

**ORDINANCE NO. 2002**

**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

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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 Unit.**

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,

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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)~~

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~~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>

[...]

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

[...]

**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) <del>(E)</del>
Rear (ft.)	25	25	10	10	10	10	

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	R2a	R1a	R20	R10	R7.5	R5	<u>Additional Standards</u>
Maximum height of structure (ft.)	30	30	30	30	30	30	<del>(E)</del> (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	<del>(E)</del> , (F), <del>(G)</del> , <del>(H)</del>
Private yard area	NR	NR	NR	NR	NR	NR	
Parking	*	*	*	*	*	*	* <u>Based on use. See <a href="#">14.18.040</a>.</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.

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**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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[...]

<b>Residential Uses</b>		*		*	*		*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 <a href="#">Chapter 14.17</a> 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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[...]

<b>Residential Uses</b>							
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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.

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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:

<b><u>TABLE 14.16.285</u></b>						
		<b><u>Attached ADU</u></b>	<b><u>Detached ADU</u></b>	<b><u>Internal Conversion ADU</u></b>	<b><u>JADU*</u></b>	<b><u>NOTES</u></b>
<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>N/A</u>	
	<u>Side</u>	<u>4 feet</u>	<u>4 feet</u>	<u>N/A</u>	<u>N/A</u>	<u>(A)</u>
	<u>Rear</u>	<u>4 feet</u>	<u>4 feet</u>	<u>N/A</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>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>

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<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:

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- (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 b. 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.

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- 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

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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
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[...]

<del>Second dwelling units:</del>	
<del>Studio or one bedroom unit</del>	<del>1 space.</del>
<del>Two or more bedroom unit</del>	<del>2 spaces.</del>

<u>Accessory dwelling unit (ADU):</u>	<u>See Section 14.16.285</u>
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[...]

**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.



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[...]

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

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The foregoing Ordinance No. 2002 was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 15<sup>th</sup> day of November 2021 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: None

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 6<sup>th</sup> day of December 2021.



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LINDSAY LARA, City Clerk

## **SUMMARY OF ORDINANCE NO. 2002**

### **AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL 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**

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 2002, which will amend the San Rafael Municipal Code to establish local regulations consistent with changes in state law regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). Ordinance No. 2002 is scheduled for adoption by the San Rafael City Council at its regular meeting of December 6, 2021. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

#### **SUMMARY OF AMENDMENT TO MUNICIPAL CODE**

The California Legislature has found and declared that ADUs and JADUs can add needed housing units in single and multifamily zoned areas, and thus play an essential role in addressing California's housing needs. Accordingly, the State Legislature has modified state law governing ADUs and JADUs to reduce barriers, streamline the approval process, and expand production throughout California. Adopted changes to state law regulating such units became effective January 1, 2017, causing the City of San Rafael's existing regulations to be deemed null and void and requiring the City to process ADU and JADU applications under state law. Additional changes to state law have been enacted since 2017.

Based on these changes and the need in San Rafael for rental housing and a mix of housing types to encourage diversity and inclusion, the San Rafael City Council has adopted amendments to Titles 1, 4, 12, and 14 of the San Rafael Municipal Code. The amendments update, among other things, the number of ADUs and JADUs allowed on a lot, owner occupancy requirements, and enforcement of building standard compliance. Within the Zoning Ordinance (Title 14), use and development standards of ADUs and JADUs have been updated including, among other things, size of unit (floor area), required setbacks, maximum height, and provision of parking. The proposed ordinance complies with state law and would replace current San Rafael Municipal Code ADU regulations.

Copies of Ordinance No. 2002 will be available for public review as of Wednesday, November 24, 2021 at the San Rafael City Clerk's Office, 1400 Fifth Avenue, Room 209 during regular business hours, 9:00 a.m. to 4:00 p.m., and on the City's website: <https://www.cityofsanrafael.org>. You may also contact Leslie Mendez, Planning Manager, at 415-485-3095 or [leslie.mendez@cityofsanrafael.org](mailto:leslie.mendez@cityofsanrafael.org) for information.

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LINDSAY LARA  
San Rafael City Clerk  
Dated: 11/22/2021