

EXHIBIT "A"
Draft Ordinance No. 17-2165

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CHAPTER 9.22, PROPERTY MAINTENANCE, CHAPTER 19.12,
ADMINISTRATION, CHAPTER 19.112, ACCESSORY DWELLING UNITS IN R-
1, RHS, A AND A-1 ZONES, AND MINOR AMENDMENTS IN CHAPTER
19.08, DEFINITIONS, CHAPTER 19.24, AGRICULTURAL (A) AND
AGRICULTURAL-RESIDENTIAL (A-1) ZONES, CHAPTER 19.28, SINGLE-
FAMILY RESIDENTIAL (R-1) ZONES, CHAPTER 19.36, MULTIPLE-FAMILY
RESIDENTIAL (R-3) ZONES, CHAPTER 19.40, RESIDENTIAL HILLSIDE (RHS)
ZONES, CHAPTER 19.60, GENERAL COMMERCIAL (CG) ZONES, CHAPTER
19.64, PERMITTED, CONDITIONAL AND EXCLUDED USES IN OFFICE AND
INDUSTRIAL ZONES AND 19.116, CONVERSIONS OF APARTMENT
PROJECTS TO COMMON INTEREST DEVELOPMENTS

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 categorically exempt as there is no potential for this action to cause a significant effect on the environment and/or any project would be exempt under relevant provisions of CEQA guidelines, including, but not limited to Existing Facilities (Sec. 15301), Replacement or Reconstruction (Sec. 15302), or Construction or Conversion of Small Structures (Sec. 15303).

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. Chapter 9.22, of Title 9 of the Cupertino Municipal Code is hereby amended to read as follows:

CHAPTER 9.22: PROPERTY MAINTENANCE

Section

9.22.010 Purpose.

9.22.020 Unlawful acts.

9.22.030 Penalties.

9.22.040 Enforcement of other laws unaffected.

9.22.050 Notice to Franchise Tax Board.

9.22.010 Purpose.

The purpose of this chapter is to promote the health, safety and welfare of the people of the City of Cupertino, and to protect the City's neighborhoods against blighting and deteriorating influences or conditions that contribute to the downgrading of neighborhood aesthetics and property values by establishing minimum standards, in addition to standards contained in other laws, rules and regulations, for the maintenance of all building exteriors, premises and vacant land.

9.22.020 Unlawful Acts.

Except for any property which has a valid permit to maintain such a condition, no owner(s), agent(s) or lessee(s) or other person(s) occupying or having control of any real property (including City property) within the City shall maintain or allow to be maintained any of the following conditions except as allowed in Table 9.22.020:

| Table 9.22.020 Unlawful Acts | In any front, side or rear yard areas visible from a public street or sidewalk |
|--|---|
| A. Storage or placement of any of the following that could be unsightly and/or constitute an attractive nuisance: | |
| 1. Household appliances, equipment, machinery, or furniture, other than that designed and used for outdoor activities, including, but not limited to, refrigerators, washing machines, sinks, stoves, heaters, boilers, tanks, or any part of any listed item; | Not Allowed in excess of 72 hours |
| 2. Loose materials, including but not limited to, sand dirt, gravel, concrete or any similar materials; | Not Allowed, except if screened with temporary construction fencing while permitted, active and continuous, construction is occurring on the property |
| 3. Building materials, including but not limited to, lumber, fixtures, or salvage materials recovered during demolition; | Not Allowed, except if screened with temporary construction fencing while permitted, active and continuous, construction is occurring on the property |
| 4. Temporary Fencing; | Not Allowed, except while permitted, active and continuous, construction is occurring on the property |

| Table 9.22.020 Unlawful Acts | In any front, side or rear yard areas visible from a public street or sidewalk |
|--|---|
| 5. Storage Containers and similar items; | Not Allowed on more than two (2) occasions in a twelve-month period, and not more than fifteen (15) days on each occasion, separated by at least 60 days. |
| B. An accumulation of: | |
| 1. Glass, paper, metal, plastic, or other recyclables | Not Allowed |
| 2. Litter, junk, machine parts, scrap material, waste paper, boxes and cartons, packing materials, combustible trash, tires, or vehicle parts; | Not Allowed |
| C. Dead, decayed, or diseased trees, weeds, or other vegetation likely to cause a fire or health hazard, an infestation, or a habitat for rodents; | Not Allowed |
| D. A lack of adequate landscaping, or groundcover sufficient to prevent blowing dust and erosion; | Not Allowed |
| E. Tree stump(s) with a trunk diameter greater than six inches and a height of greater than 2.5 feet. As used herein "tree stump" means the base part of a tree or the trunk protruding above ground in which 90% or more of the foliage or canopy of the tree has been removed. This prohibition applies to all tree stumps in the City including those described in Chapters 14.12 (Street Trees) and in Chapter 14.18 (Protected Trees). Excepted from this prohibition are trees which are pollarded in accordance with the American National Standards Institute (ANSI) A300-2001 standards. | Not Allowed |
| F. Maintenance of any structure in a state of substantial deterioration, where such condition would have a tendency to depreciate the aesthetic and property values of surrounding properties, including but not limited to, peeling paint on a façade, broken windows, damaged porches, broken steps, roofs in disrepair, and other such deterioration or disrepair not otherwise constituting a violation; | Not Allowed |

9.22.030 Penalties.

Any person who violates the provisions of this chapter shall upon conviction be guilty of an infraction punishable in accordance with the provisions of Chapter 1.12.

9.22.040 Enforcement of Other Laws Unaffected.

Nothing in this chapter affects the power of the City or authorized law enforcement officers to prosecute violators of any statute of the State of California or other ordinances of the City (including the provisions of Chapters 1.09 and Section 1.12.030 regarding nuisance abatement.)

9.22.050 Notice to Franchise Tax Board.

If a property owner fails to correct a violation relating to substandard housing within six months or the time prescribed in a written notice of violation, whichever is later, the City Manager or his designee may submit a notice of noncompliance to the Franchise Tax Board to prohibit individuals, banks and corporations from claiming deductions for interest, taxes, depreciation or amortization with respect to the substandard housing pursuant to the provisions of Sections 17274 and 24436.5, as applicable, of the California Revenue and Taxation Code.

SECTION 2. Cupertino Municipal Code section 19.08.030L of Chapter 19.08 of Title 19 is amended by editing the following definition:

"Living space" means, for the purposes of Chapter 19.112, Accessory Dwelling Units in R-1, RHS, A and A-1 Zones, the same as that set forth in CA Government Code Section 65852.2(i).

