

ORDINANCE NO. 16-2159

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF CUPERTINO AMENDING TITLE 19, ZONING, OF THE
CUPERTINO MUNICIPAL CODE INCLUDING BUT NOT LIMITED TO CHAPTER
19.08 (DEFINITIONS), CHAPTER 19.20 (PERMITTED, CONDITIONAL AND
EXCLUDED USES IN AGRICULTURAL AND RESIDENTIAL ZONES), CHAPTER
19.24 (AGRICULTURAL (A) AND AGRICULTURAL – RESIDENTIAL (A-1) ZONES),
CHAPTER 19.32 (RESIDENTIAL DUPLEX (R-2) ZONES), CHAPTER 19.52
(REASONABLE ACCOMMODATION), AND CHAPTER 19.112 (SECOND
DWELLING UNITS IN R-1, RHS, A AND A-1 ZONES),
IN RESPONSE TO RECENTLY ADOPTED STATE LEGISLATION
REGARDING ACCESSORY DWELLING UNITS FOR COMPLIANCE WITH STATE
LAW, AND FOR INTERNAL CONSISTENCY

WHEREAS, this Ordinance is determined to be not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, “CEQA”) in that proposed Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act (“CEQA”) Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

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

WHEREAS, the City Council before taking action on this Ordinance has reviewed the not a project determination and exemption, and using its independent judgment, determines the Ordinance to be not a project or exempt from CEQA as stated above;

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

SECTION 1. Section 19.08.030 (a), “A’ Definitions”, of Chapter 19.08 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

A. “A” Definitions:

“Abandon” means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

“Abutting” means having property or district lines in common.

“Accessory building” means a building which is incidental to and customarily associated with a specific principal use or facility and which meets the applicable conditions set forth in Chapter 19.100, Accessory Buildings/Structures.

“Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

“Accessory structure” means a subordinate structure, the use of which is purely incidental to that of the main building and which shall not contain living or sleeping quarters. Examples include a deck, tennis courts, trellis or car shelter. Fences eight feet or less are excluded.

“Addition” means any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area ratio.

“Adjacent property” means property that abuts the subject property, including property whose only contiguity to the subject site is a single point and property directly opposite the subject property and located across a street.

“Adult bookstore” means a building or portion thereof used by an establishment having as a substantial or significant portion of its stock in trade for sale to the public or certain members thereof, books, magazines, and other publications which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as hereinafter defined.

“Adult cabaret” means a building or portion thereof used for dancing purposes thereof or area used for presentation or exhibition or featuring of topless or bottomless dancers,

strippers, male or female impersonators or similar entertainers, for observations by patrons or customers.

“Adult motion picture theater” means a building or portion thereof or area, open or enclosed, used for the presentation of motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as hereinafter defined, for observation by patrons or customers.

“Advertising statuary” means a structure or device of any kind or character for outdoor advertising purposes which displays or promotes a particular product or service, but without name identification.

“Aerial” means a stationary transmitting and/or receiving wireless communication device consisting of one or any combination of the elements listed below:

1. “Antenna” means a horizontal or vertical element or array, panel or dish that may be attached to a mast or a tower for the purpose of transmitting or receiving radio or microwave frequency signals.
2. “Mast” means a vertical element consisting of a tube or rod which supports an antenna.
3. “Tower” means a vertical framework of cross elements which supports either an antenna, mast or both.
4. “Guy wires” means wires necessary to insure the safety and stability of an antenna, mast or both.

“Affordable housing cost” means the amount set forth in the Health and Safety Code Section 50052.5, as may be amended.

“Affordable rent” means the amount set forth in the Health and Safety Code Section 50053, as may be amended.

“Affordable units” means housing units available at affordable rent or affordable housing cost to lower or moderate income households.

“Agriculture” means the tilling of the soil, the raising of crops, horticulture, agriculture, livestock farming, dairying, or animal husbandry, including slaughterhouses, fertilizer yards, bone yard, or plants for the reduction of animal matter or any other similar use.

