

Attachment 3

File No. ORD21-0002

Planning Commission Staff Report, June 3, 2021

Existing Accessory Dwelling Unit and Junior Accessory Dwelling Unit Ordinances (Sec. 26-88-060 & 26-88-061)

Sec. 26-88-060. - Accessory dwelling units.

- (a) Purpose. This section implements the requirements of Government Code Section 65852.2 and the provisions of the general plan housing element that encourage the production of affordable housing by means of accessory dwelling units.
- (b) Applicability. Except as otherwise provided by this section, accessory dwelling units shall be ministerially permitted only in compliance with the requirements of this section, and all other requirements of the applicable zoning district in the following agricultural and residential zoning districts: LIA (Land Intensive Agriculture), LEA (Land Extensive Agriculture), DA (Diverse Agriculture), RRD (Rural Resources and Development), AR (Agricultural Residential), RR (Rural Residential), R1 (Low Density Residential), R2 (Medium Density Residential), and R3 (High Density Residential). Accessory dwelling units are prohibited in the Z (accessory dwelling unit exclusion) combining district.
 - (b.1) Where a parcel is eligible for one (1) or more agricultural units and an application has been filed for an accessory dwelling unit, that parcel shall be eligible for one (1) less agricultural housing unit. Where a property has created the total amount of agricultural housing permitted on the lot, that parcel is not permitted to create an accessory dwelling unit in addition to those agricultural housing units. For the purposes of this section, "agricultural housing unit" includes farm family, caretaker unit, year round farmworker, or agricultural employee units.
- (c) Permit Requirements. A ministerial zoning permit (Section 26-92-170) shall be required for an accessory dwelling unit. Additionally, accessory dwelling units must comply with all other applicable building codes, fire codes, and requirements, including evidence of adequate septic capacity and water yield.
- (d) Appeals. Notwithstanding the provisions of Article 92 or any other provision of this Chapter, decisions to approve an application for an accessory dwelling unit that meets all applicable standards set forth in this article, and decisions to deny an application for failure to meet all applicable standards, are final and not subject to appeal.
- (e) Time Limits. Unless a longer timeframe is voluntarily requested by the applicant, the required zoning and building permits for an accessory dwelling unit shall be approved or denied within one hundred twenty (120) days from submittal of an application that includes all materials required to process the permits.
- (f) Use. Accessory dwelling units may not be sold separately from the main unit or separated by subdivision, but may be rented separately. Occupant(s) need not be related to the property owner. Accessory dwelling units may not be rented on a transient occupancy basis (periods less than thirty (30) days). These requirements shall be included in a recorded deed restriction.

- (g) Unit Type. An accessory dwelling unit may be attached or detached from the primary dwelling on the site. A detached accessory dwelling unit may also be a manufactured home on a permanent foundation, in compliance with Section 26-02-140.
- (h) Timing. An accessory dwelling unit allowed by this section may be constructed prior to, concurrently with, or after construction of the primary dwelling.
- (i) Density. As provided by Government Code Section 65852.2(a)(1)(C), accessory dwelling units are exempt from the density limitations of the general plan, provided that no more than one (1) accessory dwelling unit may be located on any parcel. An accessory dwelling unit may not be located on any parcel already containing a dwelling unit that is non-conforming with respect to land use or density, or developed with a duplex, triplex, apartment or condominium.
- (j) Site Requirements.
 - (1) Water Availability.
 - (i) Except as provided in subsection (b) of this section, an accessory dwelling unit shall be permitted only in designated groundwater availability classification areas 1 or 2, or where public water is available.
 - (ii) An accessory dwelling unit in a Class 3 groundwater availability area shall be permitted only if:
 - (A) The domestic water source is located on the subject parcel, 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 this code.
 - (iii) Accessory dwelling units shall not be established within designated Class 4 groundwater availability classification areas, or critical habitat areas as identified by the county and informed by the National Marine Fisheries Service Central Coast Coho Recovery Plan "Lower Russian River Priority Areas for Protection and Restoration" map and successor maps, except where both requirements for Class 3 areas, above, are met and a groundwater report prepared by a qualified professional certifies that the accessory dwelling unit would not result in a net increase in water use. On site water reduction may occur through implementation of water conservation measures, rainwater catchment or recycled water reuse system, water recharge project, or participation in a local groundwater management project. The director shall issue administrative guidelines to assist applicants in complying with these standards.
 - (2) Minimum Parcel Size.
 - (i) An accessory dwelling unit shall be permitted only on parcels with a minimum lot area as follows:

Accessory Dwelling Minimum Parcel and Unit Size

Water and Sanitation	Minimum Parcel Size	Maximum Unit Size (Sq. Ft.)
Well and Septic	2.0 acres	1,200
Public or Community Water, or on-site well 1	1.5-1.99 acres	640/1-bdrm
Public or Community Water	1.0-1.49 acres 2	640/1-bdrm
Public Water and Sewer within urban service areas	5,000 square feet	1,200

¹ On-site well must meet current potable water supply standards as defined in Sonoma County Code Chapter 25B-3

² Not in Waiver Prohibition Area

(k) Design and Development Standards.

