

**ORDINANCE NO. 17-2162**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING TITLE 19, ZONING, OF THE CUPERTINO MUNICIPAL CODE AND CHAPTER 19.12 (ADMINISTRATION), CHAPTER 19.20 (PERMITTED, CONDITIONAL AND EXCLUDED USES IN AGRICULTURAL AND RESIDENTIAL ZONES), AND CHAPTER 19.28 (SINGLE-FAMILY RESIDENTIAL (R-1) ZONES), TO CREATE A SINGLE-STORY OVERLAY DISTRICT PROCESS**

**WHEREAS**, on August 2, 2016, the City Council directed Staff to develop a process to allow applicants to submit applications for initiating Single-Story Overlay Districts;

**WHEREAS**, a community meeting was held on December 7, 2016 to allow the public an opportunity to review the draft regulations;

**WHEREAS**, the necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, and the Planning Commission held public hearings on March 14, 2017 to consider the project; and

**WHEREAS**, with Resolution No. 6825 the Planning Commission has recommended on a 4-1 (Sun – no) vote that the amendments to the Municipal Code be granted; and

**WHEREAS**, on April 18, 2017, upon due notice, the City Council has held at least one public hearing to consider these amendments to the Municipal Code be granted; and

**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 CITY OF CUPERTINO DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Section 19.12.030, of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.030 Approval Authority

Table 19.12.030 shows the approval authority, Noticing Radius, Expiration Date and Extension Dates for different types of Permits.

| <u>Type of Permit or Decision</u><br><u>A, B</u> | <u>Administrativ</u><br><u>e Review</u> | <u>Design</u><br><u>Review</u><br><u>Committee</u> | <u>Planning</u><br><u>Commission</u> | <u>City</u><br><u>Council</u>     | <u>Public Hearing/</u><br><u>Public Meeting/</u><br><u>Comment Period</u> <sup>C</sup> | <u>Noticing/</u><br><u>Noticing</u><br><u>Radius</u> <sup>D</sup> | <u>Posted</u><br><u>Site</u><br><u>Notice</u> | <u>Expiration</u><br><u>Date</u> <sup>E</sup> | <u>Chapter/</u><br><u>Findings</u> |
|--|---|--|--------------------------------------|-----------------------------------|--|---|---|---|------------------------------------|
| General Plan Amendment                           |   |  |                                      |                                   |  |   |   |   |                                    |
| Major <sup>F</sup>                               | -                                       | -  | R                                    | F                                 | PH   | CA. Govt. Code<br>65350-65362                                     | Yes   | -   | CA. Govt.<br>Code<br>65350-65362   |
| Minor <sup>G</sup>                               | -                                       | -  | R                                    | F                                 | PH   |   | Yes   | -   |                                    |
| Zoning Map Amendments                            |   |  |                                      |                                   |  |   |   |   |                                    |
| Major <sup>F</sup>                               | -                                       | -  | R                                    | F                                 | PH   | CA. Govt. Code<br>65853 - 65856                                   | Yes   | -   | 19.152.020                         |
| Minor <sup>G</sup>                               | -                                       | -  | R                                    | F                                 | PH   |   | Yes   | -   |                                    |
| Single Story Overlay<br>District                 | -                                       | -  | R                                    | F                                 | PH   |   | Yes   | -   |                                    |
| Zoning Text Amendments                           | -                                       | -  | R                                    | F                                 | PH   | CA. Govt. Code<br>65853 - 65856                                   | -   | -   | 19.152.030                         |
| Specific Plans                                   | -                                       | -  | R                                    | F                                 | PH   | CA. Govt. Code<br>65350-65362                                     | -   | -   | 20.04.030                          |
| Development Agreements                           | -                                       | -  | R                                    | F                                 | PH   | CA. Govt. Code<br>65867   | Yes   | -   | 19.144.120                         |
| Development Permits                              |   |  |                                      |                                   |  |   |   |   |                                    |
| Major <sup>F, H</sup>                            | -                                       | -  | F/R                                  | A <sup>1</sup> /F                 | PM   | 19.12.110/ 300'   | Yes   | 2 years                                       | 19.156.050                         |
| Minor <sup>G</sup>                               | F                                       | -  | A <sup>1</sup>                       | A <sup>2</sup>                    | PM   |   | Yes   | 2 years                                       |                                    |
| Conditional Use Permits                          |   |  |                                      |                                   |  |   |   |   |                                    |
| Major <sup>F, H, I</sup>                         | F                                       | -  | A <sup>1</sup> /F/R                  | A <sup>1</sup> /A <sup>2</sup> /F | PH   |   | Yes   | 2 years                                       | 19.156.050                         |

