




Agenda Item No: 7.b
Meeting Date: November 15, 2021

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: COMMUNITY DEVELOPMENT

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City Manager Approval: 

TOPIC: ACCESSORY DWELLING UNIT REGULATIONS

SUBJECT: AN ORDINANCE AMENDING TITLE 1 (GENERAL PROVISIONS), TITLE 4 (FIRE), TITLE 12 (BUILDING REGULATIONS), AND TITLE 14 (ZONING ORDINANCE) OF THE SAN RAFAEL MUNICIPAL CODE RELATED TO REGULATIONS FOR ACCESSORY DWELLING UNITS, AND REPORT ISSUED PURSUANT TO GOVERNMENT CODE § 65858(d).

RECOMMENDATIONS:

Pass to print an Ordinance of the City of San Rafael Amending Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), and Title 14 (Zoning Ordinance) of the San Rafael Municipal Code Related to Regulations for Accessory Dwelling Units.

BACKGROUND:

This ordinance would establish local regulations consistent with changes in state law regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). The State Legislature has been modifying state law (California Government Code Section 65852.150 et seq.) governing ADUs and JADUs to reduce barriers, streamline the approval process, and expand production throughout California. The proposed ordinance complies with state law and would replace current San Rafael Municipal Code ADU regulations, which do not comply with state law and are considered null and void.

In order to further study regulations for ADUs and JADUs, on October 18, 2021, the City Council introduced and adopted an [interim urgency ordinance \(Ordinance No. 2001\)](#), which established a temporary, forty-five (45) day moratorium on the issuance of accessory dwelling unit and junior accessory dwelling unit permits on properties located on certain narrow hillside streets within the City of San Rafael, and declared the urgency thereof. Pursuant to California Government Code §65858(a), interim ordinances remain in effect for 45 days from the date of adoption but may be extended following notice and a public hearing. Under California Government Code § 65858(d), the City Council is required to issue a written report ten days prior to expiration of the interim ordinance, describing the measures taken to alleviate the condition which led to the ordinance’s adoption. Ordinance No. 2001 is set to expire December 2, 2021. Issuance of this report satisfies the requirements of California Government Code §65858(d).

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

ANALYSIS:

When enacting changes to the laws regulating ADUs and JADUs, the California Legislature has found and declared, among other things, that ADUs and JADUs provide additional rental housing and can add needed housing units in single and multifamily zoned areas, and thus play an essential role in addressing California's housing needs. ADUs and JADUs increase the forms of housing in a community and can offer more affordably priced housing options for extended family members, friends, students, older adults, caregivers, people with disabilities, and others.

[On March 23, 2021, the Planning Commission held a duly-noticed public hearing](#) (Case No: ZO21-001), received all public comment, and unanimously recommended City Council adoption of an ordinance establishing ADU and JADU regulations. The attached ordinance includes the regulations reviewed and recommended by the Planning Commission, except that the ordinance does not include a prohibition on ADUs or JADUs in hillside areas, which is discussed later in this report.

The Ordinance regulates ADUs and JADUs as follows:

Size of Unit (Floor Area).

- ADUs would need to have a minimum size of 150 square feet (known as an efficiency unit);
- Attached ADUs would have a maximum floor area of 1,000 square feet or 50% of the existing residence, whichever is less;
- Detached ADUs would have a maximum floor area of 1,000 square feet;
- There is no maximum size limit for ADUs that involve the conversion of an existing detached structure;
- There is no maximum size limit for an ADU created from internal conversion of portions of an existing primary residence;
- JADUs may be no less than 150 square feet and no more than 500 square feet.

Required Setbacks.

- Maximum rear and side yard setbacks of a new or expanded ADU are 4 feet;
- No additional setbacks are required for internal conversions;
- Front yard setback will be the same as required for the primary residence.

Maximum Height:

- Up to 16 feet high if within 4 feet of the rear or side yard;
- Height limited in the Eichler-Alliance overlay district may not exceed a height of 17 feet;
- Accessory dwelling units complying with the development standards established for the primary residence are subject to the same height limit established by the district governing the property.

Location Restrictions.

The regulations that the Planning Commission reviewed included a prohibition of ADUs and JADUs on hillside properties solely accessed from a list of prohibited streets. The prohibition was included due to concerns from the San Rafael Fire Department that in some instances, narrow and steep roadways combined with high levels of on-street parking on those streets, can restrict fire truck access and result in inadequate fire response access during a fire emergency. On October 18, 2021, the City Council adopted an interim urgency ordinance ("moratorium") to pause the issuance of ADU's/JADUs on properties that front on those streets included in the "list of prohibited streets" and directed staff to return with an update report and a proposed ADU Ordinance that would establish regulations for ADU/JADUs within the City. After the City Council hearing, staff further studied the issue, reviewed state law, and determined a prohibition was not justified in view of the following circumstances:

- Implementation and enforcement of the City's new parking box program, which will reduce on-street parking to specific marked areas ensuring adequate fire truck access on narrow hillside streets; and
- State prohibition on using certain ADUs and JADUs as short-term rentals, and the requirements in the City's Short-Term Rental Program for all other ADUs and JADUs.

Further discussion and analysis of the initial prohibition proposal is presented below.

Properties Solely Accessed by Certain Hillside Streets

The State of California Housing and Community Development Department (HCD) is the lead state agency overseeing administration of state development regulations for housing and provides guidelines for ADUs and JADUs on its website ([California State ADU Guidelines](#)). HCD requires local jurisdictions find solutions to enable housing when a locally identified condition presents an issue to implementing state law. Once an ADU regulation or program is adopted by a local jurisdiction, a copy must be provided to HCD, which has 60 days to evaluate and respond, notifying the jurisdiction if the new regulation or program is not consistent with state law. If HCD finds the ordinance to be inconsistent with state law, the local jurisdiction must cure those inconsistencies or face possible enforcement action by the California Attorney General.

As noted above, the proposed ordinance does not include a prohibition on ADUs or JADUs in hillside areas reviewed and approved by the Planning Commission in March. After the Planning Commission made its recommendation and prior to finalizing the draft ordinance, staff continued to study the fire safety access concerns on the identified hillside streets and the proposed prohibition of ADUs and JADUs on the list of prohibited streets. Staff also reviewed the allowances that state law provides to local jurisdictions to prohibit ADUs and JADUs for public health and safety reasons.

The City Council adopted the interim urgency ordinance on October 18, 2021 after staff determined further analysis was required to determine whether the proposed prohibition of ADUs and JADUs on narrow, hilly streets, or other regulations would be consistent with current state housing laws.

The City's Measures During the Pendency of the Moratorium Enacted October 18, 2021

Since enacting the moratorium, the City has continued the process of studying the issues related to fire safety access in hillside areas and the allowances provided in state law for local jurisdictions to enact prohibitions on ADUs and JADUs. Staff met internally two times to discuss the Fire Department's concerns, review the regulations in other local communities, and evaluate how the City's recently adopted [Parking Box program](#) may alleviate the concerns for fire vehicle access in hillside areas. Additionally, on October 28, 2021, City staff discussed the access concerns and allowances under state law with representatives of HCD who inquired about which solutions the City had sought to ameliorate the condition of parking on the identified streets.

The prohibition reviewed by the Planning Commission was proposed by staff as a means to ensure adequate fire truck access during emergencies on narrow hillside streets where on-street parking has a tendency to constrict vehicle access. However, the Fire Department has confirmed that this on-street parking problem has been addressed by the City's adoption of its parking box program, which eliminates on-street parking in hillside areas where roadway widths are not wide enough to safely allow fire trucks to pass by parked vehicles. The Parking Box program is currently being implemented and with proper enforcement should ensure proper access.

Additionally, under the ordinance, an ADU proposed outside of ½ mile walking distance to public transit must provide a parking space on the property, preventing additional demand for on-street parking. ADUs and JADUs used as short-term rentals must abide by the City's Short-Term Rental Program, which requires among other requirements that parking is provided on the property. Staff is currently reviewing

the Short-Term Parking Program and plans to bring a report on the program to the City Council in the first quarter of 2022.

For the reasons noted above, staff has concluded that the prohibition of ADUs and JADUs on the list of prohibited streets that was reviewed and approved by the Planning Commission is not required. Therefore, staff has not included the prohibition in the proposed ordinance before the City Council. Staff finds that the proposed ordinance will bring the City's ADU regulations into conformity with state law and recommends its approval. Once adopted, staff will forward the ordinance to HCD for confirmation of its consistency with state law.

Conclusion

Significant steps have been taken to study the issue of permanent ADU/JADU regulations since the Council's adoption of the moratorium on October 18, 2021, and thus alleviate the condition giving rise to the adoption of the moratorium ordinance.

ENVIRONMENTAL DETERMINATION:

Consideration and adoption of the ordinance by the City of San Rafael City Council is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resource Code 21080.17 providing that CEQA does not apply to the adoption of an ordinance implementing the provisions of Section 65852.1 (Accessory Dwelling Units) or Section 65852.2 (Junior Accessory Dwelling Units) of the California State Government Code.

COMMUNITY OUTREACH:

On March 23, 2021, the Planning Commission of the City of San Rafael held a duly noticed public hearing at which the Planning Commission received all public comments and a report provided by the Community Development Department and approved a resolution recommending the City Council amend to the Municipal Code regarding the regulation of accessory dwelling units.

On October 29, 2021, a public hearing was noticed in the Marin Independent Journal for the City Council to receive public comments and consider an ordinance amending the San Rafael Municipal Code.

FISCAL IMPACT: There is no direct fiscal impact to the City in connection with the action requested in this report.

OPTIONS:

1. Pass the ordinance to print,
2. Do not approve the ordinance, and direct staff to return with additional information or changes to the ordinance.

RECOMMENDED ACTION:

Pass to print an Ordinance of the City of San Rafael Amending Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), and Title 14 (Zoning Ordinance) of the San Rafael Municipal Code Related to Regulations for Accessory Dwelling Units

ATTACHMENTS:

1. Ordinance
2. Planning Commission Resolution
3. Report to the Planning Commission, March 23, 2021

ORDINANCE NO.

ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING TITLE 1 (GENERAL PROVISIONS), TITLE 4 (FIRE), TITLE 12 (BUILDING REGULATIONS), AND TITLE 14 (ZONING ORDINANCE) OF THE SAN RAFAEL MUNICIPAL CODE RELATED TO REGULATIONS FOR ACCESSORY DWELLING UNITS

WHEREAS, regulations governing accessory dwelling units in the City of San Rafael are located in the San Rafael Municipal Code (SRMC) Sections 14.16.285 (Accessory Dwelling Units) and 14.16.286 (Junior Accessory Dwelling Units); and

WHEREAS, in 2016 the State of California Legislature, adopted changes to state law regulating such units effective January 1, 2017, causing the City's existing regulations to be deemed null and void and requiring the City to process accessory dwelling unit and junior accessory dwelling unit applications under state law; and

WHEREAS, in 2019 and 2020, the State of California Legislature adopted additional changes to accessory dwelling unit and junior accessory dwelling unit regulations imposing further limitations on a local jurisdiction's ability to establish location standards, development standards, parking requirements, review procedures, or enforcement procedures; and

WHEREAS, there is a need for rental housing, and accessory dwelling units contribute to providing additional rental housing; and

WHEREAS, providing opportunities for residential property owners to develop accessory dwelling units contributes to the mix of housing types in San Rafael and increases opportunities for diversity and inclusion; and

WHEREAS, the amendments effected by this ordinance to the SRMC Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), and Title 14 (Zoning Ordinance) relate to regulations for accessory dwelling units required to implement the provisions of Section 65852.1 (Accessory Dwelling Units) or Section 65852.2 (Junior Accessory Dwelling Units) of the California Government Code; and

WHEREAS, on March 23, 2021, the Planning Commission held a duly-noticed public hearing on the proposed amendments, accepted all public testimony and the written report of the Community Development Department, and recommended the City Council approve the amendments; and

WHEREAS, the proposed amendments reviewed by the Planning Commission included a proposed prohibition of accessory dwelling units and junior accessory dwelling units on properties accessed solely from certain narrow hillside streets within the City of San Rafael; and

WHEREAS, after the Planning Commission made its recommendation, on October 18, 2021 the City Council adopted Ordinance No. 2001, an urgency ordinance establishing a temporary moratorium on issuance of permits for accessory dwelling units and junior accessory dwelling units on properties accessed solely from certain hillside streets within the City of San Rafael, in order to further study the proposed permanent regulations and

determine whether the prohibition included in the Planning Commission recommendation was necessary for public safety and permissible under state law; and

WHEREAS, on November 15, 2021 a report pursuant to California Government Code § 65858(d) on the status of actions following adoption of Ordinance No. 2001 was included in the staff report accompanying this ordinance in the City Council agenda packet; and

WHEREAS, on November 15, 2021, the City Council held a duly-noticed public hearing on the ordinance and accepted all public testimony and the written report of the Community Development Department, including the report on the status of actions following adoption of the urgency ordinance; and

WHEREAS, the City Council, pursuant to SRMC section 14.27.060, finds the amendments in this ordinance consistent in principle with the General Plan, and that the public health, safety and general welfare are served by adopting the amendments. The amendments comply with and implement Government Code Sections 65852.1 (Accessory Dwelling Units) and 65852.2 (Junior Accessory Dwelling Units). The General Plan Program LU-23a (Zoning Ordinance Amendments) and Policy NH-2a (Zoning Ordinance) encourage updates to the Zoning Ordinance to maintain a current and consistent Municipal Code. Additionally, General Plan Programs H-16a (New Second Units) and H-11b (Junior Second Units) support creation of accessory dwelling units and junior accessory dwelling units as a method for diversifying housing options and Program H-17c (Waiver or Reduction of Fees) supports traffic mitigation fee waivers for accessory dwelling units. The public health, safety and general welfare are served by replacing null and void regulations in the Municipal Code with regulations complying with state law; and

WHEREAS, adoption of the amendments to Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), and Title 14 (Zoning Ordinance) of the SRMC regulating accessory dwelling units are statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resource Code 21080.17 providing that CEQA does not apply to the adoption of an ordinance implementing the provisions of Section 65852.1 (Accessory Dwelling Units) or Section 65852.2 (Junior Accessory Dwelling Units) of the California Government Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Division 1.