- (1) Height. In designated urban service areas, an accessory dwelling unit shall not exceed sixteen feet (16') in height except that where the unit is attached to the primary unit, or where the accessory dwelling unit is proposed to be located above a garage, carport or barn, the maximum height shall be that established for the primary dwelling in the underlying zoning district. In no case shall the provision of an accessory dwelling unit result in a substantial reduction in solar access to surrounding properties.
- (2) Design. The accessory dwelling unit shall be similar or compatible in character to the primary residence on the site and to the surrounding residences in terms of roof pitch, eaves, building materials, colors and landscaping. Accessory units located within the SR (Scenic Resources) combining district shall be designed to meet the requirements in 26-24-020 (Community Separators and Scenic Landscape Units) or 26-24-030 (Scenic Corridors). Accessory units within the HD (Historic District) combining district shall meet the requirements of Section 26-68-025 (Standards Governing Decisions of County Landmarks Commission). However, review of accessory units within the HD combining district shall be completed administratively by the Director or his/her designee without public hearing. Accessory units located within the LG (Local Guidelines) Combining District shall meet the standards of Article 63 (LG Local Guidelines Combining District). Otherwise, no other design standards shall apply. Accessory dwelling units shall also meet all other standards set forth in any applicable combining district, specific plan or area plan, or local area development guidelines. Nothing in this subsection shall be construed to require discretionary review or permits for an accessory unit.
- (3) Size. An accessory unit shall not exceed one thousand two hundred (1,200) square feet in floor area.

- (i) Calculating the Size of Accessory Dwelling Units. Floor area shall be calculated by measuring the exterior perimeter of the accessory dwelling unit and the length of any common walls. In the case of straw bale or similar construction, floor area may be calculated using interior dimensions. Any storage space or other enclosed areas attached to the accessory dwelling unit shall be included in the size calculation, except: a) an attached garage, as described in subsection (i)(3)(ii) of this section; or b) where the accessory dwelling unit is constructed over or attached to an unconditioned accessory structure, as described in subsection (i)(3)(iii) of this section.

Accessory dwelling units located above garages of greater than four hundred (400) square feet shall be accessed through an exterior staircase only. Wherever an accessory dwelling unit is located above a garage, the total enclosed floor area of the second floor may not exceed the allowable floor area for the parcel.

- (ii) Allowable Garage Area. An attached garage up to four hundred (400) square feet in unconditioned floor area shall be permitted for an accessory dwelling unit provided that all required setbacks are met. No conditioned space shall be allowed within the garage area. An access door between the attached garage and the accessory dwelling unit may be provided. A deed restriction shall be recorded limiting the floor area of the accessory dwelling unit to the allowable floor area of the accessory unit for the parcel, and declaring that no portion of the attached garage is to be utilized as a part of the conditioned residential space.
- (iii) Units Attached to Accessory Structures. Notwithstanding subsection (i)(3)(ii) above, an accessory dwelling unit may be located above or attached to a garage of more than four hundred (400) square feet, or a barn or other unconditioned accessory structure only where the garage or accessory structure clearly serves the primary residential or agricultural use of the property. In such cases, access to the accessory dwelling unit from the garage or accessory structure shall be provided by an exterior entrance only. Access doors between the attached structure and the accessory dwelling unit are prohibited.

- (4) Lot Coverage Limitation. The total lot coverage for parcels developed with an accessory dwelling unit shall not exceed that allowed within the applicable zoning district in which the parcel is located.

- (5) Setback and Location Requirements.

- (i) An accessory dwelling unit and any attached or detached garage must comply with the setback requirements of the applicable zoning district and combining districts in which the accessory dwelling unit is located, with the following exceptions:
 - (A) The rear yard setback for accessory dwelling units located in urban service areas within zone districts RR, R1, R2, and R3 shall be reduced to five feet (5').
 - (B) Setbacks for an accessory dwelling unit converted from a legal, permitted garage shall be reduced to zero feet (0'). Side and rear yard setbacks for an accessory dwelling unit constructed above a garage shall be reduced to five feet (5').

- (6) Access and Parking Requirements.

