

## **ORDINANCE NO.**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING MUNICIPAL CODE CHAPTER 19.08, AND CHAPTER 19.112 REGARDING ACCESSORY DWELLING UNIT (ADU) LAWS**

The City Council of the City of Cupertino finds that:

1. State Law changes have rendered the City's Accessory Dwelling Unit ordinance (CMC 19.112) obsolete and unenforceable.
2. The City Council of the City of Cupertino held a duly noticed public hearing on September 3, 2025, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof.

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

#### **SECTION 1. Adoption.**

The Cupertino Municipal Code is further amended as set forth in Attachment A.

#### **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.

Determine that Project is exempt under the requirements of the California Environmental Quality Act (CEQA) of 1970, and CEQA Guidelines (collectively, "CEQA") 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. CEQA applies only to projects which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the amendments to the City Code would have no or only a de minimis impact on the environment. The foregoing determination is made by the City Council in its independent judgment. The proposed ordinance is further exempt from the California Environmental Quality Act ("CEQA") under Public Resources Code section 21080.17, which provides a statutory CEQA exemption to ADU ordinances adopted to implement Government Code Sec. 65852.2.

**SECTION 4:** Effective Date.

This Ordinance shall take effect thirty days 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 on September 3, 2025 and **ENACTED** at a regular meeting of the Cupertino City Council on September 16, 2025 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED:  _____ Liang Chao, Mayor City of Cupertino	  _____ Date
ATTEST:  _____ Kirsten Squarcia, City Clerk	  _____ Date
APPROVED AS TO FORM:  _____ Floy Andrews, City Attorney	  _____ Date

## ATTACHMENT A

### **1. Amendments to Title 19 concerning Accessory Dwelling Units**

#### *Chapter 19.08: Definitions*

“Accessory dwelling unit” or “ADU” 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 primary dwelling unit 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.
3. “Junior accessory dwelling unit” or “JADU” means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. Junior accessory dwelling units must include an efficiency kitchen, which must include both a cooking facility with appliances and a food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the unit. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, as defined in California Government Code Section 66333.

#### *Chapter 19.112: Accessory Dwelling Units*

##### **19.112.010 Purpose; Incorporation by Reference; Consistency with State Law.**

The purpose of this chapter is to promote the goal of affordable housing within the City through provision of additional housing in certain residential, agricultural residential, and mixed-use zoning districts in a manner which minimizes adverse impacts of accessory dwelling units on neighborhoods. Unless otherwise defined in this Title, all terms used in this Chapter shall be defined and interpreted in accordance with Government Code Sections 66310-66342. In the event of a conflict between this Chapter and the requirements of State law, the requirements of State law, including the requirements of Government Code Sections 66310-66342, shall prevail.

##### **19.112.020 Accessory Dwelling Unit Regulations.**

Notwithstanding any provision of this title to the contrary:

- A. Accessory dwelling units are permitted on lots within any residential or mixed-use residential zoning district. The lot must have an existing single family dwelling unit or if zoned multi-family or mixed use residential, at least one

residential unit. If the lot is vacant, an accessory dwelling unit may only be proposed in conjunction with the development of at least one residential unit. 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 allowable density on the lot.

- B. Accessory dwelling units, except those pursuant to Government Code Section 66323, 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; the regulations contained in this chapter; Chapter 19.100, Accessory Structures/Buildings; and Chapter 19.124, Parking; except as those standards are modified by this chapter.
- C. No impact fees, as defined in Government Code Section 66324(c)(2) shall be imposed on any accessory dwelling unit or junior accessory dwelling unit with a gross floor area of less than 750 square feet. Impact fees imposed on accessory dwelling units greater than or equal to 750 feet shall be charged proportionally in relation to the square footage of the primary dwelling unit in compliance with Government Code Section 66324(c)(1).
- D. Accessory dwelling units may be rented separately from the single-family dwelling or multi-family dwelling structure but may not be sold or otherwise conveyed separately from the other dwellings on the lot, except pursuant to Government Code Section 66340 – 66342. Any accessory dwelling unit, including a Junior Accessory Dwelling Unit (JADU), shall not be used as a rental for a term less than 30 days.
- E. For JADUs, either the single-family residence or JADU must be owner-occupied, unless the owner is a governmental agency, land trust, or housing organization. Further, the owner shall record a deed restriction, expressly enforceable against future purchasers, containing the following: (a) a prohibition on the sale of the JADU separate from the single-family residence, and (b) a restriction on the size and attributes of the JADU to conform to this section.
- F. A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

#### **19.112.030 Site Development Regulations for Streamlined Accessory Dwelling Units & Junior Accessory Dwelling Units.**

Pursuant to California Government Code Section 66323, the City shall approve the following streamlined accessory dwelling units if the specified development standards and use restrictions are met, as identified in:

- A. Table 19.112.030A for single-family residential uses and
- B. Table 19.112.030B for multi-family residential uses.