“Alley” means a public or private vehicular way less than thirty feet in width affording a secondary means of vehicular access to abutting property.

“Alteration”, for purposes of the Sign Ordinance, means any permanent change to a sign.

“Alteration” means any construction or physical change in the arrangement of rooms or the supporting members of a building or structure, or change in the relative position of buildings or structures on a site, or substantial change in appearances of any building or structure.

1. "Incidental alteration" means any alteration to interior partitions or interior supporting members of a structure which does not increase the structural strength of the structure; any alteration to electrical, plumbing, heating, air conditioning, ventilating, or other utility services, fixtures, or appliances; any addition, closing, or change in size of doors or windows in the exterior walls; or any replacement of a building facade which does not increase the structural strength of the structure.
2. "Structural alteration" means any alteration not deemed an incidental alteration.

"Amusement park" means a commercial facility which supplies various forms of indoor and outdoor entertainment and refreshments.

Animal:

1. Animal, Adult. "Adult animal" means any animal four months of age or older.
2. Animal, Large. "Large animal" means any equine, bovine, sheep, goat or swine or similar domestic or wild animal, as determined by the Planning Commission.
3. Animal, Small. "Small animal" means animals which are commonly found in single-family residential areas such as chickens, ducks, geese, rabbits, dogs, cats, etc.

"Animal care" means a use providing grooming, housing, medical care, or other services to animals, including veterinary services, animal hospitals, overnight or short-term boarding ancillary to veterinary care, indoor or outdoor kennels, and similar services.

"Apartment" means a room or a suite of two or more rooms which is designed for, intended for, and occupied by one family doing its cooking there.

"Apartment house" means a building designed and used to house three or more families, living independently of each other.

"Apartment project" means a rental housing development consisting of two or more dwelling units.

"Approval Body" means the Director of Community Development and his/her designee, the Planning Commission or City Council depending upon context.

"Architectural feature" means any part or appurtenance of a building or structure which is not a portion of the living area of the building or structure. Examples include: cornices, canopies, eaves, awnings, fireplaces, or projecting window elements. Patio covers or any projection of the floor area shall not constitute an architectural projection.

"Architectural projection," for purposes of the Sign Ordinance, means any permanent extension from the structure of a building, including the likes of canopies, awnings and fascia.

"Atrium" means a courtyard completely enclosed by walls and/or fences.

"Attic" means an area between the ceiling and roof of a structure, which is unconditioned (not heated or cooled) and uninhabitable.

“Automotive service station” means a use providing gasoline, oil, tires, small parts and accessories, and services incidental thereto, for automobiles, light trucks, and similar motor vehicles. Automotive maintenance and repair (minor) may be conducted on the site. The sale of food or grocery items on the same site is prohibited except for soft drinks and snack foods, either from automatic vending machines or from shelves. The sale of alcoholic beverages on the site is governed by Chapter 19.132, Concurrent Sale of Alcoholic Beverages and Gasoline.

“Automotive repair and maintenance (minor)” means the supplying of routine automotive services such as lubrication, engine tune-ups, smog certificates, servicing of tires, brakes, batteries and similar accessories, and minor repairs involving engine accessories. Any repair which requires the engine, drive train, transmission assembly, exhaust system, or drive train parts to be removed from a motor vehicle or requires the removal of internal parts shall not be considered minor. Body and paint shop operations are not minor repairs or maintenance.

“Average slope” means the ratio between vertical and horizontal distance expressed in percent; the mathematical expression is based upon the formula described below:

$$S = \left(\frac{I \times L \times 100}{A} \right)$$

S = Average slope of ground in percent; L = Combined length in feet of all contours on parcel;

I = Contour interval in feet; A = Area of parcel in square feet.