Section 1.40.070 of Title 1 of the San Rafael Municipal Code (SRMC) is hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

1.40.070 – Remedy for repeat zoning violations involving illegal dwelling units or illegal ~~second dwelling~~ accessory dwelling units.

If a property owner violates the city’s zoning ordinance by maintaining an illegal dwelling unit or illegal ~~second dwelling~~ Accessory Dwelling Unit, after having been previously required by the city to abate such a violation on the same property, the city may require, in addition to any other remedies permitted by law,

the removal of such facilities as may be necessary to eliminate the existence of a kitchen in the area of the illegal dwelling unit or illegal ~~second dwelling unit~~ Accessory Dwelling Unit. Pursuant to Government Code section 65852.2 subd. (n), as that section may be amended, a property owner may request delay of enforcement of a building standard related to an Accessory Dwelling Unit, and the City shall delay enforcement of said building standard, subject to compliance with section 17980.12 of the Health and Safety Code if:

- A. The Accessory Dwelling Unit was built before January 1, 2020.
- B. The Accessory Dwelling Unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the Accessory Dwelling Unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

Division 2.

Subsection 903.2(2) of Subsection 903.2 “Where Required; All Occupancies and Facilities” of Section 4.08.120 “Amendments to the fire code” of Title 4 of the SRMC is hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

4.08.120 - Amendments to the fire code.

[...]

903.2 Where Required; All Occupancies and Facilities.

[...]

- 2. Newly created, attached, ~~second dwelling units~~ Accessory Dwelling Units which meet the definition of a substantial remodel.

[...]

Division 3.

Subsection 903.2(2) of Subsection 903.2 “Where Required.” of Section 12.200.020 “Amendments” of Title 12 of the SRMC is amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

12.200.020 - Amendments.

[...]

903.2 Where Required.

[...]

- 2. Newly created, attached, ~~second dwelling units~~ Accessory Dwelling Units which meet the definition of a substantial remodel.

[...]

Division 4.

Section 14.03.030 "Definitions" of Title 14 of the SRMC is hereby amended to add/amend/delete certain definitions as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.03.030 - Definitions.

[...]

"Accessory Dwelling Unit" ("ADU") means 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. The ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An ADU also includes the following: an efficiency unit, a manufactured home, as defined in Section 18007 of the Health and Safety Code. A Junior Accessory Dwelling Unit is considered an ADU subject to additional defined standards. An ADU is not considered to exceed the allowable density for the lot upon which it is located. An ADU is considered a residential use consistent with the general plan and zoning designation for the lot.

"Accessory structure" means a structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building and use that requires a foundation or structural support on the ground. Accessory structures include, but are not limited to, garages/carports, gazebos, greenhouses, storage sheds, freestanding solar panel arrays, small wind energy systems, cabanas, studios, sport courts, spas, hot tubs and pools. Accessory structure would not include a "tree house" that does not have a foundation support on the ground or require a building permit. See also "Accessory dwelling unit".

[...]

"ADU" see definition for "Accessory Dwelling Unit."

"Caretaker's residence" means ~~an accessory~~ a dwelling unit on the site of a commercial, industrial, public or semi-public use, occupied by a guard or caretaker.

[...]

"JADU" see definition for "Junior Accessory Dwelling Unit."

[...]

~~"Junior second unit." Junior second unit means an additional, independent living unit created through the conversion of an existing bedroom in a single-family dwelling subject to defined standards, as specified in Section 14.16.286 of this title. Junior second units are distinguished from second dwelling units in that they: (a) must include the conversion of an existing bedroom(s) within a single-family dwelling (no new or additional building area); (b) are smaller in size (maximum size of five hundred (500) square feet); (c)~~

~~contain either independent or shared bathroom facilities; and (d) are subject to unique standards that are not applicable to second dwelling units~~

"Junior Accessory Dwelling Unit" ("JADU") means an Accessory Dwelling Unit that is no more than 500 square feet in size and contained entirely within the walls of a proposed or existing single-family residential space and meets the additional standards provided in section 14.16.285 C.2.

[...]

"Residential development project" means a project for the construction or placement of a dwelling unit or ~~a second dwelling unit~~ an Accessory Dwelling Unit, manufactured home, or a mixed-use development as defined in this section or the subdivision of land for a residential development project or a mixed use project.

[...]

"Residential, single-family" means low density residential development containing one (1) primary residential "dwelling unit" for use by a single household on a single parcel. This definition includes use of a single-family dwelling and/or ~~second~~ Accessory Dwelling Unit as a household for "transitional housing" or "supportive housing" as defined under the California Health and Safety Code.

[...]

Division 5.

Table 14.04.020 of Section 14.04.020 "Land use regulations" of Title 14 of the SRMC is hereby amended as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.04.020 - Land use regulations (R, DR, MR, HR, PD).

[...]

Table 14.04.020

Type of Land Use	R	DR	MR	HR	PD	Additional Use Regulations
Residential Uses						
Single-family residential	P	P	P	P	C	
Duplex residential		P	P	P	C	
Multifamily residential			P	P	C	
<u>Accessory Dwelling Unit (ADU)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>See standards, Section 14.16.285</u>
<u>Junior Accessory Dwelling Unit (JADU)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>See standards, Section 14.16.285</u>

[...]

Second dwelling units (800 square feet in size or less)	P	P	P	P	P	See standards, Chapter 14.16
Second dwelling units (greater than 800 square feet in size or in a separate building not meeting required setback or height requirements)	€	€	€	€	€	See standards, Chapter 14.16
Junior Second Units	P	P	P	P	P	See standards, Chapter 14.16

[...]

Division 6.

Table 14.04.030 of Section 14.04.030 “Property development standards (R).” of Title 14 of the SRMC is amended as follows. Additions are shown in underline, and deletions are shown in ~~strike through~~.

14.04.030 - Property development standards (R).

[...]

Table 14.04.030

	R2a	R1a	R20	R10	R7.5	R5	<u>Additional Standards</u>
Minimum lot area (sq. ft.)	2 acres	1 acre	20,000	10,000	7,500	5,000/6,000 (corner)	(A)
Minimum lot width (ft.)	150	150	100	75	60	50/60 (corner)	
Minimum yards							
Front (ft.)	20	20	20	20	15	15	<u>(A)</u> , (B)- (C)
Side/street side (ft.)	15	15	12'6"	10	6	10% of lot width, min. 3', max. 5'	<u>(C)</u> , (D) (E)
Rear (ft.)	25	25	10	10	10	10	

	R2a	R1a	R20	R10	R7.5	R5	<u>Additional Standards</u>
Maximum height of structure (ft.)	30	30	30	30	30	30	(E) (F)
Maximum lot coverage	20%	25%	30%	40%	40%	40%	
Maximum upper story floor size	50%/75 % of lot coverage calculation	50%/75 % of lot coverage calculation	50%/75 % of lot coverage calculation	50%/75 % of lot coverage calculation	50%/75 % of lot coverage calculation	50%/75% of lot coverage calculation	(E) , (F), (G) , (H)
Private yard area	NR	NR	NR	NR	NR	NR	
Parking	*	*	*	*	*	*	* <u>Based on use. See 14.18.040.</u>

~~(A)~~ Second dwelling units shall not be added if the lot is less than five thousand (5,000) square feet. See Section 14.16.300, Small lots.

~~(B)~~(A) Where two (2) or more lots in a block have been improved with buildings, the minimum required shall be the average of improved lots on both sides of the street for the length of the block. For purposes of determining average front setback on developed lots, setback should be measured from the property line to closest wall of any principal structure.

~~(C)~~(B) Where there is a driveway perpendicular to the street, any garage built after January 1, 1992, or carport built after January 1, 2006, shall be set back twenty feet (20').

~~(D)~~(C) On a reverse corner lot, the rear twenty feet (20') of the street side yard shall have a fifteen-foot (15') setback.

~~(E)~~(D) In the R7.5, R10 and R20 districts, where two (2) or more lots in a block have been improved with buildings, the minimum required shall be the average of improved lots within the same district on both sides of the street for the length of the block.

~~(F)~~(E) In the -EA Combining District, maximum height of seventeen feet (17') to peak, and one habitable floor.

~~(G)~~(F) For design criteria for upper-story construction, see Section 14.25.050(F)(6), Upper-Story Additions.

~~(H)~~(G) For lots less than five thousand (5,000) square feet, the maximum upper story shall be fifty percent (50%) of the maximum lot coverage calculation; for lots five thousand (5,000) square feet or larger, maximum upper story size shall be seventy-five percent (75%) of maximum lot coverage calculation.

Division 7.

Table 14.05.020 of Section 14.05.020 “Land use regulations” of Title 14 of the SRMC is amended to insert “Accessory dwelling units” and “Junior accessory dwelling units” after “Multifamily residential” and before “Animal keeping” under “Residential Uses” as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.05.020 - Land use regulations (GC, NC, O, C/O, R/O, FBWC).

[...]

Table 14.05.020

Type of Land Use	GC	NC	O	C/O	R/O	FBWC*	Additional Use Regulations
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[...]

Residential Uses		*		*	*		*See Chapter 14.17 standards.
Single-family residential		C			C		
Duplex residential					C		
Multifamily residential	A(3)	A(3)	P	A(3)	P	A(3)	
<u>Accessory Dwelling Units</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>See standards, Section 14.16.285</u>
<u>Junior Accessory Dwelling Units</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>See standards, Section 14.16.285</u>
Animal keeping	CZ	CZ	CZ	CZ	CZ	CZ	See Chapter 14.17 standards.

[...]

Division 8.

Table 14.05.022 of Section 14.05.022 “Land use regulations” of Title 14 of the SRMC is hereby amended as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.05.022 - Land use regulations (4SRC, CSMU, HO, 2/3 MUE, 2/3 MUW, WEV, 5/M R/O).

[...]

Table 14.05.022

Type of Land Use	4SRC	HO	CSMU	2/3 MUE	2/3 MUW	WEV	5/M R/O
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[...]

Residential Uses							
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Single-family residential							
Duplex residential					P		P
Multifamily residential (19)	A	A(29)	A	A(20)	A	A	P
<u>Accessory Dwelling Unit (ADU) (32)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Junior Accessory Dwelling Unit (JADU) (32)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Animal Keeping	A	A	A	A	A	A	A

[...]

(32) See standards, Section 14.16.285.

Division 9.

Subsection 14.16.020(E)(2)(e) of Section 14.16.020 “Accessory structures” of Title 14 of the SRMC is hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.16.020 - Accessory structures.

[...]

E. Residential Accessory Structures. The following standards shall apply to accessory structures in residential districts:

[...]

2. Interior Side and Rear Yard Setbacks.

[...]

~~e. Accessory Structure with Sanitary Facilities. A residential accessory structure that exceeds one hundred twenty (120) square feet in size and includes sanitary facilities shall require (prior to issuance of a building permit) recordation of a deed restriction with the county of Marin to reflect that the detached accessory structure cannot be utilized as a second dwelling unit, unless it complies with the requirements of Section 14.16.285~~

f.e. Mechanical equipment shall be subject to additional screening and setback requirements, as specified in [Section 14.16.320](#).

Division 10.

Subsection B.2. of Section 14.16.240 “Manufactured homes.” of Title 14 of the SRMC is hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.16.240 - Manufactured homes.

[...]

B. Compatibility Standards.

[...]

2. The home is to be used as the principal or ~~second dwelling unit~~ Accessory Dwelling Unit.

[...]

Division 11.

Section 14.16.285 “Second dwelling units.” of Title 14 of the SRMC is hereby repealed in its entirety and replaced with the following new section 14.16.285. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

~~14.16.285 - Second dwelling units.~~

14.16.285 – Accessory Dwelling Units (ADUs).

A. Purpose. The purposes of the ADU regulations are to:

1. Implement policies of the housing element of the San Rafael general plan encouraging the provision of Accessory Dwelling Units as a source of affordable housing;
2. Establish a streamlined process for reviewing applications for ADUs;
3. Establish a list of development standards for ADUs; and
4. Comply with provisions of state law as they relate to the development of ADUs;

B. Applicability. An ADU as defined in Chapter 14.03 is permitted in any zoning district that allows the development of single-family or multifamily dwelling residential uses. ADUs may be permitted on any lot with a legal nonconforming residential structure. The following are the four types of Accessory Dwelling Units permitted within the City:

1. Attached ADU. An Accessory Dwelling Unit that shares at least one common wall with an existing primary dwelling and is not fully contained within the existing space of the primary dwelling or an Accessory Structure. An attached ADU also includes an ADU which is proposed to be constructed concurrently with a proposed primary dwelling unit and which is attached to or constructed within said primary dwelling unit.
2. Detached ADU. An Accessory Dwelling Unit that does not share a common wall with the existing or proposed primary dwelling and is not fully contained within the existing space of an accessory structure.

