



City of Palo Alto

City Council Staff Report

(ID # 5492)

Report Type: Study Session

Meeting Date: 3/9/2015

Summary Title: Vacation Rentals/HOU

Title: Short-Term Rentals and Home Occupation Uses in Residential Neighborhoods

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

This study session is intended to allow for discussion regarding potential adjustments to the City's zoning regulations to address short-term rentals and home occupations in residential districts. No action is recommended at this time, though Council may wish to provide direction.

Executive Summary

At the December 15, 2014, Council meeting Council members Kniss, Holman, Klein and Price presented a Colleague's Memo that identified a need for consideration of regulation for Short-Term Rentals in Residential Neighborhoods. They asked the Council to consider studying this issue in the immediate future, so that the City could get out in front of a potential problem. In describing the problem, they noted the loss of transient occupancy tax revenues from such rentals, the impact on the availability and cost of housing, potential traffic and parking impacts in the residential neighborhoods, and neighborhood safety issues. In their discussion and subsequent motion, the City Council requested a broader look at the commercialization of the residential neighborhoods. (See Attachment A for the Colleagues Memo and Action Minutes from December 15, 2014.)

Local jurisdictions throughout the country and the region are grappling with these issues, and staff has provided two local ordinances addressing short-term rentals in residential neighborhoods. These two ordinances, from San Francisco and San Luis Obispo, present two different approaches to regulating short-term rentals in residential neighborhoods. In San Luis Obispo, the focus is clearly on maintenance and protection of the quality of life in the existing residential neighborhoods. In the City and County of San Francisco, the focus is on protecting the existing housing stock and preserving current housing policy including San Francisco's

grandfathered rent control system¹ and protecting the availability of affordable units. Both jurisdictions use an administrative permit requirement to implement and enforce regulations associated with short-term rentals. Both require that the owner or renter who is participating obtain a business license and enroll in the Transient Occupancy Tax (TOT) program. Enforcement is based on violation of the administrative permit, including failure to pay required TOT, and enforcement actions vary depending upon the jurisdiction's general approach to enforcement.

If the City of Palo Alto were to regulate short-term rentals in a manner similar to San Francisco or San Luis Obispo, the steps involved would take a minimum of eight or nine months and are outlined towards the end of this staff report. This estimate presumes that the Council would prioritize this issue over other complex zoning issues currently being explored. At present, short term rentals are not permitted under the City's zoning code in almost all residential zones. Code enforcement staff are engaged in targeted and complaint-based enforcement focusing on dormitory or de-facto hotel type arrangements.

Background

At the December 15, 2014, Council meeting, four Council members presented a Colleagues Memo asking that the Council consider directing staff to take immediate action on an ordinance to address Short-Term Rentals in residential neighborhoods of the City. In the Council's resulting action, they asked staff to prepare a report and schedule a study session to:

- Identify what actions the City has taken;
- Address the various questions posed by businesses that facilitate short-term rentals of rooms, apartments or houses in residential neighborhoods;
- Suggest how the increased commercialization of the residential neighborhoods can be addressed; and
- Focus on what actions the City can take.

The Council also asked staff to schedule a study session before March 31, 2015.

Current Zoning Provisions

The City's zoning ordinance defines permitted uses in residential districts, including residential uses and "home occupations when accessory to permitted residential uses." Relevant sections of the zoning code are those addressing residential uses (Attachment B: Chapter 18.10 Low Density Residential Districts, Chapter 18.12 R-1 Single Family Residential District, Chapter 18.13 Multiple Family Residential Districts) and the definition of "dwelling unit" in Section 18.04.030(46):

"Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking, and sanitation/bathing facilities, constituting a separate and independent

¹ Cities' authority to adopt new rent control legislation has been preempted by a State law known as "Costa Hawkins."

housekeeping unit, occupied or intended for occupancy on a nontransient basis and having not more than one kitchen.

Also relevant are the definitions of “accessory use” and “home occupation” in Sections 18.04.030(143A) and 18.04.030(71):

“Accessory use” means a use which is incidental to, and customarily associated with a specified principal use, and which meets the applicable conditions set forth in Chapters 18.40 and 18.42.”

“Home Occupation” means an accessory activity conducted in a dwelling unit solely by the occupants thereof, in a manner incidental to residential occupancy, in accord with the provisions of this title. (For further provisions, see regulations for home occupations in Section 18.42.060.)

The limitations on home occupations in Section 18.42.060 include provisions requiring that the activity be conducted in a manner that is compatible with the residential uses permitted, not use more than 25% of the gross floor area (or 500 square feet, whichever is less) of the dwelling, not generate traffic or parking demand or deliveries substantially more than customarily associated with residential occupancy of the dwelling. The City does not have a permit process for home occupations.

Based on these code sections, the short term or “transient” rental of dwelling units or portions of dwelling units (i.e. bedrooms) is not currently permitted, and neither is the use or rental of dwelling units or portions of dwelling units for business activities involving employees who do not reside in the dwelling. The City has adopted a generally accepted definition of “transient” occupancy as “occupancy lasting less than 31 days” and collects a transient occupancy tax (TOT) for such uses as provided in Palo Alto Municipal Code Chapter 2.33.

Note however that the Code was drafted before introduction of the “shared economy” business model. Once Council has provided policy direction on this issue, staff will likely recommend clarifying code changes to more specifically address these newer shared economy models.

The City’s Code Enforcement Program

Code enforcement is a resource-intensive activity, and the level of zoning enforcement that can be accomplished in any jurisdiction is governed to a large extent by the resources allocated to the function. Palo Alto currently has two code enforcement officers responsible for building and zoning code violations, including violations associated with conditions of approval adopted in conjunction with discretionary planning entitlements. These code enforcement officers are supported by approximately 0.2 FTE (Full Time Equivalent) in the City Attorney’s office, and receive assistance on specific enforcement actions from building inspectors, the Police Department, the Fire Department and other City staff.

Largely because of these limited resources, the City's code enforcement program operates largely on a "complaint" basis. In other words, the code enforcement officers prioritize investigation and abatement of violations that are reported by a member of the public who is directly affected by the violation. For example, if a resident observes unusual levels of activity in a house next door, and/or traffic to and from the adjacent residence is affecting the availability of parking or the character of a quiet residential street, they can report this to the City via phone, using a complaint link on our website www.cityofpaloalto.org, or through the City's 311 system. Code enforcement staff will then investigate and take appropriate steps to abate any violation that exists. Steps routinely involve an initial notice seeking voluntary compliance with City code requirements, and escalate if that initial notice is not effective.

In addition to complaint-based enforcement, given the large number of short-term rental listings in the City, code enforcement officers have prioritized situations where whole houses or apartments are turned over to short-term rental use, including especially dense uses such as bunk beds rented separately. In the past year and a half, the City's code enforcement staff has received seven complaints from residents affected by short term rentals or home occupations and has issued notices to the owners of the properties. Of the seven, two were determined not to be code violations. Of the remaining five cases, four have been addressed and closed, with additional monitoring as required, and one is ongoing. Many of the properties where there have been complaints have been in the downtown neighborhoods near University Avenue. In most of the cases the individual renting out the rooms on a short term basis has been a tenant. In a couple of cases, the person renting the rooms has been a 'manager' who may or may not be a resident on the site. These cases have been more difficult to resolve. Neighbor complaints are often prompted by parking impacts, noise, heavy use of outdoor spaces inconsistent with typical residential use, frequency of 'unknown' persons on the property, and suspected commercial/office use of a house.

In the last year, code enforcement staff has also received ten complaints related to home occupations. Three were investigated and closed due to insufficient evidence of a code violation, and seven were pursued as violations and the cases were closed.

This code enforcement activity has affected a small fraction of the home occupations and short term rentals staff believes are operational in Palo Alto. According to the San Jose Mercury News of December 8, 2014 (cited in the December 15, 2014 Colleagues Memo), there are likely three to four hundred Airbnb listings in Palo Alto, a number that staff has not been able to verify. A precise inventory and comprehensive enforcement are hampered by the fact that properties are listed on websites like Airbnb and VRBO without their addresses, and home occupations do not require a permit from the City.

Transient Occupancy Tax

The City's transient occupancy tax (TOT) ordinance provides for collection of a tax from businesses who rent accommodations on a short term basis. The TOT applies to homeowners

or companies who may be renting bedrooms or dwelling units on a short term basis, even if this activity violates the City's zoning ordinance. Entities required to pay TOT are also required to register with the City, and can be audited on an as-needed basis. If a business fails to collect or remit the TOT as required, the City may impose penalties, estimate the amount of tax due, and bring legal action to collect the tax due.

