

City of Watsonville
MEMORANDUM



DATE: May 20, 2020

TO: Planning Commission

FROM: Suzi Merriam, Community Development Director
Justin Meek, AICP, Principal Planner
Ivan Carmona, Associate Planner

SUBJECT: Consideration of a Resolution recommending that the Council adopt amendments to Watsonville Municipal Code Chapter 14-12 (Zoning Permits), Chapter 14-16 (District Regulations), Chapter 14-18 (Definitions), Chapter 14-40 (General Provisions, Exceptions, and Modifications), and repeal Chapter 14-23 (Accessory Dwelling Units) and replace with new Chapter 14-23 (Accessory Dwelling Units and Junior Accessory Dwelling Units)

AGENDA ITEM: July 14, 2020

Planning Commission

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution recommending that the City Council amend Chapter 14-12 (Zoning Permits), Chapter 14-16 (District Regulations), Chapter 14-18 (Definitions), Chapter 14-40 (General Provisions, Exceptions, and Modifications), and repeal Chapter 14-23 (Accessory Dwelling Units) of the Watsonville Municipal Code and update with new Chapter 14-23 (Accessory Dwelling Units and Junior Accessory Dwelling Units).

CEQA REVIEW: The proposed zoning text amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 21080.17 which exempts the adoption of an ordinance by a city to implement provisions of Sections 65852.1 and 65852.2 of the Government Code (GOV).

BACKGROUND:

Overview of State Findings and Declarations Concerning Accessory Dwelling Units

The state Legislature has found the following:

1. Accessory dwelling units are a valuable form of housing in California;

2. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods;
3. Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security;
4. Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California;
5. California faces a severe housing crisis;
6. The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners;
7. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character;
8. Accessory dwelling units are, therefore, an essential component of California's housing supply. [GOV § 65852.150\(a\)](#)

The state Legislature has declared that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in such ordinances relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance. [GOV § 65852.150\(b\)](#)

Overview of City Ordinance

On August, 26, 2003, the Council passed Ordinance No. 1162-03 CM amending Chapters 16 (District Regulations), 18 (Definitions), 23 (Accessory Dwelling Units), and 40 (General Provisions, Exceptions, and Modifications), of Title 14 of the Municipal Code to allow creation of Accessory Dwelling Units (ADUs) to comply with California Government Code relating to "granny units" and second dwellings.

Establishing Ordinance No. 1162-03 CM allowed the City to comply with State legislation that allowed ADUs within R-1, RM-2, and RM-3 residential zones. According to the City of Watsonville 2015-2023 General Plan Housing Element, the purpose of permitting additional accessory dwelling units is to allow more efficient use of existing housing and to provide the opportunity to develop small housing units while preserving the integrity of single-family neighborhoods.

The City's current Accessory Dwelling Unit ordinance must be updated to include all of the changes in the state housing bills adopted between 2016-2019. The bills as well as the major modifications to state housing laws are identified in the tables below.

Overview of New State Legislation

(2016-2017)	Major Changes
<i>AB2299 (Bloom)</i>	<ol style="list-style-type: none"> 1. ADUs allowed “by right” 2. Reduced parking requirements 3. Created a definition for junior additional dwelling units (JADUs).
<i>AB2406 (Thurmond)</i>	
<i>SB1069 (Wickowski)</i>	

(2019-2020)	Major Changes
<i>AB68 (Ting)</i>	<ul style="list-style-type: none"> • Development standards shall not include requirements on minimum lot size • Clarifies areas designated for ADUs may be based on water and sewer and impacts on traffic flow and public safety. • Eliminates owner-occupancy requirements by local agencies until January 1, 2025. • Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1000 square feet if the ADU contains more than one bedroom • Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement off street parking spaces cannot be required by the local agency • Reduces the maximum ADU and JADU application review time from 120 days to 60 days • Clarifies “public transit” to include various means of transportation that charge set fees, run on fixed routes and are available to the public • Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger shall be proportional to the relationship of the ADU to the primary dwelling unit • Defines an “accessory structure” to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU • Authorizes HCD to notify the local agency if the department finds that their ADU ordinance is not in compliance with state law
<i>AB587 (Friedman)</i>	
<i>AB670 (Friedman)</i>	
<i>AB881 (Bloom)</i>	
<i>SB13 (Wieckowski)</i>	