- (i) Driveway Access. Both the primary unit and the accessory dwelling unit are strongly encouraged to be served by one (1) common, all-weather surface access driveway with a minimum width of twelve feet (12'), connecting the accessory dwelling unit to a public or private road. Parking Required. One (1) off-street parking space with an all-weather surface shall be provided for the exclusive use of the accessory dwelling unit, in addition to the parking that is required for the primary dwelling. The parking space for the accessory dwelling unit may be allowed in the driveway and in tandem. Required parking shall be waived if:
 - (A) The parcel containing the accessory dwelling unit is within one-half (½) mile of a public transit stop; or
 - (B) The accessory dwelling unit is located within the HD (Historic District) combining zone; or
 - (C) The accessory dwelling unit is part of the existing single-family dwelling or an existing accessory structure; or
 - (D) On-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
 - (E) A car share vehicle is located within one (1) block of the property in which the accessory dwelling unit is located.
 - (ii) Replacing Required Parking. If a garage or carport that provides required parking space(s) for the primary unit is demolished or converted in conjunction with construction of an accessory dwelling unit, the required replacement spaces may be provided as covered or uncovered spaces.
 - (iii) Surfaces. Wherever feasible, the use of permeable surfaces for parking, driveway and walkway areas is strongly encouraged.
- (7) Public Water and Sewer Connections. Accessory dwelling units approved under section 26-88-060(l) (Conversion of an Existing Structure) shall not be required to connect separately and directly to water or sewer systems and shall not be considered new residential uses for the purpose of calculating water and sewer connection fees or capacity charges. An accessory dwelling unit that is not approved under 26-88-060(k) may be required to connect separately and directly to water or sewer systems and may be subject to connection fees or capacity charges proportionate to the burden placed by the accessory dwelling unit on the utilities. Nothing in this subsection shall be construed to transfer responsibility for water and sewer services to the county from any utility district or zone or supersede the regulatory authority of any utility district or zone.
- (8) Standards for Accessory Dwelling Units Used to Meet the Affordable Housing Program Requirement. In addition to the standards set forth above, an accessory dwelling unit that is proposed to be made available for rent to another household in compliance with Article 89 requirements shall meet the following additional standards:
- (i) Separate Parking and Pathway. A designated parking space and a path of travel into the accessory dwelling unit that does not cross the private yard space of the main home.

- (ii) Doorways. No connecting doorways between the accessory dwelling unit and the main unit, except for a shared laundry room or vestibule; and
 - (iii) Yard. Provision of a separate yard or open space area from that of the main dwelling. For accessory dwelling units located above other structures, this requirement may be met through the provision of a deck with no dimension of less than six (6) feet.
- (l) Conversion of an Existing Structure in the R1 District. Notwithstanding the requirements of this section, a building permit for an accessory dwelling unit shall be approved if all the following circumstances are satisfied.
- (1) The parcel is located within the R1 (Low Density Residential) zoning district and is not within the Z (Accessory Dwelling Unit Exclusion) combining district; and
 - (2) The accessory dwelling unit is located within the existing space of a single-family dwelling or a legal, permitted accessory structure in existence as of January 1, 2017; and
 - (3) The accessory dwelling unit has exterior access independent from the single-family residence; and
 - (4) The converted structure has side and rear setbacks sufficient for fire safety; and
 - (5) The property owner records a deed restriction prohibiting transient occupancy (less than thirty (30) days) and separate sale, including subdivision.

Accessory dwelling units approved under this subsection shall not be required to provide new or separate water and sewer connections and shall not be charged a related connection fee or capacity charge.

- (m) Development Fees. Notwithstanding any other provision of the Sonoma County Code, Traffic and Park Development Fees otherwise assessed on new accessory dwelling units shall be waived or reduced as follows. These fee reductions may be modified at such time as a new fee study or fee schedule is adopted.

Development Impact Fees for Accessory Dwelling Units

Size of Unit	% of Development Impact Fees Assessed
Up to 750 sq. ft.	0%
751-1000 sq. ft.	50%
1001-1200 sq. ft.	100%

- (n) Proposed accessory dwelling units that do not meet the minimum lot size requirements or the design and development standards may be considered on a case-by-case basis with a use permit application.

(Ord. No. [6285](#), § IV(Exh. B), 9-17-2019; Ord. No. [6222](#), § II(Exh. A), 5-8-2018; Ord. No. [6191](#), § II(Exh. A), 1-24-2017)

Editor's note— Ord. No. [6191](#), § II(Exh. A), adopted Jan. 24, 2017, amended § 26-88-060 in its entirety to read as herein set out. Former § 26-88-060 pertained to secondary dwelling units and derived from Ord. No. 5429, § 6, adopted in 2003; Ord. No. 5569, § 3, adopted in 2005; Ord. No. 5711, § 3(Exh. B), adopted in 2007; and Ord. No. 6129, § II(Att. A), adopted Aug. 18, 2015.