3. Internal ADU. An Accessory Dwelling Unit that is fully contained within the existing space of an existing primary dwelling or contained within the existing space of an existing Accessory Structure.
 4. Junior Accessory Dwelling Unit (“JADU”). As defined in section 14.03.030 “Definitions.”
- C. Ministerial Review. A proposed ADU or JADU that complies with the following Development Standards (subsections C.1 and C.2.), Objective Design Standards (subsection C.3) and General Standards (subsection C.1.d), shall be approved ministerially within the time frames established by subsection D of this section, and shall only be subject to issuance of a building permit. No discretionary review or public hearing shall be required.
1. Except as permitted by subsection E of this section, Development Standards applicable to all Accessory Dwelling Units shall be as set forth in Table 14.16.285:

<u>TABLE 14.16.285</u>					
	<u>Attached ADU</u>	<u>Detached ADU</u>	<u>Internal Conversion ADU</u>	<u>JADU*</u>	<u>NOTES</u>
<u>Minimum Floor Area</u>	<u>150 square feet</u>	<u>150 square feet</u>	<u>150 square feet</u>	<u>150 square feet</u>	
<u>Maximum Floor Area</u>	<u>1,000 sq. ft. or 50% of the floor area of an existing primary dwelling unit, whichever is less</u>	<u>1,000 square feet</u>	<u>N/A</u>	<u>500 square Feet</u>	
<u>Lot Coverage Limits</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>None</u>	
<u>Setbacks</u>	<u>(Minimum)</u>				
	<u>Front</u>	<u>Same as primary dwelling</u>	<u>Same as primary dwelling</u>	<u>N/A</u>	
	<u>Side</u>	<u>4 feet</u>	<u>4 feet</u>	<u>N/A</u>	<u>(A)</u>
	<u>Rear</u>	<u>4 feet</u>	<u>4 feet</u>	<u>N/A</u>	<u>(A)</u>
	<u>Front Entry</u>	<u>10 feet from any right-of-way</u>	<u>10 feet from any right-of-way</u>	<u>N/A</u>	
<u>Maximum Height</u>	<u>16 feet</u>	<u>16 feet</u>	<u>N/A</u>	<u>N/A</u>	<u>(B), (C)</u>

<u>Parking</u>	<u>1 space</u>	<u>1 space</u>	<u>None</u>	<u>None</u>	<u>(D)</u>
<u>Separate independent entrance required?</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	
<u>Interior access allowed?</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	
<u>Separate sanitary facility required</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>(E)</u>
<u>Kitchen required</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>(F)</u>

* See subsection C.2 for additional requirements for Junior Accessory Dwelling Units

- (A) Decks, Balconies and Platforms greater than 12" attached to or associated with a detached or attached accessory dwelling unit shall be located at least four (4) feet from a rear or side property line.
- (B) Height measurement shall be as defined by SRMC section 14.03.030 except as follows:
 - 1. Height measurement shall exclude flagpoles not exceeding a height of twenty-four feet (24'), aboveground utility distribution facilities including communications towers and public water tanks, windmills, monuments, mechanical appurtenances, satellite dishes in multifamily and nonresidential districts and architectural features such as screening for mechanical equipment, chimneys, steeples and cupolas.
- (C) EA-Overlay District Exception to Height Standard: See section 14.16.285 C.3.b. for exception to height standard in Eichler-Alliance Overlay District.
- (D) Parking see Parking subsection C.5. for exclusions to the parking requirements.
- (E) A JADU may include separate sanitary facilities or share sanitary facilities with the primary residence.
- (F) A JADU shall include a kitchen as defined in SRMC Chapter 12.255 "California Residential Code Amendments".

- 2. JADU Additional Standards. In addition to the Development Standards in Table 14.16.285 and Objective Design Standards in section C.3, a JADU shall comply with all provisions of this subsection unless expressly indicated otherwise:
 - a. Maximum Number per Lot. Not more than one JADU shall be permitted per legal lot.
 - b. Rental. A JADU may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling.
 - c. Owner-occupancy shall be required in the single-family residence in which the JADU will be permitted. The owner may reside in either the remaining portion of the structure or the newly created JADU. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
 - d. A deed restriction shall be recorded, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

- (1) A prohibition on the sale of the JADU separate from the sale of the single-family residence, including a provision that the deed restriction may be enforced against future purchasers.
 - (2) A restriction on the size and attributes of the JADU that conforms with this subsection.
3. Objective Design Standards. Except as provided in subsection E of this section (Units Subject to Limited Standards), an ADU shall comply with the following design standards:
 - a. Foundation. An accessory dwelling unit shall be constructed on a permanent foundation.
 - b. In Eichler Alliance (EA) District, an ADU shall not exceed the height of the existing residence or a maximum height of seventeen (17) feet, whichever is less.
4. General Standards. Except as provided in subsection E of this section (Units Subject to Limited Standards), an ADU shall comply with the following general standards:
 - a. Maximum Number per Lot. Not more than one ADU shall be permitted per legal lot.
 - b. Rental. An ADU may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling, except as provided in California Government Code Section 65852.26, as that section may be amended.
5. Parking.
 - a. One parking space shall be provided per ADU except where the proposed ADU meets any criteria of subsection (5) of this subsection. This parking space may be permitted anywhere on the lot, may be tandem parking on a driveway, and may be covered or uncovered.
 - b. No Parking shall be required for the following:
 - (1) The ADU is located within one-half mile walking distance of public transit as defined in Government Code 65852.2(j)(9), as that section may be amended, at the time the application is filed with the Community Development Department.
 - (2) The ADU is located within an architecturally and historically significant historic district.
 - (3) The ADU is part of the proposed or existing primary residence or an existing accessory structure.
 - (4) When on-street parking permits are required but not offered to the occupant of the ADU.
 - (5) When there is a car share vehicle located within one block of the ADU at the time the application is filed with the Department.

- c. When a garage, carport, or covered parking structure is demolished in conjunction with the constructions of an ADU or converted to an ADU, those off-street parking spaces need not be replaced.
 - 6. Nonconforming Conditions. The City shall not require, as a condition for approval of an ADU application, the correction of nonconforming zoning conditions.
 - 7. Building Code and Housing Code. A new or expanded ADU shall comply with the Uniform Building Code and Uniform Housing Code in addition to the requirements of this section.
- D. Timeline for Review
- 1. The City shall act on the ADU application within 60 days from the date the City receives a completed application if there is an existing single-family or multifamily dwelling on the lot.
 - 2. If the ADU application is submitted together with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the ADU permit application until the City acts on the permit application to create the new single-family dwelling.
 - 3. When Dependent on Separate Construction. When a proposed Attached ADU or Detached ADU is dependent on the construction of a new building or new portion of a building that is not a part of the ADU (“separate construction”), the City shall either:
 - a. Accept and begin processing the ADU application only after acting on an application for the proposed separate construction; or
 - b. Upon written request from the applicant, review and act on the ADU together with the separate construction as part of a single application. In this case the ADU is subject to the same review procedures and requirements as the separate construction.
 - 4. If the applicant requests a delay in the processing of an ADU application, the 60-day time period set forth in subsection D.1 of this section shall be tolled for the period of the delay.
 - 5. The City shall be deemed to have acted on the application if the City:
 - a. Approves a building permit for the ADU; or
 - b. Denies a building permit for the ADU; or
 - c. Determines that the ADU does not qualify for ministerial approval.
- E. Units Subject to Limited Standards. Without regard to subsections C.1 and C.2 (Development Standards), subsection C.3 (Objective Design Standards) and subsection C.4 (General Standards) of this section, the City shall ministerially approve an application for a building permit within a residential or mixed-use district to create any of the four types of ADUs described below. The below

categories of ADUs shall not be combined (only one of the four categories of ADUs shall be approved pursuant to this section, per lot). For each type of ADU, the City shall require compliance only with the standards in this subsection:

1. Internal ADU. One ADU and one JADU as follows:
 - a. The ADU and JADU are within the proposed space of a single-family dwelling or existing space of a single-family dwelling or existing Accessory Structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing Accessory Structure. An expansion beyond the physical dimensions of the existing Accessory Structure shall be limited to accommodating ingress and egress.
 - b. The space has exterior access from the proposed or existing single-family dwelling.
 - c. The side and rear setbacks are sufficient for fire and safety.
 - d. The JADU complies with the definition in section 14.03.030 of this code and the requirements of subsection C of this section.
2. New Construction. One Detached or one Attached, new construction ADU per lot with an existing single-family dwelling. The ADU may be combined with a JADU as defined in section 14.03.030 (Junior accessory dwelling units) and described in subsection C of this section (JADU). The ADU must comply with the following:
 - a. Maximum floor area: 800 square feet.
 - b. Maximum height: 16 feet.
 - c. Minimum rear and side setbacks: four feet.
3. Conversion of Non-Livable Multifamily Space. Multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, subject to the following:
 - a. At least one ADU is allowed within an existing multifamily dwelling up to a maximum of 25 percent of the existing multifamily dwelling units; and
 - b. Each ADU shall comply with building code standards for dwellings.
4. Detached ADUs on a Multifamily Lot. Not more than two ADUs that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to the following:
 - a. Maximum height: 16 feet
 - b. Minimum rear and side setbacks: four feet.
5. An ADU permitted under this subsection E shall not be rented for less than 30 days.

Division 12.

Section 14.16.286 “Junior second units.” of Title 14 of the SRMC is repealed in its entirety.

Division 13.

Table 14.18.040 of Section 14.18.040 “Parking requirements.” of Title 14 of the SRMC is hereby amended as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.18.040 - Parking requirements.

[...]

Table 14.18.040

Use Classification	Off-Street Parking Required
--------------------	-----------------------------

[...]

Second dwelling units:	
Studio or one-bedroom unit	1 space.
Two or more bedroom unit	2 spaces.

<u>Accessory dwelling unit (ADU):</u>	<u>See Section 14.16.285</u>
---------------------------------------	------------------------------

[...]

Division 14.

Subsection 14.25.040(A)(2) of Section 14.25.040 “Improvements subject to review.” of Title 14 of the SRMC is amended to delete subsection (d) in its entirety as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~.

14.25.040 - Improvements subject to review.

[...]

- A. Major Physical Improvements.

[...]

2. Modifications to existing structures, including, but not limited to:

[...]

d. ~~Second dwelling units, as prescribed by Section 14.16.285.C.9;~~

[...]

Division 15. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

Division 16. CEQA Determination.

This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) under Public Resources Code Section 21080.17, which provides that CEQA does not apply to the adoption of an ordinance to implement the provisions of Government Code Section 65852.2 pertaining to Accessory Dwelling Units.

Division 17. Publication; Effective Date.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 15th day of November 2021 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 6th day of December 2021.

LINDSAY LARA, City Clerk

EXHIBIT A

RESOLUTION NO. 21-01

**RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE OF
THE CITY OF SAN RAFAEL AMENDING TITLE 1 (GENERAL PROVISIONS), TITLE
4 (FIRE), TITLE 12 (BUILDING REGULATIONS), TITLE 14 (ZONING ORDINANCE)
RELATED TO REGULATIONS FOR ACCESSORY DWELLING UNITS
(ZO21-001)**

WHEREAS, the current City regulations related to accessory dwelling units are located in San Rafael Municipal Code Section 14.16.285 (Second Dwelling Units) and 14.16.286 (Junior Second Units); and

WHEREAS, in 2016 the State of California legislature, adopted changes related to accessory dwelling units. These changes became effective on January 1, 2017 and made the City's existing regulations null and void ; and

WHEREAS, in 2019 and 2020, the State of California legislature adopted additional changes and clarifications related to accessory dwelling units and imposed limitations related to location standards, development standards, parking requirements, review procedures and enforcement procedures; and

WHEREAS, in the City recognizes the need for more rental housing and accessory dwelling units contribute to providing much needed rental housing within the City; and

WHEREAS, providing opportunities for property owners to develop accessory dwelling units contributes to the mix of housing types and increases opportunity for diversity and inclusion Citywide; and

WHEREAS, draft amendments to the SRMC Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), Title 14 (Zoning Ordinance) related to regulations for accessory dwelling units have been prepared to comply with state regulations; and

WHEREAS, draft amendments to the SRMC Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), Title 14 (Zoning Ordinance) related to regulations for accessory dwelling units qualify for exemption from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15182(h) because the project is related to adoption of an ordinance amendment related to second units.

WHEREAS, on March 23, 2021, the Planning Commission held a duly-noticed public hearing on the proposed amendments to the San Rafael Municipal Code, Title 1, Title 4, Title 12, and Title 14, accepting all public testimony and the written report of the Community Development Department, and recommended to the City Council the approval of the amendments; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council adoption of the amendments to the San Rafael Municipal Code as outlined in the Attachments A-C of this resolution, based on the following findings as required under Zoning Code Section 14.27.060:

EXHIBIT A

1. The amendments to San Rafael Municipal Code Title 1, Title 4, Title 12, and Title 14 – Zoning Ordinance and Zoning Map and are consistent with the policies and programs of the San Rafael General Plan 2020 in that:
 - a. As proposed, the amendments would: i) align the city’s regulations to Government Code Section 65852.2; This action would be consistent with General Plan Program H-16 (Second Units) which supports the creation of accessory dwelling units as a method for providing housing options for seniors, caregivers, and lower and extremely low income households; and H-17c which supports traffic mitigation fee waivers for accessory dwelling units. LU-23a (Zoning Ordinance Amendments), and Policy NH-2a (Zoning Ordinance), which encourages periodic updates to the Zoning Ordinance in order to maintain a current and internally consistent code.
2. The public health, safety and general welfare are served by adoption of the proposed amendments to the SRMC, in that they would: i) repeal regulations related to second dwelling units and junior second units that are no longer aligned with state regulations; ii) implement standards in line with state regulations related to accessory dwelling units and junior accessory dwelling units; and iii) would include a prohibition of accessory dwelling units on certain narrow and steeply sloped streets due to public safety concerns. The City will maintain a list of streets which will be updated from time to time to and any such update will be subject to review by either the city council or planning commission as determined by the City Council.

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 23rd day of March 2021.


