

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF CUPERTINO RECOMMENDING APPROVAL OF
PROPOSED MUNICIPAL CODE AMENDMENTS ALLOWING FOR
CONSISTENCY WITH THE 6TH CYCLE HOUSING ELEMENT AND MINOR
EDITS FOR CLARITY

The Planning Commission recommends approval of the Municipal Code Amendments to the City of Cupertino Municipal Code with the findings reflected in the Draft Ordinance attached hereto as Exhibit MCA.

PASSED AND ADOPTED this 11th day of June 2024, at a Regular Meeting of the Planning Commission of the City of Cupertino by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Piu Ghosh
Planning Manager

David Fung, Chair
Planning Commission

ORDINANCE NO. 24-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING VARIOUS CHAPTERS IN TITLE 14, TITLE 17 AND TITLE 19, INCLUDING BUT NOT LIMITED TO THE ADDITION OF THREE NEW CHAPTERS IN TITLE 19, TO IMPLEMENT POLICIES IN THE GENERAL PLAN AND FOR CLARITY

SECTION I: PROJECT DESCRIPTION

Application No: MCA-2023-001
Applicant: City of Cupertino
Location: Citywide/Various locations

SECTION II: RECITALS

WHEREAS, state law requires the City to prepare and adopt an updated Housing Element every eight years to accommodate its fair share of housing and identify housing needs, resources and opportunities;

WHEREAS, pursuant to State Housing Law, the City prepared and presented its most recent draft 6th Cycle Housing Element to the California Department of Housing and Community Development (HCD) on March 28, 2024,

WHEREAS, HCD informed the City in a letter dated April 10, 2024 that the proposed Draft Housing Element is conditionally certified, pending rezoning of the Priority Housing Sites, and any associated rezoning required, to accommodate the City's Regional Housing Needs Allocation (RHNA); and

WHEREAS, the City Council adopted the City's 6th Cycle Housing Element and associated General Plan Amendments on May 14, 2024 with Resolution 24-XXXX; and

WHEREAS, the Municipal Code amendment will be consistent with the City's General Plan land use map, proposed uses and surrounding uses; and

WHEREAS, the necessary public notices have been given as required by the Municipal Code of the City of Cupertino and the Government Code, and the Planning Commission held a public hearing on June 11, 2024 to consider the project; and

WHEREAS, based on substantial evidence in the administrative record, on June 11, 2024 the Planning Commission recommended that the City Council adopt the Municipal Code Amendments to make changes to conform to the General Plan and Housing Element and other clean up text edits (MCA-2023-001) in substantially similar form to the Resolution

presented (Resolution no. XXXX); approve the Zoning Map Amendments, Z-2023-001, in substantially similar form to the Resolution presented (Resolution no. XXXX); approve the Specific Plan Amendments (SPA-2024-001) in substantially similar form to the Resolution presented (Resolution no. XXXX); and

WHEREAS, the City Council of the City of Cupertino held a duly noticed public hearing on July X, 2024, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Ordinance;

WHEREAS, the City entered into a Stipulated Judgment dated January 8, 2024 pursuant to a lawsuit related to adoption of the Housing Element which included requirements for coming into compliance with state housing element law _____ and exempted the City from the California Environmental Quality Act (“CEQA”) pursuant to Government Code section 65759; and

WHEREAS, pursuant to Government Code 65759, the General Plan Amendment to adopt the Housing Element and associated amendments to the General Plan and zoning is fully described and analyzed in the Environmental Assessment, which is incorporated into the General Plan as Appendix G; and

WHEREAS, it is the intent of the City Council, in enacting this Ordinance to make text amendments to improve conformity with State Law, improve readability, consistency and eliminate redundancies and

WHEREAS, The City Council of the City of Cupertino finds that:

1. The proposed zoning is in accord with the Municipal Code and the City's Comprehensive General Plan.

The proposed zoning is in conformance with the General Plan since the City Council adopted amendments to the General Plan, including changes to land use designations, in May 2024 with adoption of the Housing Element. These changes are mere conforming changes to make the City's zoning map conform to the land use map.

2. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).

Pursuant to Govt. Code Section 65759, the zoning actions related to bringing the City's Housing Element into compliance with state law are exempt from CEQA. An Environmental Assessment was prepared, also in compliance with state law. This Environmental Assessment

identified all feasible mitigation measures and was adopted as Appendix G – General Plan 2040 and Zoning Code Amendments Environmental Assessment of the General Plan as required by state law.

3. The site(s) are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the proposed zoning designation(s) and anticipated land use development(s).

The sites being rezoned have access to utilities and are compatible with adjoining land uses.

4. The proposed zoning will promote orderly development of the City.

The proposed changes allow the City to comply with the requirements of state law related to housing and to allow development contemplated in the Housing Element on the sites identified as Priority Housing Sites. The proposed regulations are designed to accommodate development at the densities envisioned in the Housing Element.

5. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.

The proposed zoning is not detrimental to the health, safety, peace, morals and general welfare since these are conforming changes. Additionally, where health or safety impacts have been identified mitigation measures have been identified which would be applicable to any development on these sites, including those implemented through the City's existing Municipal Code requirements.

6. The proposed amendments are internally consistent with Title 19.

The proposed amendments are internally consistent with the existing language in the Municipal Code.

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

Section 1. Amendments.

The amendments indicated in Attachment I are hereby incorporated into the Municipal Code. Text added to existing provisions is shown in bold double-underlined text (**example**) and text to be deleted is shown in strikethrough (~~example~~). Text in existing provisions is not amended or readopted by this Ordinance. Text in *italics* is explanatory and is not an amendment to the Code.

Section 2. Severability and Continuity.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other

section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of such portion, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as an amendment to or readoption of the earlier provisions.

Section 3. California Environmental Quality Act.

Adoption of these zoning amendments to allow implementation of the Housing Element is exempted from the California Environmental Quality Act (“CEQA”) pursuant to Government Code section 65759.

Section 4. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days from and after adoption as provided by Government Code Section 36937.

Section 5. Publication.

The City Clerk shall give notice of adoption of this Ordinance as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be prepared by the City Clerk and published in lieu of publication of the entire text. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the Ordinance listing the names of the City Council members voting for and against the ordinance.

INTRODUCED at a regular meeting of the Cupertino City Council the ____ day of _____ 2024 and **ENACTED** at a regular meeting of the Cupertino City Council on this ____ day of _____ 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED:	
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<p>_____</p> <p>Sheila Mohan, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Kirsten Squarcia, City Clerk</p>	<p>_____</p> <p>Date</p>
<p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Christopher D. Jensen, City Attorney</p>	<p>_____</p> <p>Date</p>

19.08: Definitions

19.08.030: Definitions

"Duplex" means a residential development, on a lot under one ownership, containing not more than two kitchens, designed and used as two attached or detached primary dwelling units, of comparable size (i.e., no more than 200 square-foot difference between primary dwelling units), independent of each other, and having no internal connection.

"Congregate residence" means any building or portion which contains facilities for living, sleeping and sanitation, as required by the California Building Code and may include facilities for eating and cooking for occupancies other than a family. A congregate residence may be a shelter, convent or monastery but does not include jails, hospitals, nursing homes, homes for disabled persons, residential care facilities, supportive or transitional housing, hotels or lodging houses.

Emergency Shelter:

"Emergency shelter, rotating" means a facility or program, including Rotating Safe Car Park, that provides temporary housing with minimal supportive services for people experiencing homelessness and meets criteria in ~~Section~~ Chapter 19.5076.030(2).

"Emergency shelter, permanent" means a permanently operated facility that provides ~~temporary~~ housing with minimal supportive services for people experiencing homelessness pursuant to California Health and Safety Code Section 50801(e) –and meets criteria in ~~Section~~ Chapter 19.5076.030(3). Permanent emergency shelters include other interim interventions, including but not limited to, bridge housing and respite or recuperative care.

"Entry feature" means a structural element (e.g., porch, stoop), projecting from the front wall of a building that connects a building entrance, usually for a dwelling unit, to a walkway or sidewalk and is generally sheltered by a canopy or roof and accompanied by a landing, stairs, or ramp, which leads to an entry door.

"Live/work unit" means a free-standing residential unit or a unit within a multiple-family residential development used for commercial or office and residential purposes where the residential use of the space is accessory to the primary use as a place of work. A live/work unit shall meet the following: (a) combines a commercial or office activity allowed in the underlying zoning district with a residential living space for the owner of the business, or the owner's employee, and that person's household; (b) the resident owner or employee of the business is responsible for the commercial or office activity performed; (c) the business activity conducted takes place subject to a valid business license associated with the premises; and (d) active commercial, or office uses, shall be oriented along the street frontage with the residential component of the unit located behind or above the commercial or office space.