**Table 19.112.030A: Site Development Regulations for Streamlined Accessory Dwelling Units and Junior Accessory Dwelling Units Associated with Single-Family Residential Uses**

		<b>Conversion of space within principal dwelling unit or accessory structures</b>	<b>New Construction Attached or Detached Accessory Dwelling Unit ≤ 800 s.f.</b>
1.	Size of living space, exclusive of decks		
	a. Minimum size	150 s.f.	
	b. Maximum size	<p>No size limitation as long as the unit:</p> <ul style="list-style-type: none"> <li>i. Is wholly within the space of a proposed or existing single-family dwelling or the existing space of an accessory structure, and</li> <li>ii. Does not require either: <ul style="list-style-type: none"> <li>• An addition of more than 150 square feet to an existing accessory structure to accommodate ingress and egress only, or</li> <li>• Any addition to an existing single-family dwelling unit.</li> </ul> </li> </ul>	800 s.f.
2.	Number of Units	<p>Maximum three ADUs per single-family residential lot-in any combination of the following:</p> <ul style="list-style-type: none"> <li>• Attached ADU,</li> <li>• Conversion of existing space ADU (whether in principal dwelling unit or existing accessory structure),</li> <li>• Detached ADU, or</li> <li>• Junior ADU</li> </ul>	
3.	Setbacks	Per the underlying zoning district except that if the existing structures do not meet these standards, the side and rear setbacks shall be sufficient for fire safety and life safety.	<ul style="list-style-type: none"> <li>a. At least four feet from the rear and side lot lines.</li> <li>b. An applicant alternately may elect to follow the setback standards for accessory structures in Chapter 19.100.</li> </ul>

		<b>Conversion of space within principal dwelling unit or accessory structures</b>	<b>New Construction Attached or Detached Accessory Dwelling Unit ≤ 800 s.f.</b>
4.	Height	The conversion shall not change the height of the existing structure.	a. 18 feet for detached ADU <sup>1</sup> b. If accessory dwelling unit is attached to principal dwelling, 25 feet or the height limitations applicable to the principal dwelling, whichever is lower. c. An applicant alternatively may elect to follow the height standards for accessory structures in Chapter 19.100.
5.	Second-story accessory dwelling unit	Allowed if the unit is a conversion of existing second story portion of the principal dwelling unit.	Allowed
6.	Parking for accessory dwelling unit	None	None
7.	Direct outside access	Independent outdoor access must be provided without going through the principal dwelling unit.	
8.	Separation from principal dwelling unit	The conversion must result in an independent unit. With the exception of a JADU that has a shared bathroom with the principal dwelling unit, no interior doors or other connections between the units are permitted.	Detached from principal dwelling unit

1. An additional two feet in height (from 18 to 20 feet) for ADUs within one half mile of a major transit stop or a high-quality transit corridor is permitted to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

**Table 19.112.030B: Site Development Regulations for Streamlined Accessory Dwelling Units Associated with Existing Multi-Family Residential Uses**