Moved by Commissioner Lubamersky and seconded by Commissioner Saude

AYES: COMMISSIONERS Davidson, Lubamersky, Mercado, Previtali, Saude & Chair Samudzi

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST:  on behalf of
Paul A. Jensen, Secretary

ATTACHMENTS:

- A. Amendments to San Rafael Municipal Code Title 1-General Provisions, Title 4-Fire, 12-Building Regulations, and Title 14-Zoning Ordinance



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division
P. O. Box 151560, San Rafael, CA 94915-1560
PHONE: (415) 485-3085/FAX: (415) 485-3184

Meeting Date: March 23, 2021
Agenda Item: 2
Case Numbers: ZO21-001
Project Planner: Ali Giudice
Michele Ginn

REPORT TO PLANNING COMMISSION

SUBJECT: Purposed Amendments to the San Rafael Municipal Code to Comply with State Accessory Dwelling Unit Requirements

EXECUTIVE SUMMARY

Over the past several years the State has adopted changes to regulations related to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). These changes are intended to simplify the review process by requiring that ADUs/JADUs be considered by local municipalities through a ministerial review process within a certain time frame. In addition, the State regulations placed a limit on development standards that a municipality is able to impose on proposed ADUs/JADUs.

Staff has prepared a Draft Ordinance (Exhibit B) that incorporates the State requirements and includes City specific standards where allowed. Because ADUs and JADUs contribute to the rental housing stock and contribute toward the City's regional housing obligation, the ordinance will continue to encourage the development of ADUs and JADUs. However, as proposed, the Draft Ordinance would prohibit ADUs/JADUs on certain streets due to access difficulties. Exhibit D of this report includes a map and a list of those streets where ADUs/JADUs would be prohibited. It is possible that this list may be updated from time to time to reflect changing conditions.

RECOMMENDATION

It is recommended that the Planning Commission accept public comment, discuss and provide feedback regarding proposed changes to ADU ordinance and adopt a resolution recommending approval of the proposed ADU ordinance and associated amendments.

BACKGROUND

Rules governing Accessory Dwelling Units (ADUs) have been continually evolving over the years. These changes are meant to make it easier to accommodate the development of ADUs to increase housing units and address California's housing need. Changes in 2003 required that ADU's be a ministerial approval and the rules have kept changing since then to reduce barriers for applicants.

Until 2017, the City of San Rafael had regulated the development of accessory dwelling units through the City's second unit ordinance set forth under San Rafael Municipal Code (SRMC) Section [14.16.285](#) and junior accessory dwelling units (or junior second units) through SRMC Section [14.16.286](#). Under the prior municipal code, Second Units were defined as any additional, separate dwelling unit meeting defined standards, as specified in Section 14.16.285 and located on the same lot as a single-family dwelling within a residential district. The prior code did not differentiate between conversion or new addition; Junior Second Units were defined as an additional, independent living unit created through the conversion of an existing bedroom in a single-family dwelling subject to defined standards. Junior second units are distinguished from second dwelling units in that they: (a) must include the conversion of an existing

bedroom(s) within a single-family dwelling (no new or additional building area); (b) are smaller in size (maximum size of five hundred (500) square feet); (c) contain either independent or shared bathroom facilities; and (d) are subject to unique standards that are not applicable to second dwelling units.. San Rafael's current ordinances include development standards (such as height, setback, and unit size), parking requirements, and permit requirements (including discretionary review requirements).

On January 1, 2017, new State legislation through adoption of SB1069, AB 2406 and AB2299 became effective and made SRMC sections 14.16.285 - Second dwelling units and 14.16.286- Junior Second Units null and void as these sections do not comply with State regulations. SB1069, AB 2406 and AB2299 brought in some drastic changes. Here are a few of the main changes that came at that time:

- All ADU applications that meet the established standards are go through a ministerial permit process
- Limits how much parking a local jurisdiction can required based on proximity to transit and other factors. Allowed local jurisdictions to require replacement of parking spaces lost through conversion of carport or garage.
- Allowed local agency to require a new or separate utility connection directly between the accessory dwelling unit and the utility, but fees shall be proportional to the burden created by the ADU. Units contained within an existing structure shall not be required to install new utility connections.
- Fire Sprinklers are not required for an ADU if they are not required for the primary residence.

Staff began developing a new ADU ordinance to comply with the new state laws but things were put on hold when we learned of the new large scale changes that were coming in 2020.

On January 1, 2020, the anticipated new laws became effective. Some of the regulations from 2017 remained however some of those changes were broadened to further restrict local limits. Below are some of the major changes that came with the most recent legislation:

- Size Limits. If a local agency imposes size limitation by ordinance, the allowable maximum size of an ADU cannot be less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet ((Government Code § 65852.2(c)(2)(B) & (C)).
- Owner Occupancy Requirements. All owner-occupancy requirements have been eliminated for ADUs approved between January 1, 2020 and January 1, 2025 ((Government Code § 65852.2. (a)(6)).
- Minimum Lot Size. No minimum lot size standards can be required (Government Code § 65852.2(a)(1)(B)(i)).
- Replacement Parking. Replacement off-street parking cannot be required for an ADU created through the conversion of a garage, carport or covered parking structure, (Government Code §65852.2(a)(1)(D)(xi)).
- Review Timeframe. A completed ADU application must be reviewed within 60 days (Government Code § 65852.2(a)(3) and (b)).
- Fees. ADUs up to 750 square feet are exempt from impact fees (Government Code Section 65852.2, Subdivision (f)(3)); ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Government Code § 65852.2(f)(3)).
- JADU Space. A permitted JADU does not need to include an existing bedroom (as had been established by the City of San Rafael). JADUs can now be constructed within the walls of the proposed or existing single-family residence and an interior entry into the single-family residence is no longer required. (Gov. Code § 65852.22 (a)(4); Former Government Code § 65852.22(a)(5)).

- Code Enforcement. Property owners can request a delay in Code enforcement against an ADU for five (5) years to allow the owner to correct the violation, so long as the violation is not a health and safety issue. (Government Code § 65852.2(n); Health and Safety Code § 17980.12).

Staff has prepared a comparison table (Attachment C) that shows the City's Second Unit requirements compared to changes made by recent state legislation and how the proposed ordinance would address each development standard. This report provides an overview of the difference between the new State laws and the proposed changes to the SRMC sections that pertain to Accessory Dwelling Units (or Second dwelling units and Junior second units as they are currently called in the code).

PROJECT DESCRIPTION & ANALYSIS

Because the City's ADU ordinance no longer complies with state law, staff has prepared a draft ordinance that would replace our existing regulations related to ADUs and JADUs (or Second dwelling units and Junior second units as they are currently called in the code). In the Background Section, above we discussed the primary standards that were necessary to comply with state law and therefore cannot be modified. As such, the proposed Ordinance either incorporates those standards or refrains from imposing limits as required by the State. As mentioned above, Exhibit C provides a side by side comparison with an explanation of the City's limitations imposed by State legislation.

City Specific Standards-This section will focus on four areas where City of San Rafael has discretion to adopt specific standards through adoption of an ordinance:

- Size of Unit
- Required Setbacks
- Height Restrictions
- Location restrictions

Staff is proposing the following allowable City specific standards to be incorporated as part of the City of San Rafael Accessory Dwelling Unit Ordinance.

A. Size of Unit

The state law increases the maximum size of the ADU that local jurisdictions must allow. State law previously applied a unit size of 1,200 square feet. With adoption of an ordinance the City is able to establish more strict unit size limits within the following parameters:

- The City must allow efficiency units. Efficiency units are units with a minimum floor area of 150 square feet.
- Unit sizes must be at least 850 square feet for a studio or 1 bedroom unit or 1,000 square feet for ADUs with more than one bedroom.
- Conversion of an existing structure or portion of the existing primary residence to an ADU cannot be subject to size limits.
- JADU size requirements can range between 150 square feet to 500 square feet.

The proposed ordinance provided a simplified approach by following the above guidelines and establishing a maximum allowable floor area of 1,000 square feet for new attached or detached ADU. There is no size limit to conversion of existing space as noted above. The following table shows the minimum and maximum allowed based on type of ADU:

	Attached	Detached	Internal Conversion	Junior ADU
Minimum Floor Area	150 square feet	150 square feet	150 square feet	150 square feet
Maximum Floor Area	1,000 sq. ft. or 50% of the floor area of an existing primary dwelling unit, whichever is less	1,000 square feet	N/A	500 square feet

The above maximum size limits would create some consistency between attached and detached ADUs. The City is not able to establish maximum unit sizes for ADU created from internal conversion of existing space.

B. Required Setback

The maximum required rear and side yard setback for ADUs is 4 feet as this is established by state law. State law is silent on front yard setback limitations. Staff is proposing that the front yard setback of an ADU comply with the setback established for the primary residence.

All other accessory structures located between the front setback and the front wall of the house are only allowed with a design review approval.

Proposed Setbacks for new construction ADUs	
Front	Same as primary dwelling
Side	4 Feet
Rear	4 Feet
Front Entry	10 Feet from any right-of-way
Reverse Corner	Rear 20 feet of the street side yard shall have a 15 foot setback
Decks, Balconies and Platforms greater than 12"	Rear or side yard shall have a 4 foot setback

C. Maximum Height

Pursuant to state law detached accessory dwelling units are allowed to be at least 16 feet high if it is within 4 feet of the rear or side yard. Height increase of a detached accessory unit of no more than 1 foot when such increase results in an improved design. However, in no case shall an accessory dwelling unit located in the Eichler-Alliance overlay district exceed 17 feet in height. Height increase of a detached accessory unit of no more than 1 foot when such increase results in an improved design. Accessory dwelling units that comply with the minimum development standards established for the primary residence shall be subject to the same height limitations established by the district that governs the property.

D. Location Restrictions

State law allows cities to prohibit ADUs/JADUs in certain locations due to public safety reasons. Staff has identified certain streets that are difficult to access due to narrow travel lanes (<14'), excessive turning radius, maneuvering difficulty, and/or lack of turnaround, as determined by the Fire Chief and the Community Development Director. Therefore, staff is proposing that the ordinance prohibit ADUs and JADUs on those streets. The ordinance recognizes that the list will need to be updated from time to time and obligates the Community Development Department to maintain and publish an updated list of those streets where ADUs are prohibited and make this list available to the public. A draft list of challenged hillside streets where ADUs would be prohibited is presented in Attachment D.

ENVIRONMENTAL DETERMINATION

This project qualifies for exemption from the provisions of the California Environmental Quality Act (CEQA) Guidelines pursuant to Sections 15182(h) which states that the adoption of an ordinance

regarding second units in a single-family or multifamily residential zone qualifies for statutory exemption under CEQA.

NEIGHBORHOOD MEETING / CORRESPONDENCE

Notice of hearing for the project was conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was published in the Marin IJ and mailed to all stakeholders, agencies and special interest groups on January 19, 2021. Those noticed included, among others, all neighborhood associations, the Federation of San Rafael Neighborhoods, and housing advocacy groups. The Draft Ordinance was posted on the City's website where opportunity for public comment was given. Most comments were favorable but we also received comments with specific points that either need clarity or that expressed opposition to the draft ordinance as proposed. The following is a summary of comments provided to date:

In Support:

- City needs this level of flexibility for property owners to help to increase the affordable rental housing stock.
- Fast track approval processes and non-restrictive size limitations are very attractive.
- Support because City needs more housing.

In Opposition:

- Worries about lack of Parking/Traffic in general
- Feeling that we should be prioritizing the current city residence's quality of life over the people who do not live here yet and who need an "affordable" place to live. They expressed that they do not need our local government to facilitate new low-rent housing by increasing housing density.
- Concerns on the height allowance, 16 Feet is too tall.
- Concerns over the restrictions on ADUs on certain narrow streets citing that the property owners on their narrow street park responsibly and we should focus on enforcing the parking regulations rather than taking away the ability to add an ADU at all. We should solve the issue of illegal parking rather than prevent additional ADUs. (This person is in favor of the ADU ordinance overall but has issue with this particular point in the ordinance.)

Items that need clarification:

- It would be useful to spell out what a variance is and what is the process and fees.
Response: The Variance process is spelled out in the SRMC Chapter 14.23. There is public hearing process required for variance request and the process includes notification to neighboring property owners. Fees would depend on the type of variance requested but generally range between \$2508 to \$3767.
- In the parking section: unclear what an architecturally/ historically significant district is and it is not clear what "The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure" means.
Response: This language was taken from the Government Code. There are no architecturally significant districts within the City however, we do have three sites that have been deemed historic districts: The Victorian Village (1623-27 Fifth Avenue), The French Quarter (901-911 Irwin Street), and 1811-1817 Grand Avenue.

- Not clear on the distinction of a JADU vs. Internal Conversion ADU. is it just a difference of total square footage? i.e. -- if less than 500, then qualifies as JADU, but if over 500 then classified as a JADU?

Response: The primary difference is that a JADU is 500 square feet or less and may have internal access.

OPTIONS

The Planning Commission has the following options to consider on this matter:

1. Adopt the Resolution recommending City Council Adoption of the proposed ordinance.
2. Adopt the Resolution recommending City Council Adoption of the proposed ordinance with modifications.
3. Direct staff to return with more information.