	<ul style="list-style-type: none"> • Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs as specified in Gov. Code Section 65583.1(a) and 65852.2(m). • Permits JADUs without an ordinance adoption by a local agency • Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence • Allows upon application and approval, an owner of a substandard ADU 5 years to correct the violation, if the violation is not a health and safety issue, as determined by the enforcement agency • Creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separate from the primary dwelling by allowing deed-restricted sales to occur. To qualify, the primary dwelling and the ADU are to be built by a qualified non-profit corporation whose mission is to provide units to low-income households • Removes covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751). • Requires local agency housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code Section 65583 and Health and Safety Code Section 50504.5)
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HCD Oversight and State Requirements

The California Department of Housing and Community Development (“HCD”) now has an oversight and approval role to ensure that local ADU ordinances are consistent with state law. If a city or county adopts an ordinance that HCD deems non-compliant with state law, HCD can notify the California Attorney General. (GOV § 65852.2(h).)

If a city or county does not adopt an ADU ordinance, state requirements will apply directly. California Government Code § 65852.2(b)–(e). Subdivisions (b) and (c) of § 65852.2 require cities and counties to ministerially approve or disapprove applications

for permits to create ADUs. Subdivision (e) requires ministerial approval, whether or not a local government has adopted an ADU ordinance, of applications for building permits of the following types of ADUs and JADUs in residential or mixed use zones:

- One ADU or JADU per lot within a proposed or existing single-family dwelling or existing space of a single-family dwelling; (GOV § 65852.2(e)(1)(A)(i)-(iv))
- One detached, new construction ADU, so long as the ADU does not exceed four-foot side and rear yard setbacks for the single-family residential lot; (GOV § 65852.2(e)(1)(B))
- Multiple ADUs within the portions of existing multifamily dwelling structures that are not currently used as dwelling spaces (e.g., storage room, garage) and said ADU complies with building and fire codes; (GOV § 65852.2(e)(1)(C))
- No more than two detached ADUs on a lot that has an existing multifamily dwelling, subject to a 16-foot height limitation and four-foot rear yard and side setbacks. (GOV § 65852.2(e)(1)(D))

While existing law already requires local agencies to submit their ADU ordinances to the States Department of Housing and Community Development (HCD) for review within 60 days of approval, these bills add the ability for HCD to submit findings to local agencies if an ADU ordinance is not in compliance with State ADU laws, and to notify the Attorney General if a local agency chooses not to amend their ADU ordinance to meet State requirements.

PROCESS:

Subdivision (c) Section 907 of the City Charter allows the Planning Commission to recommend any proposal to amend or repeal any part of the Zoning Ordinance to the Council

Per Section 14-12.807 of the Municipal Code the Planning Commission and City Council shall, in Planning Commission recommending or the City Council in approving an amendment to the Zoning Code text, make the following findings:

1. That the proposed amendment is consistent with the policies embodied in the General Plan.
2. That the proposed amendment is compatible to the extent possible with the actual general planned use of adjacent properties.

DISCUSSION:

Current Ordinance and New State Law. When the City adopted its first ADU Ordinance in 2003, the goal was to comply with California Government Code statutes relating to the planning and creation of ADUs effective at that time. The recent changes in State law provide an opportunity for the City to develop compliant objective standards which will allow flexibility, cost savings to property owners, through the development of

ADUs and JADUs within the following residential zoned properties: R-1, R-1P, RM-2, and RM-3. Due to the legislative changes taking effect January 1, 2020, and limited discretion the City has in adopting an ordinance, no public outreach was completed except the required noticing prior to a public hearing.

The following discussion details Watsonville's current ADU regulations in comparison to new State legislation and discusses the Zoning Ordinance update to bring the City into compliance with State legislation.

Amendments to Chapter 14-12: Zoning Permits.

Chapter 14-12 (Zoning Permits) of the Watsonville Municipal Code (WMC) currently requires a Minor Design Review Permit for proposed ADUs. In order to comply with recent state legislation changes, the amendment will remove the requirement of a Minor Design Review permit for proposed ADUs. All ADUs will require an Administrative Review Permit, which is a ministerial action.