"Low-Barrier Navigation Center" means a facility that meets all of the requirements of Government Code Sections 65660 et seq.

"Priority Housing Sites" means sites designated in the Housing Element that are assumed to meet the City's Regional Housing Needs Allocation. Priority Housing Sites shall be shown on the City's General Plan Land Use Map.

"Residential ~~C~~are ~~F~~acility" means a **residential** building or portion designed or used for the purpose of providing twenty-four-hour-a-day nonmedical ~~residential—living accommodations~~**care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily life or for the protection of the individual** pursuant to the Uniform Building, Housing and Fire Codes, in exchange for payment of money or other consideration, where the duration of tenancy is determined, in whole or in part, by the individual resident's participation in group or individual activities such as counseling, recovery ~~planning, medical or therapeutic assistance~~. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code (H&SC Section 1250 et seq.), community care facilities (H&SC Section 1500 et seq.), residential care facilities for the elderly (H&SC Section 1569 et seq.) ~~or facilities for the mentally disordered or otherwise handicapped (W&I Code Section 5000 et seq.)~~, alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11384.11), and other similar care facilities.

"Residential Care Facility, Licensed" means any residential care facility licensed by the state.

- 1. Large Licensed Residential Care Facility means a licensed residential care facility which serves seven (7) or more clients, not including provider, provider family or staff.**
- 2. Small Licensed Residential Care Facility means a licensed residential care facility which serves six (6) or fewer clients, not including provider, provider family or staff.**

"Residential Care Facility, Unlicensed" means any residential care facility not required to be licensed by the state and operated as a single housekeeping unit.

"Residential district," for purposes of the Sign Ordinance, means the R₋₁, RHS, R₋₂, R₋₃, **R-4**, R1C, A, and A1 zoning classifications **or TH combining district**, which are consistent with the residential designation of the Cupertino ~~G~~eneral ~~P~~lan.

"Short-term rental" means any legally permitted dwelling unit, or portion thereof, made available for rent on a transient occupancy basis. Short-term rental use shall not be considered a hotel **or single room occupancy use**.

"Single family residence," for purposes of Chapter 19.112, shall mean one dwelling unit located on a separately owned lot, **including custom-built on site, factory-built, manufactured, or modular housing**. Single family residence does not include ~~property with only air parcels, or~~ condominiums, **or townhomes**.

"Single Housekeeping Unit" means one or more individuals occupying a dwelling unit with common access to, and common use of, living and eating areas and facilities for the preparation and storage of food, within the dwelling unit.

"Single room occupancy (SRO) living unit" means an individually secure residential unit between 150 and 400 square feet in size. SROs are not required to, but may, contain partial or full bathroom and kitchen facilities. SROs include extended stay hotels intended for long-term occupancy (more than 30 days) but do not include other hotels or residential care facilities.

"Stepback" means a change in the vertical plane of a building where upper-story areas of the building wall are setback from the building wall of the story directly below.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, or as otherwise defined in Government Code Section 65582(g). The "target population" is as defined in Government Code Section 65582(i).

"Supportive housing, permanent" means housing as defined in Government Code Section 65650(a) with a maximum of 50 units serving the target population as defined in Government Code Section 65650(c) and meeting all of the requirements of Government Code Sections 65650 et seq.

"Target population" (per CA Government Code 65582(g), as may be amended) means persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

"Townhome" or "rowhouse" means a group of two or more attached dwelling units where units are separated from others by a common or party wall, no unit is located over another unit, each unit has its own front and rear ground floor access to the outside, and owners have fee simple title to the air space of the unit. Townhomes do not include duplexes legally built on properties where such uses are permitted.

19.12: Administration

19.12.020: Applicability of Regulations

A. In the A, A-1, R-1, and RHS Zones, the following activities:

1. Conditional uses in accord with Chapter 19.20, Chapter 19.24, Chapter 19.28, Chapter 19.32, Chapter 19.36, and Chapter 19.40 and Chapter 19.44;

B. In R-2, R-3, R-4, R1C, TH and all Commercial, Industrial, Office, Planned Community Zoning Districts, and other non-residential zoning districts:

5. Conditional uses in accord with Chapter 19.20, Chapter 19.32, Chapter 19.36, Chapter 19.38, Chapter 19.44, Chapter 19.46, Chapter 19.60, Chapter 19.64, Chapter 19.68, Chapter 19.72, Chapter 19.76, Chapter 19.80, Chapter 19.84, Chapter 19.88, Chapter 19.92, Chapter 19.96, Chapter 19.128, Chapter 19.116, Chapter 19.132, Chapter 19.136.

19.12.030: Approval Authority

Table 19.12.030 – Approval Authority

Type of Permit or Decision ^{A, B}	Administrative Review ^{A,B}	Arts and Culture Commission	Planning Commission	City Council	Public Hearing/ Public Meeting/ Comment Period ^C	Noticing Radius ^D	Posted Site Notice	Expiration Date ^E	Chapter/ Findings
General Plan Amendment									
Major ^F	-	-	R	F	PH	CA. Govt. Code 65350-65362	Yes	-	CA. Govt. Code 65350-65362
Minor ^G	-	-	R	F	PH		Yes	-	
Zoning Map Amendments									
Major ^F	-	-	R	F	PH	CA. Govt. Code 65853-65857	Yes	-	19.152.020
Minor ^G	-	-	R	F	PH		Yes	-	
Zoning Text Amendments	-	-	R	F	PH	CA. Govt. Code 65853-65857	-	-	19.152.030
Specific Plans	-	-	R	F	PH	CA. Govt. Code 65350-65362	-	-	20.04.030
Development Agreements	-	-	R	F	PH	CA. Govt. Code 65867	Yes	-	19.144.120
Development Permits									
Major ^{F, H}	-	-	F/R	A ¹ /F	PM	19.12.110/300'	Yes	2 years	19.156.050
Minor ^G	F	-	A ¹	A ²	PM		Yes	2 years	
Conditional Use Permits									
Major ^{F, H, I}	F	-	A ¹ /F/R	A ¹ /A ² /F	PH	CA. Govt. Code 65905	Yes	2 years	19.156.050
Minor ^{G, I}	F	-	A ¹ /F/R	A ¹ /A ² /F	PH		Yes	2 years	
Temporary	F	-	A ¹	A ²	-	None	No	1 year	None/ 19.160.030
Density Bonus (Residential)	-	-	R	F	Based on concurrent application			19.56	

Type of Permit or Decision ^{A, B}	Administrative Review ^{A, B}	Arts and Culture Commission	Planning Commission	City Council	Public Hearing/ Public Meeting/ Comment Period ^C	Noticing Radius ^D	Posted Site Notice	Expiration Date ^E	Chapter/ Findings
Density Bonus ^P	Section 19.56.060 B								
Adult-Oriented Commercial Activity (CUP)		-	R	F	PH	CA. Govt. Code 65905/300'	Yes	2 years	19.128.030 & 19.128.040
Architectural and Site Approval									
Major ^{J, P}	F	-	A ¹	A ²	PM	19.12.110/	Yes	2 years	19.168.030
Minor ^K	F	-	A ¹	A ²	PM		Yes	2 years	
Amendment									
Major ^{F, H}	-	-	F	A ¹	Varies ^L	Depends on permit being amended ^L	Yes	2 years	19.44, 19.144, 19.156, 19.164
Minor ^G	F	-	A ¹	A ²	Varies ^L		Yes	2 years	
Minor Modification	F	-	A ¹	A ²	-	None	No	2 years	19.164
Hillside Exception/ Height Exception/ Heart of the City Exception ^I	-	-	F	A ¹	PH	19.12.110/300'	Yes	2 years	19.40.080, 19.24.070, 19.136.090
Variance	F	-	A ¹	A ²	PH	CA. Govt. Code 65905	Yes	2 years	19.156.060
Status of non-conforming Use	-	-	F	A ¹	PH	19.12.110/300'	Yes	-	19.140.110
Wireless Antennas ^I	F	-	F/ A ¹	A ²	Varies ^I	Depends on application type	Yes	2 years	19.136.090
Signs									
Permits	F	-	A ¹	A ²	-	None	No	1 year	19.104
Neon, Reader board & Freeway Oriented Signs ^I	F	-	F/A ¹	A ¹ /A ²	PM	19.12.110/300'	No	1 year	19.104
Programs	F	-	A ¹	A ²	-	None	No	1 year	19.104
Exceptions ^I	-	-	F	A ¹	PM	19.12.110/ Adjacent	Yes	1 year	19.104.290
Parking Exceptions ^I	F	F	FA ¹	A ¹ /A ²	Varies M	19.12.110/ Adjacent/ 300' N	Yes	1 year	19.124.050