| <u>Type of Permit or Decision</u><br>A,B  | <u>Administrative Review</u> | <u>Design Review Committee</u> | <u>Planning Commission</u> | <u>City Council</u>               | <u>Public Hearing/<br/>Public Meeting/<br/>Comment Period</u> <sup>C</sup> | <u>Noticing/<br/>Noticing Radius</u> <sup>D</sup> | <u>Posted Site Notice</u> | <u>Expiration Date</u> <sup>E</sup> | <u>Chapter/<br/>Findings</u>           |
|---|------------------------------|--------------------------------|----------------------------|-----------------------------------|--|---|---------------------------|-------------------------------------|--|
| Minor <sup>G,I</sup>  | F                            | -                              | A <sup>1</sup> /F/R        | A <sup>1</sup> /A <sup>2</sup> /F | PH   | CA. Govt. Code 65905                              | Yes                       | 2 years                             |  |
| Temporary   | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>                    | -  | None  | No                        | 1 year                              | None<br>19.160.030                     |
| Density Bonus (Residential)   | -                            |                                | R                          | F                                 | Based on concurrent application  |   |                           |                                     | 19.52                                  |
| Adult-Oriented Commercial Activity (CUP)  | -                            | -                              | R                          | F                                 | PH   | CA. Govt. Code 65905/ 300'                        | Yes                       | 2 years                             | 19.128.030&<br>19.128.040              |
| Architectural and Site Approval   |                              |                                |                            |                                   |  |   |                           |                                     |  |
| Major <sup>J</sup>  | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>                    | PM   | 19.12.110/<br>Adjacent                            | Yes                       | 2 years                             | 19.168.030                             |
| Minor <sup>K</sup>  | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>                    | PM   |   | Yes                       | 2 years                             |  |
| Amendment   |                              |                                |                            |                                   |  |   |                           |                                     |  |
| Major <sup>F,H</sup>  | -                            | -                              | F                          | A <sup>1</sup>                    | PM/PH  | 19.12.110/ 300'                                   | Yes                       | 2 years                             | 19.44,<br>19.156,<br>19.164            |
| Minor <sup>G</sup>  | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>                    | PM/PH  |   | Yes                       | 2 years                             |  |
| Minor Modification  | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>                    | -  | None  | No                        | 2 years                             | 19.164                                 |
| Hillside Exception/ Height Exception / Heart of the City Exception <sup>I</sup> | -                            | -                              | F                          | A <sup>1</sup>                    | PH   | 19.12.110/ 300'                                   | Yes                       | 2 years                             | 19.40.080,<br>19.24.070,<br>19.136.090 |
| Variance  | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>                    | PH   | CA. Govt. Code 65905                              | Yes                       | 2 years                             | 19.156.060                             |
| Status of non-conforming Use  | -                            | -                              | F                          | A <sup>1</sup>                    | PH   | 19.12.110/ 300'                                   | Yes                       | -                                   | 19.140.110                             |
| Wireless Antennas <sup>I</sup>  | F                            | -                              | F/ A <sup>1</sup>          | A <sup>2</sup>                    | Varies <sup>I</sup>  | Depends on application type                       | Yes                       | 2 years                             | 19.136.090                             |
| Signs   |                              |                                |                            |                                   |  |   |                           |                                     |  |
| Permits   | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>                    | -  | None  | No                        | 1 year                              | 19.104                                 |