SECTION 2. Section 19.08.030 (d), “D’ Definitions”, of Chapter 19.08 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

“D” Definitions:

"Day care center" means any child day care facility, licensed by the State or County, other than a family day care home, and includes infant centers, preschools, and extended day care facilities.

Day Care Home, Family. "Family day care home" means a home, licensed by the State or County, which regularly provides care, protection and supervision for fourteen or fewer children, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardian are away, and includes the following:

1. "Large-family day care home," which means a home which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home, as set forth in the California Health and Safety Code Section 1597.465;
2. "Small-family day care home," which means a home which provides family day care to eight or fewer children, including children under the age of ten years who

resides at the home, as set forth in the California Health and Safety Code Section 1597.44.

"Decorative statuary," for purposes of the Sign Ordinance, means any structure or device of any kind or character placed solely for aesthetic purposes and not to promote any product or service.

"Demonstrated safety" means a condition requiring protection from the threat of danger, harm, or loss, including but not limited to the steepness of a roadway or driveway that may create a hazardous parking situation in front of a gate.

"Demonstrated security" means a condition requiring protection from the potential threat of danger, harm or loss, including but not limited to a location that is isolated and invisible from public view or that has experienced documented burglary, theft, vandalism or trespassing incidences.

"Density bonus" means a density increase over the otherwise maximum allowable residential density in accordance with the provisions of Chapter 19.56 as of the date of the project application.

"Developer" means the owner or subdivider with a controlling proprietary interest in the proposed common interest development, or the person or organization making application, or a qualified applicant who has entered into a development agreement pursuant to the procedures specified in Chapter 19.144.

"Development agreement" means a development agreement enacted by legislation between the City and a qualified applicant pursuant to Government Code Sections 65864 through 65869.5.

"Development standard" means a site or construction regulation, including, but not limited to, a setback requirement, a floor area ratio, and onsite open-space requirement, or a parking ratio that applies to a development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

"District" means a portion of the property within the City within which certain uses of land, premises and buildings are permitted and certain other uses of land, premises and buildings are prohibited, and within which certain yards and other open spaces are required and certain building site areas are established for buildings, all as set forth and specified in this title.

"Drinking establishment" means an activity that is primarily devoted to the selling of alcoholic beverages for consumption on the premises.

"Drive-through establishment" means an activity where a portion of retailing or the provision of service can be conducted without requiring the customer to leave his or her car.

"Driveway" means any driveway that provides direct access to a public or private street.

Driveway, Curved. "Curved driveway" means a driveway with access to the front property line which enters the garage from the side at an angle of sixty degrees or greater to the front curblin and which contains a functional twenty-foot-deep parking area that does not overhang the front property line.

"Duplex" means a building, on a lot under one ownership, containing not more than two kitchens, designed and used as two dwelling units, of comparable size independent of each other.

"Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy on a non-transient basis and having not more than one kitchen.

SECTION 3. Section 19.08.030 (l), "'L' Definitions", of Chapter 19.08 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

"L" Definitions:

"Landscaping" means an area devoted to or developed and maintained with native or exotic planting, lawn, ground cover, gardens, trees, shrubs, and other plant materials, decorative outdoor landscape elements, pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, loading or storage areas), and sculptural elements.

"Late evening activities" means an activity which maintains any hours of operation during the period of eleven p.m. to seven a.m.

"Legal substandard lot" means any parcel of land or lot recorded and legally created by the County or City prior to March 17, 1980, which lot or parcel is of less area than required in the zone; or lots or parcels of record which are reduced to a substandard lot size as a result of required street dedication unless otherwise provided in the City of Cupertino General Plan. The owner of a legally created, substandard property which is less than six thousand square feet but equal to or greater than five thousand square feet may utilize such parcel for residential purposes. The owner of a legally created parcel of less than five thousand square feet may also develop the site as a single-family residential building site if it can be demonstrated that the property was not under the same ownership as any contiguous property on the same street frontage as of or after July 1, 1984.