Chapter 14-16: District Regulations.

Chapter 14-16 (District Regulations) of the WMC currently allows ADUs as accessory uses with approval of an Administrative Review Permit in the following residential zones: R-1 (single-family residential), R-1P (single-family planned residential), RM-2 (multiple residential - medium density), and principally permitted in the RM-3 (multiple residential - high density). District Regulation amendments are required to allow JADUs as accessory uses with approval of an Administrative Review Permit in the following zones: R-1, R-1P, RM-2, and RM-3. Attachment 1 provides the Zoning Land Use Designation Map highlighting the affected residential zones.

Amendments to Chapter 14-18: Definitions.

Chapter 14-18 (Definitions) of the WMC currently defines terms used in the interpretation and construction of land use development projects. The following terms have been added/modified in order to comply with state regulations and provide clarity in interpretation:

- 14-18.324 Dwelling unit, accessory (accessory dwelling unit) (ADU)
- 14-18.325 Dwelling unit, Junior Accessory (JADU)
- 14-18.326 Dwelling unit, efficiency
- 14-18.490 Living Area

Chapter 14-23 Accessory Dwelling Units

Below is a discussion outlining the main points of the draft Accessory and Junior Accessory Dwelling Unit ordinance that will be updated.

Chapter 14-23.030 ADU and JADU Use Standards

Accessory Dwelling Unit Size (Section 14-23.030(a)). The California Government Code enables local jurisdictions to set their own maximum units sized with a specific

framework for creation of ADUs and JADUs. The recent changes to state legislation established new size parameters for ADUs based on whether the unit is attached or detached, as well as how many bedrooms are included in the ADU.

State legislation establishes a minimum square footage that a local entity can set for ADUs based on the number of bedrooms within the unit, and does not provide a minimum/maximum number of bedrooms an ADU may have. Legislation provides minimum square footage as follows:

- 1 bedroom or less ADU- 850 sf
- 2 bedroom ADU- 1,000 sf

Legislation provides that a local jurisdiction can allow ADUs with more square footage and more than 2 bedrooms. Staff recommends that the size of ADUs and number of bedrooms allowed be scaled based on the size of the property. Table 1 of Section 14-23.030(a) outlines the number of bedrooms and square footage proposed based on the size of the property:

WMC Chapter 14-23.030(a) Table 1

Lot Size (SF)	Maximum ADU living space (SF) and maximum number of bedroom
Lots less than 5,999 SF	850 SF (maximum 1 bedroom)
Lots less than 9,999 SF	1,000 SF (maximum 2 bedrooms)
Lots greater than 10,000 SF	1,200 SF (maximum 3 bedrooms)
Lots greater than 12,000 SF	One 1,200 SF (maximum 3 bedrooms) or two ADUs (maximum 750 SF and 2 bedrooms)

Section 14-23.030(b-d).

Section 14-23.050 (2) provides the number of ADUs and JADUs that can be developed on a property, the front, side and rear setback requirements, as well as height of units and minimum distance between detached buildings.

Section 14-23.030(e-g).

This section provides additional standards that apply to specific situations, such as attached and detached ADUs, the conversion of accessory structures such as a garage or other accessory structures, and expansions to accommodate JADUs.

Section 14-23.040.

This section provides objective design standards for all accessory units, which includes building design, private open space, landscaping, access, and window design, among other things. The existing Accessory Dwelling Unit ordinance includes only minimal

design standards, and these new standards should serve to encourage quality design, livable units, and retain neighborhood character.

Section 14-23.060.

The state has imposed parking standards which can be waived if the project meets certain criteria. The maximum parking requirement that can be imposed is the provision of 1 off-street parking space for an ADU or JADU.

The ordinance requires parking for the main unit(s) on the property be met in order to permit an ADU/JADU. For example, if the existing residence has a 3-bedroom house, 2 off-street parking spaces must be provided for the residence plus any additional parking required for the ADU/JADU.

14-23.080 and 14-23.090 Impact Fees and Utility Connections.