Type of Permit or Decision ^{A, B}	Administrative Review ^{A,B}	Arts and Culture Commission	Planning Commission	City Council	Public Hearing/ Public Meeting/ Comment Period ^C	Noticing Radius ^D	Posted Site Notice	Expiration Date ^E	Chapter/ Findings
Fence Exceptions	F	-	A ¹	A ^{1L}	PM	19.12.110/ Adjacent	Yes	1 year	19.48.060
Front Yard Interpretation	F	-	-	A ¹	PM	19.12.110/ Adjacent	Yes	1 year	19.08
R-1 Ordinance Permits									
Residential Design Review ^I	F	F	F/A ¹	A ^{1L} /A ²	Varies ^I	19.12.110/ Adjacent	Yes	1 year	19.28.140
Minor Residential Exceptions ^I	F	-	A ¹	A ²	CP		No	1 year	
	-	F	-	A ^{1M}	PM		Yes	1 year	
Miscellaneous Ministerial Permit	F	-	-	-	None	Adjacent	Yes	1 year	19.28.150 and 19.40.090
Protected Trees									
Tree Removal	F	-	A ¹	A ²	CP	Adjacent unless exempt	Yes	1 year	14.18.180
Heritage Tree Designation & Removal	-	-	F	A ¹	PM	19.12.110/ 300'	Yes	-	14.18
Tree Management Plan	F	-	A ¹	A ²	-	None	No	-	14.18
Retroactive Tree Removal	F	-	A ¹	A ²	-	None	No	-	14.18
Reasonable Accommodation	F	-	A ¹	A ²	-	None	No	1 year	19.52.050
Extensions ^P									
Parking, Fence & Sign Exceptions & Front Yard Interpretations	F	-	A ¹	A ²	-	None	No	1 year	
Neon, Reader board & Freeway Oriented Signs	F		A ¹	A ²	-	None	No	1 year	
Two Story Permits, Minor Residential Permits and Exceptions	F		A ¹	A ²	-	None	No	1 year	
Tree Removals	F	-	A ¹	A ²	-	-	No	1 year	
All other projects	F	-	A ¹	A ²	-	19.12.110/ None	No	2 years	

Type of Permit or Decision ^{A, B}	Administrative Review ^{A, B}	Arts and Culture Commission	Planning Commission	City Council	Public Hearing/ Public Meeting/ Comment Period ^C	Noticing Radius ^D	Posted Site Notice	Expiration Date ^E	Chapter/ Findings
Miscellaneous Ministerial Permit	Not Allowed								
Public Art Architectural and Site Approval Permits									
Public Art	-	F	-	A ¹	PM	None	None	None	2.80 and 19.148
Art in lieu payment	-	R	-	F	PM	None	None	None	2.80 and 19.148
KEY:									
R—Review and recommendation body					F—Final decision-making body unless appealed				
A ¹ —Appeal Body on first appeal. <u>Only one appeal allowed for housing developments eligible for by-right approval.</u>					A ² —Appeal body on second appeal. <u>Only one appeal allowed for housing developments eligible for by-right approval.</u>				
PH—Public Hearing					PM—Public Meeting				
CP—Comment Period									

Notes:

J. Major Architectural and Site Approval application - architectural and site approval for all projects that are not a Minor Architectural and Site Approval application. **Also see Note P.**

K. Minor Architectural and Site Approval application - single family home in a planned development zoning district, minor building architectural modifications, landscaping, signs and lighting for new development, **permanent supportive housing with up to 6 units subject to by-right processing as required by Government Code Section 65650 et seq.,** redevelopment or modification in such zones where review is required, and minor modifications of duplex and multi-family buildings.

P. i. Housing Development projects located on Priority Housing Sites, identified to meet the lower income RHNA in the City's Housing Element (Tables B4-7 and B4-9), are required to be developed at a minimum density of 20 dwelling units per acre. Housing Development projects that provide at least 20% of the total units in the development as affordable to lower income households, are eligible for by-right approval as defined in Government Code Section 65583.2(i), which means that they are exempt from CEQA and subject only to design review based on objective standards. Major Architectural and Site Approval shall be processed as follows:

- **Administrative Review at an Administrative Hearing for a project with up to 50 units**
- **Planning Commission review for projects with greater than 50 units.**

Any subdivision of the Priority Housing Sites shall be subject to all laws, including, but not limited to, the Subdivision Map Act and Title 18 of the Municipal Code.

ii. Permanent supportive housing with between 7 and 50 units and low barrier navigation centers are subject to by-right Major Architectural and Site Approval as defined in subsection (i) above and shall be reviewed and approved as required by Government Code Section 65650 et seq., for supportive housing, and Government Code Section 65660 et seq. for low barrier navigation centers.

19.12.080: Application Process

B. Application shall be made on a form provided by the City, and shall contain the following, unless waived by the Director of Community Development based on the scope of the proposed project:

12. Zoning Map or Text Amendments shall also include information required per Chapter 19.152.

b. Zoning applications for Multiple-Family (R-3 and R-4) Residential or Townhome (TH) Combining District shall also include information required per Sections 19.36.040, 19.38.040, and 19.46.040; and

18. A grading plan clearly identifying existing contours and finished grading in relation to proposed construction. The grading plan shall denote the location of all nonfruit trees with a trunk diameter as identified in Chapter 14.15, the Protected Tree Ordinance and any special status plant species.

19.16: Designations and Establishment of Districts

19.16.010: Zoning Districts Designated

A. The several classes of general-base districts into which the City is divided are identified in Table 19.16.010A below:

Table 19.16.010A – <u>Base</u> Zoning Districts	
<u>Zoning Map Designation and District Name</u>	<u>Chapter Number</u>
<u>R-3 Medium, Medium/High, and High Density Multiple-Family Residential Zone</u>	<u>19.36</u>
<u>R-4 High/Very High, Very High, and Highest Density Multiple-Family Residential Zone</u>	<u>19.38</u>

B. Combining district(s) are identified in Table 19.16.010B below.

Table 19.16.010B - <u>Combining</u> Districts	
<u>Zoning Map Designation and District Name</u>	<u>Chapter Number</u>
<u>TH Townhome Combining District</u>	<u>19.46</u>

CB. In addition to the **base zoning districts** identified in Table 19.16.010A **and combining districts identified in Table 19.16.010B**, the City may establish separate zoning districts in individual specific plans adopted to promote the orderly development of the plan area. These zoning districts are identified in Table 19.16.010**CB** below:

Table 19.16.010 CB - Specific Plan Districts	
Zoning Map Designation	Specific Plan Name
Heart of the City	Heart of the City

Land uses, **parcel level zoning**, and development standards within a specific plan zone shall be as prescribed in the specific plan.

19.16.020: References to **Base Zoning Districts**

Residential <u>Base Zoning District</u>	Restrictive Reference
	Most restrictive
RHS	
R1C	
R-1	
R-2	
R-3	
<u>R-4</u>	
	Least restrictive

19.20: Permitted, Conditional, and Excluded Uses in Agricultural and Residential Zones

19.20.010: Applicability of Regulations.

No building, ~~or~~ structure, or land shall be used in an A, A-1, R-1, RHS, R1C, R-2, ~~or~~ R-3, **or R-4** zoning district **or TH combining district**, otherwise than in conformance with the provisions of this chapter.

