

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
CUPERTINO RECOMMENDING THAT THE CITY COUNCIL ADOPT AN  
ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
AMENDING CHAPTER 19.112, ACCESSORY DWELLING UNITS

---

The Planning Commission recommends approval of the proposed Ordinance with the findings reflected in the proposed Ordinance, which the Planning Commission makes as though set forth in their entirety in this Resolution and in substantially the form as shown in Exhibit "A," attached hereto and entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
AMENDING CHAPTER 19.112, ACCESSORY DWELLING UNITS

---

PASSED AND ADOPTED this 11th day of June 2019, 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:

---

Benjamin Fu  
Acting Director of Community Development

---

R Wang  
Chair, Planning Commission

EXHIBIT "A"

**Draft Ordinance No. 19-XXXX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
AMENDING CHAPTER 19.112, ACCESSORY DWELLING UNITS

**WHEREAS**, this Ordinance is determined to be exempt from environmental review under the California Quality Act of 1970 (Public Resources Code section 21000 *et seq.*) ("CEQA"), together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et seq.*) (hereinafter, "CEQA Guidelines"), in that an Ordinance to implement the provisions of Government Code Section 65852.2 is statutorily exempt from CEQA under Public Resources Code Section 21080.17. Any portion of the proposed Ordinance that is not statutorily exempt 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 the 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). and

**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; and

**WHEREAS**, as required by Cupertino Municipal Code Section 19.152.030, the City Council makes the following findings in connection with the changes to zoning regulations proposed in Chapter 19.112:

1. That the proposed zoning is in accord with Title 19 of the Municipal Code and the City's Comprehensive General Plan.

*The Ordinance modifies Title 19 to eliminate the limitation to '10% of the net lot area' development standard. The proposed change would be consistent with Title 19 and the General Plan because the maximum FAR allowed on any given lot would not change, but larger ADUs would be allowed to be built on smaller lots, promoting additional housing development while minimizing adverse impacts to neighborhoods.*

2. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).

*Adoption of zoning code provisions regarding accessory dwelling units are statutorily exempt from CEQA under Public Resources Code Section 21080.17.*

3. The site is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation(s) and anticipated land use development(s).

*The Ordinance does not change permitted uses or density within the affected zones; it simply eliminates a size constraint limitation, deferring to existing FAR limits to control anticipated development intensity.*

4. The proposed zoning will promote orderly development of the City.

*By updating the ADU development standards, the Ordinance allows for additional affordable housing development in a way that is consistent with existing FAR controls in Title 19, thereby promoting orderly development.*

5. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.

*The Ordinance proposes a limited change in ADU development standards, and development controls such as FAR will continue to apply, ensuring that new development is not detrimental to the health, safety, peace, morals and general welfare.*

6. The proposed amendments are internally consistent with Title 19.

*All necessary chapters and section of the Title 19 have been amended to ensure internal consistency with the proposed regulations.*

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

**SECTION 1.** Table 19.112.030 of Section 19.112.030 of Chapter 19.112 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units				
			New Construction and/or Additions	
		Conversion of space entirely within	Attached to Principal Dwelling Unit	Detached from Principal Dwelling Unit

		existing structures		
A.	Size of living space, exclusive of decks			
	1. Minimum size	150 s.f.		
	2. Maximum size	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		
C.	Parking			
	1. Parking for accessory dwelling unit	None	One additional off-street parking space shall be provided, if the principal dwelling unit has less than the minimum off-street parking spaces for the applicable residential zoning district in which it is located, as required in Chapter 19.124 unless the unit meets the following requirements:  a. Is within one-half (1/2) mile of a public transit stop; or  b. Located in an architecturally and historically significant historic district; or  c. Occupant of the ADU is not allowed/  offered a required on-street parking permit; or  d. Located within one block of a car share vehicle pick-up location.	

	2. Replacement parking spaces when new accessory dwelling unit converts existing covered, uncovered or enclosed parking spaces required for the principal dwelling unit.	<p>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.</p> <p>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.</p> <p>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.</p>
D.	Direct outside access	<p>1. Independent outdoor access must be provided without going through the principal dwelling unit.</p> <p>2. Where second-story accessory dwelling units are allowed, entry shall not be provided by an exterior staircase.</p>
E.	Screening from public street	All access to accessory dwelling units shall be screened from a public street.

## **SECTION 2: 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 3: Effective Date.**

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

## **SECTION 4: 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 5k:** 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 \_\_\_\_ day of \_\_\_\_\_ 2019 and **ENACTED** at a regular meeting of the Cupertino City Council on this \_\_\_\_ of \_\_\_\_\_ 2019 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor, City of Cupertino