SECTION 3. Table 19.20.020 of Section 19.12.030 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

Table 19.12.030: Approval Authority

| <u>Type of Permit or Decision</u> ^{A, B} | <u>Administrative Review</u> | <u>Design Review Committee</u> | <u>Planning Commission</u> | <u>City Council</u> | <u>Public Hearing/ Public Meeting/ Comment Period</u> ^C | <u>Noticing/ Noticing Radius</u> ^D | <u>Posted Site Notice</u> | <u>Expiration Date</u> ^E | <u>Chapter/ Findings</u> |
|---|------------------------------|--------------------------------|----------------------------|-----------------------------------|--|---|---------------------------|-------------------------------------|----------------------------|
| General Plan Amendment | | | | | | | | | |
| Major ^F | - | - | R | F | PH | CA. Govt. Code 65350-65362 | Yes | - | CA. Govt. Code 65350-65362 |
| Minor ^G | - | - | R | F | PH | | Yes | - | |
| Zoning Map Amendments | | | | | | | | | |
| Major ^F | - | - | R | F | PH | CA. Govt. Code 65853 - 65857 | Yes | - | 19.152.020 |
| Minor ^G | - | - | R | F | PH | | Yes | - | |
| Zoning Text Amendments | - | - | R | F | PH | CA. Govt. Code 65853 - 65857 | - | - | 19.152.030 |
| Specific Plans | - | - | R | F | PH | CA. Govt. Code 65350-65362 | - | - | 20.04.030 |
| Development Agreements | - | - | R | F | PH | CA. Govt. Code 65867 | Yes | - | 19.144.120 |
| Development Permits | | | | | | | | | |
| Major ^{F, H} | - | - | F/R | A ¹ /F | PM | 19.12.110/ 300' | Yes | 2 years | 19.156.050 |
| Minor ^G | F | - | A ¹ | A ² | PM | | Yes | 2 years | |
| Conditional Use Permits | | | | | | | | | |
| Major ^{F, H, I} | F | - | A ¹ /F/R | A ¹ /A ² /F | PH | CA. Govt. | Yes | 2 years | 19.156.050 |

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|---|------------------------------|--------------------------------|----------------------------|-----------------------------------|--|---|---------------------------|-------------------------------------|----------------------------------|
| Minor ^{G, I} | F | - | A ¹ /F/R | A ¹ /A ² /F | PH | Code 65905 | Yes | 2 years | |
| Temporary | F | - | A ¹ | A ² | - | None | No | 1 year | 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 & 19.128.040 |
| Architectural and Site Approval | | | | | | | | | |
| Major ^J | F | - | A ¹ | A ² | PM | 19.12.110/ Adjacent | Yes | 2 years | 19.168.030 |
| Minor ^K | F | - | A ¹ | A ² | PM | | Yes | 2 years | |
| Amendment | | | | | | | | | |
| Major ^{F, H} | - | - | F | A ¹ | Varies ^L | Depends on permit being amended ^L | Yes | 2 years | 19.44, 19.144 19.156, 19.164 |
| Minor ^G | F | - | A ¹ | A ² | Varies ^L | | Yes | 2 years | |
| Minor Modification | F | - | A ¹ | A ² | - | None | No | 2 years | 19.164 |
| Hillside Exception/ Height Exception / Heart of the City Exception ^I | - | - | F | A ¹ | PH | 19.12.110/ 300' | Yes | 2 years | 19.40.080, 19.24.070, 19.136.090 |
| Variance | F | - | A ¹ | A ² | PH | CA. Govt. | Yes | 2 years | 19.156.060 |

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|--|------------------------------|--------------------------------|----------------------------|---------------------------------|--|---|---------------------------|-------------------------------------|--------------------------|
| | | | | | | Code 65905 | | | |
| Status of non-conforming Use | - | - | F | A ¹ | PH | 19.12.110/300' | Yes | - | 19.140.110 |
| Wireless Antennas ^I | F | - | F/ A ¹ | A ² | Varies ^I | Depends on application type | Yes | 2 years | 19.136.090 |
| Signs | | | | | | | | | |
| Permits | F | - | A ¹ | A ² | - | None | No | 1 year | 19.104 |
| Neon, Reader board & Freeway Oriented Signs ^I | - | F | F | A ^{1M} | PM | 19.12.110/300' | No | 1 year | 19.104 |
| Programs | F | - | A ¹ | A ² | - | None | No | 1 year | 19.104 |
| Exceptions ^I | - | F | - | A ^{1M} | PM | 19.12.110/Adjacent | Yes | 1 year | 19.104.290 |
| Parking Exceptions ^I | F | F | A ¹ | A ^{1L} /A ² | Varies ^N | 19.12.110/Adjacent/300' o | Yes | 1 year | 19.124.050 |
| Fence Exceptions | - | F | - | A ^{1L} | PM | 19.12.110/Adjacent | Yes | 1 year | 19.48.060 |
| Front Yard Interpretation | F | - | A ¹ | A ² | PM | 19.12.110/Adjacent | Yes | 1 year | 19.08 |
| R1 Ordinance Permits | | | | | | | | | |

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|---|------------------------------|--------------------------------|----------------------------|---------------------------------|--|---|---------------------------|-------------------------------------|--------------------------|
| Two-story ^I | F | F | F/A ¹ | A ^{1L} /A ² | Varies ^I | 19.12.110/ Adjacent | Yes | 1 year | 19.28.140 |
| Minor Residential | F | - | A ¹ | A ² | CP | | No | 1 year | |
| Exceptions ^I | - | F | - | A ^{1M} | PM | | Yes | 1 year | |
| Protected Trees | | | | | | | | | |
| Tree Removal | F | - | A ¹ | A ² | CP | Adjacent unless exempt | Yes | 1 year | 14.18.180 |
| Heritage Tree Designation & Removal | - | - | F | A ¹ | PM | 19.12.110/ 300' | Yes | - | 14.18 |
| Tree Management Plan | F | - | A ¹ | A ² | - | None | No | - | 14.18 |
| Retroactive Tree Removal | F | - | A ¹ | A ² | - | None | No | - | 14.18 |
| Reasonable Accommodation | F | - | A ¹ | A ² | - | None | No | 1 year | 19.52.050 |
| Extensions ^P | | | | | | | | | |
| Parking, Fence & Sign Exceptions & Front Yard | F | - | A ¹ | A ² | - | None | No | 1 year | |

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|---|------------------------------|--------------------------------|----------------------------|---------------------|--|---|---------------------------|-------------------------------------|--------------------------|
| Interpretations | | | | | | | | | |
| Neon, Reader board & Freeway Oriented Signs | F | | A ¹ | A ² | - | None | No | 1 year | |
| Two Story Permits, Minor Residential Permits and Exceptions | F | | A ¹ | A ² | - | None | No | 1 year | |
| Tree Removals | F | - | A ¹ | A ² | - | - | No | 1 year | |
| All other projects | F | - | A ¹ | A ² | - | 19.12.110/ None | No | 2 years | |

Key:

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|--|--|
| R—Review and recommendation body | F — Final decision-making body unless appealed |
| A ¹ — Appeal Body on first appeal | A ² — 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. Meeting type and noticing are dependent on the underlying permit being modified.
- M. Appeals of Design Review Committee decisions shall be heard by the City Council.
- N. 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.

- O. 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.

- P. Application must be filed prior to expiration date of permit. Permit is extended until decision of the Approval Body on the extension.