19.20.020: Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones

Uses	A	A-1	R-1	RHS	R1C	R-2	R-3	<u>R-4</u>
1. Agriculture, horticulture, viticulture, and forestry, including the following and similar uses:	P	P	-	-	-	-	-	=

Uses		A	A-1	R-1	RHS	R1C	R-2	R-3	<u>R-4</u>
a.	Field and truck crops, including drying and storage;	P	P	-	-	-	-	-	≡
b.	Orchards and vineyards, including bottling and storage;	P	P	-	-	-	-	-	≡
c.	Tree farms, botanical conservatories, and arboreta;	P	P	-	-	-	-	-	≡
d.	Barns and sheds;	P	P	-	-	-	-	-	≡
e.	Keeping of draft animals, animals providing products used on the property;	P	P	-	-	-	-	-	≡
f.	Livestock ranches and dairy farms depending mainly on grazing on the property;	P	CUP – PC	-	-	-	-	-	≡
g.	Processing of dairy products produced on the property;	P	CUP – PC	-	-	-	-	-	≡
h.	Poultry raising and hatcheries;	P	CUP – PC	See # 332 7					
i.	Apiaries, pursuant to Chapter 8.07;	P	CUP – PC	See # 119					
j.	Nurseries, greenhouses and landscaping gardens;	P	CUP – PC	See # 260					
k.	Boarding kennels;	CUP - PC	CUP – PC	-	-	-	-	-	≡
l.	Animal breeding;	P	CUP - Admin.	-	-	-	-	-	≡
2.	Fur farms	-	CUP – PC	-	-	-	-	-	≡
3.	Retail sale of wine, fruit or berries produced on the property;	CUP - CC	CUP - CC	-	-	-	-	-	≡
4.	Single family dwelling unit with not more than one primary dwelling unit per lot/defined air space for condominiums;	P	P	P	P	P	-	-	≡
5.	Two-story structures in an area designated for a one-story limitation pursuant to Section 19.28.040(I) of this	-	-	CUP - PC	-	-	-	-	≡

Uses	A	A-1	R-1	RHS	R1C	R-2	R-3	<u>R-4</u>
chapter, provided that the Planning Commission determines that the structure will not result in privacy impacts, shadowing, or intrusive noise, odor, or other adverse impacts to the surrounding area;								
<u>6. Duplex with not more than two primary dwelling units per lot</u>	≡	≡	<u>See Chapter 19.28</u>	≡	≡	<u>P</u>	≡	≡
<u>76. Employee housing:</u>								
a. For six or fewer employees in each dwelling unit on each lot	P	P	P	P	P	P	P	<u>P</u>
b. With no more than 36 beds in group quarters or 12 units/spaces designed for use by a single family or household on each lot	P	P	-	CUP-Admin.	-	-	-	≡
<u>87. An accessory dwelling unit that conforms to the requirements of Chapter 19.112;</u>	P	P	P	P	P	P	P	<u>P</u>
<u>89. Multiple-family residential dwellings</u>	-	-	-	-	-	-	P	<u>P</u>
<u>10. Townhome residential dwellings</u>	≡	≡	≡	≡	≡	≡	<u>P³</u>	<u>P³</u>
<u>119. Accessory facilities and uses customarily incidental to permitted uses and otherwise conforming with the provisions of Chapter 19.100 of this title;</u>	P	P	P	P	P	P	P	<u>P</u>
<u>120. Utility facilities essential to provision of utility services to the neighborhood but excluding business offices, construction or storage yards, maintenance facilities, or corporation yards;</u>	-	-	P	-	-	P	CUP - CC	<u>CUP-CC</u>
<u>134. Temporary buildings for construction purposes (including trailers) for a period not to exceed the duration of such construction;</u>	-	-	-	-	-	-	P	<u>P</u>

Uses	A	A-1	R-1	RHS	R1C	R-2	R-3	<u>R-4</u>	
<u>care facility with six or fewer residents, not including the provider, provider family or staff, provided that the facility obtains any license, if required, issued by appropriate State and/or County agencies and/or department;</u>									
16. Residential care facility, in each dwelling unit, with seven or greater residents, not including the provider, provider family or staff, is a minimum distance of five hundred feet from the property boundary of another residential care facility, provided that the facility obtains any license, if required, issued by appropriate State and/or County agencies and/or departments; <u>18. Large licensed residential care facility, located in housing of a type permitted in the zone and, where required by state law, is at least 300 feet from another regulated community care facility</u>	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	<u>CUP-PC</u>	
<u>19. Unlicensed Residential Care facility located in housing of a type permitted in the zone</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
1720. Congregate residence, in each dwelling unit:									
a.	With six or fewer residents	P	P	P	P	P	P	P	<u>P</u>
b.	With seven or greater residents which is a minimum distance of one thousand feet from the boundary of another congregate residence and has a minimum of seventy-five square feet of usable rear yard area per occupant	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	<u>CUP-PC</u>

Uses	A	A-1	R-1	RHS	R1C	R-2	R-3	<u>R-4</u>	
<u>1821.</u> Transitional housing located in housing of a type permitted on the zone;	P	P	P	P	P	P	P	<u>P</u>	
<u>1922.</u> Supportive housing located in housing of a type permitted in the zone	P	P	P	P	P	P	P	<u>P</u>	
<u>23. Supportive housing, permanent, with no more than 50 units</u>							<u>P⁴</u>	<u>P⁴</u>	
<u>24. Single-room occupancy (SRO) units</u>	=	=	=	=	=	=	=	<u>CUP</u>	
<u>25. Permanent emergency shelter that complies with Chapter 19.50</u>	=	=	=	=	=	=	=	<u>P</u>	
<u>260. Horticulture, gardening, and growing of food products;</u>									
a.	Recreational for personal use;	P	P	P	P	P	P	-	=
b.	Limited to maximum of ten percent of the lot area and for consumption by occupants of the site;	-	-	-	-	-	-	P	<u>P</u>
c.	Produce grown on site may be sold if the business activity is conducted in a manner consistent with Chapter 19.120, Home Occupations	-	-	-	P	-	-	-	=
d.	Commercial purposes;	See #1	See #1	-	CUP - Admin.	-	-	-	=
<u>274.</u>	Limited commercial recreation uses, such as riding clubs and related stables and trails, golf courses, swimming and picnic grounds;	<u>-See #37</u>	<u>-See #37</u>	-	CUP - PC	-	-	-	=
<u>282.</u>	Golf courses and driving ranges;	CUP - CC	CUP - CC	-	-	-	-	-	=
<u>293.</u>	Commercial swimming pools and picnic areas;	CUP - CC	CUP - CC	-	-	-	-	-	=
<u>3024.</u>	Temporary uses subject to regulations established by Chapter 19.156	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	<u>CUP-Admin.</u>

Uses	A	A-1	R-1	RHS	R1C	R-2	R-3	<u>R-4</u>	
<u>3125.</u> Buildings or structures which incorporate solar design features that require variation from setbacks upon a determination by the Director that the design feature, or features, will not result in privacy impacts, shadowing, or intrusive noise, odor, or other adverse impacts to the surrounding area-	CUP Admin. <u>P</u>	CUP Admin. <u>P</u>	P	CUP Admin. <u>P</u>	P	P	P	<u>P</u>	
<u>3226.</u> Transmission lines, transformer stations, television and radio towers, and other public utility and communication structures;	CUP - PC	CUP - PC	-	-	-	-	-	=	
<u>3327.</u> Adult (over 4 months of age) household pets per dwelling unit, limited as follows:									
a.	No specified number	P	P	-	-	-	-	-	=
b.	Maximum of four, provided no more than two adult dogs or cats may be kept on the site	-	-	P	-	P	P	P	<u>P</u>
c.	Limited to one per three thousand square feet of lot area, except: 1-i. Dogs are limited to a maximum of two on lots less than one acre and four for lots greater than one acre; and 2-ii. The number of geese, ducks, chickens, rabbits and other farm animals are not limited on a site greater than one acre-	-	-	-	P ≠	-	-	-	=
<u>3428.</u> Litter of dogs or cats up to four months of age;									
a.	No specified number	P	P	-	P	-	-	-	=
b.	Maximum of one	-	-	P	-	P	P	P	<u>P</u>
<u>3529.</u> Large animals, provided no animals are kept, maintained and raised for commercial purposes, limited as follows:									
	a. Two large animals for the first 40,000 square feet	See #1	See #1	-	P ≠	-	-	-	=

Uses	A	A-1	R-1	RHS	R1C	R-2	R-3	<u>R-4</u>	
of land area, except mules and donkeys which require 80,000 square feet for the first animal; b. One additional large animal for each 20,000 square feet of land area; c. One additional large animal if said animal is raised for a 4H project, a project sponsored by a recognized agricultural organization or a school project;									
369. The keeping of any animal not otherwise permitted above: <u>#2733, 28-34, and 2935</u>	-	-	-	CUP - Admin.	-	-	-	=	
3734. Riding academies, commercial stables, and the boarding of horses;	CUP - CC	CUP - CC	-	<u>-See #27</u>	-	-	=	=	
382. Noncommercial stables, and the keeping of riding horses:									
a.	Limited to three horses on each lot at the any time except that additional foals may be retained for a period of six months;	P	P	-	<u>-See #35</u>	-	-	-	=
b.	In excess of the number permitted in <u>#3238(a)</u>	CUP - CC	CUP - CC	-	<u>See #35-</u>	-	-	-	=
393. Cemeteries, crematoriums, mausolea, and columbariums									
4034. Mines, quarries and gravel pits;									
4135. Guest ranches;									
4236. Public and quasi-public buildings and uses;									
4337. Hog farms;									
3844. Cattle farms mainly depending upon feed brought onto the property;									
3945. Slaughterhouses, fertilizer yards, feed yards, boneyards or									