The recent voter-approved amendment to the TOT provides that "rental agents" that collect rent but do not directly operate transient lodging are subject to the same obligations as a hotel operator to collect and remit the TOT. Staff is in the process of notifying Airbnb and other brokers, websites and providers of the requirement to collect and remit the TOT.

Discussion

There are a variety of policy questions raised by the issue of short term rentals, as noted in the Colleagues Memo and subsequent Council discussion. Not least of these is the potential effect on the availability of housing for residential (rather than transient) use and the potential "commercialization" of Palo Alto's residential neighborhoods. However, there are also reports of those who rent rooms to generate income to defray the high cost of housing or meet other needs, such as food and health care. Community engagement prior to regulatory changes or enhanced enforcement activities can provide more information regarding these issues and perspectives.

Sample Ordinances

Two recent ordinances are attached, one from San Luis Obispo (effective November 2014), and one from the City and County of San Francisco (effective February 1, 2015). These ordinances document the differences in how the issues of commercialization represented by Short-Term Rentals in residential neighborhoods can be addressed. Because of a strong residential neighborhood affinity and the availability of a mix of housing, single family, duplex and multiple family, plus affordable and inclusionary units in Palo Alto, an effective land use regulation and enforcement program is likely to require a combination of the two approaches. However these sample ordinances can be used to outline the decisions Palo Alto would need to consider in crafting new regulations or enhancing enforcement activities if desired.

San Luis Obispo. This ordinance distinguishes between Bed and Breakfast Inns, Vacation Rentals and Homestay (owner occupied short-term rentals). Vacation Rentals are defined as a dwelling or part of a dwelling where lodging is furnished for compensation for fewer than thirty consecutive days without concurrently being occupied by the owner/operator. The ordinance defines a "Homestay" rental as an owner occupied dwelling unit where bedrooms are provided for short-term rental with a maximum of 4 overnight guests. (Attachment C: City of San Luis Obispo, Municipal Code Chapter 17.08: Uses Allowed in Several Zones and Chapter 17.222: Use Regulation).

Under the San Luis Obispo ordinance, homestays are permitted subject to certain procedures and conditions and short term rentals that do not involve owner occupied units (i.e. vacation rentals) are expressly prohibited.

The ordinance focuses on quality of neighborhood issues such as the number of guests allowed, provision of parking, mandated inspections for building and fire safety, and the use of accessory buildings (prohibited). Further it requires an administrative permit issued by the Community Development Director which includes requiring a business license, evidence of enrollment to pay TOT and TBIC taxes, verification of owner occupancy and a site plan to show where on-site parking would be provided (one space on-site more than the parking required for the residential unit.) Enforcement is based on the administrative permit, failure to pay TOT and other taxes, and neighbor complaint. Enforcement is the responsibility of the Community Development Department, which issues the Homestay Administrative Permit.

Preparation of the San Luis Obispo ordinance included not only outreach to the public and local business organizations but also the participation of the Planning Department, the City Attorney, the Finance Department, the City's business liaison, and the Building and Fire Departments.

City and County of San Francisco. San Francisco's ordinance focuses on the impact of short-term rentals on the San Francisco housing market and on current regulations that the city places on housing. It permits short-term rentals that meet a collection of criteria: rentals offered by a Permanent Resident whose name appears on at least two items (driver's license, vehicle registration, voter registration, tax documents showing homeowner's exemption, utility bill); the Permanent Resident must be a 'natural person' not a business or corporation; the Permanent Resident must occupy the Residential Unit for 275 days out of a calendar year; the Permanent Resident must be in good standing in the Planning Department's Short-Term Residential Rental Registry; and the unit is not subject to the Inclusionary Affordable Housing Program, is not a residential hotel unit and no other State, Federal, or municipal regulation prohibits the resident from subleasing or renting the unit. (Attachment D: City and County of San Francisco, Administrative, Planning Codes – Amending Regulations of Short-Term Residential Rentals and Establishing Fee)

The ordinance places controls on Short-Term Rental Units, with a maximum number of renters based on unit size (studio-1 person, one-bedroom- 3 people, two bedroom- 4 people, four bedroom -8 people, or the maximum allowed under the Uniform Building (UBC) or Fire (UFC) codes. Further, since the Permanent Resident must be on site for 275 days a year, a unit can only be rented for 60 days without the Permanent Resident on site. The individual identified as the Permanent Resident is also the Responsible Party for maintaining and managing the unit, and for paying all required taxes. There can be only one Permanent Resident identified per unit. Compliance with the UBC and UFC, including annual inspections, as well as Housing Policy compliance is required.

The regulations make it clear that short-term rentals do not change the type of residential use and that it includes all kinds of housing e.g. single-family, duplex, multiple family, condominiums (if the CC&R's allow it), work/live units, etc. San Francisco requires that the Permanent Resident maintain liability insurance of at least \$500,000 to defend and indemnify the owner and any tenants in the building. If the short-term rental unit is subject to rent control the Permanent Resident cannot charge the short-term renter more than the Permanent Resident is paying the landlord.

The City and County of San Francisco requires an Administrative Permit for Short-Term Rentals. In order to get a permit, San Francisco requires that the applicant have both a Business License and evidence of enrollment to pay Transient Occupancy Tax, which is the responsibility of the Permanent Resident. A fee is paid for the permit, which results in registration of the unit as a short-term rental. Registration is good for two years and may be renewed.

The responsibility for maintaining records on occupancy and the number of days rented and annual reporting of such information rests with the Permanent Resident. The Permanent Resident may contract with a hosting platform (for example Airbnb) to collect and pay the TOT to San Francisco. Enforcement includes hefty fines for the Hosting Platform that fails to pay required TOT as well as to the Permanent Resident. Enforcement is based on a "three violations and you're out" basis including violations by the listing hosting platform which fails to remit TOT to San Francisco. Payment for the enforcement action is borne by the Permanent Resident and/or hosting platform.

Next Steps/Actions the City Can Take

Short term rentals of dwelling units or bedrooms for less than 30 days are currently prohibited in Palo Alto, although we know the activity is occurring and that property owners are failing to pay TOT as required. The City currently lacks the staff resources to proactively enforce this zoning code violation and thus has to prioritize the most intensive uses based on complaints from affected residents. Also, the City is in the early stages of addressing the issue of unpaid TOT. In November 2014, voters amended the TOT ordinance to explicitly require brokers and websites to collect and remit TOT. Staff is now in the process of initiating outreach to rental agents like Airbnb. If voluntary compliance is not obtained, additional enforcement steps could include use of subpoenas to gather information and potential legal action to obtain compliance with the TOT requirement.

Staff believes that enforcement could be enhanced with the addition of staff or consultant resources. Enforcement would also be aided by an ordinance amending the zoning code to indicate under what circumstances, if any, the City would permit short-term rentals, and instate a permit process for such rentals. For example, the City could use the approach of San Luis Obispo and permit short term rentals where units are owner occupied and meet certain physical criteria. Or the City could use the approach of San Francisco, and permit short term rentals where units are owner occupied for a percentage of the year and the number of short term vacation rentals is limited. Other restrictions would have to address potential impacts on

below market rate (BMR) units and rent stabilization requirements contained in Municipal Code chapters 18.14 and 9.68.

The City could also institute a permit process for home occupations, which would allow staff to review whether criteria in the Code would be met by the proposed use, and allow the City to revoke the permit if violations occur and are not immediately remedied.

Timeline

Staff's research demonstrates that regulations affecting short term rentals are controversial and time consuming for staff and for policy makers. We estimate that it could take a minimum of eight or nine months to develop a proposed ordinance, obtain community input, and move through the public review and approval process.

The general steps would be as follows:

- Receive Council and public input at this study session
- Develop a proposed approach and gather public input in an organized way (public meeting, interviews with key stakeholders, etc.)
- Return to the City Council for direction regarding details of a proposed ordinance
- Prepare a draft of the ordinance for review by the Planning and Transportation Commission (PTC) at a public hearing
- Bring the PTC's recommended ordinance forward to the City Council for consideration and possible action. Thirty days after the second reading of the ordinance and adoption action by Council, the ordinance will become law.

