



# Memorandum

**TO:** COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE **FROM:** Robert Sapien, Jr.

**SUBJECT: SEE BELOW**

**DATE:** November 4, 2024

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Approved *Rosalyn Hughes* Date: 11/8/24

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**SUBJECT: FIRE SPRINKLER SYSTEMS IN QUALIFYING ACCESSORY DWELLING UNITS CONDOMINIUMS**

**RECOMMENDATION**

Accept the status report on requiring fire sprinkler systems in qualifying Accessory Dwelling Units to be sold as condominiums.

**BACKGROUND**

In January 2024, the California Legislature passed Assembly Bill (AB) 1033<sup>1</sup> to enable condominium conversion of Accessory Dwelling Units (ADUs). This bill enacted California Code Section 66342<sup>2</sup> and enabled cities to opt in and adopt local ordinances to allow the conveyance of an ADU as a condominium.

On June 11, 2024, City Council adopted an ordinance of the City of San José amending various sections of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code, including amending Section 20.80.175 and adding a new Part 2.76 of Chapter 20.80 to allow the sale and conveyance of accessory dwelling units as condominiums. As part of its action—which included Item (b) but not Item (a) from the Supplemental Memorandum,<sup>3</sup> dated June 10, 2024—City Council directed staff to return to the Community and Economic Development Committee with further research on requiring fire sprinkler systems to qualifying accessory dwelling units to be sold as condominiums.

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<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB1033](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1033)  
<sup>2</sup> [https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=13.&article=4](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=13.&article=4)  
<sup>3</sup> <https://sanjoseca.primegov.com/Portal/viewer?id=0&type=7&uid=bdcaf066-a2e0-46b7-8c4d-95fd38701b92>

This report provides an update on Fire Department discussions with other fire agencies located within the state, the Office of the State Fire Marshal, and the California Department of Housing and Community Development regarding the implementation of AB 1033. The Fire Department will also outline considerations to address trends identified in the National Fire Incident Reporting System regarding increasing numbers of structure fires across the country over the last nine years.

The Fire Department continues to recommend that City Council amend Section 20.80.175 of the San José Municipal Code to require that ADUs contain fire sprinkler systems to be conveyed as a condominium.

## **ANALYSIS**

### ***Overview of Fire Life Safety Measures***

Residential sprinklers significantly reduce fire-related deaths and injuries by controlling or extinguishing fires before they spread. Fire sprinklers and smoke alarms reduce the risk of dying in a fire by 82 percent.<sup>4</sup> Compared to reported fires in properties with an automatic extinguishing system, when sprinklers were present, the civilian fire death and injury rates per fire were 90 percent and 32 percent lower, respectively, and the rate of firefighter injuries was 35 percent lower. Sprinklers are also associated with a better economic outcome by reducing property damage and associated costs.

Sprinklers provide an extra layer of fire control in older construction neighborhoods not built with current construction methods and materials that prevent fire spread and minimize potential damage. As density increases in urban areas, the risks associated with residential fires increase significantly with more residents in closer proximity. Greater building density complicates and delays evacuation, rescue, and fire mitigation efforts increasing the potential for injuries or fatalities. Data reveals that cooking is the leading cause of residential fires, followed by heating equipment and electrical malfunctions.<sup>5</sup> Sprinkler systems are particularly effective in controlling fires originating from these common causes, preventing them from spreading and reducing loss of life and property damage.

Nationwide trends associate an increase in ADU construction and utilization with a growing aging population.<sup>6</sup> ADUs are often used to house aging family members and are popular in multigenerational living arrangements, where different generations of a family live in proximity to each other but maintain separate living spaces. This is

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<sup>4</sup> <https://www.usfa.fema.gov/prevention/home-fires/prepare-for-fire/home-fire-sprinklers/>

<sup>5</sup> <https://www.usfa.fema.gov/statistics/residential-fires/causes.html>

<sup>6</sup> <https://www.aarp.org/content/dam/aarp/livable-communities/housing/2022/ABCs%20of%20ADUs-web-spreads-082222.pdf>

particularly common in regions with high housing costs, such as San José, where families seek affordable housing solutions.