[illegible]

| <u>Type of Permit or Decision</u><br>A, B                     | <u>Administrative Review</u> | <u>Design Review Committee</u> | <u>Planning Commission</u> | <u>City Council</u> | <u>Public Hearing/<br/>Public Meeting/<br/>Comment Period</u> <sup>C</sup> | <u>Noticing/<br/>Noticing Radius</u> <sup>D</sup> | <u>Posted Site Notice</u> | <u>Expiration Date</u> <sup>E</sup> | <u>Chapter/<br/>Findings</u> |
|---|------------------------------|--------------------------------|----------------------------|---------------------|--|---|---------------------------|-------------------------------------|------------------------------|
| Parking, Fence & Sign Exceptions & Front Yard Interpretations | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>      | -  | None  | No                        | 1 year                              |                              |
| Neon, Reader board & Freeway Oriented Signs                   | F                            |                                | A <sup>1</sup>             | A <sup>2</sup>      | -  | None  | No                        | 1 year                              |                              |
| Two Story Permits, Minor Residential Permits and Exceptions   | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>      | -  | None  | No                        | 1 year                              |                              |
| Tree Removals   | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>      | -  | -   | No                        | 1 year                              |                              |
| All other projects  | F                            | -                              | A <sup>1</sup>             | A <sup>2</sup>      | -  | 19.12.110/ None                                   | No                        | 2 years                             |                              |

**Key:**

|   |  |  |
|---|--|--|
| R—Review and recommendation body              | F — Final decision-making body unless appealed | A <sup>1</sup> — Appeal Body on first appeal |
| A <sup>2</sup> — Appeal body on second appeal | PH – Public Hearing                            | PM – Public Meeting                          |
| CP – Comment Period                           |  |  |

**Notes:**

- A. Permits can be processed concurrently with other applications, at the discretion of the Director of Community Development.
- B. Projects with combined applications shall be processed at the highest level of approval in conformance with Section 19.04.090.
- C. Public Hearing: Projects types that need noticing pursuant to the CA Government Code; Public Meeting: Project types that need only a mailed notice and no newspaper notices; Comment Period: Project types that need only a mailed notice and do not need a public hearing or public meeting.
- D. Noticing Radius of an application in a combined application shall correspond to the maximum noticing radius required for any one of the applications.

- E. Expiration date of an application in a combined application shall correspond to the maximum expiration date allowed for any one of the development applications (not including Subdivision Map Act applications, General Plan Amendments and Zoning Map or Text Amendments.)
- F. Major General Plan Amendment, Conditional Use Permit, Development Permit application - for more than ten thousand square feet of commercial and/or industrial and/or office and/or other non-residential use, or greater than six residential units
- G. Minor General Plan Amendment, Conditional Use Permit, Development Permit application - for ten thousand square feet or less of commercial and/or industrial and/or office and/or other non-residential use, or six or less residential units.
- H. City Council review for applications with new development greater than fifty thousand square feet of commercial, and/or greater than one hundred thousand square feet of industrial and/or office and/or other non-residential use, and/or greater than fifty residential units. Planning Commission review for all other applications.
- I. Please see specific zoning district regulations or chapters in this title that apply to the subject property or project for approval authority.
- J. Major Architectural and Site Approval application - architectural and site approval for all projects that are not a Minor Architectural and Site Approval application.
- 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, redevelopment or modification in such zones where review is required and minor modifications of duplex and multi-family buildings.
- L. Appeals of Design Review Committee decisions shall be heard by the City Council.
- M. Parking Exceptions approved by the Director of Community Development need a comment period.  
Parking Exceptions approved by the Design Review Committee need a public meeting.
- N. Parking Exceptions in Single-family residential (R1) zones and Duplex (R2) zones need adjacent noticing.  
All other Parking Exceptions need notices within three hundred feet of the exterior boundary of the subject property.
- O. Application must be filed prior to expiration date of permit. Permit is extended until decision of the Approval Body on the extension.