“Lightwell” means an excavated area required by the Uniform Building Code to provide emergency egress, light and ventilation for below grade rooms.

“Liquor store” means a use requiring a State of California “off-sale general license” (sale for off-site consumption of wine, beer and/or hard liquor) and having fifty percent or more of the total dollar sales accounted for by beverage covered under the off-sale general license.

“Living space” means habitable space and sanitation.

“Loading space” means an area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.

“Lodging” means the furnishing of rooms or groups of rooms within a dwelling unit or an accessory building on a transient basis, whether or not meals are provided to the person. Lodging shall be subject to the residential density requirements of the district in which the use is located.

“Lodging unit” means a room or group of rooms not including a kitchen, used or intended for use by overnight or transient occupants as a single unit, whether located in a hotel or a dwelling unit providing lodging where designed or used for occupancy by more than two persons; each two-person capacity shall be deemed a separate lodging unit for the purpose of determining residential density; each two lodging units shall be considered the equivalent of one dwelling unit.

“Lot” means a parcel or portion of land separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for purpose of sale, lease or separate use.

1. “Corner lot” means a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.
2. “Flag lot” means a lot having access to a street by means of a private driveway or parcel of land not otherwise meeting the requirement of this title for lot width.
3. “Interior lot” means a lot other than a corner lot.
4. “Key lot” means the first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot, and fronting on the street which intersects or intercepts the street on which the corner lot fronts.

“Lot area” means the area of a lot measured horizontally between boundary lot lines, but excluding a portion of a flag lot providing access to a street and lying between a front lot line and the street, and excluding any portion of a lot within the lines of any natural watercourse, river, stream, creek, waterway, channel or flood control or drainage easement and excluding any portion of a lot acquired, for access and street right-of-way purposes, in fee, easement or otherwise.

“Lot coverage” means the following:

1. “Single-family residential use” means the total land area within a site that is covered by buildings, including all projections, but excluding ground-level paving,

landscape features, lightwells, and open recreational facilities. Sheds are included in lot coverage.

2. "All other uses except single-family residential" means the total land area within a site that is covered by buildings, but excluding all projections, ground-level paving, landscape features, and open recreational facilities.

"Lot depth" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no clear rear lot line.

"Lot line" means any boundary of a lot.

1. "Front lot line" means on an interior lot, the lot line abutting a street, or on a corner lot, the shorter lot line abutting a street, or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained. Lot line length does not include arc as identified on corner parcels.
2. "Interior lot line" means any lot line not abutting a street.
3. "Rear lot line" means the lot line not intersecting a front lot line which is most distant from and the most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.
4. "Side lot line" means any lot line which is not a front or rear lot line.
5. "Street lot line" means any lot line abutting a street.

"Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds which has been recorded.

"Lot width" means the horizontal distance between side lot lines, measured at the required front setback line.

"Lower-income household" means a household whose gross income does not exceed that established by Health and Safety Code Section 50079.5, as may be amended.

SECTION 4. Section 19.08.030 (s), "'S' Definitions", of Chapter 19.08 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

"S" Definitions:

"Screened" means shielded, concealed, and effectively hidden from view at an elevation of up to eight feet above ground level on adjoining parcels, or from adjoining parcels, within ten feet of a lot line, by a fence, wall, hedge, berm, or similar structure, architectural or landscape feature, or combination thereof.

"Senior citizens" means:

1. Persons at least sixty-two years of age; or
2. Persons at least fifty-five years of age or otherwise qualified to reside in a senior citizen housing development, in accordance with State and federal law.

“Senior citizen housing development” means a housing development with at least thirty-five dwelling units as defined in the Civil Code Section 51.3, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code, as may be amended.

“Setback line” means a line within a lot parallel to a corresponding lot line, which is the boundary of any specified front, side or rear yard, or the boundary of any public right-of-way or private road, whether acquired in fee, easement, or otherwise, or a line otherwise established to govern the location of buildings, structures or uses. Where no minimum front, side or rear yards are specified, the setback line shall be coterminous with the corresponding lot line.