### ***ADUs***

Since 2019, the City has experienced an influx of ADUs being built, contributing to more than 20% of San José's new housing stock (or more than 1,400 units). Residents seeking to construct an ADU in San José are required to install sprinkler systems if the primary residence is protected by a sprinkler system and if the project is greater than 500 square feet on an overall gross floor area with the primary residence greater than 3,600 square feet. The average cost to build a fully permitted ADU is estimated to be between \$250,000 and \$350,000. This cost includes the average market price for the installation of a sprinkler system, estimated to be seven dollars per square foot, with design and permitting costs to be approximately \$5,000 (totaling approximately \$13,400 to ensure a typical 1,200 square-foot ADU is fully sprinklered). For reference, the median sale of a comparable square footage condominium in San José is approximately \$750,000 (or \$625 per square foot), returning approximately \$400,000 in net proceeds to the resident.

### ***California Code Requirements***

Since January 2011, the 2010 California Residential Code Section R313.2<sup>7</sup> has mandated that all new single-family homes be equipped with fire sprinklers, reflecting a proactive approach to mitigating fire risk and enhancing safety in residential settings. Similarly, the 2022 California Fire Code Section 903.2.8<sup>8</sup> requires fire sprinklers in all new residential developments, such as condominium projects, supporting effective fire control and protection that align with National Commission on Fire Prevention recommendations. For existing residential structures, the California Residential Code, California Fire Code, and City of San José California Fire Code Amendment Section 903.2 requires retrofitting existing residential occupancies with sprinklers during significant renovations or modifications such as a change in occupancy, progressively improving safety in older buildings.

California Government Code Section 65852.2<sup>10</sup> allows the construction of non-sprinklered ADUs when built on properties with non-sprinklered single-family homes. If an ADU is constructed on a property with a sprinklered single-family home, the ADU must also be sprinklered. Pursuant to the Office of the State Fire Marshal, the legislative process allowing ADUs to be built without sprinklers did not focus on testing, evidence-based safety data, or safety-based justifications as required to make changes to the Fire Code. AB 1033 does not require upgrades to existing structures that do not meet current building construction methods and does not mandate structure separation used to prevent building-to-building fire spread.

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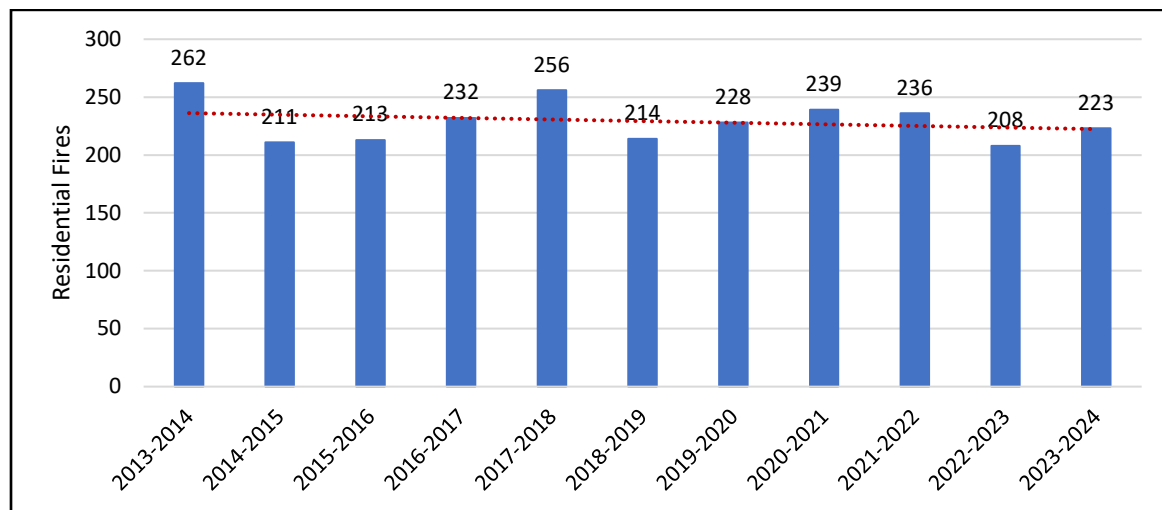
<sup>7</sup> <https://codes.iccsafe.org/content/CRC2016/chapter-3-building-planning>