SECTION 4. Section 19.12.080 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.080 Application Process

Unless otherwise specified in this title, all 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 Planned Development Zoning Districts shall also include information required per Section 19.80.040;
 - b. Zoning applications for Multi-Family (R3) Residential shall also include information required per Section 19.36.040; and
 - 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 19.44.050H.
 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.
 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.

SECTION 5. Section 19.12.100 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.100 Decision

- A. 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.
- B. Unless postponed or continued with the mutual consent of the Director of Community Development and the applicant and written confirmation from the applicant, a decision shall be rendered:

1. No later than sixty (60) days following the date the application is deemed complete and either categorically exempt under the California Environmental Quality Act (CEQA) or the adoption of a negative declaration or one hundred and eighty (180) days of certification of an Environmental Impact Report (EIR).
2. Notwithstanding the above, no later than one hundred and fifty (150) days upon receipt of a complete application for a new personal wireless communication facility or ninety (90) days upon receipt of an application for collocation of a personal wireless communication facility/antennas.

SECTION 6. Section 19.12.110 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 and legible from the right-of-way in accord with the requirements of Table 19.12.030.

- a. Applicants must install a site notice in the front yard of the subject site.
 - 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.
2. The notice shall be a weatherproof sign, firmly attached to 5 foot tall posts and:
 - a. For Two Story Permits, Residential Design Review, and Tree Removal applications in R1 or R2 zones, shall be at least 2 feet tall and 3 feet wide.
 - b. For all other applications that need a site notice, shall be at least 4 feet tall and 6 feet wide.
3. 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.
4. 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 7. Section 19.12.180 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.180 Expiration, Extension and Revocation.

A. Expiration.

1. Approval on a permit or variance shall become null and void and of no effect, within the time frame specified in Section 19.12.030 following its issuance, unless a shorter or longer time period is specifically prescribed in the conditions of permit or variance, unless:
 - a. A building permit is filed and accepted by the City (fees paid and control number issued.) In the event that a building permit expires for any reason, the permit shall become null and void.
 - b. A permit or variance shall be deemed “vested” when actual substantial and continuous activity has taken place upon the land subject to the permit or variance or, in the event of the erection or modification of a structure or structures, when sufficient building activity has occurred and continues to occur in a diligent manner.
2. Notwithstanding subsection 1 of this section, if the use for which a conditional use permit was granted and utilized has ceased or has been suspended for one year or more, the permit becomes null and void.
3. Unless a variance or exception has expired pursuant to subsection 1 of this section, it shall continue to exist for the life of the existing structure or such structure as may be constructed pursuant to the approval, unless a different time period is specified in its issuance. A variance or exception from the parking and loading regulations, and a sign exception shall be valid only during the period of continuous operations of the use and/or structure for which the variance or exception was issued.

B. Extensions. A permit or variance may, in accord with Section 19.12.030, Approval Authority, be extended for the time frame specified in Section 19.12.030, upon timely submittal of an application with the Director of Community Development prior to expiration.

C. Violation. Once a permit or variance is effective, any and all conditions of approval imposed shall become operative, and the violation of any of them constitute a violation of this Code.

D. Revocation.

1. Process: In any case where, in the judgment of the Director, substantial evidence indicates that the conditions of a permit or variance have not been implemented, or where the permit or variance is being conducted in a manner detrimental to

the public health, safety, and welfare, the Director shall set a date for a public hearing before the decision maker granting the original permit or variance, and notice a public hearing in accordance with Section 19.12.110, Noticing, of this code.

2. Findings: A permit may be revoked or modified if any one of the following findings can be made:
 - i. That the permit was obtained by misrepresentation or fraud;
 - ii. That the improvement, use or activity authorized in compliance with the permit had ceased or was suspended for one year or more;
 - iii. That one or more of the conditions of the permit have not been met; or
 - iv. That the owner or occupant of the property is conducting the use or any associated or other use of the property in violation of the law.

In the case of revocation of a sign permit, the sign was abandoned for a period of thirty days.

SECTION 8. The text prior to Table 19.24.050 in Section 19.24.050 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

Table 19.24.050 sets forth the rules and regulations pertaining to the development of structures on property zoned Agricultural (A) and Agricultural-Residential (A-1).

SECTION 9. The text prior to Table 19.28.070 in Section 19.28.070 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

Table 19.28.070 sets forth the rules and regulations pertaining to the development of structures on property zoned R1-5, 6, 7.5, 8, 10, 20 etc., and R1-6e in the Single-Family Residential District.

SECTION 10. The text prior to Table 19.36.070 in Section 19.36.070 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

Table 19.36.070 sets forth the rules and regulations pertaining to the development of structures on property zoned multiple-family residential (R-3).

SECTION 11. Chapter 19.40.050 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

19.40.050 Site Development Regulations.

The following guidelines, shown in Table 19.40.050, are a compilation of policies described in the General Plan and are intended to govern the preparation of development plans in RHS zones. All provisions of this section, except subsections A, B

and C, may be deviated from with a Hillside Exception in accordance with Section 19.40.040 and 19.40.070.

| Table 19.40.050: Site Development Regulations | | |
|--|-------------|--|
| A. Density | | |
| 1. Dwelling Density | Unit | Determined by Appendix F of the General Plan based upon slope density standards described therein. |
| 2. Transfer of density credits | | Density credits derived from application of a slope density formula to a lot or a group of lots may not be transferred to property outside any approved subdivision or parcel map boundary. |
| B. Minimum Lot Area | | |
| 1. By zoning district symbol: | | Lot area shall correspond to the number (multiplied by one thousand square feet) following the RHS zoning symbol. Examples: RHS-20: Minimum lot size of 20,000 square feet (20 * 1,000 s.f.) RHS-120: Minimum lot size of 120,000 square feet (120 * 1,000 s.f.) RHS-218: Minimum lot size of 218,000 square feet (218 * 1,000 s.f.) |
| 2. For subdivision | | Minimum lot area shall be in accordance with Appendix F of the General Plan, unless clustered in accordance with Section 18.52.030 (Hillside Subdivisions). The minimum lot area shall be 10,000 square feet for each unit in a clustered subdivision. |
| 3. Subdividable lots | | Lot size zoning designation shall be assigned at time of subdivision |
| 4. Non-subdividable legally-created, developed lots | | Shall reflect the existing lot size |
| C. Minimum Lot Width | | a. 70 feet at front setback line. b. No minimum lot width for lots served by private driveway and which do not adjoin a public street. |
| D. Development on Substandard Lots | | A Hillside Exception shall be obtained to construct structures or improvements on existing vacant legal lots. |
| E. Site Grading | | |
| 1. Maximum Grading Quantity | | a. Cumulative total of 2,500 cubic yards, cut plus fill. Includes: grading for building pad, yard areas, driveway and all other areas requiring grading. Excludes: basements b. All cut and fill shall be rounded to contour with natural contours and planted with landscaping which meets the requirements in Section 19.40.050G |
| 2. Graded Area | | Shall be limited to the building pad area to the greatest extent possible |