EXHIBITS

- A. Resolution recommending City Council adoption of an Ordinance Repealing and amending portions of Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), and Title 14 (Zoning Ordinance) related to Second Units and adding standards related to Accessory Dwelling Units
- B. Proposed Ordinance Amendments
- C. Comparison Table
- D. List of Streets where ADUs are Prohibited
- E. Public Comments

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE OF
THE CITY OF SAN RAFAEL AMENDING TITLE 1 (GENERAL PROVISIONS), TITLE
4 (FIRE), TITLE 12 (BUILDING REGULATIONS), TITLE 14 (ZONING ORDINANCE)
RELATED TO REGULATIONS FOR ACCESSORY DWELLING UNITS
(ZO21-001)**

WHEREAS, the current City regulations related to accessory dwelling units are located in San Rafael Municipal Code Section 14.16.285 (Second Dwelling Units) and 14.16.286 (Junior Second Units); and

WHEREAS, in 2016 the State of California legislature, adopted changes related to accessory dwelling units. These changes became effective on January 1, 2017 and made the City's existing regulations null and void ; and

WHEREAS, in 2019 and 2020, the State of California legislature adopted additional changes and clarifications related to accessory dwelling units and imposed limitations related to location standards, development standards, parking requirements, review procedures and enforcement procedures; and

WHEREAS, in the City recognizes the need for more rental housing and accessory dwelling units contribute to providing much needed rental housing within the City; and

WHEREAS, providing opportunities for property owners to develop accessory dwelling units contributes to the mix of housing types and increases opportunity for diversity and inclusion Citywide; and

WHEREAS, draft amendments to the SRMC Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), Title 14 (Zoning Ordinance) related to regulations for accessory dwelling units have been prepared to comply with state regulations; and

WHEREAS, draft amendments to the SRMC Title 1 (General Provisions), Title 4 (Fire), Title 12 (Building Regulations), Title 14 (Zoning Ordinance) related to regulations for accessory dwelling units qualify for exemption from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15182(h) because the project is related to adoption of an ordinance amendment related to second units.

WHEREAS, on March 23, 2021, the Planning Commission held a duly-noticed public hearing on the proposed amendments to the San Rafael Municipal Code, Title 1, Title 4, Title 12, and Title 14, accepting all public testimony and the written report of the Community Development Department, and recommended to the City Council the approval of the amendments; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council adoption of the amendments to the San Rafael Municipal Code as outlined in the Attachments A-C of this resolution, based on the following findings as required under Zoning Code Section 14.27.060:

EXHIBIT A

1. The amendments to San Rafael Municipal Code Title 1, Title 4, Title 12, and Title 14 – Zoning Ordinance and Zoning Map and are consistent with the policies and programs of the San Rafael General Plan 2020 in that:
 - a. As proposed, the amendments would: i) align the city’s regulations to Government Code Section 65852.2; This action would be consistent with General Plan Program H-16 (Second Units) which supports the creation of accessory dwelling units as a method for providing housing options for seniors, caregivers, and lower and extremely low income households; and H-17c which supports traffic mitigation fee waivers for accessory dwelling units. LU-23a (Zoning Ordinance Amendments), and Policy NH-2a (Zoning Ordinance), which encourages periodic updates to the Zoning Ordinance in order to maintain a current and internally consistent code.
2. The public health, safety and general welfare are served by adoption of the proposed amendments to the SRMC, in that they would: i) repeal regulations related to second dwelling units and junior second units that are no longer aligned with state regulations; ii) implement standards in line with state regulations related to accessory dwelling units and junior accessory dwelling units; and iii) would include a prohibition of accessory dwelling units on certain narrow and steeply sloped streets due to public safety concerns.

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 23rd day of March 2021.

Moved by Commissioner _____ and seconded by Commissioner _____.

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Paul A. Jensen, Secretary

ATTACHMENTS:

- A. Amendments to San Rafael Municipal Code Title 1-General Provisions, Title 4-Fire, 12-Building Regulations, and Title 14-Zoning Ordinance

DRAFT
CITY SAN RAFAEL ACCESSORY DWELLING UNIT ORDINANCE

14.16.285 – Accessory Dwelling Units.

A. Purpose: The purposes of the accessory dwelling unit regulations are to:

1. Implement policies of the housing element of the San Rafael general plan encouraging the provision of accessory dwelling units as a source of affordable housing;
2. Establish a streamlined process for reviewing applications for accessory dwelling units;
3. Establish a list of performance standards for the development of accessory dwelling units; and
4. Comply with provisions of state law as they relate to the development of accessory dwelling units;

Accessory Dwelling Unit. “Accessory dwelling unit” means 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. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (A) An efficiency unit, (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

- a. Accessory dwelling units are not considered to exceed the allowable density for the lot upon which it they are located.
- b. Accessory dwelling units are considered a residential use consistent with the general plan and zoning designation for the lot.

B. Applicability. An accessory dwelling unit is permitted in (1) any zoning district that allows the development of single-family or multifamily dwelling residential use and (2) on any lot with a legal nonconforming residential structure, except when prohibited by Section E. The following are the four types of accessory dwelling units:

Accessory Dwelling Unit Classifications.

1. Attached Accessory Dwelling Unit. An accessory dwelling unit that shares at least one common wall with an existing primary dwelling and is not fully contained within the existing space of the primary dwelling or an accessory structure. Attached Accessory Dwelling Units also include accessory dwelling units which are proposed to be constructed concurrently with a proposed primary dwelling unit and which are attached to or constructed within said primary dwelling unit.
2. Detached Accessory Dwelling Unit. An accessory dwelling unit that does not share a common wall with the existing or proposed primary dwelling and is not fully contained within the existing space of an accessory structure.
3. Internal Conversion Accessory Dwelling Unit. An accessory dwelling unit that is fully contained within the existing space of an existing primary dwelling or contained within the existing space of an existing accessory structure.

4. Junior Accessory Dwelling Unit. An accessory dwelling unit that is no more than 500 square feet in size and contained entirely within the walls of a proposed or existing single-family residential space.

C. Permitting Process.

1. Ministerial Review: A proposed accessory dwelling unit or junior accessory dwelling unit that complies with the following Development Standards (section C.1.a and C.1.b), Objective Design Standards (section C.1.c) and General Standards (section C.1.d), shall be approved ministerially within the time frames established by Section D and shall only be subject to issuance of a building permit. No discretionary review or public hearing shall be required.
- a. Except as permitted by subsection F below, Development Standards applicable to all Accessory Dwelling Units shall be as follows:

<u>TABLE 14.16.285</u>					
	<u>Attached</u>	<u>Detached</u>	<u>Internal Conversion</u>	<u>Junior ADU*</u>	<u>NOTES</u>
<u>Minimum Floor Area</u>	<u>150 square feet</u>	<u>150 square feet</u>	<u>150 square feet</u>	<u>150 square feet</u>	
<u>Maximum Floor Area</u>	<u>1,000 sq. ft. or 50% of the floor area of an existing primary dwelling unit, whichever is less</u>	<u>1,000 square feet</u>	<u>N/A</u>	<u>500 square Feet</u>	
<u>Lot Coverage Limits</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>None</u>	
<u>Setbacks</u>					
	<u>Front</u>	<u>Same as primary dwelling</u>	<u>Same as primary dwelling</u>	<u>N/A</u>	
	<u>Side</u>	<u>4</u>	<u>4</u>	<u>N/A</u>	<u>A</u>
	<u>Rear</u>	<u>4</u>	<u>4</u>	<u>N/A</u>	<u>A</u>
	<u>Front Entry</u>	<u>10 from any right-of-way</u>	<u>10 from any right-of-way</u>	<u>N/A</u>	
	<u>Reverse Corner</u>	<u>Rear twenty (20') feet of the street side yard shall have a fifteen (15') foot setback</u>	<u>Rear twenty (20') feet of the street side yard shall have a fifteen (15') foot setback</u>	<u>N/A</u>	
<u>Maximum Height</u>	<u>16 feet</u>	<u>16 feet</u>	<u>N/A</u>	<u>N/A</u>	<u>B, C</u>
<u>Parking</u>	<u>1 space</u>	<u>1 space</u>	<u>None</u>	<u>None</u>	<u>D</u>

<u>Separate independent entrance required?</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	
<u>Interior access allowed?</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	

* See subsection C.1.b. for additional requirements for Junior Accessory Dwelling Units

- (A) Decks, Balconies and Platforms greater than 12” attached to or associated with a detached or attached accessory dwelling unit shall be located at least four (4) feet from a rear or side property line.
 - (B) Height measurement shall be as defined by SRMC Section 14.03.030 except as follows:
 - a. Height measurement shall exclude flagpoles not exceeding a height of twenty-four feet (24’), aboveground utility distribution facilities including communications towers and public water tanks, windmills, monuments, mechanical appurtenances, satellite dishes in multifamily and nonresidential districts and architectural features such as screening for mechanical equipment, chimneys, steeples and cupolas.
 - (C) EA-Overlay District Exception to Height Standard: See section 14.16.285(C)(c)(2) for exception to height standard in Eichler-Alliance Overlay District.
 - (D) Parking see Parking subsection C.d.4 for exclusions to the parking requirements.
- b. Junior Accessory Dwelling Units Additional Standards. In addition to the Development Standards in in Table 14.16.285 and Objective Design Standards in section C.1.c., JADU units shall comply with all provisions of this Section unless expressly indicated otherwise
- i. Sanitation Facilities. A junior accessory dwelling unit may include sanitation facilities, or may share sanitation facilities with the existing structure.
 - ii. Kitchen. A junior accessory dwelling unit must include a kitchen as defined in SRMC Chapter 12.255 California Residential Code.
- c. Objective Design Standards. Except as provided in section F (Units Subject to Limited Standards) of this chapter, an accessory dwelling unit shall comply with the following design standards
- (1) Foundation. An accessory dwelling unit shall be constructed on a permanent foundation.
 - (2) In Eichler Alliance (EA) District, Accessory Dwelling Units shall not exceed the height of the existing residence or a maximum height of seventeen (17) feet, whichever is less.
- d. General Standards. Except as provided in section F (Units Subject to Limited Standards) of this section, an accessory dwelling unit shall comply with the following general standards:
- (1) Maximum Number per Lot. Not more than one accessory dwelling unit shall be permitted per legal lot
 - (2) Rental. An accessory dwelling unit may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling
 - (3) Parking. One parking space shall be provided per accessory dwelling unit except where the proposed accessory dwelling unit meets any criteria of subsection (ii) of this section.
 - i. This parking space may be provided as tandem parking on a driveway.

- ii. When a garage, carport, or covered parking structure is demolished in conjunction with the constructions of an accessory dwelling unit or converted to an accessory dwelling unit, those offstreet parking spaces need not be replaced.
- iii. No Parking shall be required for the following:
 - a) The accessory dwelling unit is located within one-half mile walking distance of public transit.
 - b) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - c) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
 - d) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - e) When there is a car share vehicle located within one block of the accessory dwelling unit.
- (4) Nonconforming Conditions. The City shall not require, as a condition for approval of an accessory dwelling unit application, the correction of nonconforming zoning conditions
- (5) Building Code and Housing Code. All new or expanded accessory dwelling units shall comply with the Uniform Building Code and Uniform Housing Code in addition to the requirements of this Section.

2. Discretionary Review: When Deviating from Standards.

- a. A proposed accessory dwelling unit that deviates from the following development standards in section C.1.a. (Development Standards) shall require Administrative Design Review pursuant to SRMC section 14.25.040.C Administrative Design Permits.
 - i. Height increase of a detached accessory unit of no more than 1 foot when such increase results in an improved design.
 - ii. Rear or Side Yard Setback deviations of no more than 1 foot. Windows or other openings shall not be located within 3 feet of the side or rear property line.
- b. A proposed accessory unit that deviates from any standard in section C.1.c (Objective Design Standards) shall require Administrative Design Review pursuant to SRMC section 14.25.040.C Administrative Design Permits
- c. A proposed accessory dwelling unit that deviates from any other applicable standard in subsection C.1.a. (Development Standards) and subsection C.1.c (Objective Design Standards, shall require a Variance pursuant to SRMC chapter 14.23.
- d. A proposed accessory dwelling unit may deviates from the height standards set forth in Table 14.16.285 (Development Standards Applicable to All Accessory Dwelling Units) up to a maximum height set forth in the Property Development Standards tables

sections 14.04.040, 14.05.030 or 14.05.032 of this Code, if the proposed accessory dwelling unit is consistent with all required setbacks established by the applicable zoning district within which the accessory dwelling unit is to be located.

D. Timeline for Review

- a. The City shall act on the accessory dwelling unit application within 60 days from the date the City receives a completed application if there is an existing single-family or multifamily dwelling on the lot.
- b. If the accessory dwelling unit application is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the accessory dwelling unit permit application until the City acts on the permit application to create the new single-family dwelling.
- c. If the applicant requests a delay in the processing of an accessory dwelling unit application, the 60-day time period set forth in subsection (2) of this section shall be tolled for the period of the delay.
- d. The City shall be deemed to have acted on the application if the City:
 - 1) approves a building permit for the accessory dwelling unit; or
 - 2) denies a building permit for the accessory dwelling unit; or
 - 3) determines that the accessory dwelling unit does not qualify for ministerial approval.
- e. When Dependent on Separate Construction. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building that is not a part of the accessory dwelling unit (“separate construction”), the City shall either:
 - 1) Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or
 - 2) Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, Attachment 1 – Ordinance Amending Title 17 – Accessory Dwelling Units the accessory dwelling unit is subject to the same review procedures and requirements as the separate construction.

E. Prohibited locations. State law allows local jurisdictions to designate where ADUs may not be allowed based on public safety issues. Due to narrow travel lanes (<14’), excessive turning radius, maneuvering difficulty, and/or lack of turnaround, ADUs and JADUs shall be prohibited on certain streets as determined by the Fire Chief and the Community Development Director. The Community Development Department shall maintain and publish an updated list of those streets where ADUs are prohibited and make this list available to the public.