Uses	A	A-1	R-1	RHS	R1C	R-2	R-3	<u>R-4</u>
plants for the reduction of animal matter;								
460. Commercial feed sales;	Ex	Ex	-	-	-	-	-	=
474. Other semiagricultural uses mainly depending upon raw materials, semifinished products, or feed brought on to the property;	Ex	Ex	-	-	-	-	-	=
482. Other agricultural uses which, in the opinion of the Director of Community Development, create a private or public nuisance.	Ex	Ex	-	-	-	-	-	=
Key:								
P –	Permitted Use							
- –	Not Allowed/ <u>Excluded Uses</u>							
CUP - Admin. –	Conditional Use Permit issued by the Director of Community Development							
CUP - PC –	Conditional Use Permit issued by the Planning Commission							
CUP - CC –	Conditional Use Permit issued by the City Council							
1 –	May be permitted in locations where the use is compatible with existing and planned uses within the development area in the opinion of the Director of Community Development.							
2 –	The required lot area for a large animal shall not be included in the required lot area for a household pet or vice versa, except that a maximum of two household pets may be kept with large animals. All animals must be kept and maintained in accordance with other Cupertino or Santa Clara County codes and ordinances.							
3 –	<u>Permitted only under the Townhome (TH) Combining District</u>							
4 –	<u>Permitted by-right consistent with State law</u>							
Ex –	Excluded Uses							

19.28: Single-Family Residential (R-1) Zones

19.28.040: Permits required for development

Table 19.28.040 Permits Required		
Planning permit required prior to	Approval authority	Type of Project

building permit application		
<u>K. Conditional Use Permit pursuant to Chapter 19.12, Administration</u>	<u>Admin</u>	<u>Rental duplex developments in a single structure on corner lots or on properties where the adjacent property (1) fronts an arterial or major collector and (2) is zoned and currently used for commercial or mixed-use development. All units shall comply with Section 19.32.060, Building Development Regulations for Residential Duplex (R-2), and are subject to a maximum floor area ratio of 55%. Combined with two attached and/or detached ADUs, a maximum of four units are allowed. Units located on property with an "i" or "e" suffix after the R1 designation are also subject to the respective overlay standards.</u>

19.36: Multiple-Family Residential (R-3) Zones

19.36.010: Purpose

The purpose of this chapter is to provide a zoning district permitting **medium, medium-high, and high density** multiple-family residential uses and to establish the regulations pertaining thereto. These regulations are intended to guide future ~~multiple family residential~~ development and ensure a healthy functional environment for future residents within the proposed development and for and between adjoining parcels. **The R-3 zoning district may be combined with the townhome (TH) zoning district in accordance with Chapter 19.46.**

19.36.020: Applicability of Regulations

A. No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, or enlarged in a ~~multiple family residential (R-3)~~ zoning district, otherwise than in conformance with the provisions of this chapter and other applicable provisions of this title.

B. Reasonable Accommodation: Notwithstanding 19.36.020(A) above, a request for reasonable accommodation may be made by any person with a disability, when the strict application of the provisions in this chapter, acts as a barrier to fair housing opportunities, pursuant to Chapter 19.520.

19.36.030: Permitted, Conditional, and Excluded Uses

Permitted, Conditional, and Excluded Uses ~~that may be conducted from~~ **on** property zoned ~~multiple family residential~~ R-3 are identified in Section 19.20.020.

19.36.040: Development Plan Required

An application for development on a parcel presently zoned R-3 shall require submittal of all materials identified in Chapter 19.12. The Community Development Director may establish development plan application requirements beyond those required by Chapter 19.12.

A. ~~An application for development in R-3 zones, shall in addition to the information required by Chapter 19.12, be accompanied by a development plan that includes the following:~~

- ~~1. The Architectural theme of the development, including the location of buildings on the lot, building configurations, building heights, private patio and balcony areas, fence lines, and general window locations;~~
- ~~2. A description of the private outdoor area for each dwelling unit and a description of the degree of visual intrusion into adjoining properties which may result upon implementation of the project. The visual analysis shall include scale cross sections if deemed essential to interpret the degree of visual intrusion into private outdoor or indoor space;~~
- ~~3. A grading plan describing existing contours and finish grading in relation to proposed construction. The grading plan shall denote the location of all nonfruit trees with a trunk diameter as identified in Chapter 14.15, the Protected Tree Ordinance;—~~
- ~~4. The location of areas proposed for vehicular circulation and for landscaping.~~

19.36.050: Permit Required for Development

A. No building permit may be issued for development on a parcel ~~proposal~~ of a vacant property presently zoned ~~multiple family residential (R-3)~~ until a development plan is approved with as part of a development permit pursuant to Chapters 19.12 and 19.156. Housing development projects on Priority Housing Sites considered by-right pursuant to state law shall be processed as identified in Table 19.12.030.

19.36.060: Site Development Regulations

Table 19.36.060 sets forth the rules and regulations pertaining to the Development Regulations for the development of property zoned ~~multiple family residential (R-3)~~.

Table 19.36.060 Site Development Regulations	
A. Density –Maximum number of units cannot exceed that allowed by the General Plan	<u>1. Maximum as designated in the General Plan.</u> <u>2. Development on sites with a minimum density shall meet the minimum density established on the General Plan Land Use map.</u>
Number of Units	Dwelling Net Lot Area
—Up to 3 units <u>B. Minimum Net Lot Area</u>	9,300 square feet

—Over 3	2,000 additional square feet per dwelling unit
CB. <u>Minimum</u> Lot Width (<u>measured at front building setback line</u>)	70 feet at front building setback line

19.36.070: Building Development Regulations

Table 19.36.070: Building Development Regulations				
	<u>Projects with up to four units</u>		<u>Projects with five or more units</u>	
A. Maximum Lot Coverage	40% of net lot area, <u>unless inconsistent with Govt. Section 65913.11</u>		55% of net lot area, <u>unless inconsistent with Govt. Section 65913.11</u>	
B. Maximum Height	Limited to two stories (not to exceed 30 feet)		<u>Not to exceed 30 feet unless a different height is identified by General Plan Figure LU-2.</u>	
C. <u>Setbacks and Stepbacks</u>				
	<u>Projects with up to four units</u>		<u>Projects with five or more units</u>	
	<u>First Floor</u>	<u>Second Floor or Portions of building 24 feet or higher</u>	<u>First Floor</u>	<u>Upper Floors</u>
1. Front-yard	20 feet		<ul style="list-style-type: none"> ▪ <u>If located on property abutting an arterial or major collector, 35 feet from face of street curb</u> ▪ <u>All other properties: 20 feet from property line</u> 	<ul style="list-style-type: none"> ▪ <u>If located on property abutting an arterial or major collector:</u> <ul style="list-style-type: none"> ▪ <u>Floor 2 and 3: 35 feet from face of street curb</u> ▪ <u>Floors 4 and above (if allowed per General Plan height): 20 feet from property line.</u> ▪ <u>All other properties 20 feet from property line</u>
2. Side-yard				

Table 19.36.070: Building Development Regulations

Table 19.36.070: Building Development Regulations				
	<u>Projects with up to four units</u>		<u>Projects with five or more units</u>	
i. Interior side	6 feet	9-10 feet for second floor. 18 feet for portions of building 24 feet or higher	<u>10 feet</u>	<u>12 feet</u>
ii. Street side	12 feet	18 feet for portions of building 24 feet or higher	<u>12 feet</u>	<u>18 feet</u>
3. Rear-yard	20 feet or 20% of the lot depth, whichever is greater. Main building may encroach as close as 10 feet to rear lot line if a useable rear-yard setback area of not less than twenty times the width of the lot <u>is maintained.</u>	20 feet or 20% of the lot depth, whichever is greater.	<u>20 feet or 20% of the lot depth, whichever is greater. Main building may encroach as close as 10 feet to rear lot line if a useable rear-yard setback area of not less than twenty times the width of the lot is maintained.</u>	<u>20 feet or 20% of the lot depth, whichever is greater. Additional 10 feet for floors more than one story higher than any adjacent primary residential structures.</u>
D. Private Outdoor Space (e.g., —Balconies, Patio, Deck) may be provided to fulfill this standard.	<ul style="list-style-type: none"> ▪ Approximately 20% of each unit's gross first-floor area ▪ 10% of each unit's gross floor area 		<u>Minimum Size: 60 square feet per unit</u> <u>Minimum Clearance: 6 feet clear in any dimension</u>	
E. <u>Second-Upper</u> Story Decks and Patios <u>Setbacks</u>				
1. Front-yard	-	17 feet	<u>N/A</u>	<u>N/A</u>
2. Side-yard	-	15 feet	<u>N/A</u>	<u>N/A</u>
3. Rear-yard	-	20 feet	<u>N/A</u>	<u>N/A</u>
F. <u>Universal Design Standards</u>	<u>New multiple-family development of five or more units shall include:</u> <u>1. At least one no-step entry point per building and unit;</u> <u>2. Interior and exterior doors with 32 inches of clear passage for each unit;</u> <u>and</u> <u>3. One bathroom for each unit that is able to be maneuvered in a wheelchair per Americans with Disabilities Act standards.</u>			
FG. <u>Corner Triangle and Sidewalk Site Triangle</u>	Shall remain free and clear of all buildings or portions thereof			

