

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO  
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE  
AMENDING CHAPTER 19.08, DEFINITIONS, AND CHAPTER 19.112,  
ACCESSORY DWELLING UNITS IN R-1, RHS, A AND A-1 ZONES  
(RESIDENTIAL ZONING DISTRICTS) TO CONFORM TO NEW STATE LAWS

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The Planning Commission having heard this matter on November 14, 2017 during a regularly noticed public hearing, and after hearing from the public and considering staff's recommendations;

NOW, THEREFORE, the Planning Commission of the City of Cupertino hereby recommends approval of the proposed Ordinance in substantially the form as shown in Exhibit "A," attached hereto.

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PASSED AND ADOPTED this 14<sup>th</sup> day of November 2017, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:  
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

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Benjamin Fu  
Assistant Director of Community Development

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Don Sun, Chair  
Planning Commission

EXHIBIT "A"

**Draft Ordinance No. 17-XXXX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
AMENDING CHAPTER 19.08, DEFINITIONS AND CHAPTER 19.112,  
ACCESSORY DWELLING UNITS IN R-1, RHS, A AND A-1 ZONES  
(RESIDENTIAL ZONING DISTRICTS) TO CONFORM TO NEW STATE LAWS

**WHEREAS**, recent changes in state law require that cities prioritize and allow ministerial approval of Accessory Dwelling Units to help address the housing crisis, and the City desires to update its Accessory Dwelling Units ordinance to conform with Assembly Bill 494 and Senate Bill 229, which are codified in California Government Code section 65852.2;

**WHEREAS**, regulations regarding Accessory Dwelling Units are codified in Chapter 19.112 of the Cupertino Municipal Code, and with this proposed ordinance the city seeks to make appropriate amendments to ensure conformity with the new state laws;

**WHEREAS**, this Ordinance is determined to be statutorily exempt from the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") under Public Resources Code section 21080.17 (Application of Division to Ordinances Implementing Law Relating to Construction of Dwelling Units and Second Units) and CEQA Guidelines Section 15282(h) as the adoption of an ordinance by a city to implement the provisions of Government Code Section 65852.2.

**WHEREAS**, the City Council is the decision-making body for this Ordinance, and based on its independent judgment determines that the Ordinance is not a project as defined by CEQA and is further statutorily exempt from CEQA as stated above;

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

**SECTION 1.** Chapter 19.08.030 of Title 19 of the Cupertino Municipal Code is hereby amended to repeal and add the following definitions:

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

"Single family residence," for purposes of Chapter 19.112, shall mean only detached single family dwelling units that are not detached row-houses, duplexes, townhouses, or condominiums or properties that have a shared ownership interest in common open space or recreational areas.

**SECTION 2.** The title to Chapter 19.112, “Accessory Dwelling Units in R-1, RHS, A and A-1 Zones” is hereby amended to be entitled and to read “Chapter 19.112, Accessory Dwelling Units.”

**SECTION 3.** Section 19.112.020 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

**19.112.020 Applicability of Regulations.**

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

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

**SECTION 4.** Table 19.112.030 of Section 19.112.030 of the Cupertino Municipal Code is hereby amended to read as follows:

<b>Table 19.112.030: Site Development Regulations for Accessory Dwelling Units</b>			
		<b>Conversion of space entirely within existing structures</b>	<b>New Construction and/or Additions</b>
			<b>Attached to Principal Dwelling Unit</b> <b>Detached from Principal Dwelling Unit</b>
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	Allowed if the unit: 1. Is a conversion of existing second story	Not allowed

**Table 19.112.030: Site Development Regulations for Accessory Dwelling Units**

		Conversion of space entirely within existing structures	New Construction and/or Additions	
			Attached to Principal Dwelling Unit	Detached from Principal Dwelling Unit
	dwelling unit	portions of the principal dwelling unit; and  2. Complies with applicable landscape requirements to adjoining dwellings consistent with Section 19.28.120		
C.	Parking			
	1. Parking for accessory dwelling unit	None	One additional off-street parking space shall be provided, if the principal dwelling unit has less than the minimum off-street parking spaces for the applicable residential zoning district in which it is located, as required in Chapter 19.124 unless the unit meets the following requirements:  a. Is within one-half (1/2) mile of a public transit stop; or  b. Located in an architecturally and historically significant historic district; or  c. Occupant of the ADU is not allowed/ offered a required on-street parking permit; or  d. Located within one block of a car share vehicle pick-up location.	
	2. Replacement parking spaces when new accessory dwelling unit converts existing covered, uncovered or enclosed parking spaces required for the principal	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		

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units			
		Conversion of space entirely within existing structures	New Construction and/or Additions
			<div>Attached to Principal Dwelling Unit</div> <div>Detached from Principal Dwelling Unit</div>
	dwelling unit	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 5: 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 6: Effective Date.** This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

**SECTION 7: 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 8: 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 \_\_\_\_<sup>th</sup> day of December 2017 and **ENACTED** at a regular meeting of the Cupertino City Council on this \_\_\_\_ day of January 2018 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

ATTEST:

APPROVED:

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City Clerk

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Mayor, City of Cupertino