F. Units Subject to Limited Standards. Without regard to subsections C.1.a and C.1.b (Development Standards), subsection C.1.c (Objective Design Standards) and subsection C.1.d (General Standards) of this section, the City shall ministerially approve an application for a building permit within a residential or mixed-use district to create the following types of accessory dwelling units. For each type of accessory dwelling unit, the City shall require compliance only with the development standards in this subsection:

1. Internal Accessory Dwelling Units. One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
 - a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - b. The space has exterior access from the proposed or existing single-family dwelling.
 - c. The side and rear setbacks are sufficient for fire and safety.
 - d. The junior accessory dwelling unit complies with the requirements of Government Code Section 65852.22.
2. Detached or Attached Accessory Dwelling Units. One detached or one attached, new construction accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply: The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subsection B.4 (Junior Accessory Dwelling Units). The accessory dwelling unit must comply with the following:
 - a. Maximum floor area: 800 square feet.
 - b. Maximum height: 16 feet.
 - c. Minimum rear and side setbacks: four feet.
3. Conversion of Non-Livable Multifamily Space. Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, subject to the following:
 - a. At least one accessory dwelling unit is allowed within an existing multifamily dwelling up to maximum of 25 percent of the existing multifamily dwelling units; and
 - b. Each accessory dwelling units shall comply with building code standards for dwellings.
4. Detached Accessory Dwelling Units on Multifamily Lots. Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to the following:
 - a. Maximum height: 16 feet
 - b. Minimum rear and side setbacks: four feet.

DRAFT

**Proposed Text Amendments to San Rafael Municipal Code
Title 1-General Provisions, Title 4-Fire, 12-Building Regulations, and Title 14-Zoning Ordinance**

1.40.070 - Remedy for repeat zoning violations involving illegal dwelling units or illegal ~~second~~ accessory dwelling units.

If a property owner violates the city's zoning ordinance by maintaining an illegal dwelling unit or illegal ~~second~~ accessory dwelling unit, after having been previously required by the city to abate such a violation on the same property, the city may require, in addition to any other remedies permitted by law, the removal of such facilities as may be necessary to eliminate the existence of a kitchen in the area of the illegal dwelling unit or illegal second dwelling unit. [A property owner may request delay of enforcement of a building standard related to an accessory dwelling unit pursuant to government code section 65852.2 \(n\)](#)

4.08.120 - Amendments to the fire code.

Section 903.2 is hereby amended to read as follows:

903.2 Where Required; All Occupancies and Facilities. An automatic fire sprinkler system shall be installed in all of the following:

1. Every newly constructed, building or facility.

Exception: Freestanding structures not more than one thousand (1,000) square feet and provided with exterior wall and opening protection as per Table 602 of the Building Code.

2. Newly created, attached, ~~second~~ accessory dwelling units which meet the definition of a substantial remodel.

12.200.020 - Amendments.

The 2019 California Building Code is amended or modified as follows:

Amend Section 202 to read as follows:

The definition of "Kitchen" is amended as follows:

KITCHEN. An area in which the preparation of food for eating occurs (that has provisions for cooking or heating of food, or washing and storing of dishware and utensils, or refrigeration or storing of food).

The definition of "Substantial Remodel" is added to read as follows:

SUBSTANTIAL REMODEL. Substantial remodel shall mean the alteration of any structure which combined with any additions to the structure, performed within any three (3) year period, affects a floor area which exceeds fifty percent (50%) of the existing floor area of the structure. When any changes are made in the building, such as walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for purposes of applying this definition. This definition does not apply to the replacement and upgrading of residential roof coverings or exterior wall finishes.

Amend Section 903.2 is amended to read as follows:

903.2 Where Required. Approved automatic fire sprinkler systems shall be provided in the locations described in Sections 903.2.1 through 903.2.12 and in all of the following:

1. Newly constructed buildings or facilities, except detached Group U occupancies not more than one thousand (1,000) square feet in floor area and provided with exterior wall and opening protection as per Table 602 of the California Building Code.
2. Newly created, attached, accessory dwelling units which meet the definition of a substantial remodel.
3. All other existing buildings, fire sprinkler systems may be required by the fire chief in accordance with the following:
 - 3.1. All buildings where improvements occur during any three (3) year period which cumulatively meet the definition of a substantial remodel.
 - 3.2. All buildings, except R-3 occupancies, in excess of three thousand (3,000) square feet which have more than ten percent (10%) floor area added within any three (3) year period. Exceptions may be granted by the fire chief when alternate means of protection are installed as approved by the fire code official.
 - 3.3. A change in the use of a building that results in a higher fire or life safety hazard when the square footage of the area changing use is more than 50% of the square footage of the existing building.
 - 3.4. Where fire sprinklers are required by provisions of this code, they shall be extended throughout the building.
4. All public storage facilities. Exceptions may be granted by the fire chief when alternate means of protection are installed as approved by the fire code official.
5. All tunnels used for the transportation of people or any type of vehicle.

14.03.030 - Definitions.

"A.M. peak hour" means the number of vehicular traffic movements entering and exiting a site during the highest volume consecutive sixty (60) minutes in the a.m. peak period from seven a.m. (7:00 a.m.) to nine a.m. (9:00 a.m.) on the local street system.

"Accessory dwelling unit" means 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. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (A) An efficiency unit, (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

- a. Accessory dwelling units are not considered to exceed the allowable density for the lot upon which it they are located.
- b. Accessory dwelling units are considered a residential use consistent with the general plan and zoning designation for the lot.

"Accessory structure" means a structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building and use that requires a foundation or structural support on the ground. Accessory structures include, but are not limited to, garages/carports, gazebos, greenhouses, storage sheds, freestanding solar panel arrays, small wind energy systems, cabanas, studios, sport courts, spas, hot tubs and pools. Accessory structure would not include a "tree house" that does not have a foundation support on the ground or require building permit. See also "Accessory Dwelling Unit"

"Accessory use" means a use clearly subordinate or incidental and directly related to a permitted use or conditionally permitted use. The general thresholds for considering whether a use is an accessory use include whether the: a) floor area dedicated to the use is less than twenty-five percent (25%) of the total area; b) amount of business, revenue or activity generated by the use is less than twenty-five percent

(25%) of the main use; c) hours of operation and intensity of operation are similar to the primary use; and d) uses are composed in separate and demised tenant spaces.

"Addition" means a structure added to the original structure at some time after the completion of the original.

"Affordable housing unit(s)" means those dwelling units as described herein which are required to be rented at affordable monthly rents to very-low, low, and moderate-income households, or purchased at an affordable sales price to low and moderate-income households.

(deleted unchanged)

"Caretaker's residence" means an accessory dwelling unit on the site of a commercial, industrial, public or semi-public use, occupied by a guard or caretaker.

(deleted unchanged)

"Dwelling unit" means one or more rooms designed, occupied or intended for occupancy as separate living quarters for the exclusive use of one household, with a kitchen, sleeping facilities, and sanitary facilities.

"Egress" means an exit.

(deleted unchanged)

"Junior second unit." An accessory dwelling unit that is no more than 500 square feet in size and contained entirely within the walls of a proposed or existing single-family residential space..

"Residential development project" means a project for the construction or placement of a dwelling unit or an accessory dwelling unit, manufactured home, or a mixed-use development as defined in this section or the subdivision of land for a residential development project or a mixed use project.

"Residential, duplex" means one (1) structure on a single lot containing two (2) dwelling units, each of which is functionally separate from the other. This definition includes use of a duplex unit(s) as a household for "transitional housing" and "supportive housing" as defined under the State Health and Safety Code.

"Residential, multifamily" means medium and high density residential development, including a "transitional housing development" or "supportive housing" as defined under State Health and Safety Code Section 50675.2 (and subsequent amendments), containing three (3) or more attached dwelling units in one (1) or more structures located on a single parcel or common lot.

"Residential nameplate" means a plate of metal, glass, wood, etc., bearing a person's name, such as is often placed on or near the door of a dwelling or mailbox.

"Residential, single-family" means low density residential development containing one (1) primary residential "dwelling unit" for use by a single household on a single parcel. This definition includes use of a single-family dwelling and/or accessory dwelling unit as a household for "transitional housing" or "supportive housing" as defined under the State Health and Safety Code.

14.04.020 - Land use regulations (R, DR, MR, HR, PD).

P: Permitted by right; C: Conditional use permit; A: Administrative use permit; Blank: Not allowed.

Table 14.04.020

Type of Land Use	R	DR	MR	HR	PD	Additional Use Regulations

Residential Uses		*		*	*		*See Chapter 14.17 standards.
Single-family residential		C			C		
Duplex residential					C		
Multifamily residential	A(3)	A(3)	P	A(3)	P	A(3)	
Accessory Dwelling Units	P	P	P	P	P	P	See standards, Section 14.16.285
Junior Accessory Dwelling Units	P	P	P	P	P	P	See standards, Section 14.16.285

14.05.022 - Land use regulations (4SRC, CSMU, HO, 2/3 MUE, 2/3 MUW, WEV, 5/M R/O).

Table 14.05.022

Type of Land Use	4SRC	HO	CSMU	2/3 MUE	2/3 MUW	WEV	5/M R/O	
Residential Uses								
Single-family residential								
Duplex residential					P		P	
Multifamily residential (19)	A	A(29)	A	A(20)	A	A	P	
Accessory Dwelling Units	P	P	P	P	P	P	P	See standards, Section 14.16.285
Junior Accessory Dwelling Units	P	P	P	P	P	P	P	See standards, Section 14.16.285

14.16.020 - Accessory structures.

An accessory structure (i.e., a customarily incidental structure detached from a principal building on the same lot) shall comply with all requirements for principal buildings, with the following exceptions and additional requirements:

2. Interior Side and Rear Yard Setbacks.

- a. Zero-foot (0') Setback. The following accessory structures may be located within the required interior side and rear yard setbacks, and up to the property line, subject to conformance with any applicable building code limitations and provision of an unobstructed walkway clearance of at least three feet (3') between above-grade accessory structures and adjacent buildings or the property line in order to provide access around the primary building:
 - i. Accessory structures, unconditioned (e.g., not intended for human occupancy) with a maximum floor area of one hundred twenty (120) square feet and up to eight feet (8') in height measured from grade to roof peak;
 - ii. Fountains, trellises, statues and decorative yard improvements no taller than six feet (6') in height;
 - iii. Retaining walls up to four feet (4') in height above grade (e.g., exposed wall height above finished grade, as determined by the community development director);
 - iv. At-grade walkways and decks less than twelve inches (12") above grade.
- e. Accessory Structure with Sanitary Facilities. A residential accessory structure that exceeds one hundred twenty (120) square feet in size and includes sanitary facilities shall require (prior to issuance of a building permit) recordation of a deed restriction with the county of Marin to reflect that the detached accessory structure cannot be utilized as an accessory dwelling unit, unless it complies with the requirements of

14.16.240 - Manufactured homes.

- A. Purpose. In order to increase the supply of housing and variety of housing types available to the public, manufactured homes are permitted within all zoning districts which allow single-family dwellings, consistent with meeting certain standards.
- B. Compatibility Standards. A manufactured home may be used for residential purposes in an R district if the planning director determines, prior to issuance of any building permit that the following standards are met:
 - 1. The lot and structure meet all the property development standards and requirements of the district;
 - 2. The home is to be used as the principal or accessory dwelling unit;

14.16.285 - Second dwelling units. – To be Replaced in entirety

To Be Removed in Entirety

14.18.040 - Parking requirements.

Table 14.18.040

Use Classification	Off-Street Parking Required

Accessory dwelling units:	See Section 14.16.285
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14.25.040 - Improvements subject to review.

No improvement subject to environmental and design review shall hereafter be constructed, located, repaired, altered, expanded or thereafter maintained, except in accordance with a design approved as provided in this chapter. The following items shall be subject to environmental and design review permits, whether or not a building permit is required.

A. Major Physical Improvements.

1. New construction on vacant property, including, but not limited to:
 - a. Any residential structure located within one hundred (100) vertical feet of a ridgeline,
 - b. Residential structures with three (3) or more dwelling units, and boarding houses,
 - c. Residential structures as required by subdivision or zoning approvals,
 - d. Offices, retail and industrial structures,
 - e. Public, quasi-public, religious, social and similar community structures,
 - f. Marinas and yacht clubs;
2. Modifications to existing structures, including, but not limited to:
 - a. Additions to multifamily residential structures with three (3) or more units, where the addition constitutes more than forty percent (40%) of the total square footage of the building,
 - b. Additions and alterations to existing nonresidential structures where the addition is greater than forty percent (40%) of the existing square footage. (Note: The community development director may determine that an addition or alteration greater than forty percent (40%) which has a minor impact on the visual character or function of a building is subject to a minor design review permit.),
 - c. Relocation of a nonresidential structure, or of a residential structure with three (3) or more existing dwelling units,
3. Major site design improvements, including but not limited to:
 - a. Subdivisions located on properties with an average slope of twenty-five percent (25%) or greater, or with a general plan land use designation of hillside residential or hillside resource residential,
 - b. Cutting of one thousand (1,000) or more cubic yards per site per year, or fill of two thousand (2,000) or more cubic yards per site per year. (Exempt: Where removal is being done in accordance with an approved and legally effective tentative and/or final subdivision map, and a legally effective building permit.) (Note: A use permit is also required where the principal use proposed is cutting or filling.),
 - c. Landscaping as part of a development subject to major environmental and design review,
 - d. Circulation and parking and loading facilities for pedestrians, bicycles and motor vehicles on a development subject to major environmental and design review,