**SECTION 2.** Section 19.12.080, "Application Process", of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

#### 19.12.080 Application Process

The following provisions outline the requirements for the filing of applications for permits, entitlements, amendments, and approvals. Unless otherwise specified in this title, all applications for permits, entitlements, amendments and approvals required by this title shall be filed in compliance with this section.

Applications for permits, permit modifications, amendments and other matters pertaining to this Chapter shall be filed with the Director of Community Development with the following:

- A. An application for permit may be made by the owner of record, his or her agent, lessee(s) of property, or person(s) who have contracted to purchase or lease property contingent upon their ability to acquire the necessary permit under this title and who have written authorization from the property owner to make an application.
- 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:
  - 1. A complete legal description of the subject property and map showing the location of the property for which the permit is sought;
  - 2. A preliminary title report of the subject property;
  - 3. The proposed site development plan indicating: the location of all buildings and structures; the location and types of land uses; paved areas, such as roadways, driveways and walkways; and general landscaping scheme;
  - 4. Architectural drawings of the proposed development, building additions or other structures. Drawings shall indicate building height, colors, materials, window treatment and other architectural features;
  - 5. Maps showing the locations of buildings;
  - 6. Renderings showing building heights and square footages;
  - 7. Maps showing the precise location of roads, streets, alleys and access points;
  - 8. A traffic analysis, if required;
  - 9. A construction plan;
  - 10. Any property/development with a Homeowner's Association (HOA) or Architectural Review Board (ARB) shall provide a letter of approval from said HOA Board or ARB;

11. The Director of Community Development may reasonably require additional information which is pertinent and essential to the application;
  12. Zoning Map or Text Amendments shall also include information required per Chapter 19.152.
    - a. Zoning applications for establishment or removal of Single-Story Overlay District in Single Family (R1) zoning districts (Single-Story Overlay District Applications) shall also include information required per Section 19.28.050(B);
    - b. Zoning applications for Multi-Family (R3) Residential shall also include information required per Section 19.36.040;
    - c. Zoning applications for Residential Single-family Cluster (R1C) initiated by a property owner, or his or her designee, shall also include items identified in Section 19.44.050(H); and
    - d. Zoning applications for Planned Development Zoning Districts shall also include information required per Section 19.80.040.
  13. Planned Development Permit and Development Permit applications shall also include information required per Section 19.156.010;
  14. Conditional Use Permits and Variances shall also include information required per Section 19.156.020;
  15. Density Bonus Permit applications shall also include information required per Section 19.56.060;
  16. Conversion of Apartment Projects to Common Interest Developments applications shall also include information required per Section 19.116.050; and
  17. Sign Permit Applications should also include information required per Section 19.104.040.
- C. Application shall be accompanied by the fee prescribed by City Council resolution, no part of which shall be returnable to the applicant.
- D. The Approval Authority is granted the authority to make the decision to grant, deny, or impose conditions or restrictions on a permit or other action on a permit as well as to conduct and make any decisions necessary for environmental review under the California Environmental Quality Act.

**SECTION 3.** Section 19.12.090, "Action by Director", of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.090 Action by Director.

Upon receipt of an application for a permit, the Director of Community Development shall:



- A. Within thirty days determine whether the application is complete or needs additional information and shall inform the applicant.
- B. Mail ballots to the property owners of record of the properties affected by a Single-Story Overlay District Application. The ballot shall, in addition to information related to the proposal, include the following information:
  - 1. Proposed Single-Story Overlay District Map pursuant to Section 19.28.050(B)(1);
  - 2. Statement indicating that each developable lot of record shall have one (1) vote; and
  - 3. A date, forty-five (45) calendar days from the date of mailing of the ballot, on which a completed ballot must be postmarked or received by the City in order to be accepted.
- C. Not later than a period stipulated in Section 19.12.100, Decision, below:
  - 1. Set a date for a public hearing or public meeting upon the matter at a regular or special meeting of the approval authority for the project for applications that require a public hearing or public meeting, except that Single-Story Overlay District Applications shall be scheduled for a public hearing, only if the result of the mailed ballot, pursuant to 19.12.090(B) above, indicates support of a minimum sixty-six and two-thirds ( $66 \frac{2}{3}$ ) percent by the property owners within the proposed or existing Single-Story Overlay District (each developable lot of record shall have one (1) vote); or
  - 2. Send notice in accord with the requirements of 19.12.110(D) for applications that do not need a public hearing or public meeting.