Resource Impact

The Department of Planning and Community Environment is currently short staffed and prioritization of this issue may affect delivery of other requested zoning changes until staffing vacancies are filled.

Enforcement efforts for both code violations and TOT non-compliance are labor-intensive. The City Attorney's Office will assess its capacity over the coming months, in light of staffing levels and other urgent priorities.

Policy Implications

The City's Comprehensive Plan emphasizes the importance of the City's residential neighborhoods and the quality of life for residents. The plan also emphasizes the need to increase and maintain the diversity of the City's housing stock, and sets limits "where necessary to ensure that business and housing remain compatible" (p. 1-3).

Environmental Review

No decision is requested at this study session, so review under the California Environmental Quality Act (CEQA) is not required.

Attachments:

- Attachment A: Colleagues Memo and Excerpt Action Minutes of the December 15, 2014 City Council Hearing (PDF)
- Attachment B: Palo Alto Zoning Code Chapters 18.10, 18.12, and 18.13 (PDF)
- Attachment C: City of San Luis Obispo, Municipal Code Chapters 17.08 and 17.22(PDF)
- Attachment D: City and County of San Francisco, Administrative Planning Code Amending Regulations for Short-Term Residential Rentals and Establishing Fee (PDF)



CITY OF PALO ALTO OFFICE OF THE CITY CLERK

December 15, 2014

The Honorable City Council
Palo Alto, California

Colleagues Memo From Vice Mayor Kniss and Council Members Holman, Klein and Price Regarding Regulation of Short-term Rentals in Residential Neighborhoods (e.g., Airbnb and Related Businesses)

Requested Action: Direct staff to conduct a study session with Council no later than March 31, 2015, on the various questions posed by businesses that facilitate short-term rentals of rooms, apartments or houses in residential neighborhoods (e.g., Airbnb, VRBO, etc.), what actions the City has taken, and what actions, if any, the City should take.

Discussion: “Sharing economy” websites such as Airbnb, VRBO, and others provide applications that allow owners of residential property to rent some or a portion of their properties to travelers seeking such accommodations. Airbnb, for example, is only four years old but it is already a world wide business with a multi-billion dollar valuation. These businesses are also controversial.

Among the Palo Alto issues posed by these businesses are: the collection of the transient occupancy tax on rentals and whether our zoning regulations should allow such rentals in residential neighborhoods. Other cities are finding other problems with the Airbnb model such as its impact on the availability and cost of housing (San Francisco) and potential traffic and parking impacts in the neighborhoods.

Another concern raised by community members is one of safety. Without some form of registration, as a hotel would have, or some means of notification, residents have no way of knowing who is taking up residence, albeit on a short term basis, next door to them.

Palo Alto presently has about three to four hundred Airbnb listings per night, about the same as San Jose (see S.J. Mercury News of Dec. 8, 2014). San Jose, with a 10% TOT estimates that they have been losing \$150,000 per year in taxes. With our 14% TOT our calendar 2015 equivalent number is \$210,000.

San Jose, San Francisco and a few other larger cities have been negotiating agreements with Airbnb and other similar businesses on taxation and other matters. Our situation may be different than these larger cities in some respects, but we believe it's time for us to review what has been done and consider what additional steps Palo Alto should take.

We have provided an advance copy of this memo to the Manager and Attorney per our protocols.

Resource Impact

Existing staff (Planning, ASD and the City Attorney's Office) will collaborate on preparation of background material to support an initial study session. Follow up tasks, such as community outreach and preparation of potential zoning amendments, broad enforcement efforts or initiation of legal action, may require substantial additional staff resources in Planning, Code Enforcement, Communications and Legal. Reprioritization of other work and/or supplemental outside resources may be required. These are factors that will need to be considered, subsequent to the study session, if Council decides to make changes in our ordinances and practice.

Department Head: Beth Minor, Acting City Clerk



CITY OF PALO ALTO CITY COUNCIL EXCERPT MINUTES

Regular Meeting
December 15, 2014

24. Colleagues Memo from Vice Mayor Kniss and Council Members Holman, Klein and Price Regarding Regulation of Short-Term Rentals in Residential Neighborhoods (e.g., Airbnb and Related Businesses)

MOTION: Council Member Klein moved, seconded by Vice Mayor Kniss to direct staff to conduct a Study Session with City Council no later than March 31, 2015, on the various questions posed by businesses that facilitate short-term rentals of rooms, apartments or houses in residential neighborhoods (e.g., Airbnb, VRBO, etc.), what actions the City has taken, and what actions, if any, the City should take.

AMENDMENT: Council Member Scharff moved seconded by Council Member Schmid to direct Staff to return to the City Council with a Study Session and remove the verbiage of returning no later than March 31, 2015.

AMENDMENT PASSED: 5-4 Burt, Holman, Klein, Kniss no

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to refer to Policy and Services Committee the review of how to contend with the increased commercialization of residences.

MOTION AS AMENDED PASSED: 9-0

Chapter 18.10**LOW-DENSITY RESIDENTIAL (R-E, R-2 and RMD) DISTRICTS****Sections:**

18.10.010	Purposes
18.10.020	Applicable Regulations
18.10.030	Land Uses
18.10.040	Development Standards
18.10.050	Permitted Encroachments, Projections and Exceptions
18.10.060	Parking
18.10.070	Second Dwelling Units
18.10.080	Accessory Uses and Facilities
18.10.090	Basements
18.10.100	Standards for Agricultural Uses
18.10.110	Home Improvement Exceptions
18.10.120	Architectural Review
18.10.130	Historical Review
18.10.140	Neighborhood Preservation Combining District (NP) Standards
18.10.150	Grandfathered Uses

18.10.010 Purposes

Three low-density residential districts are defined in this chapter. Requirements for the single-family residential (R-1) district and related subdistricts and combining districts are included in Chapter 18.12. The specific purpose of each low-density residential district is stated below:

(a) Residential Estate District [R-E]

The R-E residential estate district is intended to create and maintain single-family living areas characterized by compatibility with the natural terrain and native vegetation. The R-E district provides locations for residential, limited agricultural, and open space activities most suitably located in areas of very low density or rural qualities. Second dwelling units and accessory structures or buildings are appropriate where consistent with the site and neighborhood character. Community uses and facilities should be limited unless no net loss of housing units would result.

(b) Two Family Residential District [R-2]

The R-2 two-family residence district is intended to allow a second dwelling unit under the same ownership as the initial dwelling unit on appropriate sites in areas designated for single-family use by the Palo Alto Comprehensive Plan, under regulations that preserve the essential character of single-family use. Community uses and facilities should be limited unless no net loss of housing would result.

(c) Two Unit Multiple-Family Residential District [RMD]

The RMD two-unit multiple-family residence district is intended to allow a second dwelling unit under the same ownership as the initial dwelling unit on appropriate sites in areas designated for multiple-family use by the Palo Alto Comprehensive Plan. The RMD district is intended to minimize incentives to replace existing single-family dwellings, maintain existing

neighborhood character and increase the variety of housing opportunities available within the community. The maximum density in this zone shall not exceed seventeen dwelling units per acre.

(Ord. 4875 § 2 (part), 2005)

18.10.020 Applicable Regulations

The specific regulations of this chapter and the additional regulations and procedures established by Chapters 18.52 to 18.80 inclusive shall apply to all low-density residential districts.

(Ord. 4875 § 2 (part), 2005)

18.10.030 Land Uses

Table 1 shows the permitted and conditionally permitted uses for the low-density residential districts.