- e. Signs for a development subject to environmental and design review. The sign permit application shall be reviewed for location, size and type of signs concurrently with the design review application. See Chapter 14.19, Signs;
 4. Development subject to review as a major physical improvement pursuant to any other provision of this title;
 5. Murals and mural signs painted on the exterior surface of a wall of an existing or new structure.
 6. Wireless telecommunications facility, as prescribed under Section 14.16.360.B.
- C. Administrative Design Permits.
 1. Decks, or additions to existing decks, higher than thirty inches (30") above grade, located on residential lots with average slopes of twenty-five percent (25%) or greater or located in the hillside resource residential and hillside residential general plan land use designations, except no review is required for decks:
 - a. Less than a total of one hundred (100) square feet,
 - b. Not visible from the public street or adjacent properties, or
 - c. Replacing an existing elevated deck with a deck of same size and configuration;
 2. New single-family residences located on a flag lot,
 3. New one-story duplexes, or ground floor additions over five hundred (500) square feet in size or that include addition of a bedroom,
 4. Conversion of a single-family residence to a duplex,
 5. Design changes to projects that previously obtained design review approval. This includes modifications to upper story additions, modifications to windows or architectural, site design or landscaping changes. Based on the scope and potential impact of the change(s), the level of review may be increased by the community development director.
 6. Outdoor eating areas (as prescribed by Section 14.17.110),
 7. Minor exterior alterations to a structure or development, which are subject to environmental and design review, that, in the opinion of the community development director, have minimal impacts on the visual character or function of the building or development,
 8. Satellite dishes over the height limit in a multifamily or nonresidential district,
 9. Residential fences over seven feet (7') in height, and as set forth under the criteria in Section 14.16.140,
 10. Nonresidential fencing over seven feet (7') in height as set forth under Section 14.16.160 proposed to be located in a front yard or between the principal building and public street frontage(s),
 11. Detached accessory structures located on hillside residential lots with slopes of twenty-five percent (25%) or greater or located in areas with a general plan land use designation of hillside residential or hillside resource residential,
 12. Retaining walls over four feet (4') in height (measured from the top of the footing or finished grade, as determined by the community development director, to the top of the wall) and/or minor landscaping or grading modifications on properties located on a hillside lot as identified in Section 14.12.020 (-H hillside overlay district) of this title, or located within one hundred (100) vertical feet of a ridgeline,
 13. Minor landscaping revisions to existing or approved multifamily or nonresidential development that are determined to alter the character of the site,
 14. Minor modifications to existing parking lots (reconfiguration or expansion),

15. Exterior repainting and refinishing on a development which significantly deviates from the color scheme and/or palette previously approved through an environmental and design review permit, or on structures in the hillside area as identified in Section 14.12.020 of this title when the colors or materials are not from the approved earthtone-woodtone list,
 16. Outdoor storage areas,
 17. Design changes to dwelling units that were existing or approved as of January 1991 and that are being replaced pursuant to Section 14.16.060 (conservation of dwelling units), or dwelling units that are being replaced pursuant to Section 14.16.270.B.5 (nonconforming structures) of this title,
 18. Modifications to properties in the Eichler-Alliance (-EA) combining district which increase the height of roof structures by more than six inches (6") or change the roof pitch, including the creation of sloping roofs, covered atriums that exceed the existing roof height, clerestories or exposed exterior ducting, but excluding the review of solar collectors which are flush-mounted or not visible from the street frontage,
 19. Rooftop equipment and screens visible from off-site,
 20. Minor additions or modifications to a wireless communications facility, as prescribed under Section 14.16.360.B,
 21. Residential accessory structures to be located between the front-facing wall of the primary structure and the front setback except as permitted by Section 14.16.020.E.
 22. Non-residential accessory structure one hundred twenty (120) square feet or less in size.
 23. Ancillary detached accessory structures on a developed multi-family residential property two hundred forty (240) square feet or less in size.
 24. Accessory dwelling units, as prescribed by Section 14.16.285.C.2;
 25. Development subject to review for an administrative design permit pursuant to any other provision of this title.
- D. Exempt from Design Review.
1. Single-family dwellings when sited on individual lots with frontage on a public street and not otherwise subject to design review as listed above;
 2. Ordinary maintenance and repairs;
 3. New decks or additions to decks, except where review is required for decks located in hillside areas as prescribed in Section 14.25.040.C, above;
 4. Installation of solar panels on existing structures or grounds, as provided under state law and in compliance with all applicable development standards;
 5. The community development director may declare improvements which have been determined to be minor or incidental within the intent and objectives of this chapter to be exempt from review.

EXHIBIT C
ADU Regulations
Comparison Table

Standard	Regulations Established under California Government Code 65852.2.	Proposed ADU Regulations	Regulations under SRMC 14.16.285/14.16.286 (These regulations are no longer operable and are provided for informational purposes)
Minimum Lot Size	The City cannot establish a minimum lot size in order to allow an ADU. Government Code § 65852.2 (a)(1)(B)(i)	No minimum lot size is proposed consistent with state regulations under Government Code § 65852.2	5,000 square feet
Density/max number of ADUs allowed	<p>Density: An ADU is defined as an accessory use for the purposes of calculating allowable density and the City cannot count ADUs as contributing toward the density calculation.</p> <p>The City is obligated to allow the following: Number of ADUs allowed: Single-family properties are allowed at most one JADU and one detached ADU per single family lot.</p> <p>Multifamily properties are allowed least one ADU to be created within the non-livable space, or up to 25 percent of the existing multifamily dwelling units within a structure;</p> <p>And</p> <p>Must also allow not more than two Detached ADUs on the lot that contains a multifamily dwelling structure.</p>	No change to the provisions in Government Code 65852.2 are proposed.	<p>Density: Second dwelling units are not required to meet density requirements for the general plan or zoning ordinance</p> <p>Number of ADUs allowed: A maximum of one second dwelling unit or one JADU shall be permitted per residential lot containing a single-family dwelling.</p>

EXHIBIT C
ADU Regulations
Comparison Table

	<p>Only one JADU is allowed per single-family property. Lots with multiple detached single-family dwellings are not eligible to have JADUs. (Government Code § 65852.22(a)(1))</p>		
<p>Size of Unit</p>	<p>Minimum and maximum unit size requirements may be established by ordinance within parameters (Government Code §65852.2(a)(1)(D) & §65852.2 (c).</p> <p>Those parameters must allow ADU the following:</p> <ul style="list-style-type: none"> • New attached ADU shall not exceed 50 percent of the floor area of the existing primary dwelling for an attached ADU • A new detached ADU shall not exceed a floor area of 1,200 square feet. <p>Regardless of the above limits, a local agency may place the following limits on new ADUs</p> <ul style="list-style-type: none"> • At least 850 square feet for studio or 1-bedroom units • At least 1,000 square feet for ADUs with more than one bedroom. 	<p>The proposed ordinance established a minimum and maximum allowable size as follows:</p> <p><u>New Construction Attached ADU:</u> Minimum size -150 sqft (efficiency unit)</p> <p>Maximum size - 1,000 sq.ft. or 50% of the floor area of an existing primary dwelling unit, whichever is less</p> <p><u>New Construction Detached ADU:</u> Minimum size -150 sq.ft. (efficiency unit)</p> <p>Maximum size - 1,000 sq.ft. or 50% of the floor area of an existing primary dwelling unit, whichever is less.</p> <p><u>Internal Conversion ADU (includes demo and rebuild)-</u></p>	<p>Second units can be no greater than forty percent (40%) of the gross square footage of the principal residence, excluding the garage area; except that any second dwelling unit may be at least five hundred (500) square feet even if that exceeds forty percent (40%) of the principal residence.</p> <p>In no case shall the second dwelling unit exceed one thousand (1,000) square feet in size.</p> <p>JADU- shall not exceed five hundred (500) square feet in size</p>

**EXHIBIT C
ADU Regulations
Comparison Table**

	<p>No size limits for the conversion of an existing accessory structure or conversion of a portion of the existing primary residence to an ADU.</p>	<p>efficiency unit allowed (150 sq.ft.), Maximum size- None</p> <p><u>Junior ADU</u> efficiency unit allowed (150 sq.ft.), Maximum size- 500 square feet</p>	
<p>Required Setback</p>	<p>The City may impose minimum setbacks, for the creation of ADUs and JADUs however, a setback of no more than four (4) feet from the side and rear lot lines shall be required for an attached or detached ADU. Front and street side setbacks, and setbacks to account for utility easements or recorded setbacks may be imposed by the City.</p> <p><u>Setbacks must not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to Government Code, § 65852.2(e).</u></p> <p>No setback shall be required for conversion of existing space in a primary unit or accessory structure or a structure reconstructed in the same location and with the same dimensions of the existing</p>	<p>New Construction ADU Units-</p> <p>Front: Same as primary dwelling Side: 4 Feet Rear: 4 Feet Front Entry: 10 Feet from any right-of-way Reverse Corner: Rear 20 feet of the street side yard shall have a 15 foot setback Decks, Balconies and Platforms greater than 12" , Rear or side yard shall have a 4 foot setback</p>	<p>Second dwelling units added or attached to principal residence must comply with setback requirements otherwise required for the applicable zoning district. Second dwelling units constructed as a separate building are subject to the setback requirements otherwise applicable to accessory buildings, (min of 3 feet from interior side and rear property lines); Second units are were not allowed in the front setback.</p>

EXHIBIT C
ADU Regulations
Comparison Table

	structure that is converted. (Gov. Code, § 65852.2(a)(1)(D)(vii))		
Maximum Height	Local agencies may impose height limits provided that the limit is no less than 16 feet. (Government Code, § 65852.2(a)(1)(B)(i))	16 foot height limit ADUs located in the Eichler-Alliance shall cannot exceed 17 feet in height.	Second dwelling units attached to the primary structure are subject to the same height limits of the primary Residence. Detached Second units cannot exceed a height of fifteen feet (15') in height within the setback areas, unless a different height is approved withuse permit by the planning commission.
Review Process/Timeframes	Review of complete application within 60 days. ADUs must not be subject to a hearing or any ordinance regulating the issuance of variances or special use permits and must be considered ministerially. Government Code §65852.2(b)	No change to provisions in Government Code 65852.2 are proposed.	Ministerial permit required with no specified timeframes. Design review can be required and a Use Permit from the Planning Commission required for units larger than 800 square feet, exceeding 15 feet in height or located within the side or rear setback areas.
Space for JADU	Must be constructed within the walls of the existing or proposed single-family residence. Can include conversion of any portion of the residence, including garage.	No change to provisions in Government Code 65852.2 are proposed.	JADU's must be created within the existing walls of a single-family dwelling and must include the conversion of an existing bedroom(s).
Owner Occupancy	Owner Occupancy cannot be required for newly created ADUs. The new owner-occupancy exclusion is effective January 1, 2020 through December 31, 2024. There are owner-occupancy requirements for JADUs. The owner must	No change to provisions in Government Code §65852.22 are proposed	Owner Occupancy required

EXHIBIT C
ADU Regulations
Comparison Table

	reside in either the remaining portion of the primary residence, or in the newly created JADU. Government Code §65852.22		
Multifamily Properties	An ADU can be added to single family and multifamily properties that are in a zoning district that allows residential use. Government Code §65852.2(a)	No change to provisions in Government Code 65852.2 are proposed	Second dwelling units and JADUs are only for Single Family Properties
Parking and Garage Conversions	No additional parking for the ADU parking is required for any of the following: (1) Accessory dwelling unit is located within one-half mile walking distance of public transit. (2) Accessory dwelling unit is located within an architecturally and historically significant historic district. (3) Accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure. (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit. (5) When there is a car share vehicle located within one block of the accessory dwelling unit. Otherwise the following ADU parking requirements apply: One parking space per unit or bedroom, whichever is less.	No change to provisions in Government Code 65852.2	Off-street parking required for each second dwelling unit. The number of spaces is based on the number of bedrooms. JADUs require code compliant parking for the main residence, no additional parking required for the JADU. Cannot convert a garage to an ADU unless you can replace the covered parking on site.

EXHIBIT C
ADU Regulations
Comparison Table

	<p>Off-street parking spaces for the ADU shall be permitted in setback areas or through tandem parking, unless specific findings are made.</p> <p>Replacement off-street parking cannot be required for an ADU created through the conversion of a garage, carport or covered parking structure,</p> <p>Government Code §65852.2(a)(1)(D)</p>		
<p>Nonconforming Structures</p>	<p>An applicant shall not be required to correct nonconforming zoning conditions as a condition of an ADU ministerial approval. (Government Code § 65852.2 (e)(2))</p> <p>The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through the state ADU law. These conversions of accessory structures are not subject to any additional development standard, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under Building and Safety Codes. A local agency should not set limits on when the structure was created, and the structure</p>	<p>The proposed ordinance allows for conversion of existing structures as required by the provisions in Government Code 65852.2</p>	<p>Where a second dwelling unit is proposed in a nonconforming structure, the proposed second unit shall not increase the spatial nonconformity of the site or the improvements.</p>

EXHIBIT C
ADU Regulations
Comparison Table

	<p>must meet standards for Health & Safety. Finally, local governments may also consider the conversion of illegal existing space and could consider alternative building standards to facilitate the conversion of existing illegal space to minimum life and safety standards.</p>		
Architectural Compatibility	<p>Subjective standards design standards shall not be imposed for construction of ADUs Government Code §65852.2(a)(1)(D)(3)</p>	<p>No change to provisions in Government Code 65852.2 are proposed, however the proposed ordinance does include objective development standards and special objective height standards in the Eichler/Alliance overlay consistent with the district standards.</p>	<p>Construction of second dwelling units that entail exterior expansion or modification of the principal residential structure or accessory building, or construction of a new building, shall be subject certain design criteria.</p>
Discretionary Review	<p>New ADUs must be considered through ministerial process. The City may adopt objective standards and may require discretionary review for projects that do not comply with objective standards. (Government Code, § 65852.2 (a)(1)(B)(i))</p>	<p>The proposed ordinance would require certain objective standards but would provide a discretionary process for projects that do not comply with objective standards.</p>	<p>New second dwelling units on hillside properties are subject to a discretionary Design Review process.</p>
Prohibited Location	<p>Clarifies that local agencies may prohibit ADUs in certain location based on adequacy of water and sewer service, impacts on traffic flow, and public safety (Government Code, § 65852.2 (a)(1)(A))</p>	<p>The proposed ordinance includes a proposed prohibition of ADUs in certain areas based on steep and narrow streets. This list will be updated as needed.</p>	<p>The City's New second dwelling units on hillside properties are subject to a discretionary Design Review process.</p>