Sec. 26-88-061. - Junior accessory dwelling units.

- (a) Purpose. Consistent with Government Code Section 65852.22, this section implements the provisions of the General Plan Housing Element that encourage the production of affordable housing.
- (b) Applicability. Junior accessory dwelling units shall be permitted only in compliance with the requirements of this section, and all other requirements of the applicable zoning district, except as otherwise provided by this section, in the following zoning districts: LIA (Land Intensive Agriculture), LEA (Land Extensive Agriculture), DA (Diverse Agriculture), RRD (Resources and Rural Development), TP (Timber Production), AR (Agricultural Residential), RR (Rural Residential), R1 (Low Density Residential), R2 (Medium Density Residential), R3 (High Density Residential), PC (Planned Community), CO (Administrative and Professional Office), C1 (Neighborhood Commercial), C2 (Retail Business and Service), C3 (General Commercial), LC (Limited Commercial), CR (Commercial Rural), AS (Agricultural Services), K (Recreation and Visitor-Serving Commercial), MP (Industrial Park), M1 (Limited Urban Industrial), M2 (Heavy Industrial), and M3 (Limited Rural Industrial) zoning districts. This section does not apply to accessory dwelling units, which are regulated by Section 26-88-060.
- (c) Permit Requirements and Fees. A building permit shall be required for a junior accessory dwelling unit. A junior accessory dwelling unit shall not be considered a separate or new dwelling unit for purposes of applying building codes, fire codes, well and septic requirements, collection of impact fees, or the provision of water, sewer, and power, including connection fees that might otherwise be associated with the provision of those services.
- (d) Time Limits. Unless a longer timeframe is voluntarily requested by the applicant, the required zoning and building permits for an accessory dwelling unit shall be approved or denied within one hundred twenty (120) days from submittal of an application that includes all materials required to process the permits.
- (e) Use. Junior accessory dwelling units may not be sold separately from the single-family dwelling, but may be rented separately. Occupant(s) need not be related to the property owner. Junior accessory dwelling units may not be rented on a transient occupancy basis (less than thirty (30) days). The single-family dwelling must be owner-occupied, but the owner may reside in either the junior accessory dwelling unit or the remaining portion of the single-family dwelling. This owner-occupancy requirement does not apply to single-family dwellings owned by a public agency, land trust, or non-profit housing organization.
- (f) Timing. A junior accessory dwelling unit allowed by this section must be installed after construction of the single-family dwelling.
- (g) Density. As provided by Government Code section 65852.22(d) and (e), junior accessory dwelling units are not considered new or separate dwelling units and, therefore, are exempt from the density limitations of the General Plan. No more than one (1) junior accessory dwelling unit may be located on a parcel.
- (h) Design and Development Standards. Junior accessory dwelling units shall conform with the development standards of the base zoning district. In addition, junior accessory dwelling units shall meet the following standards.
 - (1) Size. A junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area. If the bathroom is shared with the remainder of the single-family dwelling, it shall not be included in the square footage calculation.
 - (2) Location. A junior accessory dwelling unit shall be installed within a legally established bedroom within the existing walls of a fully permitted single-family dwelling. In the case of a legal, non-conforming single-family dwelling unit, the applicant must demonstrate adequate septic capacity for the bedroom count and utilize an existing, fully permitted bathroom.
 - (3) Access. A separate entrance to the junior accessory dwelling unit shall be provided, and interior access to the remainder of the single-family dwelling shall be maintained. Two (2) doors may be installed within one (1) frame for noise attenuation.

- (4) Kitchen. A junior accessory dwelling unit shall contain an efficiency kitchen, as defined in Section 26-02-140. The efficiency kitchen must be removed when the junior accessory dwelling unit use ceases.
- (5) Sanitation. A junior accessory dwelling unit may include a full bathroom, or the occupant(s) may use a full bathroom inside the remainder of the single-family dwelling.
- (6) Parking. A parking space is not required for the junior accessory dwelling unit.
- (i) Deed Restriction. A deed restriction shall be recorded that: prohibits the subdivision or sale of the junior accessory dwelling unit separate from the single-family dwelling; specifies that the deed restriction runs with the land and is therefore enforceable against future property owners; restricts the size and features of the junior accessory dwelling unit in accordance with this section; prohibits the junior accessory dwelling unit from being rented on a transient occupancy basis (less than thirty (30) days); and further that the County shall be a third party beneficiary of the deed restriction with the right to enforce the provisions of the deed restriction.

(Ord. No. [6191](#), § III(Exh. B), 1-24-2017)