**TABLE 1
PERMITTED AND CONDITIONALLY PERMITTED LOW-DENSITY RESIDENTIAL USES
[P = Permitted Use • CUP = Conditional Use Permit Required]**

	R-E	R-2	RMD	Subject to Regulations in:
ACCESSORY AND SUPPORT USES				
Accessory facilities and uses customarily incidental to permitted uses (no limit on number of plumbing fixtures)	P	P	P	18.10.080
Home Occupations, when accessory to permitted residential uses.	P	P	P	18.42.060
Horticulture, gardening, and growing of food products for consumption by occupants of the site.	P	P	P	
Sale of agricultural products produced on the premises ⁽¹⁾	P			18.10.110
Second Dwelling Units	P	P ⁽²⁾	P ⁽²⁾	18.10.070
AGRICULTURE AND OPEN SPACE USES				
Agriculture	P			18.10.110
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
Private Educational Facilities	CUP	CUP	CUP	
Religious Congregations and Institutions	CUP	CUP	CUP	
PUBLIC/QUASI-PUBLIC USES				
Community Centers	CUP	CUP	CUP	
Utility Facilities essential to provision of utility services to the neighborhood, but excluding business offices, construction or storage yards, maintenance facilities, or corporation yards.	CUP	CUP	CUP	
RECREATION USES				
Neighborhood Recreational Centers			CUP	
Outdoor Recreation Services	CUP	CUP		

[Table Continues on Next Page]

	R-E	R-2	RMD	Subject to Regulations in:
RESIDENTIAL USES				
Single-Family	P	P	P	
Two-Family use, under one ownership		P	P	
Mobile Homes	P	P	P	18.42.100
Residential Care Homes	P	P	P	
RETAIL USES				
Cemeteries	CUP			
Commercial Plant Nurseries	CUP			
SERVICE USES				
Convalescent Facilities	CUP			
Day Care Centers	CUP	CUP	CUP	
Small Adult Day Care Homes	P	P	P	
Large Adult Day Care Homes	CUP	CUP	CUP	
Small Family Day Care Homes	P	P	P	
Large Family Day Care Homes	P	P	P	
Bed & Breakfast Inns			p ⁽³⁾	
P = Permitted Use		CUP = Conditional Use Permit Required		

- (1) **Sale of Agricultural Products:** No permanent commercial structures for the sale or processing of agricultural products are permitted.
- (2) **Second Units in R-2 and RMD Zones:** A second dwelling unit associated with a single-family residence on a lot in the R-2 or RMD zones is permitted, subject to the provisions of Section 18.10.070, and such that no more than two units result on the lot.
- (3) **Bed and Breakfast Inns:** Bed and breakfast inns are limited to no more than 4 units (including the owner/resident's unit) in the RMD district.

(Ord. 4875 § 2 (part), 2005)

18.10.040 Development Standards

(a) Site Specifications, Building Size, Height and Bulk, and Residential Density

The development standards for the low-density residential districts are shown in Table 2:

**TABLE 2
LOW-DENSITY RESIDENTIAL DEVELOPMENT STANDARDS**

	R-E	R-2	RMD	Subject to Regulations in:
Minimum Site Specifications				
Site Area (ft ²)				
All lots except flag lots ⁽¹⁾	1 acre	6,000	5,000	18.10.040(c)
Flag lots	<i>As established by Section 21.20.301 (Subdivision Ord.)</i>			
Site Width (ft)	100	60	50	
Site Depth (ft)	100	100	100	
Maximum Lot Size Lot Area (square feet)	None	11,999	9,999	18.10.040(g)

[Table Continues on Next Page]

	R-E	R-2	RMD	Subject to Regulations in:
Minimum Setbacks	<i>Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may also apply.</i>			18.10.050
Front Yard (ft)	30	20	20	
Rear Yard (ft)	30	20	20	
Interior Side Yard(ft)	15	6	6	
Street Side Yard (ft)	24	16	16	
Maximum Height (as measured to the peak of the roof) (ft)	30	30 ⁽²⁾	35	18.04.030 (67) 18.10.050
Side Daylight Plane (Side lot lines)				18.04.030 (44); 18.10.050
Initial Height (ft)	10	10 ⁽³⁾	15	
Angle (degrees)	45	45	45	
Front Daylight Plane (Front setback line)				18.10.050
Initial Height (ft)	16	16 ⁽³⁾		
Angle (degrees)	60	60		
Rear Daylight Plane (Rear setback line)				18.10.050
Initial Height (ft)	16	16 ⁽³⁾	15	
Angle (degrees)	60	60	45	
Maximum Site Coverage:				18.04.030 (86A)
Single story development	25%	40%	40%	
Multiple story development	25%	35%	40%	
Additional area permitted to be covered by a patio or overhang		5%		
Maximum Floor Area Ratio (FAR)²				18.04.030 (65)
First 5,000 square feet	.45	.45	.50	
Square footage in excess of 5,000 square feet	.30	.30	.50	
Additional floor area permitted for covering of one parking space (ft ²)		200 ⁽⁴⁾	200 ⁽⁴⁾	
Maximum House Size (ft²)	6,000 ⁽⁵⁾	6,000 ⁽⁵⁾	6,000 ⁽⁵⁾	
Minimum Usable Open Space (ft²)			450 sf per unit	
Residential Density				For second unit requirements, see 18.10.070
Minimum site area permitting two units	1 acre	7,500	5,000	
Parking	See Sec. 18.10.060 (Parking)			Chs. 18.52, 18.54

- (1) **Minimum Lot Size:** Any lot less than the minimum lot size may be used in accordance with the provisions of Section 18.40.080
- (2) **R-2 Floodzone Heights:** Provided, in a special flood hazard area as defined in Chapter 16.52, the maximum heights are increased by one-half of the increase in elevation required to reach base flood elevation, up to a maximum building height of 33 feet.
- (3) **R-2 Floodzone Daylight Plane:** Provided, if the site is in a special flood hazard area and is entitled to an increase in the maximum height, the heights for the daylight planes shall be adjusted by the same amount.

- (4) **Exemption from Floor Area for Covered Parking Required for Two-Family Uses:** In the R-2 and RMD districts, for two-family uses, floor area limits may be exceeded by a maximum of two hundred square feet, for purposes of providing one required covered parking space.
- (5) **Maximum House Size:** The gross floor area of attached garages and attached second dwelling units are included in the calculation of maximum house size. If there is no garage attached to the house, then the square footage of one detached covered parking space shall be included in the calculation. This provision applies only to single-family residences, not to duplexes allowed in the R-2 and RMD districts.

(b) Substandard and Flag Lots in R-2 District

The following site development regulations shall apply to all new construction on substandard and flag lots within the R-2 district in lieu of comparable provisions in subsection (a).

(1) Substandard Lots

- (A) For the purposes of this subsection (c), a substandard lot shall be a lot with a width of less than 50 feet or a depth of less than 83 feet and an area less than 83% of the minimum area required by the zoning of the parcel.
- (B) **Development Standards**
 - (i) The maximum height shall be 17 feet, as measured to the peak of the roof.
 - (ii) There shall be a limit of one habitable floor. Habitable floors include lofts, mezzanines, and similar area with interior heights of five feet (5) or more from the roof to the floor, but exclude basements and exclude attics that have no stairway or built-in access. The chief building official shall make the final determination as to whether a floor is habitable.
 - (iii) For lots less than 50 feet in width, the required street side setback shall be 10 feet.
- (C) Nothing in this subsection (c) shall affect or otherwise redefine the provisions of Section 18.40.080 as to whether a substandard lot may be used as a lot under this title.

(2) Flag Lots

- (A) A flag lot shall be defined as set forth in Section 18.04.030(84)(B).
- (B) **Flag Lot Development Standards:**
 - (i) The maximum height shall be 17 feet, as measured to the peak of the roof.
 - (ii) There shall be a limit of one habitable floor. Habitable floors include lofts, mezzanines, and similar areas with interior heights of five feet (5) or more from the roof to the floor, but exclude basements and exclude attics that have no stairway or built-in access. The chief building official shall make the final determination as to whether a floor is habitable.
 - (iii) **Front Setback:** 10 feet. Flag lots are not subject to contextual front setback requirements.
 - (iv) Flag lots are not subject to contextual garage placement requirements.

(c) **Maximum Lot Sizes in R-2 and RMD Districts**

This provision limits the potential for lot combinations with a net loss of housing stock and resultant homes that would be out of scale with homes in the surrounding neighborhood. In the R-2 and RMD districts, no new lot shall be created equal to or exceeding two times the minimum lot size prescribed for the district, as prescribed in Table 2. Lots larger than the prescribed maximum size are permitted only under the following circumstances: (i) where a Village Residential land use is approved concurrent with the new lot, resulting in no net loss of housing on the site(s); (ii) where underlying lots must be merged to eliminate nonconformities and no net loss of housing units would result; and (iii) where an adjacent substandard lot of less than 25 feet in width is combined with another lot, resulting in no net loss of housing units on the site.

(d) **Garage Doors in R-2 District**

In the R-2 district, for garages located within 50 feet from a street frontage, on lots less than 75 feet in width, the total combined width of garage doors which are parallel to the street shall not exceed 20 feet.

(e) **Special Setbacks**

Where applicable, setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code shall be followed for the purpose of determining legal setback requirements.