Table 19.36.070: Building Development Regulations

	<u>Projects with up to four units</u>	<u>Projects with five or more units</u>
<u>GH.</u> Visual Privacy Intrusion	Minimize privacy intrusion into all or a significant portion of private outdoor spaces, or interior spaces through the use of windowless walls, atria, enclosed courtyards, and buildings oriented to public and private streets, or other techniques which rely upon structural design rather than mitigation relying solely upon a landscaping solution.	N/A
<u>IH.</u> Fences	Must comply with regulations in Chapter 19.48	
<u>IJ.</u> Parking	No parking shall be permitted in a setback area where the lot adjoins property located in a single-family (R-1) zoning district.	
	Must comply with regulations in Chapter 19.124	
<u>K.</u> Access	<u>No more than two vehicular entries/exits per street frontage between the residential development and the public right-of-way.</u>	
<u>L. Improvements and Covenants for Common Area</u>		
<u>1. Completion/Bonding</u>	<u>Improvement of the common areas shall be completed by the developer and shall be subject to bonding and other procedures in the same manner as required for street improvements by Title 18, Subdivision.</u>	
<u>2. Maintenance</u>	<u>a. Shall be the responsibility of the property owner or homeowners association to which the common areas are deeded.</u>	
	<u>b. In the event private roads, driveways, parking areas, walkways, landscaping or buildings are not maintained to applicable City standards, the City may, after notice and advertised public hearing, effect the necessary maintenance, with the cost to be a lien on the property.</u>	
<u>3. Declaration of Covenants, Conditions and Restrictions, where applicable</u>	<u>a. Shall include a clause to ensure that the CC&R's shall not be modified unless required to by state law, without review of the City,</u>	
	<u>b. Shall be reviewed by the City Attorney, prior to recordation, to determine its compatibility with the intent and conditions as set forth herein.</u>	
<u>4. Articles of Incorporation and Other Instruments Related to Homeowners' Association, where applicable</u>	<u>a. Shall be subject to the review and approval of the City Attorney</u>	
	<u>b. Shall include a clause to indicate that the Association cannot be dissolved without written approval and authorization from the City.</u>	

19.38: Multiple-Family Residential (R-4) Zones

19.38.010: Purpose

The purpose of this chapter is to provide a zoning district permitting high/very high, very high, and highest density multiple-family residential uses and to establish the regulations pertaining thereto. These regulations are intended to guide future development and ensure a healthy functional environment for future residents within the proposed development and for adjoining parcels. The R-4 zoning district may be combined with the townhome (TH) zoning district in accordance with Chapter 19.46.

19.38.020: Applicability of Regulations

A. No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, or enlarged in a R-4 zoning district other than in conformance with the provisions of this chapter and other applicable provisions of this title.

B. Reasonable Accommodation: Notwithstanding 19.38.020(A) above, a request for reasonable accommodation may be made by any person with a disability, when the strict application of the provisions in this chapter acts as a barrier to fair housing opportunities, pursuant to Chapter 19.52.

19.38.030: Permitted, Conditional, and Excluded Uses

Permitted, Conditional, and Excluded Uses on property zoned R-4, are identified in Section 19.20.020.

19.38.040: Development Plan Required

An application for development on a parcel presently zoned R-4 shall require submittal of all materials identified in Chapter 19.12. The Community Development Director may establish development plan application requirements beyond those required by Chapter 19.12.

19.38.050: Permit Required for Development

A. No building permit may be issued for development on a parcel presently zoned R-4 until a development plan is approved as part of a development permit pursuant to Chapters 19.12 and 19.156. Housing development projects on Priority Housing Sites considered by-right pursuant to state law shall be processed as identified in Chapter 19.12.

B. Signs, landscaping or parking plans and minor modifications to buildings may not be erected, structurally altered, enlarged, or modified without permits pursuant to Chapters 19.12 and 19.168.

19.38.060: Site Development Regulations

Table 19.38.060 sets forth the rules and regulations pertaining to the Development Regulations for the development of property zoned R-4.

<u>Table 19.38.060 Site Development Regulations</u>	
<u>A. Density</u>	<u>1. Maximum as designated in the General Plan.</u> <u>2. Development on sites with a required minimum density shall meet the minimum density established on the General Plan Land Use map.</u>
<u>B. Minimum Net Lot Area</u>	<u>12,000 square feet</u>
<u>C. Minimum Lot Width (measured at front building setback line)</u>	<u>70 feet</u>

19.38.070: Building Development Regulations

Table 19.38.070 sets forth the rules and regulations pertaining to the development of multiple-family residential structures on property zoned R-4.

<u>Table 19.38.070: Building Development Regulations</u>		
<u>A. Maximum Lot Coverage</u>	<u>55% of net lot area, unless inconsistent with Section 65913.11.</u>	
<u>B. Maximum Height</u>	<u>Limited to five stories (not to exceed 70 feet)</u>	
<u>C. Setbacks and Stepbacks</u>		
	<u>First Floor</u>	<u>Upper Floors</u>
<u>1. Front-yard</u>	<ul style="list-style-type: none"> ▪ <u>If located on property abutting an arterial or major collector, 35 feet from face of curb.</u> ▪ <u>All other properties: 12 feet from property line.</u> 	<ul style="list-style-type: none"> ▪ <u>If located on property abutting an arterial or major collector:</u> <ul style="list-style-type: none"> ▪ <u>Floor 2 and 3: 35 feet from face of curb; and</u> ▪ <u>Floors 4 and above: 18 feet.</u> ▪ <u>All other properties: 18 feet from property line</u>
<u>2. Side-yard</u>		
<u>i. Interior side</u>	<u>10 feet</u>	<u>10 feet and Additional 10 feet for floors more than one story higher than any adjacent primary residential structure.</u>
<u>ii. Street side</u>	<u>12 feet</u>	
<u>3. Rear-yard</u>	<u>20 feet or 20% of the lot depth, whichever is greater</u>	<u>20 feet or 20% of the lot depth, whichever is greater; and</u>

		<u>Additional 10 feet for floors more than one story higher than any adjacent primary residential structure.</u>
<u>D. Private Outdoor Space (e.g., Balcony, Patio, Deck)</u>	<u>Minimum Size: 48 square feet per unit</u> <u>Minimum Clearance: 4 feet clear in any dimension</u>	
<u>E. Universal Design Standards</u>	<u>New multiple-family development shall include:</u> <u>1. At least one no-step entry point per building and unit;</u> <u>2. Interior and exterior doors with 32 inches of clear passage for each unit;</u> <u>and</u> <u>3. One bathroom for each unit that is able to be maneuvered in a wheelchair per Americans with Disabilities Act standards.</u>	
<u>F. Corner Triangle and Sidewalk Site Triangle</u>	<u>Shall remain free and clear of all buildings or portions thereof.</u>	
<u>G. Fences</u>	<u>Must comply with regulations in Chapter 19.48</u>	
<u>H. Parking</u>	<u>No parking shall be permitted in a setback area where the lot adjoins property located in a single-family (R-1) zoning district.</u> <u>Must comply with regulations in Chapter 19.124</u>	
<u>I. Access</u>	<u>No more than two vehicular entries/exits per street frontage between the residential development and the public right-of-way.</u>	
<u>J. Improvements and Covenants for Common Area</u>	<u>See Section 19.36.070(L)</u>	

19.46: Townhome (TH) Combining District

19.46.010: Purpose

The townhome (TH) combining district is intended to modify the regulations of the multiple-family residential (R-3 and R-4) zoning districts to permit townhome development in those districts, primarily in conjunction with multiple-family development, and to establish specific townhome development standards, upon rezoning to the townhome combining district.