Setback Area, Required. “Required setback area” means open space, unoccupied and unobstructed from the ground upward, except as provided in this title, between the lot line and the setback line on the same parcel.

1. Setback Area, Required Front Yard. “Required front-yard setback area” means the setback area extending across the front of a lot between the front lot line and the setback line. Front yards shall be measured either by a line at right angles to the front lot line, or by a radial line in the case of a curved front lot line, except flag lots which is the area extending across the full extent of the buildable portion of the flag lot measured from the property line which is parallel to and nearest the street line and at which point the lot width equals a minimum of sixty feet. The Director of Community Development shall have the discretion to modify the provisions of this definition when it improves the design relationship of the proposed buildings to adjacent buildings or parcels.
2. Setback Area, Required Rear Yard. “Required rear-yard setback area” means the area extending across the full width of the lot between the rear lot line and the nearest line or point of the main building.
3. Setback Area, Required Side Yard. “Required side-yard setback area” means the area between the side lot line and the nearest line of a building, and extending from the front setback line to the rear setback line.

“Shopping center” means a group of commercial establishments, planned, developed, owned or managed as a unit, with off-street parking provided on the parcel.

“Shopping center,” for purposes of the Sign Ordinance, means a retail entity encompassing three or more tenants within a single building or group of buildings, but within which individual business located in defined tenant spaces are owned and managed separately from the shopping center management.

“Sidewalk site triangle” is a triangular shaped area described in Cupertino Standard Detail 7-6. (See Appendix C, Cupertino Standard Detail; Sidewalk Site Triangle (Sidewalk Clearance at Driveway))

“Sign” means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, to communicate information of any kind to the public.

1. "Animated sign" means any sign which projects action, motion or the illusion thereof, changes intensity of illumination or changes colors, including the likes of balloons, banners and flags, and blowing or air-powered attractions, but excluding electronic readerboard signs and signs that display the current time or temperature.
2. "Blade sign" means a pedestrian oriented sign, adjacent to a pedestrian walkway or sidewalk, attached to a building wall, marquee, awning or arcade with the exposed face of the sign in a plane perpendicular to the plane of the building wall.
3. "Development Identification Sign" means a ground sign at the major entry to a residential development with twenty units or more meant to identify the name and address of the development.
4. "Directional sign" means any sign which primarily displays directions to a particular area, location or site.
5. "Directory sign" means any outdoor listing of occupants of a building or group of buildings.
6. "Electronic readerboard sign" means an electronic sign intended for a periodically-changing advertising message.
7. "Freeway oriented sign" means any sign which is located within six hundred sixty feet and visible from a freeway right-of-way as defined by Section 5200 of the California Business and Professions Code.
8. "Garage sale signs" means any sign used for advertising a garage or patio sale as defined in Chapter 5.16 of the Cupertino Municipal Code.
9. "Ground sign" means any sign permanently affixed to the ground and not supported by a building structure. The height of the sign shall be measured from the grade of the adjoining closest sidewalk to the top of the sign including trim.
10. "Identification sign" means any sign whose sole purpose is to display the name of the site and the names of the occupants, their products or their services.
11. "Illegal sign" means any sign or advertising statuary which was not lawfully erected, maintained, or was not in conformance with the provisions of this title in effect at the time of the erection of the sign or advertising statuary or which was not installed with a valid permit from the City.
12. "Illuminated sign" means any sign utilizing an artificial source of light to enhance its visibility.
13. "Informational sign" means any sign which promotes no products or services, but displays service or general information to the public, including the likes of hours of operation, rest room identifications and hazardous warnings.