(f) **Certification of Daylight Plane Compliance**

Upon request by the building official, any person building or making improvements to a structure in the low density residential districts shall provide a certification that the structure, as built, complies with the daylight plane provisions in subsection (a). Such certification shall be prepared by a licensed engineer, architect, or surveyor, and shall be provided prior to frame inspection.

(g) **Lighting in R-2 District**

In the R-2 district, recreational and security lighting shall be permitted only so long as the lighting is shielded so that the direct light does not extend beyond the property where it is located. Free-standing recreational and security lighting installed on or later than March 11, 1991, shall be restricted to twelve feet (12') in height.

(h) **Location of Noise-Producing Equipment**

All noise-producing equipment, such as air conditioners, pool equipment, generators, commercial kitchen fans, and similar service equipment, shall be located outside of the front, rear and side yard setbacks. Such equipment may, however, be located up to 6 feet into the street sideyard setback. All such equipment shall be insulated and housed, except that the planning director may permit installation without housing and insulation, provided the equipment is located within the building envelope and where a combination of technical noise specifications, location of equipment, and/or other screening or buffering will assure compliance with the city's Noise Ordinance at the nearest property line. Any replacement of such equipment shall conform to this section where feasible. All service equipment must meet the city Noise Ordinance in Chapter 9.10 of this code.

(i) Individual Review

The Individual Review provisions of Section 18.12.110 of the Zoning Ordinance shall be applied to any single-family or two-family residence in the R-2 or RMD districts to those sides of a site that share an interior side lot line with the interior side or rear lot line of a property zoned for or used for single-family or two-family dwellings, except where architectural review board review is required for a second dwelling on an RMD-zoned site. The individual review criteria shall be applied only to the project's effects on adjacent single-family and two-family uses.

(Ord. 4964 § 9, 2007; Ord. 4875 § 2 (part), 2005)

18.10.050 Permitted Encroachments, Projections and Exceptions

The following projections and encroachments into required yards, daylight plane and height are permitted, provided a projection shall not be permitted to encroach into a special setback, as established by the setback map pursuant to Chapter 20.08 of the Palo Alto Municipal Code, except as noted in (a)(1)(D) below.

(a) Setback/Yard Encroachments and Projections**(1) Horizontal Additions**

In the R-2 district and the RMD district, where a single-family dwelling legally constructed according to existing yard and setback regulations at the time of construction encroaches upon present required yards, one encroaching side (first floor wall) of the existing structure at a height not to exceed 12 feet may be extended in accord with this section. Only one such extension shall be permitted for the life of such building. This subsection shall not be construed to allow the further extension of an encroachment by any building which is the result of the granting of a variance, either before or after such property became part of the city.

- (A) **Front Yard.** In cases where the existing setback is less than 20 feet, but at least 14 feet, the existing encroachment may be extended for a distance of not more than 100% of the length of the encroaching wall to be extended; provided, that the total length of the existing encroaching wall and the additional wall shall together not exceed one-half the maximum existing width of such building.
- (B) **Interior Side Yard.** In cases where the existing setback is less than 8 feet, but at least 5 feet, the existing encroachment may be extended for a distance of not more than 100% of the length of the encroaching wall to be extended, but not to exceed 20 additional feet.
- (C) **Street Side Yard.** In cases where the existing setback is less than 16 feet, but at least 10 feet, the existing encroachment may be extended for a distance of not more than 100% of the length of the encroaching wall to be extended, but not to exceed 20 feet.
- (D) **Special Setbacks.** In cases where a Special Setback is prescribed pursuant to Chapter 20.08 of the Municipal Code, and the existing setback is less than the Special Setback distance, but is at least 14 feet for the front setback or at least 10 feet for the street side yard setback, the existing encroachment may be extended for a

distance of not more than 100% of the length of the encroaching wall to be extended, provided that the total length of the existing encroaching wall and the additional wall shall together not exceed one-half the maximum existing width of such building.

(2) Rear Yard Encroachments for Portions of Homes

A portion of a main building that is less than half the maximum width of the building may extend into the required rear yard no more than six feet and with a height of no more than one story, except that a corner lot having a common rear property line with an adjoining corner lot may extend into the required rear yard not more than ten feet with a height of no more than one story.

(3) Allowed Projections

(A) Cornices, Eaves, Fireplaces, and Similar Architectural Features

For cornices, eaves, fireplaces, and similar architectural features, excluding flat or continuous walls or enclosures of usable interior space, the following projections are permitted:

- (i) A maximum of two feet into a required side yard. Fireplaces in a required side yard may not exceed five feet in width. Fireplaces not exceeding five feet in width may project into a required side yard no more than two feet.
- (ii) A maximum of four feet into a required front yard
- (iii) A maximum of four feet into a required rear yard

(B) Window Surfaces

Window surfaces, such as bay windows or greenhouse windows, may extend into a required side or rear yard a distance not to exceed two feet, or into a required front yard a distance not exceeding three feet. The window surface may not extend into any yard above a first story.

(C) Detached Storage Structures

In addition to the provisions for location of accessory structures under Section 18.12.080(b), the following further projections are permitted. For structures not over six feet in height or twenty-five square feet in floor area, used exclusively for storage purposes, the following projections are permitted:

- (i) A maximum of two feet into a required side yard.
- (ii) A maximum of four feet into a required front yard.
- (iii) A maximum of four feet into a required rear yard.

(D) Patios, Decks, Stairways, Landings, Balconies, or Fire Escapes

For uncovered porches (less than 30 inches above grade), patios, decks, stairways, landings, balconies, or fire escapes the following projections are permitted, provided these projections are not permitted above the first story:

- (i) A maximum of three feet into a required side yard.
- (ii) A maximum of six feet into a required front yard.

(iii) A maximum of six feet into a required rear yard.

(E) Canopy or Patio Cover

A canopy or patio cover may be located in the required rear yard or that portion of the interior side yard, which is more than 75 feet from the street lot line measured along the common lot line. Such canopies shall be subject to the following conditions:

- (i) A canopy or patio cover shall not be more than 12 feet in height.
- (ii) The canopy or patio cover shall be included in the computation of building coverage.
- (iii) The canopy or patio cover and other structures shall not occupy more than 50 percent of the required rear yard.
- (iv) The canopy or patio cover shall not be enclosed on more than two sides.

(F) Pools, Spas, and Hot Tubs

- (i) Pools, spas, and hot tubs may extend into a required rear yard a distance not to exceed fourteen feet, provided that a minimum setback of six feet from the property line shall be maintained.
- (ii) No swimming pool, hot tub, spa, or similar accessory facility shall be located in any portion of a required front or street side yard.
- (iii) No swimming pool, hot tub, spa, or similar accessory facility shall be located closer than six feet from an interior side yard property line.

(b) Height Exceptions

The following features may exceed the height limit established by the specified districts:

- (1) RE and R-2 Districts: In the RE and R-2 districts, flues, chimneys, and antennas may exceed the established height limit by not more than 15 feet.
- (2) RMD District: In the RMD district, flues, chimneys, exhaust fans or air conditioning equipment, elevator equipment, cooling towers, antennas, and similar architectural, utility, or mechanical features may exceed the height limit established in any district by not more than 15 feet, provided that no such feature or structure in excess of the height limit shall be used for habitable space, or for any commercial or advertising purposes.

(c) Daylight Plane Exceptions

The following features may extend beyond the daylight plane established by the applicable district, provided that such features do not exceed the height limit for the district unless permitted to do so by subsection (b):

(1) RE and R-2 districts:

(A) Television and radio antennas;

(B) Chimneys and flues, provided that chimneys do not extend past the required daylight plane a distance exceeding the minimum allowed pursuant to Chapter 16.04 of this code;

(C) Dormers, roof decks, gables, or similar architectural features, provided that

(i) the sum of the horizontal lengths of all such features shall not exceed 15 feet on each side; and

(ii) the height of such features does not exceed 24 feet.

(D) Cornices, eaves, and similar architectural features, excluding flat or continuous walls or enclosures of usable interior space, provided such features do not extend past the daylight plane more than 2 feet.

(2) RMD District:

(A) Television and radio antennas; and

(B) Chimneys and flues.