New state legislation prohibits a local jurisdiction from charging development impact fees for new ADUs less than 750 square feet. Additionally, any impact fees for ADUs of 750 square feet or more must be assessed proportionately in relation to the square footage of the primary dwelling unit. The Ordinance proposes that the proportion be determined by dividing the living space of the proposed ADU by the living space of the existing residence. An example of current and proposed impact fees applicable to a sample ADU project are shown in Attachment 2.

Section 14-23.100 Delay in Code Enforcement.

Jurisdictions are now mandated by the state to adopt ordinances granting a delay in code enforcement actions for illegally created ADUs. Although code enforcement delays are now an option, jurisdictions do have the authority to ensure illegally created ADUs requesting code enforcement delays meet all criteria established in [Section 17980.12 of the Health and Safety Code](#).

The draft Ordinance provides owners an opportunity to apply for a delay in code enforcement action to the Building Official so long as the illegal unit was constructed prior to January 1, 2020, and subject to a special inspection by the Building Official or designee for determining whether correcting the violation is not necessary to protect health and safety. Any deferment would require removal of all utility connections and the unit could not be lived in until brought up to current code.

Additionally, this section of the ordinance provides for a 50% reduction in building fees for owners of non-permitted ADUs that come forward to legalize their units. Staff hopes that this will encourage property owners to disclose the illegal units to the city and reduce permit fees for disclosure of the illegal units.

The Community Development Department Code Enforcement Division as of July 2019 through May 2020, received complaints about 70 illegally constructed ADUs. Of those 70 complaints received, 90 percent have been verified by code enforcement inspectors as illegally constructed. By providing a delay in code enforcement actions and incentives for legalizing non-permitted ADUs, property owners can now approach the

City without fear or repercussions to request a five year delay in code enforcement actions or submit a building permit application to legalize the ADU with the benefit of reducing permit fee costs.

WMC Chapter 14-40 General Provisions, Exceptions, and Modifications

Chapter 14-40 (General Provisions, Exceptions, and Modifications) establishes development standards regulating height, setbacks, and lot coverage for accessory structures. Prior to the changes to State law effective January 1, 2020, this chapter regulated the setbacks and height limits for detached Accessory Dwelling Units. Because the revised Chapter 14-23 addresses these standards, they have been removed from Chapter 14-40.

General Plan Consistency.

The proposed Zoning Code text amendments are consistent with the policies embodied in the General Plan by adhering to the following City of Watsonville 2015-2023 Housing Element goals:

Goal 1.0 Improve, conserve and preserve both the safe conditions of and the continued availability of Watsonville's existing affordable housing stock in order to meet the housing needs of all economic segments of the community.

Goal 2.0 Expand and protect housing opportunities for all economic segments and special needs groups within the community.

Goal 4.0 Where appropriate, mitigate unnecessary government constraints to the maintenance, improvements and development of housing.

Goal 5.0 Ensure fair and equal housing opportunity for all persons regardless of race, religion, sex, marital status, family type, ancestry, national origins, color or protected status.

Adopting the proposed Zoning Code text amendments would allow the City of Watsonville to pursue its goals stated in the 2015-2023 Housing Element and be consistent with the policies embodied in the General Plan.

Land Use Compatibility. The proposed Zoning Code text amendments are compatible to the extent possible with the actual general planned use of the adjacent properties, in that the Ordinance includes development standards complying with state legislation, effective January 1, 2020, regarding development standards for lot size, lot coverage, floor area ratios, and rear and side yard setbacks for permitting of ADUs and JADUs. The proposed Zoning Code text amendment is related to following residential zones: R-1, R-1P, RM-2, and RM-3 where the surrounding general planned use of adjacent properties is zoned residential, and will be compatible with the actual and general planned use of the adjacent properties.

CONCLUSION:

Based on the recent state legislation changes, the proposed modifications to the Accessory Dwelling Ordinance will provide comprehensive development standards for creation of ADUs and JADUs in Watsonville. The modifications provide opportunity for property owners to benefit by removing barriers such as minimum lot sizes, floor area ratios, lot coverage, parking standards, and height and building setbacks while preserving neighborhood character.

ATTACHMENTS:

1. Residential Zoning Map
2. Sample Impact Fees for ADUs