| | |
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| 3. Multiple Driveways | Grading quantities shall be divided equally among the participating lots. E.g., two lots sharing a driveway shall divide the driveway grading quantity in half. The divided share will be charged against the grading quantity allowed for that lot development. |
| 4. Flat Yard Area | Limited to a maximum of 2,500 square feet, excluding driveways |
| E. Site Grading (Cont.) | |
| 5. Soil Erosion and Screening of Cut and Fill Slopes Plan | A licensed landscape architect shall review grading plans and shall, in consultation with the applicant and the City Engineer, submit a plan to prevent soil erosion and to screen cut and fill slopes. |
| F. Landscaping | |
| 1. Tree Planting Plan | Shall be prepared by a licensed landscape architect to: a. Screen the residential structures to the greatest possible extent b. Reintroduce trees on barren slopes which were denuded by prior agricultural activities. Must comply with the Chapter 14.15, Landscaping Ordinance and Wildland Urban Interface Fire Area (WUIFA) requirements |
| 2. Landscape Requirements | |
| 3. Installation of Landscape Improvements | Must be installed prior to final occupancy unless it is not practicable. If not installed, the applicant shall post a bond, cash or other security to insure installation within an 18 month period from occupancy. |
| 4. Landscape Maintenance | All such landscape areas shall be properly maintained in conformance with the requirements of Chapter 14.15, Landscape Ordinance. |
| 5. Native Trees | Should be integrated into the site design to the greatest extent possible. |
| G. Watercourse Protection | |
| 1. Watercourse and Existing Riparian Vegetation | Any watercourse identified in Figure HS – 6 in the City's General Plan and its existing riparian vegetation must be shown on all development plans. |
| 2. Setback | The setback shall be measured from the top of bank of the watercourses or from existing riparian vegetation, whichever is greater. The setback from riparian vegetation will be measured from the drip line perimeter. All new development, including structures, grading and clearing, must be set back as follows. |
| a. Lots < 1 acre | 50 feet |
| b. Lots ≥ 1 acre | 100 feet |
| H. Development Near Prominent Ridgelines | |

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| 1. New structures | Shall not disrupt a 15% site line from a prominent ridge as identified in Appendix A. The fifteen percent site line shall be measured from the top of ridge at the closest point from the structure. |
| 2. Additions to existing structures within the 15% site line of prominent ridgeline | May not further encroach into the site line. For example, the addition may not add height or bulk which may increase the disruption to the fifteen percent ridgeline site line. |
| 3. Impracticable Clause | If (1) and (2) above are not practicable, alternatives may be considered through the exception process. |
| I. Development on Slopes of $\geq 30\%$ | Hillside Exception required for all grading, structures and other development > 500 square feet. |
| J. Trail Linkages and Lots Adjoining Public Open Spaces Site Plan | <ol style="list-style-type: none"> 1. Site plan must identify trail linkages as shown in the General Plan Trail Plan, on and adjacent to the site. 2. If a trail linkage is identified across a property being developed, development shall not take place within that area unless approved through the exception process. 3. For lots adjoining Public Open Spaces, driveways and buildings shall be located as far as feasible from the Public Open Space and designed in a manner to minimize impacts on the Public Open Space. |
| K. Views and Privacy | It is not the responsibility of City Government to ensure the privacy protection of the building permit applicant or owners of surrounding properties that may be affected by the structure under construction. However, the Director of Community Development may confer with the building permit applicant to discuss alternate means of preventing privacy intrusion and preserving views. |

19.40.060 Building Development Regulations.

All provisions of this section may be deviated from upon obtaining a Hillside Exception in accordance with Section 19.40.070.

Table 19.40.060 sets forth the rules and regulations pertaining to the development of structures on property zoned Residential Hillside (RHS).

| Table 19.40.060: Building Development Regulations | | | | |
|---|--------------------------------------|---|----------------------|--|
| A. Floor Area Ratio (FAR) | | | | |
| 1. Maximum Allowable Development | a. Net Lot Area < 10,000 square feet | Lesser of: <ul style="list-style-type: none"> 6,500 square feet; or 45% of net lot area times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* * Formula = (0.45 x Net Lot Area) x (Slope Adjustment Factor) | | |
| | b. Net Lot Area ≥ 10,000 square feet | Lesser of: <ul style="list-style-type: none"> 6,500 square feet; or 4,500 square feet plus 59.59 square feet for every 1,000 square feet over 10,000 square of net lot area, times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* * Formula = $(4,500 + \left(\frac{\text{Net Lot Area} - 10000}{1000}\right)(59.59)) \times (\text{Slope Adjustment Factor})$ | | |
| | | | Average Slope | Reduction (1.5 x (Average Slope – 0.1)) |
| 2. Slope Adjustment Factor based on Average Slope of Net Lot Area | a. Average Slope ≤ 10% | No reduction in allowable floor area Slope Adjustment Factor = 1 | < 10% | 0% |
| | b. Average Slope between 10% and 30% | A reduction in allowable floor area by one and one-half percent (1.5%) for each percent of slope over 10 percent. Slope Adjustment Factor = $(1 - (1.5 \times (\text{Average slope of net lot area} - 0.1)))$ | 11% | 1.5% |
| | | | 12% | 3.0% |
| | | | 13% | 4.5% |
| | | | 14% | 6.0% |
| | | | 15% | 7.5% |
| | | | 16% | 9.0% |
| | | | 17% | 10.5% |
| | | | 18% | 12.0% |
| | | | 19% | 13.5% |
| | | | 20% | 15.0% |
| | | | 21% | 16.5% |
| | | | 22% | 18.0% |
| | | | 23% | 19.5% |
| | | | 24% | 21.0% |
| | | | 25% | 22.5% |
| | | | 26% | 24.0% |
| | | | 27% | 25.5% |
| | | | 28% | 27.0% |
| | | | 29% | 28.5% |
| | c. Average Slope > 30% | Allowable floor area shall be reduced by a constant 30 percent Slope Adjustment Factor = $(1 - 0.3)$ | 30% | 30.0% |