(Ord. 4875 § 2 (part), 2005)

18.10.060 Parking

Off-street parking and loading facilities shall be required for all permitted and conditional uses in accord with Chapters 18.52 and 18.54 of this title. The following parking requirements apply in the R-E, R-2, and RMD districts. These requirements are included for reference purposes only, and in the event of a conflict between this Section 18.10.060 and any requirement of Chapters 18.52 and 18.54, Chapters 18.52 and 18.54 shall apply, except in the case of parcels created pursuant to section 18.10.130(c) (subdivision incentive for historic preservation).

(a) Parking Requirements for Specific Uses

Table 3 shows the minimum off-street automobile parking requirements for specific uses.

TABLE 3

PARKING REQUIREMENTS FOR R-E, R-2 AND RMD USES

Use	Minimum Off-Street Parking Requirement
Single-family residential use (excluding second dwelling units)	2 spaces per unit, of which one must be covered.
Two family (R2 & RMD districts)	3 spaces total, of which at least two must be covered
Second dwelling unit, attached or detached:	
> 450 sf in size	2 spaces per unit, of which one must be covered
≤ 450 sf in size	1 space per unit, which may be covered or uncovered
Other Uses	See Chapter 18.40

(b) Parking and Driveway Surfaces

Parking and driveway surfaces may have either permeable or impermeable paving. Materials shall be those acceptable to Public Works Department standards. Gravel and similar loose materials shall not be used for driveway or parking surfaces within 10 feet of the public right of way.

(c) Parking in Yards

- (1) No required parking space shall be located in a required front yard.
- (2) No required parking space shall be located in the first ten feet adjoining the property line of a required street side yard.

(d) Tandem Parking

Tandem parking shall be permitted for single-family uses and for single-family uses with a permitted second dwelling unit. Tandem parking is permitted for two-family uses where both spaces in tandem (front space and tandem space) are designated for use by the same unit.

(e) Bicycle Parking

For two family uses, at least one Class I bicycle parking space shall be required.

(f) Design of Parking Areas

Parking facilities shall comply with all applicable regulations of Chapter 18.83 (Parking Facility Design Standards).

(g) Parking Facilities on Lots Created Pursuant to Section 18.10.130(c) (subdivision incentive for historic preservation)

Legal non-conforming parking facilities existing prior to the subdivision of a parcel having a historic residence(s) may be maintained as existing non-complying facilities or may be improved to greater compliance with parking requirements, as approved by the Director of Planning and Community Environment or his/her designee. Preservation covenants may allow non-historic residences to be remodeled; however, floor area expansions shall be subject to the Director's discretionary action regarding improvements to on-site parking conditions associated with such increased floor area and when floor area over 400 square feet is proposed to be added to a non-historic residence having legal non-complying parking facilities prior to subdivision, parking facilities shall be brought into greater compliance with Chapter 18.52, wherever feasible. A subdivided property having no existing on-site parking facilities prior to subdivision may be permitted to continue as such as long as preservation covenants allowing for this continuance and any associated access easements have been recorded.

(Ord. 5051 § 3, 2009; Ord. 4875 § 2 (part), 2005)

18.10.070 Second Dwelling Units

The intent of this section is to provide regulations to accommodate second dwelling units, in order to provide for variety to the City's housing stock and additional affordable housing opportunities. Second dwelling units are intended as separate self-contained living units, with separate entrances from the main residence, whether attached or detached. The standards below are provided to minimize the impacts of second dwelling units on nearby residents and to assure that the size, location and design of such dwellings is compatible with the existing residence on the site and with other structures in the area.

(a) Second Units in the R-2 and RMD Districts

Second dwelling units are allowed on R-2 or RMD lots that meet lot size requirements in Table 2 to accommodate two units on a lot. For R-2 zoned lots of 6,000 square feet or greater, but less than 7,500 square feet, a second dwelling unit of 450 square feet or less is permitted, subject to all other regulations of the R-1 chapter outlined in Section 18.12.070. Any second dwelling unit, and any airspace rights thereto, under different ownership from the initial dwelling unit, shall be prohibited in the R-2 and RMD districts.

(b) Second Units in the R-E District

The following regulations apply to second dwelling units in the R-E district:

(1) Minimum Lot Sizes

In the RE district, the minimum lot size for a second dwelling unit is one acre. Provided, for flag lots, the minimum lot size shall be 35% greater than the minimum lot size established by Section 21.20.301 of the Subdivision Ordinance.

(2) Development Standards for Attached Second Dwelling Units

Attached second dwelling units are those attached to the main dwelling. Attached unit size counts toward the calculation of maximum house size. All attached second dwelling units shall be subject to the following development requirements:

- (A) The minimum site area shall meet the requirements specified in subsection (1) above.
- (B) Maximum size of living area: 450 square feet. The second dwelling unit and covered parking shall be included in the total floor area for the site. Any basement space used as a second dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the unit.
- (C) Maximum size of covered parking area for the second dwelling unit: 200 square feet.
- (D) Maximum height: 30 feet.
- (E) Except on corner lots, the second dwelling unit may not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit, and exterior staircases to second floor units shall be located toward the interior side or rear yard of the property.

(3) Development Standards for Detached Second Dwelling Units

Detached second dwelling units are those detached from the main dwelling. All detached second dwelling units shall be subject to the following development requirements:

- (A) The minimum site area shall meet the requirements specified in subsection (b) above.
- (B) Minimum separation from the main dwelling: 12 feet.
- (C) Maximum size of living area: 900 square feet. The second dwelling unit and covered parking shall be included in the total floor area for the site. Any basement space used as a second dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the unit.
- (D) Maximum size of covered parking area for the second dwelling unit: 200 square feet.
- (E) Maximum height: one story and 17 feet.
- (F) The detached second dwelling shall be architecturally compatible with the main residence, with respect to style, roof pitch, color and materials.

(4) Street Access

The second dwelling unit shall have street access from a driveway in common with the main residence in order to prevent new curb cuts, excessive paving, and elimination of street trees. Separate driveway access may be permitted by the Zoning Administrator upon a determination that separate access will result in fewer environmental impacts such as excessive paving, unnecessary grading or unnecessary tree removal, and that such separate access will not create the appearance, from the street, of a lot division or two-family use.

(5) Parking

The following parking criteria apply to both detached and attached second dwelling units:

- (A) Two parking spaces shall be provided for each second dwelling unit, with at least one of the spaces being covered; provided, however, that if the floor area of the second dwelling unit is 450 square feet or less, only a single parking space is required, and it may be covered or uncovered.

- (B) Such parking shall be located out of required front setbacks and not closer than 15 feet from the street in a street side setback. New parking areas created in the street side setback shall be of permeable materials if required by the Planning Director.

(Ord. 4939 § 3, 2007; Ord. 4875 § 2 (part), 2005)

18.10.080 Accessory Uses and Facilities

Accessory uses and facilities, as referenced in Section 18.10.030, shall be permitted when incidental to and associated with a permitted use or facility in the R-E, R-2, or RMD districts, or when incidental to and associated with an allowable and authorized conditional use therein, subject to the provisions below and of Chapters 18.40 and 18.42.

(a) Types of Accessory Uses

Accessory uses and facilities include, but are not limited to, the following list of examples; provided that each accessory use or facility shall comply with the provisions of this title:

- (1) Residential garages, carports, and parking facilities, together with access and circulation elements necessary thereto;
- (2) Facilities for storage incidental to a permitted use; and
- (3) Recreational uses and facilities for the use and convenience of occupants or employees, or guests thereof, of a principal use or facility;

(b) Location and Development Standards

Except as otherwise provided in this section, accessory buildings shall at all times be located in conformance with requirements for principal buildings, and shall not be located in any required front, side, or rear yard. See Section 18.10.050(a)(3)(C) for allowed encroachments for small storage structures. Accessory buildings may be located in a required interior yard subject to the following limitations:

- (1) An accessory building shall not be used for living and/or sleeping purposes unless the building was legally constructed for or was legally converted to living and/or sleeping purposes prior to October 13, 1983.
- (2) An accessory building shall not be located in a required front yard, required street yard, or required rear yard of a through lot.
- (3) An accessory building shall not be located in a required interior side or rear yard unless the building is at least seventy-five feet from any property line adjacent to a street, measured along the respective lot line. Provided, on corner lots, accessory buildings including detached garages and carports may be located in the rear yard if located at least 75 feet from the front street and at least 20 feet from the side street property lines.
- (4) Accessory buildings located within a required interior yard as permitted by this section shall be subject to a maximum height established by a daylight plane beginning at a height of eight feet at the property line and increasing at a slope of one foot for every three feet of distance from the property line, to a maximum height of twelve feet.