14. "Landmark sign" means an existing, legal non-conforming ground sign that has a distinctive architectural style.
15. "Nonconforming sign" means any sign or advertising statutory that was legally erected and had obtained a valid permit in conformance with the ordinance in effect at the time of the erection of the sign but which became nonconforming due to the adoption of the ordinance codified in this title.
16. "Obsolete sign" means any sign that displays incorrect or misleading information, promotes products or services no longer available at that site or identifies departed occupants.
17. "Off-site sign" means any sign not located on the premises of the business or entity indicated or advertised by the sign. This definition shall include billboards, poster panels, painted bulletins and other similar advertising displays.
18. "On-site sign" means a sign directing attention to a business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained.
19. "Political sign" means a temporary sign that encourages a particular vote in a scheduled election and is posted prior to the scheduled election.
20. "Portable Sign or Display" means any outdoor sign or display not permanently attached to the ground or a structure on the premises it is intended to occupy and displayed only during business hours. Portable sign or display includes A-frames, flower carts, statues, and other similar devices used for advertising as determined by the Director.
21. "Project announcement sign" means any temporary sign that displays information pertinent to a current or future site of construction, including the likes of the project name, developers, owners and operators, completion dates, availability and occupants.
22. "Projecting sign" means any sign other than a wall sign that is attached to and projects from a structure or building face or wall.
23. "Real estate sign" means a temporary sign indicating that a particular premises is for sale, lease or rent.
24. "Roof sign" means a sign erected between the lowest and highest points of a roof.
25. "Street address sign" means any sign that displays only the street address number(s) of the site and, at the option of the property owner, the street name.
26. "Temporary Sign" means any sign, display, banner or promotional device which is designed or intended to be displayed only during the allowable business hours or for short periods of time as specified by the Director of Community Development.

27. "V-shaped signs" means any sign consisting of two vertical faces, or essentially vertical faces, with one common edge and which appears as the letter V when viewed directly from above.
28. "Vehicle sign" means a sign painted on or attached to an operable or movable vehicle; in the case of motor vehicles, "operable" shall be defined as having a valid license plate.
29. "Wall sign" means any sign that is attached, erected or painted on a structure attached to a building, a canopy structure, or the exterior wall of a building with the exposed face of the sign parallel to the wall.
30. "Window sign" means any sign that is intended to be read from outside of the structure or painted on a window facing a public street, parking lot, pedestrian plaza or walkway accessible to the public.

"Sign Area" for an individually lettered sign without a background, is measured by enclosing the sign copy with a continuous perimeter in simple rectilinear forms. (See Appendix D for examples of sign area calculation)

The sign area for a sign with borders and/or background is measured by enclosing the exterior limits of the border or background with a single continuous perimeter. The necessary supports, uprights, and/ or the base on which such sign is placed, shall be excluded from the sign area.

When a sign is separated by thirty-six inches or more, the area of each part may be computed separately.

"Single-family use" means the use of a parcel for only one dwelling unit.

"Specialty food stores" means uses such as bakeries, donut shops, ice cream stores, produce markets and meat markets, or similar establishments where food is prepared and/or sold primarily for consumption off the premises.

"Site," for purposes of the Sign Ordinance, means a piece of land as shown on a subdivision map, record of survey map or assessor's parcel map, which constitutes one development site and which may be composed of a single unit of land or contiguous units under common ownership, control, or development agreement.

"Special event," for purposes of the Sign Ordinance means a temporary promotional event including, but not limited to, a special sale on merchandise or services, or grand openings.

"Special Event Banner" means any temporary sign constructed of pliable materials such as canvas, fabric, vinyl plastic or similar materials which will withstand exposure to wind and rain without significant deterioration, and which does not require a building permit for its construction, or installation outside of a building.

"Special needs housing," for purposes of Chapter 19.56, Density Bonus, means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to mental health; physical disabilities; developmental disabilities, including without limitation intellectual disability, cerebral palsy, epilepsy, and autism; and risk of homelessness, and housing intended to meet the

housing needs of persons eligible for mental health services funded in whole or in part by the Mental Health Services Fund, as set forth in Government Code Section 65915(p)(3)(C), as may be amended.