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|---|---|--|--------------|---|
| 3. Additional Regulations for Lots Within Clustered Subdivisions where Land is Reserved for Common Open Space | | | | |
| a. Lot Area for calculating FAR | May count a proportionate share of the reserved private open space to arrive at lot area for purposes of calculating FAR. | | | |
| b. Maximum FAR prior to slope consideration | No developable lot in a cluster development can exceed forty-five-percent floor area ratio, prior to applying the slope adjustment factor, when a portion of the private open space is attributed to the lot area for calculating FAR | | | |
| c. Average slope of lot | Calculated on the developable lot only. | | | |
| B. Height of Buildings and Structures | Limited to 30 feet | | | |
| C. Setbacks | | | | |
| | First Floor | | Second Floor | Habitable Third Floor (or portions of structures taller than 20 feet) |
| 1. Front-yard | | | | |
| a. Slope ≤ 20% | 20 feet | Driveway and garage must be designed to enable vehicles to park off-street | 25 feet | 25 feet |
| b. Slope > 20% | 10 feet | | 25 feet | 25 feet |
| 2. Side-yard | | | | |
| a. Interior Side | 10 feet | | 15 feet | 20 feet |
| b. Street Side on Corner Lot | 15 feet | | 15 feet | 20 feet |
| 3. Rear-yard | 20 feet | | 25 feet | 25 feet |
| D. Second Story Decks and Patios Minimum Setbacks | | | | |
| 1. Front Yard | - | | 17 feet | 17 feet |
| 2. Side Yard | - | | 15 feet | 15 feet |
| 3. Rear Yard | - | | 20 feet | 20 feet |
| E. Downhill Facing Elevation | | | | |
| 1. Second Story Downhill Facing Wall Plane Offset | | | | |
| a. Offset from First Floor Downhill Wall Plane | i. Average of 7 feet 6 inches for 75% of the second story downhill facing wall plane shall be setback and | | | |

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| | <ul style="list-style-type: none"> ii. Not less than five feet. iii. The remaining 25% may not extend past the first story wall plane. |
| b. Multiple Downhill Facing Wall Planes | Offset shall apply only the primary setback affected. |
| c. Offset from First Floor Roofed Porches | <ul style="list-style-type: none"> i. Offset may be measured from the outside perimeter of first-story roofed porches. ii. Roof of the porch must match, in pitch and style, the roof of the main structure. iii. Porch must be at least 5 feet in width and extend the length of the wall on which it is located. |
| 2. Maximum Wall Height on Downhill Elevation | 15 feet |
| F. Permitted Yard Encroachments | |
| 1. Extension of a Legal Non-conforming Wall Plane for structures not located within a prominent ridgeline site line | <ul style="list-style-type: none"> a. Where a building legally constructed according to existing first floor yard and setback regulations at the time of construction encroaches upon present required first floor setbacks, one encroaching side of the existing structure may be extended along existing building lines. b. Only one such extension shall be permitted for the life of the building. c. Encroachments into a required yard which are the result of the granting of a variance may not be further extended. d. Further encroachment into a required setback is not allowed. I.e., a non-conforming setback may not be further reduced. e. In no case shall any wall plane of a first-story addition be placed closer than three feet to any property line. |
| 2. Architectural Features | <ul style="list-style-type: none"> a. May extend into a required yard a distance not exceeding three feet. b. No architectural feature, or combination thereof, whether a portion of a principal or accessory structure, may extend closer than three feet to any property line. |
| G. Accessory Structures (including attached patio covers) | As allowed by Chapter 19.100, Accessory Buildings/Structures |
| H. Design Standards | |
| 1. Building and Roof Forms | |

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| a. Natural Contours | Building shall follow as closely as possible the primary natural contour of the lot. |
| b. Building Mass and Roof Pitches | The main building mass shall be on the upslope side of the building and the roof pitches shall trend downslope. |
| c. Second Story Dormers | Permitted within the second story setbacks as long as they are minor in shape and size. |
| d. Downhill Elevation of main structure | Shall have a minimum of four offset building and roof elements to provide varied building forms to produce shadow patterns which reduce the impact of visual mass. |
| e. High Wall Planes | Wall planes exceeding one story or 20 feet in height, whichever is more restrictive, shall contain architectural elements in order to provide relief and to break up expansive wall planes. |
| 2. Colors | |
| a. Natural Earth Tones | All structures on the lot shall use natural earth tone and/or vegetation colors which complement the natural surroundings. Natural earth-tone and vegetation colors include natural hues of brown, green and shades of gray. |
| b. Reflectivity Value | Shall not exceed 60 on a flat surface |
| 3. Outdoor Lighting | All outdoor lighting shall be identified on the site development plan. |
| a. Tennis Court and Other Recreational Purposes | High-intensity lights not permitted. |
| b. Motion-activated Security Lights | 1. Shall not exceed 100 watts and 2. Must be shielded to avoid all off-site intrusion. |
| c. Other lighting | Must be directed to meet the particular need. |
| I. Geologic and Soils Reports | |
| 1. Applicability | <p>A geological report prepared by a certified engineering geologist and a soils report prepared by a registered civil engineer qualified in soils mechanics by the State shall be submitted prior to issuance of permits for construction of any building or structure which:</p> <ul style="list-style-type: none"> a. Is located on property in an RHS zoning district which has been designated by the General Plan to be within a geological hazard area; and b. Where an addition, alteration or repair of an existing building or structure include at least one of the following: <ul style="list-style-type: none"> i. The improvements include increasing the occupancy capacity |

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| | <p>of the dwelling such as adding a bedroom or secondary unit, or</p> <p>ii. The cost of the completed addition, alteration or repairs will, during any period of twelve months, exceed twenty-five percent of the value of the existing improvements as determined by the building official based on current per foot value of the proposed structure to the existing structure's value on a parcel of property. For the purposes of this section, the value of existing improvements shall be deemed to be the estimated cost to rebuild the improvements in kind, which value shall be determined by the building official.</p> |
| 2. Content of Reports | <p>These reports shall contain, in addition to the requirements of Chapter 16.12 of this code, the following:</p> <ul style="list-style-type: none"> a. All pertinent data, interpretations and evaluations, based upon the most current professionally recognized soils and geologic data; b. The significance of the interpretations and evaluations with respect to the actual development or implementation of the intended land use through identification of any significant geologic problems, critically expansive soils or other unstable soil conditions which if not corrected may lead to structural damage or aggravation of these geologic problems both on-and off-site; c. Recommendations for corrective measures deemed necessary to prevent or significantly mitigate potential damages to the proposed project and adjacent properties or to otherwise insure safe development of the property; d. Recommendations for additional investigations that should be made to insure safe development of the property; e. Any other information deemed appropriate by the City Engineer. |
| 3. Incorporation of Recommendations | <p>All building and site plans shall incorporate the above-described corrective measures and must be approved by the City Engineer, prior to building permit issuance.</p> |
| J. Private Roads and Driveways | |
| 1. Pavement Width and Design | <p>The pavement width and design for a private road or common driveway serving two to five lots and a single-lot driveway shall comply with development standards contained in the Hillside Subdivision Ordinance, Chapter 18.52 of this code.</p> |

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|---|---|
| 2. Reciprocal Ingress/Egress Easement and Reciprocal Maintenance Agreement | The property owner for a lot served by a private road or common driveway shall, prior to issuance of building permits, record an appropriate deed restriction guaranteeing the following, to adjoining property owners who utilize the private road or common driveway for the primary access to their lot(s): a. Reciprocal ingress/egress easement, and b. Participation in a reciprocal maintenance agreement. |
| K. Solar Design | The setback and height restrictions provided in this chapter may be varied for a structure utilized for passive or active solar purposes, provided that no such structure shall infringe upon solar easements or adjoining property owners. Variation from the setback or height restrictions of this chapter may be allowed only upon issuance of an Administrative Conditional Use Permit subject to Chapter 19.12. |

SECTION 10. Row 29 of Table 19.60.030 of Section 19.60.030 in Chapter 19.60.030 of Title 19 of the Cupertino Municipal Code is hereby amended to be read as follows:

19.60.030 Permitted, Conditional and Excluded Uses.

Permitted, Conditional and Excluded Uses that may be conducted from property zoned general commercial (CG), are identified in Table 19.60.030, Permitted, Conditional and Excluded Uses in General Commercial Zoning Districts below.

| Table 19.60.030: Permitted, Conditional and Excluded Uses in General Commercial Zoning Districts | |
|---|-----------|
| Uses | CG |
| 29. Automotive service stations, automobile washing facilities | CUP - PC |

SECTION 11. Row 14 of Table 19.64.020 of Section 19.64.020 in Chapter 19.64.020 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.64.020 Permitted, Conditional and Excluded Uses in Office and Industrial Zones.