- (5) When located within a required interior yard as permitted by this section, no such accessory building shall have more than two plumbing fixtures.
- (6) Accessory buildings located within a required interior yard, as permitted by this section, shall not individually or cumulatively occupy an area exceeding fifty percent of the required rear yard.
- (7) The minimum distance between separate buildings located on the same site shall be as required by Title 16; provided, accessory buildings in the Residential Estate (R-E) district shall be separated from the principal building by at least three feet.
- (8) A principal building and an accessory building, meeting the requirements of Title 16 and each located on a site as otherwise permitted for principal building and accessory buildings, may be connected by a structure meeting the definition of a breezeway. Such structure, or breezeway, shall be a part of the accessory building.

(Ord. 4875 § 2 (part), 2005)

18.10.090 Basements

Basements shall be permitted in areas that are not designated as special flood hazard areas, as defined in Chapter 16.52, subject to the following regulations:

(a) Permitted Basement Area

Basements may not extend beyond the building footprint and basements are not allowed below any portion of a structure that extends into required setbacks, except to the extent that the main residence is permitted to extend into the rear yard setback by other provisions of this code.

(b) Inclusion as Gross Floor Area

Basements shall not be included in the calculation of gross floor area, provided that:

- (1) basement area is not deemed to be habitable space, such as a crawlspace; or
- (2) basement area is deemed to be habitable space but the finished level of the first floor is no more than three feet above the grade around the perimeter of the building foundation. Grade is measured at the lowest point of adjacent ground elevation prior to grading or fill, or finished grade, whichever is lower.

(c) Lightwells, Stairwells and Other Excavated Features

Excavated features shall not affect the measurement of the grade for the purposes of determining gross floor area, so long as such features meet the following provisions:

- (1) Lightwells, stairwells and similar excavated features along the perimeter of the basement shall not affect the measurement of grade, provided that:
 - (A) such features are not located in the front of the building;
 - (B) such features shall not exceed 3 feet in width;
 - (C) the cumulative length of all such features does not exceed 30% of the perimeter of the basement;

- (D) such features do not extend more than 3 feet into a required side yard nor more than 4 feet into a required rear yard, but where a side yard is less than 6 feet in width, the features shall not encroach closer than 3 feet from the adjacent side property line;
 - (E) the cumulative length of any features or portions of features that extend into a required side or rear yard does not exceed 15 feet in length;
 - (F) the owner provides satisfactory evidence to the planning division prior to issuance of a building permit that any features or portions of features that extend into a required side or rear yard will not be harmful to any mature trees on the subject property or on abutting properties; and
 - (G) such features have either a drainage system that meets the requirements of the public works department or are substantially sheltered from the rain by a roof overhang or canopy of a permanent nature.
- (2) Below-grade patios, sunken gardens or similar excavated areas along the perimeter of the basement that exceed the dimensions set forth in subsection (1), are permitted and shall not affect the measurement of grade, provided that:
- (A) such areas are not located in the front of the building;
 - (B) All such areas combined do not exceed 2% of the area of the lot or 200 square feet, whichever is greater; that each such area does not exceed 200 square feet, and that each such area is separated from another by a distance of at least 10 feet. Area devoted to required stairway access shall not be included in the 200 square foot limitation.
 - (C) the cumulative length of any excavated area or portion thereof that extends into a required side or rear yard does not exceed 15 feet;
 - (D) such features do not extend more than 2 feet into a required side yard nor more than 4 feet into a required rear yard;
 - (E) the owner provides satisfactory evidence to the planning director prior to issuance of a building permit that any features or portions of features that extend into a required side or rear yard will not be harmful to any mature trees on the subject property or on abutting properties;
 - (F) such features have either a drainage system that meets the requirements of the public works department or are substantially sheltered from the rain by a roof overhang or canopy of a permanent nature;
 - (G) any roof overhang or canopy installed pursuant to subsection (F) is within and is counted toward the site coverage requirements established in Section 18.10.040;
 - (H) such areas are architecturally compatible with the residence; and

- (I) such areas are screened to off site views by means of landscaping and/or fencing as determined appropriate by the planning director.

(Ord. 4964 § 10, 2007; Ord. 4875 § 2 (part), 2005)

18.10.100 Standards for Agricultural Uses

In the RE district, agricultural use shall be allowed subject to the following regulations:

(a) Keeping and Raising of Livestock

Keeping and raising of livestock, poultry, or other animals may be conducted accessory to a residential use, and raising of animals for commercial purposes is prohibited.

(b) Required Site Area for Keeping of Livestock

- (1) At least 21,528 square feet (0.5 acre) of site area shall be required for each horse, mule, donkey, cow, steer or similar livestock.
- (2) At least 21,528 square feet (0.5 acre) of site area shall be required for each three goats, hogs, sheep, or similar livestock.

(c) Location of Livestock Facilities

Barns, stables, sheds, chicken houses, and other similar facilities for the shelter and feeding of animals, exclusive of domestic household pets, shall be located a minimum of 40 feet from any lot line (property line).

(Ord. 4875 § 2 (part), 2005)

18.10.110 Home Improvement Exceptions

Home improvement exceptions may be granted for existing single-family residences in the R-E, R-2, and RMD districts, pursuant to the provisions of Section 18.12.120 (R-1 Residential District, Home Improvement Exceptions).

(Ord. 4875 § 2 (part), 2005)

18.10.120 Architectural Review

Architectural review, as required in Section 18.76.020, is required in the R-E, R-2, and RMD districts whenever three or more adjacent residential units are intended to be developed concurrently, whether through subdivision or individual applications. Architectural review is also required for second dwelling units of more than 900 square feet, when located in the Neighborhood Preservation Combining District (NP).

(Ord. 4875 § 2 (part), 2005)

18.10.130 Historical Review and Incentives

- (a) Historic home review, as required in Chapter 16.49 of Title 16 of the Municipal Code, is required in the R-E, R-2, and RMD low density residential districts for alterations or modifications to any residence designated on the City's Historic Inventory as a Category 1 or Category 2 historic structure as defined in Section 16.49.020 of this code or any contributing structure located within a locally designated historic district.
- (b) Exemptions to gross floor area requirements are available for historic residences pursuant to the definition of gross floor area in Section 18.04.030(65)(D)(vii). Home improvement exceptions provide for additional square footage and certain other exceptions for historic homes pursuant to Section 18.12.120 (R-1 Chapter).
- (c) Notwithstanding other provisions of this chapter, existing parcels in the R-2 or RMD districts containing two residences may be subdivided into two ownerships, where all of the following circumstances exist:
 - (1) At least one residence is designated on the City's Historic Inventory as a Category 1, Category 2, Category 3, or Category 4 historic structure as defined in Section 16.49.020 of this code or are contributing structures located within a locally designated historic district or are eligible for listing on the California or National Registers; and
 - (2) No increase in the total number of residences on the site is proposed; and
 - (3) Separate lots are proposed to be created, each with a minimum lot size not less than 4,000 square feet if only one residence is historic; if both residences are historic and subject to a covenant, the allowable minimum lot size is 2,000 square feet; and
 - (4) The resultant parcel lines may create less than minimum lot size (no less than the area stated in item (3) of this section), site width and depth, setback and daylight plane encroachments, floor area and site coverage exceeding the maximum allowable for existing development with respect to each new parcel, without the need for approval of a Variance or Home Improvement Exception, but would not generally increase any existing non-complying building features; however, minor additions for functional improvements may be allowed at the discretion of the Director of Planning and Community Environment; and
 - (5) The Historic Resources Board has determined that at least one existing residence on the property has historic integrity and qualifies for listing on the City's Historic Inventory.
 - (6) A covenant is recorded to run with the land in perpetuity, assuring that the historic residence(s) will be preserved and maintained consistent with the Secretary of the Interior's Standards for Historic Rehabilitation through compliance with Historic Resources Board review and recommendations. The covenant will stipulate that HRB review is required for all major projects on the site including significant changes to any non-historic residence. Any modifications to a non-historic residence must be compatible with the historic residence and satisfy the Secretary of Interior's Standards for Historic Compatibility.

