



## Legislation Details (With Text)

**File #:** 2021-0735

**Type:** Regular Calendar Item      **Status:** Agenda Ready

**File created:** 7/7/2021      **In control:** Permit and Resource Management

**On agenda:** 9/14/2021      **Final action:**

**Title:** 1:30 P.M. -Zoning Code Modernization Phase 3 - Update to the Accessory Dwelling Unit & Junior Accessory Dwelling Unit Ordinances

**Sponsors:** Permit and Resource Management

**Indexes:**

**Attachments:** 1. ADU Ordinance Update BOS Summary.pdf, 2. Att 1 BOS Ordinance with Exhibits A and B, 3. REVISED Att 1 BOS Ordinance-with Exhibits-A-and-B.pdf, 4. Att 2 Planning Commission Record of Action.pdf, 5. Att 3 Planning Commission Staff Report\_ADU & JADU Ordinance Update.pdf, 6. Att 4 Existing ADU and JADU Regulations.pdf, 7. Att 5 ADU Ordinance BOS PowerPoint Presentation.pdf, 8. REVISED-Att-5-ADU-Ordinance-BOS-PowerPoint-Presentation.pdf

Date	Ver.	Action By	Action	Result
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**To:** Sonoma County Board of Supervisors  
**Department or Agency Name(s):** Permit Sonoma  
**Staff Name and Phone Number:** Katrina Braehmer (707) 565-1903  
**Vote Requirement:** Majority  
**Supervisory District(s):** Countywide

**Title:**  
**1:30 P.M. -Zoning Code Modernization Phase 3 - Update to the Accessory Dwelling Unit & Junior Accessory Dwelling Unit Ordinances**

### Recommended Action:

Adopt an 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, amending relevant definitions in Article 4 (Glossary) and Article 24 (Residential Use Standards) and the land use tables in Article 10 (Commercial Zones) and Article 12 (Industrial Zones); and determine that the ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) under Public Resources Code 21080.17 and Section 15282(h) of the CEQA Guidelines.

### Executive Summary:

The State legislature enacted changes to the law, effective January 01, 2020, to reduce local zoning barriers to Accessory Dwelling Unit development in response to the housing affordability crisis. The changes nullified the County's Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) regulations. Since the changes took effect, Permit Sonoma has been reviewing and processing ADU permits using only the standards in state law. Staff is recommending that the Board adopt an updated ADU and JADU Ordinance to bring County regulations into compliance with state law, allow the County to continue to implement certain provisions of its existing ADU regulations, and streamline the permitting process.

**Discussion:****Background**

Accessory dwelling units, or ADUs, are dwelling units with full kitchens and bathrooms located on lots with a primary single-family or multi-family residence. Also referred to as in-law units or second units, ADUs have become more popular in demand. Junior accessory dwelling units, or JADUs, are dwelling units no more than 500 square feet in size that are contained entirely within an existing or proposed single-family residence, and may share a bathroom with the single-family residence.

Since 2016, 241 ADUs have been fully permitted and constructed, an additional 223 permits have been issued, and an additional 111 permits have been submitted and are in process with Permit Sonoma. Between 2017 and 2019, the Sonoma County Board of Supervisors have adopted a number of policies to facilitate the building of new ADUs and JADUs. Table 1 provides an annual account of the number of ADU permits received during each year and their current permitting status. Staff processes fewer JADU permits. The Board of Supervisors adopted the county's first JADU ordinance in January 2017. Since then, staff has issued 11 JADU permits. Staff expects the policy changes will create additional incentives to build this increasingly-popular, naturally affordable housing unit. By creating a diverse set of housing products on all levels of affordability, the County of Sonoma can continue to meet the growing housing needs of its communities.

*Table 1. ADU Permits Since 2016, as of August 2021*

YEAR	FINALED	ISSUED	IN PROCESS	PRIOR BOARD ACTIONS
2016	26	2	0	
2017	42	9	0	Start ministerial approval of ADUs and establish a 120-day review period; adopt a JADU county ordinance (01/2017)
2018	91	39	3	Allow 1,200 square foot ADUs and decrease minimum parcel size for ADUs in urban areas (05/2018)
2019	62	78	22	Remove Z Combining District (ADU Exclusion Zone) from 2,000 parcels (05/2019)
2020	20	74	32	
2021	0	21	54	
	<b>241</b>	<b>223</b>	<b>111</b>	

State law that took effect January 01, 2020 required local jurisdictions to adapt their review and processing of ADU and JADU applications. The changes rendered local ordinances that did not meet the new requirements in Government Code Section 65852.2 null and void until a compliant ordinance could be adopted. Since January 2020, Permit Sonoma has been reviewing new ADU and JADU applications using the standards enacted by state law. Adopting an ordinance that complies with state law will provide clarity in the permitting process, and will also allow the County to be able to re-implement the following provisions of its existing ADU regulations.