<sup>8</sup> <https://codes.iccsafe.org/content/CAFC2022P3/chapter-9-fire-protection-and-life-safety-systems>

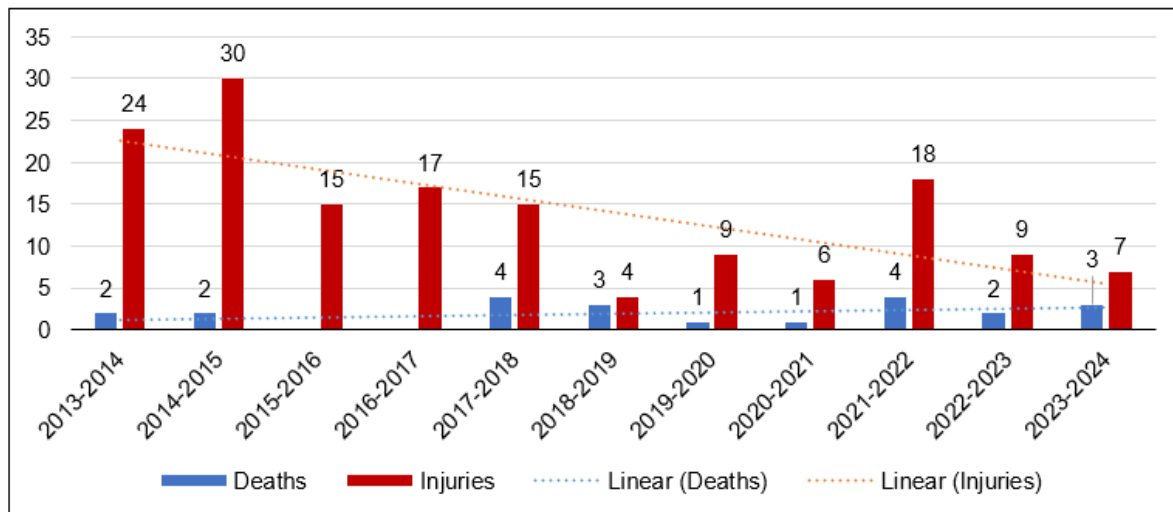
**Present Fire Risks and Mitigation Efforts**

Recent data from the National Fire Incident Reporting System, the National Fire Protection Agency, and the United States Fire Administration reinforce the need for proactive fire safety measures. In 2024, there have been 1,303 residential fire fatalities and 33 firefighter fatalities nationwide. Extrapolated data ranging from calendar year 2013 to 2022 indicate fire and residential building fire deaths are increasing throughout the country.<sup>9</sup> Chart 1 below provides a visual analysis of the residential fires occurring in San José.

**Chart 1: Residential Building Fires in San José  
(FY 2013-2014 to FY 2023-2024)**



**Chart 2: Residential Building Fire Deaths in San José  
(FY 2013-2014 to FY 2023-2024)**



<sup>9</sup> <https://www.usfa.fema.gov/statistics/>

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As conveyed in the chart above, residential building fire deaths in San José have slightly increased between Fiscal Years 2013-2014 and 2023-2024, while injuries have decreased. Fire fatality data highlights that older adults and young children are most at risk during residential fires, with sprinklers providing critical life-saving intervention for these populations who may have difficulty evacuating during a fire.

### ***Discussions with State Partners***

The Fire Department has engaged in ongoing conversations with the California Office of the State Fire Marshal and the California Department of Housing and Community Development for comment and discussion on the recent passing of AB1033 regarding ADUs being converted to condominiums. During these correspondences, both agencies agreed that creating denser built environments without fire protection presents a potential fire risk for highly dense communities. The California Office of the State Marshal indicated they are exploring options to modify legislation to include a sprinkler requirement for ADUs considered for condominium conversion or ADUs being sold independently of the primary dwelling unit. The California Department of Housing and Community Development indicates there are no restrictions within AB 1033 that prohibit local jurisdictions from narrowing the scope and guidelines to limit sprinklered ADUs for condominium conversion.

### **COORDINATION**

This memorandum was coordinated with the City Attorney's Office and Planning, Building and Code Enforcement.



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