19.46.020: Applicability of Regulations

A. The townhome combining district may only be combined with the R-3 or R-4 zoning district, in accordance with Chapters 19.36 and 19.38 of the Zoning Ordinance. The townhome combining district shall apply to properties designated on the zoning map with "TH" following the multiple-family residential (R-3 or R-4) zoning district designation (e.g., R-3/TH or R-4/TH. The site development regulations (Section 19.46.060) and building development

regulations (Section 19.46.070) established by this chapter shall apply to townhomes in lieu of the comparable provisions established by the underlying R-3 or R-4 zoning districts.

B. No townhome(s) shall be erected, structurally altered, or enlarged in a TH combining district other than in conformance with the provisions of this chapter and other applicable provisions of this title.

C. Reasonable Accommodation: Notwithstanding 19.46.020(B) above, a request for reasonable accommodation may be made by any person with a disability, when the strict application of the provisions in this chapter, acts as a barrier to fair housing opportunities, pursuant to Chapter 19.52.

19.46.030: Permitted, Conditional, and Excluded Uses

Permitted, Conditional, and Excluded Uses on property zoned R-3/TH or R-4/TH are identified in Section 19.20.020.

19.46.040: Development Plan Required

Development in the townhome combining district shall adhere to the requirements and procedures established by the underlying multiple-family zoning district.

19.46.050: Permit Required for Development

Permitting in the townhome combining district shall adhere to the requirements and procedures established by the underlying multiple-family zoning district.

19.46.060: Site Development Regulations

Table 19.46.060 sets forth the rules and regulations pertaining to the Development Regulations for townhome development of property zoned R-3/TH or R-4/TH.

<u>Table 19.46.060 Site Development Regulations</u>	
<u>A. Density</u>	<u>1. Maximum as designated in the General Plan.</u> <u>2. Development on sites with a required minimum density shall meet the minimum density established on the General Plan Land Use map.</u>
<u>B. Maximum Lot or Air Parcel Width (measured at front building setback line)</u>	<u>25 feet</u>

19.46.070: Building Development Regulations

Table 19.46.070 sets forth the rules and regulations pertaining to the development of townhome residential structures on property zoned R-3/TH or R-4/TH.

Table 19.36.080: Townhome Building Development Regulations

<u>A. Maximum Lot Coverage</u>	<u>55% of net lot area prior to development</u>	
<u>B. Maximum Floor Area Ratio</u>	<u>70% of net lot area prior to development</u>	
<u>C. Maximum Height</u>	<u>Limited to three stories (not to exceed 30 feet)</u>	
<u>D. Setbacks and Stepbacks (Measured from property lines prior to development)</u>		
	<u>First and Second Floor</u>	<u>Third Floor</u>
<u>1. Front-yard</u>	<u>Per underlying multiple-family zoning district</u>	
<u>2. Side-yard</u>		
<u>a. Interior side</u>	<u>6 feet</u>	<u>6 feet and Additional 10 feet if more than one story higher than any adjacent primary residential structure.</u>
<u>b. Street side</u>	<u>12 feet</u>	
<u>3. Rear-yard</u>	<u>15 feet</u>	
<u>E. Private Outdoor Space (e.g., Balcony, Patio, Deck)</u>	<u>See underlying multiple-family zoning district.</u>	
<u>F. Design Requirements</u>	<u>1. Townhome design visible from or fronting the public right of way shall include at least two of the following features:</u> <u>a) Front Architectural Feature (e.g., stoop, front porch).</u> <u>b) Stairway with at least three stairs leading to the front entrance.</u> <u>c) Pitched roof with a slope of at least 3:12.</u> <u>2. Vehicular parking shall not be located along primary frontage.</u>	
<u>G. Corner Triangle and Sidewalk Site Triangle</u>	<u>Shall remain free and clear of all buildings or portions thereof.</u>	
<u>H. Fences</u>	<u>See underlying multiple-family zoning district.</u>	
<u>I. Parking</u>	<u>Must comply with townhome parking regulations per Chapter 19.124.</u>	
<u>J. Access</u>	<u>No more than two vehicular entries/exits per street frontage between the residential development and the public right-of-way</u>	
<u>K. Improvements and Covenants for Common Area</u>	<u>Per underlying R-3 or R-4 zoning district.</u>	

19.50: Emergency Shelters

19.50.010: Applicability of regulations

This chapter establishes the criteria and standards for Emergency Shelters.

19.50.020: Criteria and Standards

A. Permanent Emergency Shelters shall satisfy all of the following requirements:

1. Occupancy is limited to six months in any 12-month period per occupant.
2. Shelter shall be available to any individual or household regardless of their ability to pay, provided that all other conditions in Section 19.50.020(B) are met.
3. The shelter shall not be located closer than 300 feet to another permitted emergency shelter.
4. The shelter operator shall provide security during hours that the emergency shelter is in operation.
5. The shelter operator shall provide sufficient parking stalls per Section 19.124.040 to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zoning district.
6. The shelter operator shall provide on-site management and a management plan that details the following:
 - a. A list of services that are provided to guests.
 - b. Hours of operation for the shelter, intake, and any other ancillary services provided.
 - c. Number of staff present at any time.
 - d. Number of shelter beds.
 - e. Number of parking stalls provided on site.
 - f. Description and/or floor plan indicating the size and location of the waiting and intake areas.

B. Rotating Emergency Shelters shall satisfy all of the following requirements:

1. Requirements identified in subsection 19.50.020(A)(2-5).
2. Occupancy is limited to two months in any 12-month period at any single location.
3. The hours of operation shall not exceed six p.m. to seven a.m.
4. The shelter shall provide on-site management and a management plan that details the criteria identified in subsection 19.50.020(A)(6).
5. If the shelter is a Safe Car Park, the operator shall in addition, identify:

a. The location of the parking stalls that will be used for program guests.

b. Any additional temporary structures placed on the site, such as mobile bathrooms and shower facilities, must be removed when the site is no longer used as a Safe Car Park shelter.

19.50.030: Interpretation

If any portion of this Chapter 19.50 conflicts with State law as mentioned above, or other applicable state law, State law shall supersede this Chapter. Any ambiguities in this section shall be interpreted to be consistent with State law. All code references in this Chapter include all successor provisions.

19.50.040: Applicable Development Regulations and Permits Required

Any structure used to provide an emergency shelter shall meet the requirements of the underlying zoning district and shall be reviewed ministerially.

19.76: Public Building (BA), Quasi-Public Building (BQ), and Transportation (T) Zones

19.76.030: Permitted, Conditional and Excluded Uses in BA, BQ, and T Zones

Table 19.76.030 - Permitted, Conditional, and Excluded Uses in BA, BQ, and T Zones			
Uses	Zoning Districts		
	BA	BQ	T
<p>2. Rotating homeless shelter provided that the following conditions <u>in Chapter 19.50</u> are met:</p> <ul style="list-style-type: none"> —a. Shelter is located within an existing church structure; —b. The number of occupants does not exceed twenty five; —c. The hours of operation do not exceed six p.m. to seven a.m.; —d. Adequate supervision is provided; —e. Fire safety regulations are met; and —f. Operation period does not exceed two months in any twelve-month period at any single location. 	-	P	-
<p>3. Permanent emergency shelter provided the following conditions <u>in Chapter 19.50</u> are met:</p> <ul style="list-style-type: none"> —a. Section 19.76.030(2)(b), (d), (e); —b. A management plan is provided which includes a detailed operation plan. —c. Shelter is available to any individual or household regardless of their ability to pay; and —d. Occupancy is limited to six months or less. 	-	P	-
Key:			
P – Permitted Use			

- - Not Allowed
CUP-Admin. – Conditional Use Permit issued by the Director of Community Development
CUP-PC – Conditional Use Permit issued by the Planning Commission
CUP-CC – Conditional Use Permit issued by the City Council
Ex – Excluded Uses

19.80: Planned Development (P) Zones

19.80.030: Establishment of Districts, Permitted and Conditional Uses and Development Standards.

B. All P districts shall be identified on the zoning map with the letter coding "P" followed by a specific reference to the general type of use allowed in the particular planned development zoning district. For example, a planned development zoning district in which the uses are to be general commercial in nature, would be designated "P(CG)." A planned development zoning district in which the uses are intended to be a mix of general commercial and residential would be designated *P(CG, Res)* or any combination of residential zoning district such as P(CG, R-3), P(CG, R-4), or if combined with the TH combining district, P(CG,R-3/TH) or P(CG, R-4/TH).