“Specified anatomical areas” means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Specified sexual activities” means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

“Story” means that portion of a building, excluding a basement, between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

“Street” means a public or private thoroughfare the design of which has been approved by the City which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley as defined in this chapter.

1. Street, Public. “Public street” means all streets, highways, lanes, places, avenues and portions and including extensions in the length and width, which have been dedicated by the owners to public use, acquired for public use, or in which a public easement for roadway purposes exists.

“Street frontage,” for purposes of the Sign Ordinance, means the length of a site along or fronting on a public or private street, driveway or other principal thoroughfare, but does not include such length along an alley, watercourse, railroad right-of-way or limited access roadway or freeway.

“Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

1. Structure, Recreational. “Recreational structure” means any affixed accessory structure or portion, which functions for play, recreation or exercise (e.g., pool slides, playhouses, tree houses, swings, climbing apparatus, gazebos, decks, patios, hot tubs and pools) but does not include portable play structures, such as swings or climbing apparatus.

“Structurally attached” means any structure or accessory structure or portion thereof, which is substantially attached or connected by a roof structure or similar physical attachment.

“Supportive housing” (per Government Code Section 65582(f), as may be amended) 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.

SECTION 5. Subsection (7) of Table 19.20.020 of Section 19.20.020 of Chapter 19.20 of Title 19 of the Cupertino Municipal Code entitled “Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones” is hereby amended as follows:

Table 19.20.020–Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones							
Uses	Zoning Districts						
	A	A-1	R-1	RHS	R1C	R-2	R-3
NO CHANGE ROWS #1 - #6b							
7. An accessory dwelling unit Which conforms to the requirements of Chapter 19.112;	P	P	P	P	-	-	-
NO CHANGE ROWS #8 - #42							

SECTION 6. Section 19.24.040 of Chapter 19.24 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.24.040 Site Development Regulations.

A. Lot Area Zoning Designations. Minimum lot area shall correspond to the number (multiplied by one thousand square feet) following the A zoning symbol. Examples:

Zoning Symbol	Number	Minimum Lot Area Square Feet
A/A1	215	215,000
A	400	400,000
A1	43	43,000

B. Minimum Lot Area:

	Agricultural (A) Zones	Agricultural- Residential (A-1)
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		Zones
1. Minimum Lot size	215,000 square feet (with or without incidental residential use)	215,000 square feet (with no incidental residential use)
2. Incidental residential use	43,000 square feet per dwelling unit. Dwelling units in farm labor camps for temporary laborers, and accessory dwelling units shall not be counted for the purpose of determining required lot area under this section.	

C. Required Lot Shape. Each lot in an A zoning district shall have such shape that a square with a side of two hundred feet can be inscribed in this lot.

SECTION 7. Section 19.52.020 of Chapter 19.52 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.52.020 Applicability of Regulations.

A request for reasonable accommodation may:

- A. Be made only for existing residential dwellings or accessory dwelling units.
- B. Be made by any person who is defined as disabled under the Acts, when the application of development or land use regulations act as a barrier to fair housing opportunities.
- C. Include a variance to the development or land use regulations that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

SECTION 8. Chapter 19.112 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

CHAPTER 19.112: ACCESSORY DWELLING UNITS IN R-1, RHS, A AND A-1 ZONES

Section

19.112.010 Purpose.

19.112.020 Applicability of regulations.

19.112.030 Site development regulations.

19.112.040 Review process.

19.112.010 Purpose.

The purpose of this chapter is to promote the goal of affordable housing within the City through provision of additional housing in certain residential and agricultural zoning districts in a manner which minimizes adverse impacts of accessory dwelling units on neighborhoods.