- Continue to provide a height exception to base zoning district standards to allow ADUs to be constructed above a residential accessory structure within General Plan Urban Service Areas.
- Continue to limit ADUs in Class 4 Groundwater Availability Zones unless the ADU can be shown to have a net zero increase in water usage on the lot.

Staff recommends adopting the state-mandated policy changes to the County's ADU/JADU Ordinance. The key changes are summarized below, and Table 2 provides a more detailed comparison of the changes in state law against the county's existing ordinance.

- 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;
- Removing replacement of off-street parking requirements; and
- Approving all ADUs that comply with State standards through a ministerial building permit.

### Proposed Changes

The draft ordinance would repeal and replace existing Sections 26-88-060 and 26-88-061 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. Table 2 summarizes the County's existing regulations, and the proposed ADU and JADU regulation changes in compliance with state law.

*Table 2. State-mandated Policy Changes to ADU and JADU Regulations*

POLICY	COUNTY'S EXISTING REGULATIONS	PROPOSED ORDINANCE IN COMPLIANCE STATE LAW
<b>Permit Requirements</b>	• A zoning permit and building permit are required. • ADU and JADU applications are processed within <b>120 days</b> of submittal of a complete application.	• Only a ministerial building permit is required. • ADU and JADU applications are processed within <b>60 days</b> of submittal of a complete application.
<b>Minimum Lot Size</b>	• Tiered floor area standards apply based on the type of water and sanitation service available and the lot size. • ADUs that do not meet the minimum lot size are subject to a discretionary process.	• No minimum lot size is required.
<b>Multifamily ADUs</b>	• ADUs on lots with multifamily structures are prohibited.	• ADUs are permitted on lots with existing or proposed multifamily dwellings.
<b>Conversions</b>	• Development standards apply uniformly to ADUs.	• ADUs constructed entirely by the conversion of existing space in a single-family residence or legally permitted residential accessory structure are exempt from development standards.
<b>Development Standards - Yard Size</b>	• Base zoning district setbacks apply, except that a reduced rear-yard setback of five feet is 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.	• Only four-foot side- and rear-yard setbacks apply to ADUs created by new construction. • No setback is required for ADUs created by conversion of existing legally established space in a primary residence or accessory structure.

<b>Development Standards - Exemptions</b>	<ul style="list-style-type: none"> <li>• The size of an ADU is limited by lot coverage.</li> </ul>	<ul style="list-style-type: none"> <li>• Any development standard, such as lot coverage, 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 may not be applied.</li> </ul>
<b>Design Standards</b>	<ul style="list-style-type: none"> <li>• ADUs must be similar or compatible with the primary residence in terms of certain architectural criteria, and building materials and colors.</li> <li>• ADUs within the SR (Scenic Resource), HD (Historic District), and LG (Local Guidelines) Combining Districts are required to meet the provisions of those districts.</li> </ul>	<ul style="list-style-type: none"> <li>• Only objective design standards may be applied.</li> </ul>
<b>Replacement Parking</b>	<ul style="list-style-type: none"> <li>• Replacement parking is required if a garage or carport was demolished or converted in conjunction with construction of an ADU.</li> </ul>	<ul style="list-style-type: none"> <li>• ADUs created by the conversion of a garage, carport, or covered parking structure are not required to provide replacement parking.</li> </ul>
<b>ADU Prohibitions</b>	<ul style="list-style-type: none"> <li>• ADUs on a property subject to a Williamson Act contract are prohibited.</li> </ul>	<ul style="list-style-type: none"> <li>• Removes the Zoning Code prohibition of ADUs on contracted land. The County's Uniform Rules for Agricultural Preserves and Farmland Security Zones is the regulatory document for uses on contracted land. The current Uniform Rules prohibit ADUs on properties subject to a Williamson Act contract.</li> </ul>
<b>JADU Requirements</b>	<ul style="list-style-type: none"> <li>• JADUs must be created through conversion of an existing bedroom in the primary single-family residence, with internal access between the JADU and primary residence.</li> </ul>	<ul style="list-style-type: none"> <li>• JADUs may be created within the space of a proposed or existing single-family residence. Internal access between the JADU and the single-family residence is not required.</li> </ul>

### Planning Commission Recommendation

On June 03, 2021, the Planning Commission unanimously voted to recommend approval of the proposed ordinance to the Board of Supervisors. The proposed ordinance has since been modified for technical clean up, only as necessary to avoid confusion. The modifications were for minor amendments of the land use tables in the Commercial and Industrial Zones (Articles 10 and 12 of Chapter 26 of the Sonoma County Code) to identify ADUs as an allowed use with a permitted primary residence.