C. Permitted uses in a P zoning district shall consist of all uses which are permitted in the zoning district referenced following the letter "P", unless a conceptual development plan, specific plan, or other zoning plan, further restricts the uses, subject to the limitations of state law. For example, the permitted uses in a P(CG) zoning district are the same uses which are permitted in the CG zoning district. The permitted uses in the P(Res) zoning district are the same uses which are permitted in the type of housing structure that the use is going to occupy (i.e., follow R-1 permitted uses for single family homes in P(Res) zoning district, follow R-3 permitted uses in multiple-family units in P(Res) zoning district). For sites with a mixed-use residential designation, Section 19.80.030E shall also apply.

E. For sites with a mixed-use residential designation the following shall apply:

1. For sites in the Monta Vista Village Special Area, residential shall be a permitted use.
2. If a site is listed as a Priority Housing Site in the City's adopted Housing Element of the General Plan, then residential development ~~that does not exceed the~~ consistent with the maximum and minimum density specified ~~number of units designated for the site in the Housing Element~~ shall be a permitted use.

3. ~~Residential development on sites not designated as Priority Housing Sites in the City's adopted Housing Element of the General Plan and residential development on a Priority Housing Site that exceeds the number of units designated for that Priority Housing Site shall be a conditional use, except as provided in subsection 5, below.~~

~~3.4.~~ Priority Housing Sites shall be shown on the City's zoning map.

45. For sites zoned P(~~R-3, CG, R-3~~), P(CG, R-3/TH), P(CG, R-4), or P(CG, R-4/TH), no conceptual or definitive plans shall be required to establish permitted and conditional uses. Multiple-family residential use is the primary permitted use, **with all other permitted uses in that residential zoning district allowed as well.** Commercial uses may be incorporated into the development on the ~~ground~~-first floor but shall not be the primary permitted use **of the structure.**

F. The development standards and regulations for residential only and mixed-use residential projects in a P zoning district shall consist of the following:

1. All **relevant** development standards and regulations in the General Plan and any adopted specific plan, conceptual development plan, definitive plan, or other zoning plan, and, to the extent not addressed in those plans, all development standards and regulations for the zoning district referenced following the letter "P." The development standards and regulations for a residential development are those established for the R-3 **or R-4** zoning districts **and/or the TH combining district.**

2. In implementing subsection (1) above, mixed-use projects shall comply with the development standards and regulations in the R-3 **or R-4** zone **and/or the TH combining district,** and the referenced zoning district by proposed use. For example, residential portions of the project shall comply with the development standards and regulations in the R-3, **R-4, and/or TH** zoning, **whichever is referenced;** commercial portions of the project shall comply with the development standards and regulations in the CG zoning, industrial portions of the project shall comply with the development standards and regulations in the ML/MP zoning, whichever is referenced, and office portions of the project shall comply with the development standards and regulations in the OA/OP zoning, whichever is referenced. In the event of any conflicts, the most restrictive standard or regulation shall apply.

19.100: Accessory Buildings/Structures

Table 19.100.030: Site Development Regulations		
2. Detached Accessory Buildings/ Structures in R-1, RHS, A, A-1, and R-2, <u>R-3, R-4, and TH</u> Zoning Districts (Cont.)		
a.	In R-1, RHS, R-2, A and A-1 zones:	
i.	Area of Accessory Buildings/Structures, not including garage space	<ul style="list-style-type: none"> ▪ <u>Accessory Dwelling Units</u> - Limited to gross building area as per Section 19.112.030 (A) <u>Chapter 19.112</u> ▪ <u>All others – Limited to development standards in underlying zoning</u>

19.124: Parking Regulations

19.124.040: Regulations for Off-Street Parking

R. Parking Space Dimension Chart. Parking space dimensions shall be as shown in [Table 19.124.040\(A\)](#):

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions ⁽³⁾
Residential					
Single-Family	R-1, RHS , A-1 , <u>or</u> P	4/DU (2 garage + 2 open)			10 x 20 ea.
Small Lot Single family Cluster Development , Townhouse	<u>R1C</u> <u>or</u> <u>P</u>	2.8/DU (2 garage + 0.8 open)			
Duplex	R-2	3/DU (1 ½ enclosed + 1 ½ open)			
<u>Townhome</u>	<u>R-3/TH, R-4/TH, or P</u>	<u>1/DU (covered or garage)</u>			<u>9.5 x 20 ea.</u>
<u>Medium to Highest</u> Density Multiple-Family,	<u>R-3, R-4, or P</u>	<u>12/DU (4-covered, structured, +1or open)</u>	1 space per 2 residential units; and	Class I	
<u>Medium to Highest</u> Density Multiple Story Condominium			1 space per 10 residential units	Class II	
Public/Quasi-Public/Agriculture					
Churches, Clubs, Lodges, Theaters	<u>BQ</u> <u>or</u> <u>CG</u>	1/4 seats + 1/employee + 1/special-purpose vehicle	2% of seats. Minimum two spaces	Class II	Uni-size
Schools and School Offices	<u>BA</u> <u>or</u> <u>BQ</u>	1/employee + 1/56 sq. ft. multipurpose room + 8 visitor spaces/school + 1/3 students at senior H.S. or college level	1 space per 5 students	Class II	
<u>Emergency Shelters</u>	<u>BQ</u> <u>R-4</u>	<u>1/employee</u>	<u>1 space for every 5 beds</u>	<u>Class II</u>	
Gyms, Auditoriums, floor area used Skating Rinks for seating without fixed seats	<u>BA</u> <u>or</u> <u>BQ</u>	1/56 sq. ft. purposes + 1/employee	1/5,000 sq. ft. Minimum two spaces	Class II	Uni-size

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions ⁽³⁾
Industrial					
Office/Prototype Manufacturing	ML <u>or</u> OA	1/285 sq. ft.	1/1,250 sq. ft. or 1/15 employees, whichever is more restrictive.	Class I	Uni-size
Office					
Corporate/Administrative/General Multi-Tenant	CG <u>or</u> OP	1/285 sq. ft.	1/1,250 sq. ft. or 1/15 employees, whichever is more restrictive.	Class I	Uni-size

19.156: Development Permits, Conditional Use Permits, and Variances

19.156.040: ~~Planned~~ Development Permit and Conditional Use Permit – Findings and Conditions

A. The decision maker may grant a ~~planned~~-development **permit for projects that are not a housing development project**, or a conditional use permit, only if all of the following findings are made:

1. The proposed development and/or use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

2. The proposed development and/or use will be located and conducted in a manner in accord with the Cupertino ~~Comprehensive~~-General Plan, **any applicable specific plans**, underlying zoning regulations, and the purpose of this title and complies with the California Environmental Quality Act (CEQA).

B. The decision maker may grant a development permit for a housing development project only if all of the following findings are made:

1. The proposed residential development and/or use will be located and conducted in a manner consistent with any applicable Government Code requirements, the Cupertino General Plan, any applicable specific plans, and underlying zoning regulations of the Municipal Code, and complies with the California Environmental Quality Act (CEQA).

2. Notwithstanding subsection 19.156.040B(1), the Director of Community Development may deny a housing development project proposed under this Section with a written finding based upon a preponderance of evidence, that the proposed housing development project would have a specific adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

19.168: Architectural and Site Review

16.168.030: Findings

B. For housing developments eligible for by-right approval as defined by Govt. Code section 65583.2(i), low-barrier navigation centers and supportive housing projects with up to 50 units, the following findings must be made:

1. The project is consistent with any applicable Government Code requirements, the Cupertino General Plan, any applicable specific plans, all objective Municipal Code requirements, and objective design standards.

2. Notwithstanding subsection 19.168.030B(1), the Director of Community Development may deny a housing development project proposed under this Section with a written finding based upon a preponderance of evidence, that the proposed housing development project would have a specific adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

14.15: Landscape Ordinance

14.15.020: Applicability

Table 14.15.020		
Type of Permit	Total Landscape Area	Requirement
Planning Permit or Grading Permit		

Commercial, industrial, office, <u>multiple</u> -family residential, <u>townhome</u> , public and institutional projects	≤2,500 s.f.	Prescriptive Compliance Application (Appendix A) or Landscape Documentation Package (Sec. 14.15.050)
	>2,500 s.f.	Landscape Documentation Package (Sec. 14.15.050)

17.04: Standard Environmental Protection Requirements

17.04.050: Standard Environmental Protection Permit Submittal Requirements.

A. Air Quality Technical Requirements

1. Control Diesel Particulate Matter from Non-Residential Projects During Operation. Applicants for new non-residential land uses within the city that either have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), ~~or~~ and are within 1,000 feet of a sensitive land use (e.g., residential, schools, hospitals, nursing homes), as measured from the property line of the project to the property line of the nearest sensitive use, shall:

[no changes after this]