSRC-10 and its objective, OSRC-10.1, which calls for the county to preserve lands containing prime agricultural soils and to avoid their conversion to incompatible residential, commercial, or industrial uses. This ordinance does not convert lands containing prime agricultural soils to residential use. As discussed above, the General Plan already permits residential use in agricultural land use categories, and ADUs are accessory residential uses. The base zoning already permits ADUs in agricultural zoning districts.
 - iv. The ordinance is substantially consistent with Goal OSRC-7 and its objectives and policies related to protection of natural habitats and diverse plant and animal communities. The ordinance was designed to limit potential effects on specified critical habitat areas. Parcels in designated critical habitat areas for the California Tiger Salamander are not rezoned to remove the “Z” district under this ordinance, which protects the

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salamander and other species that share the same habitat. In addition, the amendments to Section 26-88-060 require zero net increase in groundwater use by ADUs located on parcels in areas designated as critical salmonid habitat.

- f. This ordinance is substantially consistent with the General Plan Water Resources Element. The amendments to Section 26-88-060, together with the existing provisions of that section, ensure that development of accessory dwelling units does not conflict with Objective WR-2.1, to conserve, enhance and manage groundwater resources on a sustainable basis that assures sufficient amounts of clean water both for uses allowed by the General Plan and the needs of the natural environment. For example, the ordinance requires that ADUs in certain critical groundwater areas must meet a “net zero groundwater” standard in order to protect water for critical salmonid habitats. Moreover, the parcels listed in Exhibit A were selected according to specified screening criteria that excluded parcels in certain areas where they could potentially contribute to known groundwater contamination.

2. Zoning consistency

- i. Removal of the “Z” combining district from the parcels identified in Exhibit A is consistent with the LEA (Land Extensive Agriculture), LIA (Land Intensive Agriculture), and DA (Diverse Agriculture) zoning district regulations in that it provides opportunities for additional dwellings that are otherwise permitted in these zoning districts and will not significantly alter any of the potential uses that are currently allowed on the proposed parcels.
- ii. The parcels rezoned by this ordinance to remove the “Z” district do not include parcels currently under Land Conservation Act (Williamson Act) contract.
- iii. The ordinance is consistent with the enumerated purposes of the “Z” combining district, which was adopted by this Board in 1993. The “Z” district was intended to exclude ADUs in areas where there is inadequate water for drinking or firefighting, where there is inadequate sewer or danger of groundwater contamination, where the addition of an ADU would contribute to existing traffic hazards or increase the burden on heavily impacted roadways, and where there is a significant fire hazard. The criteria used to identify the parcels being rezoned screened out parcels where there is identified danger of groundwater contamination, parcels located in the traffic sensitive combining district, and parcels located in high and very high fire hazard severity zones. In addition, Section 26-88-060, as amended by this ordinance, would not permit an ADU where there is inadequate water.

Section II. The Official Zoning Database, incorporated into the Zoning Ordinance by reference pursuant to Section 26-02-110 of the Sonoma County Code, is hereby amended to reclassify certain real property to remove the “Z” Accessory Dwelling Unit Exclusion

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Combining District as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section III. Sonoma County Code Chapter 26, Section 26-88-060 is amended as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section IV. 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 V. 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, passed and adopted this 6th day of August, 2019, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Zane: Gore: Hopkins: Rabbitt:

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