Table 19.64.020 sets forth the Permitted, Conditional and Excluded Uses in Office and Industrial zones.

| Table 19.64.020: Permitted, Conditional and Excluded Uses in Office and Industrial Zones | | | | | |
|---|-------------------------|-----------|-----------|-----------|---------------|
| Uses | Zoning Districts | | | | |
| | OA | OP | MP | ML | ML- rc |
| 14. Automotive service stations, automobile washing facilities; | - | - | - | CUP - PC | - |

SECTION 12. Chapter 19.112.030 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

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. | Size of living space, exclusive of decks | | | |
| | 1. Minimum size | 150 s.f. | | |
| | 2. Maximum size | 10% of the net lot area, up to a maximum of 1,000 s.f., or 50 percent of the existing living space of the principal dwelling unit, whichever is more restrictive. | | |
| B. | Second-story accessory dwelling unit | Allowed if the unit: 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 |
| 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. | |

| 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 | |
| | 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. | | |
| 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 public street | All access to accessory dwelling units shall be screened from a public street. | | |

SECTION 13. Sections 19.116.030 through 19.116.060 of Chapter 19.116 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

19.116.030 General Regulations.

A. Community Impacts.

1. Residential Displacement.

a. i. In no case shall an apartment project be converted to a common interest development unless and until it can reasonably be demonstrated that comparable replacement housing exists within the housing market area to accommodate those residents displaced as a direct result of the proposed conversion. The developer shall provide a relocation/displacement plan which illustrates that sufficient replacement housing is available in the housing market area within a price range which is equal to or is less than twenty-five percent of the household income of the tenants to be displaced, or not to exceed the rent being paid for the existing rental unit to be converted,

whichever is higher.

ii. As used in this section "housing market area" means that area bounded by Fremont Avenue located in the City of Sunnyvale, to the north, Lawrence Expressway to the east, Prospect Road to the south, hence along a line generally following the westerly boundary of the Cupertino Urban Service Area northerly to Highway 280, hence easterly along Highway 280 to Foothill Boulevard, hence northerly along Foothill Boulevard to Homestead Road, hence easterly along Homestead to Highway 85, hence northerly along Highway 85 to Fremont Avenue.

b. Replacement housing must be shown to meet any special needs of disabled tenants, which are presently available in the project proposed to be converted, such as facilities for the handicapped, elderly, families with children, and availability of public transportation for the elderly or residents who do not own an automobile. The plan shall also demonstrate that all other provisions relating to tenant protection addressed in the chapter have been fulfilled.

c. A developer may meet the above requirements through the provision of mitigating factors to diminish the number and/or aid relocation of, displaced tenants within the project. Such mitigating measures may include, but are not limited to, discounting the price of project units to tenant buyers, offering a moving allowance, extending leases, or providing below-market-rate units.

d. Notwithstanding the above provisions, in no case shall an apartment house be converted to a common interest development when the vacancy rate for apartment houses within the housing market area is less than five percent at the time of application and has averaged five percent over the past six months as determined by surveys conducted by the Director of Community Development.

1. Conformity with the General Plan. No conversion of apartment houses to community houses to common interest developments shall be permitted unless and until the City Council of the City of Cupertino finds that the proposed conversion will not conflict with the housing goals and policies of the General Plan and will not adversely impact the local school system.

2. Prohibition of Discriminating Against Prospective Buyers with Children. In no case shall a common interest development which has been converted, and which can reasonably accommodate children, as determined in each case by the City Council, limit initial sales to households or individuals without children.

B. Tenant Protection.

1. The developer shall provide each tenant an irrevocable, nontransferable, preemptive right to purchase a unit or right of exclusive occupancy at a price not greater than the price offered to the general public for such unit. Such right shall be irrevocable for a period of ninety days after the commencement of sales or the issuance

of the final public report by the real estate commissioner. Tenants shall have the right to the unit presently occupied and then to other units in the project only after they have been declined for purchase and vacated by the occupying tenants. In no case shall an existing tenant have a preemptive right to more than one unit.

2. The developer shall offer a ninety-day extension of tenancy after the expiration of a lease or rental agreement which would expire prior to or at the time of commencement of sales or issuance of the final public report by the real estate commissioner.

3. The developer shall permit a tenant to terminate any lease or rental agreement without any penalty whatsoever after notice has been given of the intention to convert to a common interest development if such tenant notifies the developer in writing thirty days in advance of such termination.

C. Buyer Protection. The developer shall furnish each prospective purchaser of a unit, a true copy of the conditional use permit issued under this chapter and a copy of each of the following informational documents (the permit and documents shall be printed in Spanish or the purchaser's native language if requested):

1. Property report;
2. Structural pest control report;
3. Structural report and building department report;
4. Building history report;
5. Statement of compliance (Form 643) pursuant to 10 California Administrative Code, Section 2792.9, or its successor, relating to operating and maintenance funds during startup;
6. Soils report as determined in each case by the Director of Planning and Development;
7. Certificate of compliance and occupancy.

D. Building and Site Improvements.

1. All private streets, driveways and parking areas for the common interest developments shall be improved and constructed with a structural section and site dimensions in accordance with the standards of the City of Cupertino and shall be designed to ensure that access for municipal services shall not be denied any dwelling unit therein by reason of deteriorated or impassable private streets, driveways or parking areas, as determined by the Director of Public Works or his or her designee.

2. Sewage collection and water distribution lines on private property and property under common ownership shall be covered by one of the following responsibilities.

a. All lines owned and maintained by the corporations shall be constructed to the City of Cupertino Standard Specifications for Public Works. Water metering and billing shall be provided at each individual townhouse lot as well as for the entire development using a master meter. The difference between the sum of the individual meters and the reading of the master meter will be billed to the corporate structure. A separate sewer lateral shall be provided to serve each individual parcel.

b. All lines to be owned and maintained by the City of Cupertino, a private water utility and/or the Cupertino Sanitary District shall be placed in asphalt concrete driveways, or a covered concrete line trench, acceptable to the Director of Public Works, or appropriate representation of the private water utility or sanitary district (with the necessary public utility easement running through the project) so as to provide accessibility for the maintenance of the lines. A water meter and sewer lateral shall be provided to serve each individual parcel.

c. In cases of conversion to a common interest development not involving individual ownership of separate parcels (e.g., community apartments, stock cooperatives, planned developments, etc.), separate utility services will not be required. In these cases, utilities will be billed to the homeowners association and a cash deposit to secure payment of the bill will be required.