**SECTION 4.** Section 19.12.110, "Noticing", of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

**19.12.110 Noticing.**

- A. Notice of Public Hearing: Noticing shall be provided in the following manner for applications that need a public hearing:
  - 1. Notice of hearing shall be given by publication once in a local newspaper of general circulation not less than ten days prior to the date of the hearing as provided in Section 65090 of the California Government Code;
  - 2. The City shall mail written notice by first class mail to:

- a. Each owner of record of real property within the noticing radius per Section 19.12.030 of the exterior boundary of the property for which the application is made as the owner of record is shown in the last tax assessment roll pursuant to Section 65091 of the California Government Code;
  - b. Owner(s) of subject site or his or her authorized agent
  - c. Project applicant(s)
  - d. Local agencies expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the proposed project;
  - e. Any individual or entity that has filed a written request with the City Clerk requesting notification of public hearings
3. If the number of owners to whom notice would be mailed or delivered pursuant to subsection A2 above is greater than one thousand, in lieu of mailed or delivered notice, the Director may provide published notice as provided in Government Code Section 65091(3).
  4. The notice shall contain the following:
    - a. The exact address of the property, if known, or the location of the property, if the exact address is not known;
    - b. The date on which action on the application will be taken;
    - c. A brief description, the content of which shall be in the sole discretion of the City, of the proposed project;
    - d. Reference to the application on file for particulars;
    - e. A statement that any interested person, or agent thereof, may contact the city for additional information and/or plans.

Typographical and/or publishing errors shall not invalidate the notice nor any City action related to the notice.

B. Notice of Public Hearing for Zoning Text Amendments:

1. For amendments to zoning regulations: Notice of such hearing (publication) shall be given in the manner prescribed in Section 19.12.110 A(1) of this chapter.
2. For amendments to permitted uses of real property: Notice (mailing or publication) shall be given pursuant to Sections 19.12.110 A(2) or A(3), as the case may be.

C. Notice of Public Meeting: For projects requiring notice of a public meeting, notice shall be mailed in accord with 19.12.110A(2) or A(3), as the case may be, at least ten days prior to the date of the meeting date.

- D. Notice of Comment Period: For projects requiring notice of a comment period, notice shall be mailed in accord with 19.12.110A(2) and A(5), fourteen calendar days prior to the date of action on the application.
1. For permits issued pursuant to Chapter 19.28, Single Family Residential, the mailed notice shall include a copy of the site plan and elevation plans of the proposed project.
  2. For permits issued pursuant to Chapter 14.18, Protected Trees, the mailed notice shall include a copy of the site plan and tree replacement/mitigation plan.
- E. The City may also give notice of public hearings/public meetings in any other manner it deems necessary or desirable. If the Director of Community Development believes the project may have impacts beyond the range of the mailed notice, particularly on nearby residential areas, the Director, in his or her discretion, may expand noticing beyond the stated requirements in Section 19.12.030.

Compliance with the procedures set forth in this section shall constitute a good-faith effort to provide notice, and the failure to provide notice, and the failure of any to receive notice, shall not prevent the City from proceeding with a hearing, meeting or from taking any action nor affect the validity of any action.