19.112.020 Applicability of Regulations.

Notwithstanding any provision of this title to the contrary, one accessory dwelling unit:

1. Is permitted on lots in R-1, RHS, A and A-1 zoning districts and, notwithstanding the underlying zoning, an accessory dwelling unit developed pursuant to this chapter does not cause the lot upon which it is located to exceed its maximum the allowable density on the lot,
2. Must comply with the site development regulations and guideline specified in those zoning districts for dwelling units, including but not limited to, lot coverage, floor area ratio, height, setbacks, landscape etc. the regulations contained in this chapter, Chapter 19.100, Accessory Structures/Buildings, Chapter 19.124, Parking, except as those standards may be modified by this Chapter;

19.112.030 Site Development Regulations. Site Development Regulations for Accessory Dwelling Units are as identified in Table 19.112.030.

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units				
		Attached to Principal Dwelling Unit		Detached
		Conversion of portions of existing structures to an accessory dwelling unit	New addition to existing accessory dwelling unit and new accessory dwelling unit	
A.	Maximum size of living space, exclusive of decks			
	1. Lots < 10,000	800 s.f.		
	2. Lots ≥ 10,000	1,200 s.f.		
B.	Second-story accessory dwelling unit	Allowed if the unit: <ol style="list-style-type: none"> 1. Is a conversion of existing second story portions of the principal dwelling unit; and 2. Complies with applicable landscape requirements to adjoining dwellings consistent with Section 19.28.120. 		Not allowed

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units

		Attached to Principal Dwelling Unit		Detached
		Conversion of portions of existing structures to an accessory dwelling unit	New addition to existing accessory dwelling unit and new accessory dwelling unit	
C.	Parking			
	1. Parking for accessory dwelling unit	None	One additional off-street parking space shall be provided, if the principal dwelling unit has less than the minimum off-street parking spaces for the applicable residential zoning district in which it is located, as required in Chapter 19.124 unless the unit meets the following requirements: a. Is within one-half (1/2) mile of a public transit stop; or b. Located in an architecturally and historically significant historic district; or c. Occupant of the ADU is not allowed/offered a required on-street parking permit; or d. Located within one block of a car share vehicle pick-up location.	
	2. Replacement parking spaces when new accessory dwelling unit converts existing covered, uncovered or enclosed parking spaces required for the principal dwelling unit	a. Replacement spaces must be provided for the principal dwelling unit to meet the minimum off-street parking spaces for the applicable residential zoning district in which it is located, as required in Chapter 19.124. b. Replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to covered spaces, uncovered spaces, tandem spaces or by use of mechanical automobile parking lifts. c. Any replacement parking spaces provided must comply with the development regulations for the applicable zoning district in which it is located, Chapter 19.124, Parking and Chapter 19.100, Accessory Buildings/Structures.		

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units				
		Attached to Principal Dwelling Unit		Detached
		Conversion of portions of existing structures to an accessory dwelling unit	New addition to existing accessory dwelling unit and new accessory dwelling unit	
D.	Direct outside access	1. Independent outdoor access must be provided without going through the principal dwelling unit. 2. Where second-story accessory dwelling units are allowed, entry shall not be provided by an exterior staircase.		
E.	Screening from a public street	All access to accessory dwelling units shall be screened from a public street.		

19.112.040 Review Process.

A. Applications for accessory dwelling units conforming to the requirements of this chapter shall be reviewed ministerially without discretionary review and must be approved or denied within the time frame specified in Government Code Section 65852.2.

B. Accessory structures should be compatible with the architectural style and materials of the principal structure.

SECTION 9: Severability.

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 10: Effective Date.

This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 11: Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code

Section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

SECTION 12: Continuity.

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 amendments of the earlier provisions.

INTRODUCED at a regular meeting of the Cupertino City Council the 15th day of November 2016 and **ENACTED** at a regular meeting of the Cupertino City Council on this ____ of _____ 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Grace Schmidt, City Clerk

Barry Chang, Mayor, City of Cupertino