3. Undergrounding Requirements. All structures being converted from individual, corporate or partnership ownership of apartment houses to common interest developments shall, within the exterior boundary lines of such property, have all electrical, communication and similar distribution, service wires and/or cables placed underground.

4. Compliance with Codes. The design, improvement and/or construction of a common interest development shall conform to and be in full accordance with all requirements of all building, fire and housing codes, zoning provisions and other applicable local, State or federal laws or ordinances relating to protection of public health and safety, in effect at the time of the filing of the tentative map. Also, any violations of the latest adopted edition of the Uniform Housing Code as prepared by the International Conference of Building Officials, or its successor, relating specifically to provisions protecting health and safety of residents, shall be corrected, and any equipment or facilities which the Building Official determines are deteriorated or hazardous shall be repaired or replaced. In particular, the developer shall repair or replace any damaged or infested areas in need of repair or replacement as shown in the structural pest report. The interpretation of what constitutes a hazard to public health and safety shall be made by the Director of Community Development, or his or her designee.

5. Separate Metering. The consumption of gas and electricity within each dwelling

unit shall be separately metered so that the unit owner can be separately billed for each utility. The requirements of this subsection may be waived where the Director of Community Development finds that such would not be practical or reasonable. In all cases, a water shutoff valve shall be provided for each unit.

6. Shock Mounting of Mechanical Equipment. All permanent mechanical equipment, including domestic appliances, which is determined by the building official to be a source or a potential source of vibration or noise, shall be shock-mounted, isolated from the floor and ceiling, or otherwise installed in a manner approved by the Building Official to lessen the transmission of vibration and noise.

7. Separate Electrical Panel Boards. Each unit shall have its own panel board of adequate capacity to accommodate all electrical outlets which serve that unit.

8. Impact Sound Insulation. The applicant/owner shall demonstrate that wall and ceiling assemblies conform to the sound insulation performance criteria promulgated in Title 25, California Administrative Code, Section 1092, or its successor, and that any floor covering which is replaced similarly provides the same or greater insulation qualities.

9. Storage Requirements. Private, enclosed, weatherproofed and lockable outdoor storage space shall be provided for each dwelling unit according to the following schedule:

| Number of Bedrooms | Minimum Space in Cubic Feet | Least Dimension |
|---------------------------|------------------------------------|------------------------|
| Studio or 1 | 150 | 2 feet |
| 2 | 200 | 2 feet |
| 3 | 250 | 2 feet |
| 4 | 300 | 2 feet |

The above space shall be provided in the garage or parking area or contiguous to each unit. This requirement may be waived by the Director of Community Development if it is determined that sufficient storage space exists to reasonably attain this standard.

10. Private and Common Area Open Space. The adequacy of open space shall be reviewed in terms of area and privacy standards. Private outdoor space shall be provided for each unit, where practical. The amount of space shall be determined in each case by the size of the unit and amount of common open space. Adjoining units shall be redesigned or landscaped in such a manner so as to preclude visual intrusion into private outdoor yards or interior spaces, where practical.

11. Noise Mitigation. Appropriate site design and construction techniques shall be

utilized to ensure isolation from excessive noise sources outside of the project boundary and to ensure acoustical privacy between adjoining units. If the Director of Community Development determines that an excessive external noise source exists, the developer shall retain an acoustical engineer to evaluate the noise impact on the proposed residential development and develop mitigation measures. The construction shall comply with the applicable City ordinances and State codes relating to sound transmission control to ensure acoustical privacy between adjoining dwelling units.

12. Interim Maintenance Standards. The developer shall be responsible for improving and maintaining the structures and landscaping in accordance with the approved architectural and landscaping plans and good maintenance practices prior to turning them over to the homeowners association. A performance bond shall be collected to ensure compliance with this requirement.

19.116.040 Parking.

A. Off-Street Parking. The project shall provide parking consistent with the multi-family zoning district and the owner shall demonstrate that additional spaces exist to reasonably accommodate guest parking.

B. Applicability of City Ordinances Regulating Parking of Trailers and Recreational Vehicles, Etc. Chapter 19.124, regulating parking and trailers, repairing vehicles, etc., shall apply to the private street(s) and to all parking along such street(s). The parking of recreational vehicles such as boats, trailers, etc., shall be prohibited throughout the entire development unless such parking is within an enclosed area. Vehicular curb parking along the private street(s) shall be prohibited except in designated areas. Appropriate "No Parking" signs shall be installed by the applicant.

19.116.050 Application Requirements.

A. In addition to the requirements of Title 18 of this code (Subdivisions) and the Subdivision Map Act, an application for the conversion of rental housing into any common interest development shall require the submittal of the following data, which data must be submitted to the Director of Community Development at the same time the tentative map is submitted:

1. A complete legal description of the property;
2. Certification that all tenants in any buildings or structure proposed to be converted have been notified individually and in writing prior to the time of filing an application hereunder;
3. A boundary map showing the existing topography of the site and the location of all existing easements, structures and other improvements, and trees over four inches in diameter;

4. The proposed organizational documents. In addition to such covenants, conditions and restrictions that may be required by the Bureau of Real Estate of the State of California pursuant to Title 6 (Condominiums) of the Civil Code or other State laws or policies, the organization documents shall provide for the following:

- a. Conveyance of units,
- b. Assignment of parking and management of common areas within the project,
- c. A proposed annual operating budget containing a sinking fund to accumulate reserve funds to pay for major anticipated maintenance, repair or replacement expenses,
- d. FHA regulatory agreement, if any,
- e. The most recent balance sheet of the association,

5. A provision that the annual assessments to members of any association shall provide for penalties for late payments and reasonable attorney's fees and costs in the event of default of the members;

6. A provision that allows the association to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties after any association assumes control of the project or any time thereafter;

7. A property report describing the condition and estimating the remaining useful life of each of the following elements of each structure situated within the project proposed for conversion: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electrical systems, plumbing systems, including sewage systems, sprinkler systems for landscaping, utility delivery systems, central or community heating and air conditioning systems, fire protection systems including any automatic sprinkler systems, alarm systems, or standpipe systems, and structural elements. Such report shall be prepared by a registered civil or structural engineer, or a licensed general building contractor or general engineering contractor;

8. A structural pest report prepared by a licensed structural pest control operator pursuant to Section 8516 of the CA Business and Professions Code, relating to written reports on the absence or presence of wood-destroying pests or organisms;