EXHIBIT C
ADU Regulations
Comparison Table

<p>Impact and Connection Fees</p>	<p>An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. Should an ADU be 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit. These provisions do not apply to ADUs that are constructed concurrently with a new single-family home (Gov. Code, § 65852.2(f) and Gov. Code, § 66000)</p> <p>ADUs converted from existing space and JADUs shall not be considered by a local agency, special district or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed with a new single-family dwelling. The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or plumbing fixtures as compared to the primary dwelling. (Gov. Code, § 65852.2 (f)(2)(A))</p>	<p>No change to provisions in Government Code 65852.2</p>	<p>No Special provisions</p>
<p>Solar Panels</p>	<p>Newly constructed ADUs are subject to the Energy Code requirement to provide solar panels if the unit(s) is a newly constructed, non-manufactured, detached ADU. Per the California Energy Commission (CEC), the panels can be</p>	<p>No change to provisions in Government Code 65852.2</p>	<p>Must comply with the Uniform Housing Code and Uniform Building Code which did not require solar panel installation at the time the ordinance was adopted. Solar</p>




EXHIBIT C
ADU Regulations
Comparison Table

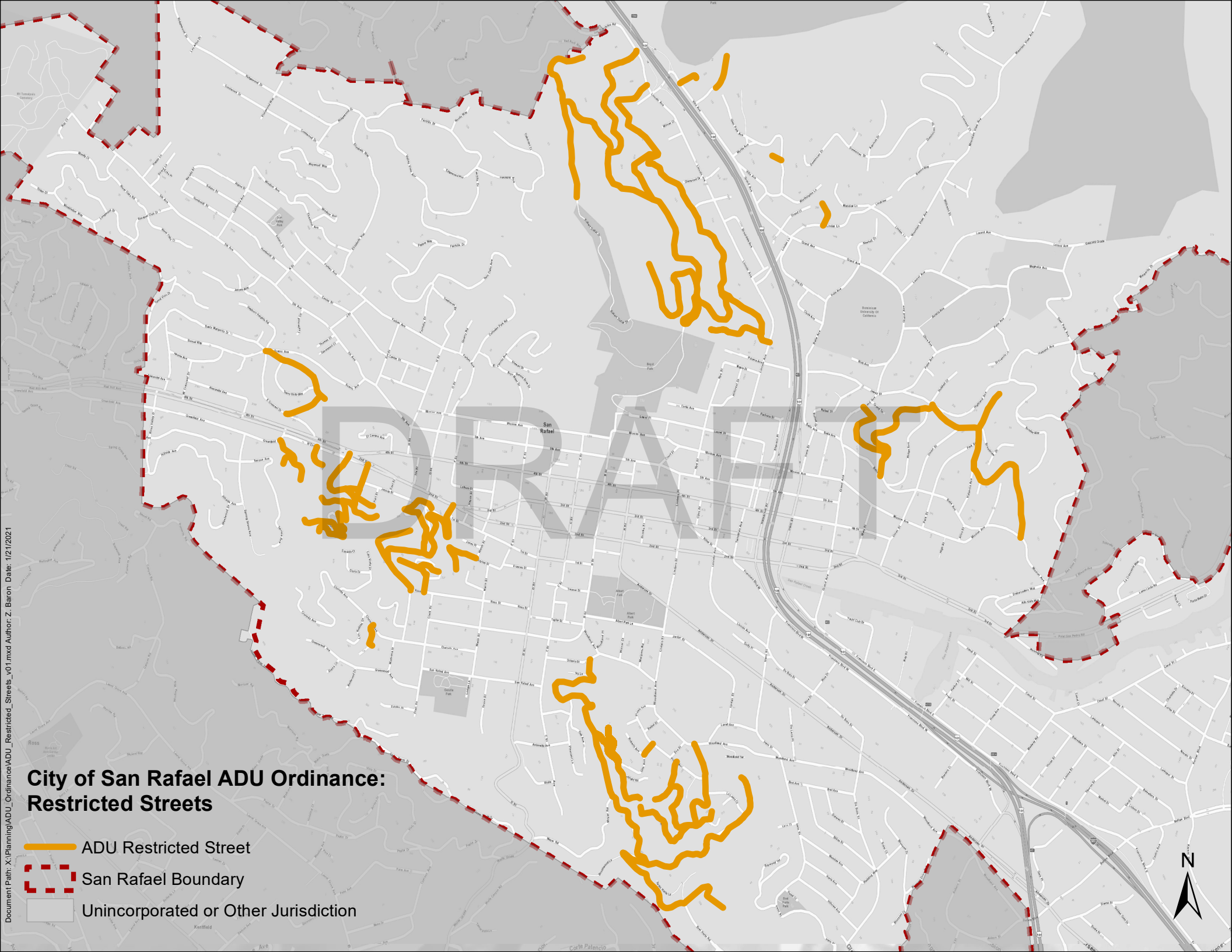
	<p>installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar panels.</p>		<p>panels are not specifically noted as required or not required.</p>
Fire Sprinklers	<p>Installation of fire sprinklers may not be required in an ADU if sprinklers are not required for the primary residence. However, if the same primary dwelling recently undergoes significant remodeling and is now required to have fire sprinklers, any ADU created after that remodel must likewise install fire sprinklers. (Gov. Code, § 65852.2(a)(1)(D)(xii) and (e)(3))</p> <p>For ADUs created on lots with multifamily residential structures, the entire residential structure shall serve as the “primary residence”. Therefore, if the multifamily structure is served by fire sprinklers, the ADU can be required to install fire sprinklers.</p>	<p>No change to provisions in Government Code 65852.2</p>	<p>No specific fire sprinkler standards are listed in the ADU section of the municipal code.</p> <p>A JADU is not required to have sprinklers unless it constitutes a substantial remodel but there are a few other requirements listed as fire safety requirements.</p>
Expansion	<p>An ADU within the existing or proposed space of a single-family dwelling can be expanded 150 square feet beyond the physical dimensions of the structure but shall be limited to accommodating ingress and egress.</p>	<p>No change to provisions in Government Code 65852.2</p>	<p>Expansion of a detached or attached structure for an ADU is subject to the same development standards as an expansion for any other use.</p>

EXHIBIT C
ADU Regulations
Comparison Table

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City of San Rafael ADU Ordinance: Restricted Streets

-  ADU Restricted Street
-  San Rafael Boundary
-  Unincorporated or Other Jurisdiction



DRAFT

LIST OF ROADS/STREETS WHERE ADUs/JADUs ARE PROPOSED TO BE PROHIBITED

List considers the follow factors:

Staff is proposing that that the ordinance prohibit ADUs and JADUs on certain streets due to narrow travel lanes (<14'), excessive turning radius, maneuvering difficulty, and/or lack of turnaround.

San Rafael Hill/Lincoln

Prospect Drive
Coleman Drive
Fair Drive
Graceland Drive
Vineyard
Tampa Drive
La Vista Way
Chula Vista Drive

Montecito/Happy Valley

Eucalyptus Lane
Marinita Avenue
Jewell Street (between Marinita Ave and Mission Ave)

Dominican/Black Canyon

Terradillo Ave
Roger Drive
Lillian Lane
Hacienda Court
Hearfield Lane

Sun Valley

Bayo Vista Way

West End/Gerstle Park

Dunand Ave
Sentinel Court
Marquard Avenue
Fremont Road
Upper Fremont Road
Trost Road
West Street
Viox Way
Miramar Avenue
Miraflores Ave
Reservoir Road (above Ross Street)
Gerstle Court
Wood Street
Clayton Ave (west of Welch Street)

Bret Harte/Picnic Valley

Southern Heights Boulevard
Perry Walk
McCoy Road

Bungalow Avenue
Glen Ave (above Robert Ave)
Courtright Road
Pearce Road
Martens Blvd
Bret Harte Road (below 270 to above 470)
Baldwin Court

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Thu 1/14/2021 6:46 PM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Name

Joshua Ebersole

Email

[REDACTED]

Phone

[REDACTED]

Please let us know your thoughts!

Absolutely necessary and don't cave to the closed minded NIMBYism.

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Thu 1/14/2021 6:51 PM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Name

Steve Krivit

Email

[REDACTED]

Phone

[REDACTED]

Please let us know your thoughts!

I have lived in San Rafael for 12 years. When I first moved here, I could come and go from my home in Gerstle Park at just about any hour of the day without being subjected to heavy vehicular traffic, on my way to or from the freeway. In the last few years, that has changed, even before SMART. I now try to avoid going anywhere, if I can, except between 10 AM and 2 PM. If you could add an additional lane to each of the second and third street corridor routes, then you would maintain the quality of life here. Of course, increasing the downtown vehicular artery is impossible. Therefore, if you increase housing density, there are two things that are guaranteed to happen: 1. You will degrade the quality of life here because every one of us will hate having the ingress and egress from our homes. 2. People who have the financial means to move elsewhere will do so. I lived in Los Angeles for 26 years. Transportation congestion is the main reason why I left. You do not have a responsibility to the people who do not live here yet and who need an "affordable" place to live. We have rent control now; this protects current residents. We do not need our local government to facilitate new low-rent housing by increasing housing density. You have a responsibility to the people who live here now.

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Thu 1/14/2021 9:31 PM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Name

Helene Turcotte

Email

[REDACTED]

Phone

[REDACTED]

Please let us know your thoughts!

Thank you the your good work! This is a good draft, with lots of info! Question:

How would I know if my house is in an Eichler Alliance District?

Suggestion:

It would be useful to spell out what a variance is and what is the process and fees.

Thanks again!

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Thu 1/14/2021 9:46 PM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Name

Dru Parker

Email

[REDACTED]

Phone

[REDACTED]

Please let us know your thoughts!

Thank goodness. It's about time. We need more housing.

Draft ordinance makes sense although 16' height seems pretty tall. Is that to accommodate sleeping loft?

There are some streets in San Rafael like Union and Park that have virtually no available street parking as it is. I think a little more consideration should be given to requiring parking, if that is allowable within the state framework. Half a mile from transit is silly. Marin public transit is worthless.

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Fri 1/15/2021 6:08 AM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Name

Leslie Bee

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[REDACTED]

Phone

[REDACTED]

Please let us know your thoughts!

The draft seems clear. And appreciate that this draft ordinance makes it easier to develop an ADU and get an ADU approved. But I am not sure how the current "State laws made our Accessory Dwelling Unit (ADU) ordinance ineffective" so am not sure how this draft addresses that.

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Fri 1/15/2021 10:30 AM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Name

Paula Doubleday

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[REDACTED]

Phone

[REDACTED]

Please let us know your thoughts!

This seems straightforward and thorough. It sounds like it is expanded to encourage more development.

BTW I clicked the download button and it opened the pdf in a new tab now titled "Benecia Municipal Code". Maybe you want to edit that link.

Great job

Paula

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Fri 1/22/2021 10:58 AM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Name

Ian McCamey

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[REDACTED]

Phone

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Please let us know your thoughts!

- Not clear on the distinction of a JADU vs. Internal Conversion ADU....is it just a difference of total square footage? Ie -- if less than 500, then qualifies as JADU, but if over 500 then classified as ICADU?

- These parking requirement exclusions seem to be an invitation for problems:

"No Parking shall be required for the following:

a) The accessory dwelling unit is located within one-half mile walking distance of public transit."

--> it would seem that this will invite landlords to make units without parking, but rent to tenants who have cars, thus creating adverse impact on congestion and parking overall. As an alternative, it would seem better to say that any ADU that does NOT have dedicate parking can NOT rent to a tenant with a vehicle (thereby incentivizing the use of public transit or other alternative transportations means)

"b) The accessory dwelling unit is located within an architecturally and historically significant historic district."

--> Not clear on what districts meet this qualification but the same alternative would seem to apply. "if no parking is provided, then can no rent to a tenant with vehicle."

c) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

--> what does this mean?

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Fri 1/22/2021 10:43 PM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

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Esme- Octavia Lazarre

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Please let us know your thoughts!

Fabulous! Bravo ! This ordinance allows property owners the flexibility needed to increase the rental housing stock, particularly relatively affordable housing, while allowing renters to experience San Rafael's diverse neighborhoods - something which increases quality of life for those renters (and some primary dwelling occupants!)and which promotes City unity across varied economic strata. Fast track approval processes and non restrictive size limitations are very attractive and I expect this ordinance will be highly successful if there are enough property owners who see a benefit in constructing an ADU on their property. For those who already do see a benefit and are excited to get started, the San Rafael Planning Department has certainly helped to make the process pain free and highly appealing. Congrats!

New comments on ADU draft Ordinance

notify@proudcity.com <notify@proudcity.com>

Sun 1/31/2021 10:11 AM

To: Michele Ginn <Michele.Ginn@cityofsanrafael.org>; Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>

Name

Seth Harris

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Please let us know your thoughts!

Restricting ADUs on roads less than 14' or where parking on streets blocks traffic is a punitive action against homeowners who may wish to develop an ADU. If there is illegal parking congestion on roads (e.g. parking within 6' of center line, vehicles parked for more than 72 hours, etc) those infractions should be enforced. In my neighborhood some residents use their garages and carports for storage and leave their vehicles on the narrow road for extended periods of time. I have never seen a traffic patrol or tickets on illegally parked vehicles in many years in the hills of San Rafael. Individual decisions to park illegally which have not been enforced by the city should not prevent those who legally park and own homes from adding more housing. We should solve the issue of illegal parking rather than prevent additional ADUs.