### Zoning Code Modernization Program

In an effort to streamline housing development, Permit Sonoma successfully applied for state funding in 2020 to modernize its Zoning Code. On February 09, 2021, the Board of Supervisors approved an initial phase of code updates that primarily focused on formatting the Zoning Code in a more user-friendly way. The current phase is a recommendation to update the County's existing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Ordinance to comply with recent changes in State law.

Upcoming code modernization initiatives will include establishing objective design standards, an administrative approval process for housing projects and a Zoning Administrator program. Staff will also be addressing various topics such as home occupations and restaurant delivery that have been amplified during the pandemic. Staff anticipates bringing these items to the Board of Supervisors by the end of June 2023. If needed, staff will explore whether additional amendments are advisable based on possible future changes to state law, such as those proposed by currently pending SB 10. If enacted, SB 10 would affect minor changes to

ADU law by authorizing the county to pass an ordinance to zone any parcel located in a transit-rich area or urban infill site for up to 10 units of residential density, at a height specified by the local government in the ordinance. Under SB 10, an applicable site's residential density would exclude up to two ADUs and two JADUs from counting toward the 10 units.

*Objective design standards, administrative approval process for multifamily housing developments and Zoning Administrator*

Implementing these improvements will reduce the cost of developing multifamily and affordable housing by reducing permitting timeframes and provide more certainty to housing developers and the community. Furthermore, establishment of a Zoning Administrator program will contribute to Permit Sonoma's goal of improving permit processing times and provide a high level of customer service to its constituents.

### **General Plan Consistency**

Staff finds this ordinance to be consistent with the County's General Plan. Goal 2 of the County's General Plan Housing Element is to "promote the use of available sites for affordable housing construction and provide adequate infrastructure." Policy HE-1f is to "encourage retention and further construction of small rental units such as granny units, rental studios, and single-room occupancy (SRO) units, as well as large rental units with more than 3 bedrooms." ADUs and JADUs are an important, moderately affordable, and easier-to-build form of housing for the unincorporated County; make use of existing developed sites for housing construction; 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 the State Department of Housing and Community Development (HCD), ADUs count toward the County's moderate-income housing need allocation. The ADU and JADU ordinance update is consistent with Goal 2 and Policy HE-1f of the Housing Element by clarifying regulations for the public and staff thereby streamlining the permitting process.

### **Environmental Analysis**

Adoption of the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) 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 to implement the provisions of Section 65852.2 of the Government Code.

### **Conclusion**

Staff recommends that the Board adopt the proposed ordinance and find it exempt from the California Environmental Quality Act. While all of the State-mandated policies have been in practice by staff since January 01, 2020, this update will codify these changes to the County's existing ordinances and allow staff to implement other provisions as allowed by state law. If approved by the Board, staff will submit the ordinance to the State Department of Housing and Community Development (HCD) within 60 days of adoption as required by Government Code 65852.2. If HCD finds that the ordinance does not comply with state law, the County will be required to either amend the ordinance or adopt a resolution with findings explaining why the County believes that the ordinance complies with state law.

### **Prior Board Actions:**

**February 9, 2021:** Board of Supervisors approved Phase 1 and Phase 2 of the Zoning Code Modernization Program, which amended Chapter 26 of the Sonoma County Code (Zoning Regulations) to reformat, reorganize, consolidate and delete redundancies and make limited additional text amendments to clarify existing policy and as necessary for conformity with state and federal law.

**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 approximately 2,000 parcels countywide.

**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.

**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.

#### **FISCAL SUMMARY**

##### **Narrative Explanation of Fiscal Impacts:**

N/A

##### **Narrative Explanation of Staffing Impacts (If Required):**

N/A

#### **Attachments:**

1. Proposed Ordinance with Exhibits A and B, Proposed Sections 26-88-060 and 26-88-061
2. Planning Commission Record of Action
3. Planning Commission Staff Report, dated June 3, 2021
4. Existing ADU and JADU Regulations
5. ADU Ordinance BOS PowerPoint Presentation

#### **Related Items “On File” with the Clerk of the Board:**

N/A