		<b>Conversion of interior space and JADUs within multifamily dwelling structures</b>	<b>Detached, and Attached New Construction</b>
1.	Location	<p>a. Conversion of space within existing dwelling structures that is not used as livable space (e.g. existing units) including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, as long as the unit meets building standards for dwellings.</p> <p>b. JADUs permitted only in duplexes</p>	Must be detached from the multi-family dwelling structure(s) other than for duplex zoned properties, except attached ADUs are allowed for duplex zoned properties.
2.	Maximum Number of Units		
	a. Multifamily developments other than duplex zoned properties	<p>The greater of:</p> <ul style="list-style-type: none"> <li>• 25 percent of the existing number of primary dwelling units, or</li> <li>• One accessory dwelling unit</li> </ul>	<p>i. On a lot with an existing multi-family dwelling, the lesser of:</p> <ul style="list-style-type: none"> <li>• Eight detached accessory dwelling units and</li> <li>• the number of existing multi-family units on the lot.</li> </ul> <p>ii. On a lot with a proposed multifamily dwelling, not more than two detached ADUs.</p>
	b. Duplex zoned properties	<p>Up to a maximum of two accessory dwelling units in any combination of the following:</p> <ul style="list-style-type: none"> <li>• Attached ADU,</li> <li>• Conversion of existing space ADU (whether in principal dwelling unit or existing accessory structure),</li> <li>• Detached ADU, or</li> <li>• Junior ADU</li> </ul>	
3.	Minimum Size	150 s.f.	
4.	Maximum Size	<ul style="list-style-type: none"> <li>• No size limitation</li> <li>• For duplex zoned properties, attached ADUs are limited to 800 s.f.</li> </ul>	



		<b>Conversion of interior space and JADUs within multifamily dwelling structures</b>	<b>Detached, and Attached New Construction</b>
5.	Setbacks	The accessory dwelling unit shall not increase the size of the existing structure.	a. Located at least four feet from the side and rear lot lines. b. An applicant alternately may elect to follow the setback and height standards for accessory structures in Chapter 19.100.
6.	Height	The accessory dwelling unit shall not increase the size of the existing structure.	a. 18 feet <sup>1</sup> b. An applicant alternatively may elect to follow the setback and height standards for accessory structures in Chapter 19.100.
7.	Separation from principal dwelling units	The conversion must result in an independent unit. No interior doors or other connections between the units are permitted.	Detached from principal dwelling units.

1. An additional two feet in height (from 18 to 20 feet) for ADUs within one half mile of a major transit stop or a high-quality transit corridor is permitted to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

#### **19.112.040 Site Development Regulations for Non-Streamlined Accessory Dwelling Units.**

- A. This section shall govern applications for ADUs and JADUs that do not qualify for approval under Section 19.112.030 or Government Code section 66323 and for which the city may impose local standards pursuant to Government Code section 66314 – 66322. Nothing in this section shall be interpreted to prohibit an ADU of up to 800 square feet, at the heights stated in Section 19.112.030(A) and 19.112.030(B), with a four-foot side and rear setbacks.
- B. The Development Standards for units governed by this section are provided in Section 19.112.040. These regulations do not limit the height of existing structures converted into ADU/JADUs unless the envelope of the building is proposed to be modified beyond any existing legal, non-conforming condition.

**Table 19.112.040: Site Development Regulations for Non-Streamlined Accessory Dwelling Units Created by New Construction and/or Additions to the Principal Dwelling Unit**

		Attached > 800 s.f.	Detached > 800 s.f.
A.	Number of Units	1. A maximum of three ADUs per single-family lot in any combination of the following, subject to the underlying zoning standards for lot coverage, floor area, open space, and setback: <ul style="list-style-type: none"><li>• No more than one attached ADU</li><li>• No more than one conversion of existing space ADU (whether in principal dwelling unit or existing accessory structure),</li><li>• No more than one detached ADU, or</li><li>• No more than one Junior ADU</li></ul> 2. Nothing in this Section shall permit the development of more than three ADUs or Junior ADUs on any single-family lot. Non-streamlined ADU provisions cannot be combined with streamlined provisions to add more than a total of three ADUs.	
B.	Size of living space, exclusive of decks		
	1. Minimum size	150 s.f.	
	2. Maximum size	a. Studios/one-bedroom unit – 850 s.f.; two or more-bedroom unit – 1,000 s.f.; and b. Attached accessory dwelling units shall not exceed 50% of the existing primary dwelling c. Lot coverage, floor area, and open space standards per the underlying zoning apply to ADUs greater than 800 s.f. See Table 19.112.030 A for requirements related to ADUs less than or equal to 800 s.f.	
C.	Setbacks <sup>1</sup>	Per the underlying zoning district, except the required side and rear setbacks are modified to four feet.	The proposed structure must comply with the setback standards for accessory structures in Chapter 19.100, except the street side setbacks are modified to four feet.
D.	Height	25 feet or the height limitations applicable to the principal dwelling, whichever is lower.	The proposed structure must comply with the height standards for accessory structures in Chapter 19.100, except that a maximum height of 18 feet is allowed within half a mile of a major transit stop or transit corridor.
E.	Second-story accessory dwelling units	Allowed within one half mile of a major transit stop or transit corridor.	
F.	Parking		