F. Posted Site Notice:

1. Applicants shall install notice(s) on the subject site that is/are clearly visible from the street in accord with the requirements of Table 19.12.030.
  - a. Applicants must install a public notice in the front yard of the subject site, except that for Single-Story Overlay District Applications, the notice(s) shall be installed in the closest yard at the boundary(ies) of the proposed District.
  - b. For all applications other than Two Story Permits, Residential Design Review and Tree Removal applications in R1 or R2 zones, if the subject site has more than one property line abutting a street, the applicant may be required to install more than one notice.
  - c. The notice shall be a weatherproof sign, at least 2 feet tall and 3 feet wide, firmly attached to a 5 foot tall post.
2. The notice shall be placed at least 14 days prior to the decision/public hearing and shall remain in place until an action has been taken on the application and the appeal period has passed.
3. The notice shall contain the following:

- a. The exact address of the property, if known, or the location of the property, if the address is not known;
- b. A brief description of the proposed project, the content of which shall be at the sole discretion of the City;
- c. City contact information for public inquiries;
- d. A deadline for the submission of public comments;
- e. If proposing a physical alteration to an existing building or new buildings, at least one of the following visual representations of the proposed project:
  - i. A color perspective drawing or three-dimensional (3-D) photographic simulation of the proposed project, in a size deemed appropriate by the Director of Community Development.
  - ii. For Two Story Permits and Residential Design Review applications, a color or black and white perspective drawing or three-dimensional (3-D) photographic simulation of the proposed project, at least 11 inches by 17 inches in size.
  - iii. Visual Representation is not required for applications that do not have a material change in the physical appearance of the property.

**SECTION 5.** Section 19.20.020, “Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones”, of Chapter 19.20 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

| <b>Table 19.20.020–Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones</b>   |                         |            |            |            |            |            |            |
|---|-------------------------|------------|------------|------------|------------|------------|------------|
| <b>Uses</b>   | <b>Zoning Districts</b> |            |            |            |            |            |            |
|   | <b>A</b>                | <b>A-1</b> | <b>R-1</b> | <b>RHS</b> | <b>R1C</b> | <b>R-2</b> | <b>R-3</b> |
| 5. Two-story structures in an area designated for one-story limitation pursuant to Section 19.28.040 (I) of this 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; |                         |            | CUP-PC     |            |            |            |            |

**SECTION 6.** Section 19.28.040, “Permits Required for Development”, of Chapter 19.28 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.28.040 Permits Required for Development.

Table 19.28.040 sets forth the planning permits required for development in the Single-Family Residential district.

| Planning permit required prior to building permit application               | Approval authority  | Type of Project   |
|---|---|---|
| A. None   | Admin.  | One-story project that does not require exception or variance from the requirements of this ordinance   |
| B. Minor Residential Permit, pursuant to Chapter 19.12, Administration      |   | 1. One-story encroachment into a required rear yard setback, subject to requirements of Section 19.28.070   |
|   |   | 2. One-story extension of an existing side yard nonconforming building wall line, subject to requirements of Section 19.28.100 in all districts except R1-a   |
|   |   | 3. One-story project with a gable end of a roof enclosing an attic space projecting outside the building envelope , subject to requirements of Section 19.28.070 or 19.28.080   |
|   |   | 4. New or expanded second story deck or balcony with views into neighboring residential side or rear yards in all districts except R1-a   |
|   |   | 5. Any active or passive solar structure that requires variation from the setback or height restrictions of this chapter, provided that provided that no such structure shall infringe upon solar easements or adjoining property owners                        |
|   |   | 6. One or two-story addition or new home on a sloped single-family residential lot with development on building pads/graded areas with actual slopes equal to or greater than 20% and with total floor area ratio of all structures on the lot greater than 35% |
| C. Director’s Minor Modification, pursuant to Chapter 19.12, Administration |   | Encroachment of porch elements into the required front yard setback in the R1-a zone, subject to the requirements of Section 19.28.100.   |
| D. Two-Story Permit, pursuant to Chapter 19.12, Administration              | Two-story addition or new two-story home in all districts that do not require Residential Design Review per Section 19.28.040 (E) except in an R1-a zone. |   |