9. A structural report describing the physical elements of the project that also identifies any structural elements which are known to be structurally defective or unsafe so as to impose a hazard to the health and safety of the occupants or users of the improvements, with the final map submittal. The Director of Community Development shall maintain a form containing a reasonable list of physical elements to be described in the report, which form shall be made available to the applicant. The applicant shall arrange for project inspections by the Building Department to verify the accuracy of the deficiencies noted in the structural report. The Building Official shall prepare a report

detailing building code deficiencies or other health and safety deficiencies which must be corrected prior to sale of units of occupancy;

10. A building history report including the following:

- a. The date of construction of all elements of the project,
- b. A statement of the major uses of the project since construction,
- c. The date and description of each major repair of any element since the date of construction,
- d. The date and description of each major renovation of any element since the date of construction,
- e. A statement regarding current ownership of all improvements and underlying land,
- f. The name and address of each present tenant of the project,
- g. Failure to provide information required by subsections A1 through A6 of this section, inclusive, shall be accompanied by an affidavit, given under penalty of perjury, setting forth in detail all efforts undertaken to discover such information and all reasons why such information cannot be obtained;

11. A rental history detailing the size in square footage, the current or last rental rate, the monthly rental rate for the preceding two years, and the monthly vacancy over the preceding two years of each rental unit proposed to be converted;

12. Condominium Plan. The application for final subdivision map shall include a copy of the condominium plan prepared pursuant to the CA Civil Code, Section 1351. The plan shall be submitted for the information of the local governing body and need not be part of the subdivision map;

13. Project Organization. A written description regarding the proposed project organization including the use and control of the common elements and recreation facilities within the project shall be submitted with the tentative map. The statement shall detail any proposed control of common facilities to be retained by the developer or to be owned or maintained by any other organization other than the homeowners association or unit owners.

14. True Copy of Application for Final Public Report and Supplemental Questionnaire. The application shall include the following information, except that if the information required to be furnished below is not available at time of application, as a condition of approval of the permits issued pursuant to this Chapter, the developer shall provide this information to the City within ten days of issuance by the Bureau of Real Estate:

- a. A true copy of each application submitted to the Bureau of Real Estate of the State

of California for issuance of a final public report for the project proposed for conversion, including all attachments and exhibits required pursuant to Section 11011 of the Business and Professions Code.

b. A true copy of the statement of compliance (Form 643, as amended) pursuant to 10 California Administrative Code, Section 2792.9, or its successor, relating to operating and maintenance funds during the early stages of ownership and operation by the homeowner's association.

c. A statement whether the developer will provide any capital contribution to the homeowner's association for deferred maintenance of the common areas, and if so, the sum and date on which the association will receive said sum;

d. A true copy of the supplemental questionnaire for apartments converted to common interest developments submitted to the Bureau of Real Estate of the State of California, including all attachments and exhibits.

15. Relocation Displacement Plan. A relocation displacement plan shall detail the number of residents which will be displaced as a result of the proposed conversion and document the reasonable availability of comparable replacement housing in the Cupertino area within a rental range equal to the range which the tenants have paid as detailed in a rental report (See Section 19.116.050A11) or within a price range which is equal to or less than twenty-five percent of the income range of each household to be displaced as a result of the conversion whichever is higher. Additionally, replacement housing must be shown to meet any special needs, which are presently available in the project, of displaced tenants such as facilities for the handicapped, elderly, households with children, and availability of public transportation for the elderly or resident buyers who are temporarily displaced pending completion of improvements to the units being purchased;

16. Soils Report. A true copy of the soils report originally prepared for the subject property. In cases where a soils report has never been prepared or when information in previous reports is considered insufficient, then the developer shall provide a soils report prepared by a registered civil engineer, or equivalent, which details information as determined by the Director of Public Works;

17. All information required by Chapter 18.16 or Chapter 18.20, as the case may be, Chapter 19.12, Chapter 19.80, and such information which the Planning Commission or the Director of Community Development determines is necessary to evaluate the proposed project.

19.116.060 Application Procedures.

A. Zoning. Any apartment house project proposed to be converted to a common interest development shall be rezoned to the R1C (single-family cluster) or P(Res)

(planned development project with residential intent) zoning district.

B. Use Permit and Tentative Map or Parcel Map Required. No conversion shall be permitted unless and until a conditional use permit and tentative map or parcel map has been applied for and issued pursuant to and in accordance with the provisions of this chapter and the requirements of the Subdivision Map Act or its successor.

C. Property and Structural Pest Report.

1. After reviewing the property, structural and structural pest reports required to be submitted pursuant to Section 19.116.050A8 and inspecting the structures situated within the project when he or she deems such inspection necessary, the Building Official shall identify all items if evidenced by such reports and/or inspection to be hazardous to the life, health or safety of the occupants of such structure within the project, or the general public. Each permit issued hereunder shall require all of such items to be corrected to the satisfaction of the Building Official.

2. The Building Official shall review the property report and may require its revision and resubmission if he or she determines that substantial evidence shows that any statement therein is without foundation or fact. The report may be revised to reflect improvement, repair or replacement.

D. Project Organization Document Review. The project organization documents shall be submitted to the City Attorney for a determination that such documents comply with the requirements of this chapter and the applicable State laws.

E. Compliance with Housing, Building Codes and Fire Regulations. If the proposed project does not comply with the provisions of the State of California Uniform Building Code and regulations of the Santa Clara Central Fire Protection District, and/or the Building Official identifies items to be corrected as provided in the above, any use permit issued pursuant to this part shall require the developer to furnish a bond, in a penal amount equal to the reasonable estimated cost to bring their project into compliance with such codes, such fire regulations and/or such identified items to be corrected. The bond shall run in favor of the individual purchasers and the homeowners association and shall provide for reasonable attorney's fees in the event of default by the principal. The City shall hold the bond pending issuance of the certificate of completion.

F. Public Hearings.

1. The City Council is the approval authority for condominium conversion applications with a recommendation for approval or denial from the Planning Commission.

2. If the City Council approves the proposed conversion, the applicant will be required to submit detailed plans with an application for Architectural and Site

Approval for any exterior alterations or improvements to the buildings and/or landscaping. The Planning Commission will make a final recommendation to the City Council regarding the improvements. The City Council's final action will be a review of the architectural plan to determine approval or denial of the project.

3. The final map for the project will be reviewed in compliance with Title 18, Subdivisions of the Municipal Code.

G. Letter Certifying Compliance. The Director of Community Development shall cause a final inspection of all buildings and structures to be made, upon request by the developer, to determine that the requirements of this chapter have been fulfilled. The Building Official shall then mark the inspection report to show the corrections, repairs and replacements which have been made. If complete, the Director will cause to be issued a letter certifying compliance with all of the conditions and approvals and with this title and authorize sale and/or occupancy of the units. No building or unit applied for under this chapter shall be sold without the letter certifying compliance and approving occupancy.

SECTION 14: 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 15: Effective Date.

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

SECTION 16: 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 17: 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 5th day of July 2017 and **ENACTED** at a regular meeting of the Cupertino City Council on this 1st day of August 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

City Clerk

Mayor, City of Cupertino