		Attached > 800 s.f.	Detached > 800 s.f.
	1. Parking for accessory dwelling unit	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, and none if the accessory dwelling unit meets one of the following requirements: a. Located within one-half (1/2) mile of a public transit stop; or b. Located within one block of a car share vehicle pick-up location; or c. Located in an architecturally and historically significant historic district; or d. The occupant of the unit is not allowed/offered a required on-street parking permit; or e. Is part of the proposed or existing primary residence or an accessory structure or f. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the same lot provided that the accessory dwelling unit or the parcel satisfies any other criteria listed above.	
	2. Demolition or conversion of existing covered, uncovered or enclosed parking spaces <u>for an</u> accessory dwelling unit	No replacement parking spaces are required.	
G.	Direct outside access	Independent outdoor access must be provided without going through the principal dwelling unit.	
H.	Screening from public street	All access to accessory dwelling units shall be on a different wall plane than the access to the principal dwelling unit.	
I.	Structure Design	a. Shall match the exterior and roofing materials, window style, exterior lighting and exterior colors of the principal structure. b. Shall meet the design standards when located within any one of the following zoning districts: <ul style="list-style-type: none"> <li>• Planned Development (P)</li> <li>• Eichler (R1-e)</li> <li>• Monta Vista Design Guidelines</li> <li>• Residential Hillside (RHS)</li> <li>• Single Family Residential District with Semi-Rural Characteristics (R1-a)</li> </ul>	

		<b>Attached &gt; 800 s.f.</b>	<b>Detached &gt; 800 s.f.</b>
J.	Separation from principal dwelling unit	The ADU must be an independent unit. No interior doors or other connections between the ADU and the principal dwelling unit are permitted.	Detached from principal dwelling unit.

<sup>1</sup>. No setback is required for an accessory dwelling unit located within existing living area or an existing accessory structure, or an accessory dwelling unit that replaces an existing structure and is located in the same location and to the same dimensions as the structure being replaced.

#### **19.112.050 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 66317.
- B. Nonconforming zoning conditions, building code violations or unpermitted structures:
  1. The correction of nonconforming zoning conditions (as defined in Government Code Section 66313) shall not be required as a condition of approval of a permit for the creation of an ADU or a JADU.
  2. A permit for an ADU or a JADU will not be denied due to the correction of nonconforming zoning conditions, building code violations, or other unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the ADU or JADU.
- C. Unpermitted ADU or JADU: Any ADU created within the City shall comply with all applicable provisions of the Municipal Code and state law, and must obtain a building permit confirming compliance with all requirements, except that:
  1. A permit to legalize an unpermitted ADU or JADU that was constructed before January 1, 2020 may not be denied, if denial is based on either of the following grounds:
    - a. The ADU or JADU violates applicable building standards, or
    - b. The ADU or JADU does not comply with state ADU or JADU law (Government Code Section 66313-66339) or this chapter.
  2. Notwithstanding the above, a permit to legalize an unpermitted ADU or JADU that was constructed before January 1, 2020 may be denied, if the City makes a finding that correcting violations of applicable building standards, state ADU/JADU law, and/or this municipal code, is necessary to comply with the standards specified in California Health and Safety Code section 17920.3.

3. Notwithstanding subsection (C)(1) or (C)(2) above, a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3 shall not be permitted.

#### **19.112.060 Accessory Dwelling Units Prohibited on Certain Lots.**

Notwithstanding Government Code Section 66313 - 66339 or any provision of this Chapter, no accessory dwelling unit or a junior accessory dwelling unit shall be permitted on any lot in single-family residence district (R-1 or RHS) if a lot split has been approved pursuant to Section 18.12.70 and one or more residential units has been approved for construction pursuant to Section 19.28.150 or 19.40.090 ( Government Code Section 65852.21).

#### **19.112.070 Enforcement.**

- A. Violations of this Chapter shall be enforced as authorized by this Municipal Code and applicable provisions of state law.
- B. Enforcement of Building Code standards: In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an ADU described below, a local agency, upon request of an owner of an ADU for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
  1. The ADU was built before January 1, 2020.
  2. The ADU was built on or after January 1, 2020, and at the time the ADU was built, the City had a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made.