| Planning permit required prior to building permit application                           | Approval authority        | Type of Project  |
|---|---------------------------|--|
| E. Residential Design Review, pursuant to Chapter 19.12, Administration                 | Admin. with design review | Two-story addition or new two-story home in all districts except R1-a where:<br>1. Second floor to first floor area ratio is greater than 66%, except any second to first floor ratio for development on building pads/graded areas with actual slopes equal to or greater than 20%; and/or<br>2. Where second story side yard setback(s) are less than 15 feet to any interior side property line |
|   | DRC with design review    | Two-story addition, new two-story home, and/or second story deck in the R1-a zone  |
| F. Exception, pursuant to Chapter 19.12, Administration & Section 19.28.130, Exceptions | DRC                       | One or two-story project requesting an exception from Sections 19.28.070 [Development Regulations (Building)], 19.28.080 [Eichler R1-e Building Design Requirements], and/or 19.28.110 [Landscape Requirements].   |
| G. Hillside Exception, pursuant to Chapter 19.12, Administration                        | PC                        | Development (area greater than 500 square feet) on slopes greater than 30%   |
| H. Architectural and Site Approval, pursuant to Chapters 19.12, Administration          |                           | One or two-story addition or new home on a sloped single-family residential lot with development on building pads/graded areas with actual slopes equal to or greater than 20% and where the cut plus fill of the site exceeds 2,500 cubic yards   |
| I. Minor Conditional Use Permit, pursuant to Chapters 19.12, Administration             |                           | Two-story addition or new two-story home in an R1 zoning district with an “i” suffix   |
| J. Single-Story Overlay District Application, pursuant to Chapter 19.12, Administration | CC                        | Establishment or removal of a Single-Story Overlay District in a Single Family Residential District (Addition or removal of the “i” suffix in an R1 zoning district)   |

**SECTION 7.** Section 19.28.050, “Zoning Districts Established”, of Chapter 19.28 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.28.050 Zoning Districts Established.

A. Table 19.28.050 (A) below sets forth the zoning districts established.

| <b>Zoning Designation</b> | <b>Zoning Definition</b>   |
|---------------------------|--|
| R1-X                      | Single Family Residential District- Minimum lot area corresponds to the number (X), multiplied by 1,000 square feet  |
| R1-Xi                     | Residential Single-Family Single-Story Overlay District to limit homes to one Story (not to exceed 18 feet high)- [minimum lot area corresponds to the number (X), multiplied by 1,000 square feet preceding the 'i' symbol]. May be combined with all R1 zoning designations. |
| R1-6e                     | Single Family Residential Eichler District (6,000 minimum lot area)  |
| R1-a                      | Single Family Residential District with Semi-Rural Characteristics (10,000 square foot minimum lot area)   |

B. Establishment or Removal of an existing Single-Story Overlay District (*R1-Xi*): In addition to the application requirements identified in Chapter 19.12.080, the applicant shall submit the following:

1. Map delineating proposed boundaries for the Single-Story Overlay District, or removal thereof, corresponding to natural or man-made features (including, but not limited to, streets, waterways, zoning boundaries and similar features,) which would result in the establishment of an identifiable neighborhood, that includes one (1) or more entire city block(s), or one (1) or more entire subdivision tract(s), or street face(s) opposite of one another within a block;
2. Evidence, to the satisfaction of the City, for an establishment of a Single-Story Overlay, that a minimum of seventy-five (75) percent of the homes within the proposed Single-Story Overlay District are single-story;
3. A written statement setting forth the reasons for the application and all facts relied upon by the applicant in support thereof;
4. Original application petition signed, at a minimum, by sixty-six and two-thirds (66-2/3) percent of the property owners of record within the proposed or existing Single-Story Overlay District (each developable lot of record shall have one (1) signature). The petition shall contain information about the proposal including, but not be limited to, the following:
  - a. Map pursuant to Section 19.28.050(B)(1)
  - b. Property Addresses
  - c. Property Owner Name(s) and Original Signature(s)
  - d. Applicant Contact Information

**SECTION 8: 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 9: Effective Date.**

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

**SECTION 10: 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 11: 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.

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INTRODUCED at a regular meeting of the Cupertino City Council on this 18th day of April, 2017 and ENACTED at a regular meeting of the Cupertino City Council on this \_\_\_\_ of \_\_\_\_\_ 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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Grace Schmidt, City Clerk

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Savita Vaidhyanathan, Mayor  
City of Cupertino