- (7) The two residences on the property were in existence as of January 28, 2009.
- (8) Application of the state Historic Building Code is available for use on any eligible building.
- (9) Residences subject to a covenant must meet all government health, life and safety codes.
(Ord. 5051 § 2, 2009; Ord. 4875 § 2 (part), 2005)

18.10.140 Neighborhood Preservation Combining District (NP)

(a) Purpose and Applicability

The neighborhood preservation combining district is intended to modify the regulations of the RMD two unit multiple-family residential district areas where it is deemed essential to maintain the visual and historic character of existing neighborhoods. The combining district is intended to foster retention of existing single-family structures, to foster additions to existing properties without demolition of sound residential structures, and to assure compatibility of design of new residential units with existing structures on the same or surrounding properties.

Properties in the (NP) combining district are subject to the following regulations:

(b) Design Review

(1) Purposes

The purpose of design review of properties in an (NP) combining district is to achieve compatibility of scale, silhouette, façade articulation, and materials of new construction with existing structure on the same property or on surrounding properties within a combining district.

(2) Design Review Required

For properties on which two or more residential units are developed or modified, design review and approval shall be required by the architectural review board in compliance with procedures established in Section 18.76.020 for any new development or modification to any structure on the property and for site amenities. No design review is required for construction of or modifications to single-family structures that constitute the only principal structure on a parcel of land. No design review is required for construction of second dwelling units on a parcel except when the second unit exceeds 900 square feet in size.

(3) Design Review Guidelines

The architectural review board shall, at its discretion, develop specific design review guidelines for each specific area to which this combining district is applied.

(c) Exceptions to Development Standards**(1) Applicability**

Subject to the provisions of Section 18.76.040 and the general purposes of this title to foster retention of existing single-family structures and to maintain the existing historic and general character of the neighborhood, the planning director may grant exceptions to site development regulations (except limitations on residential density), parking regulations, and from the special setback requirements of Title 20 applicable to the underlying zone district where combined with the neighborhood preservation (NP) combining district. This exception procedure is the exclusive procedure for procuring an exception to development standards in the NP combining district. It is not necessary for the property owner to obtain a variance.

(2) Findings

The director may only grant an (NP) District Exception if, from the application or the facts presented at the public hearing, he finds:

- (A) The granting of the exception will facilitate the preservation of an existing residential structure on the same property and will be of benefit in maintaining the existing historic and general character of the surrounding neighborhood, and
- (B) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience.

(3) Conditions

In granting NP District Exceptions, reasonable conditions or restrictions may be imposed as deemed appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title.

(4) Procedures

Please refer to Chapters 18.76 and 18.77 for further information regarding the procedures applicable to requests for exceptions.

(Ord. 4875 § 2 (part), 2005)

18.10.150 Grandfathered Uses**(a) Applicability**

The uses specified in subsection (b) may remain as grandfathered uses provided that those uses:

- (1) are located in the specified district;

- (2) existed on the specified date;
- (3) on that date, were lawful permitted uses or conditional uses operating subject to a conditional use permit; and
- (4) on that date, were conforming uses.

(b) Grandfathered Uses

- (1) R-2 district:
 - (A) Professional and medical office uses (except product testing and analysis, and prototype development), existing on July 20, 1978 or such uses which were, prior to July 20, 1978, located in an R-2 district which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit.
 - (B) Two-family uses, except where one of the units is a legal nonconforming detached single-family dwelling on a substandard lot size, and multiple-family uses existing on July 20, 1978 or such uses which were, prior to July 20, 1978, located in an R-2 district which was imposed by reason of annexation of the property to the city without

benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit.

(2) RMD district:

(A) Professional and medical office uses (except product testing and analysis, and prototype development), existing on July 20, 1978.

(B) Multiple-family uses existing on July 20, 1978.

(c) **Permitted Changes**

The following regulations shall apply to the grandfathered uses specified in subsection (b):

(1) Such uses shall be permitted to remodel, improve, or replace site improvements on the same site, for continual use and occupancy by the same use, provided that

(A) such remodeling, improvement or replacement shall not:

(i) result in increased floor area;

(ii) result in an increase in the number of offices, in the case of professional or medical office uses, or dwellings, in the case of residential uses;

(iii) result in shifting of building footprint;

(iv) increase the height, length, building envelope, or size of the improvement,

(v) increase the existing degree of noncompliance, except through the granting of a design enhancement exception pursuant to Chapter 18.76.

(2) If a grandfathered use ceases and thereafter remains discontinued for twelve consecutive months, it shall be considered abandoned and may be replaced only by a conforming use.

(3) A grandfathered use which is changed to or replaced by a conforming use shall not be reestablished, and any portion of a site or any portion of a building, the use of which changes from a grandfathered use to a conforming use, shall not thereafter be used except to accommodate a conforming use.

(4) The following additional regulations shall apply to grandfathered professional or medical office uses:

(A) Any remodeling, improvement, or replacement of any building designed and constructed for residential use shall be subject to the issuance of a conditional use permit in accord with Chapter 18.76.

(B) In the event of redevelopment of all or a portion of the site for permitted residential uses, professional and medical office uses may not be incorporated in the redevelopment, except that this provision shall not apply to permanent conversion to residential use of space within an existing structure now used for professional and medical office uses.

(d) **Existing Accessory Dwellings and Guest Cottages**

In the R-E district, accessory dwellings and guest cottages existing on April 28, 1986, and which prior to that date were lawful, conforming permitted uses may remain as legal

nonconforming uses. Such uses shall be permitted to remodel, improve or replace site improvements on the same site, without necessity to comply with site development regulations for continual use and occupancy by the same use; provided that any such remodeling, improvement or replacement shall not add a kitchen nor result in increased floor area, number of dwelling units, height, length or any other increase in the size of the improvement without complying with the standards set forth in this subsection and applying for and receiving a conditional use permit pursuant to Chapter 18.76

(e) Existing Second Dwelling Units on Substandard Size Lots

In the R-2 district, notwithstanding any provisions of Chapters 18.40, 18.42 and/or 18.70, in the case of a legal and nonconforming second detached single-family dwelling existing prior to July 20, 1978 on a substandard size lot, such nonconforming use shall be permitted to remodel, improve, or replace site improvements on the same site without necessity to comply with site development regulations; provided, that any such remodeling, improvement or replacement shall not result in increased floor area, number of dwelling units, height, length, or any other increase in the size of the improvement.

(f) Existing Homes on Substandard Lots

In the R-2 district, single-family and two-family homes on substandard lots, as defined in Section 18.10.040(b), and flag lots existing on August 1, 1991 and which prior to that date were lawful, complying structures, may remain and be remodeled, improved, or replaced without complying with the height and habitable floor limitations for substandard lots specified in Section 18.10.040, provided that:

- (1) any such remodeling, improvement, or replacement does not result in a height above seventeen feet or any additional habitable floor area above a first habitable floor, except that any structure damaged or destroyed by a natural disaster (such as fire, flood or earthquake) may be replaced to its previous size without regard to the height and habitable floor limitations imposed by this section; and
- (2) in the case of a conflict between the provisions of this section and the provisions of Chapter 18.70, this section shall control.

(Ord. 4875 § 2 (part), 2005)

Chapter 18.12

R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT*

Sections:

18.12.010	Purposes
18.12.020	Applicable Regulations
18.12.030	Land Uses
18.12.040	Development Standards
18.12.050	Permitted Encroachments, Projections and Exceptions
18.12.060	Parking
18.12.070	Second Dwelling Units
18.12.080	Accessory Uses and Facilities
18.12.090	Basements
18.12.100	Regulations for the Single Story Overlay (S) Combining District
18.12.110	Single Family Individual Review
18.12.120	Home Improvement Exceptions
18.12.130	Architectural Review
18.12.140	Historical Review
18.12.150	Grandfathered Uses

* **Editor's Note:** This chapter was revised in its entirety by Ordinance 4869. Ordinances formerly codified in this chapter, and not specifically repealed by adoption of Ordinance 4869, include Ords. 3048, 3064, 3070, 3130, 3255, 3291, 3345, 3378, 3465, 3475, 3489, 3536, 3577, 3583, 3662, 3683, 3735, 3741, 3850, 3861, 3905, 4016, 4043, 4081, 4140, 4642, 4643, 4716, 4794 and 4826.

18.12.010 Purposes

Provisions related to the single-family residential (R-1) district, four residential R-1 subdistricts, and the single-story (S) combining district are outlined in this chapter. Requirements for the RE, R-2 and RMD are included in Chapter 18.10. The specific purposes of each residential district are stated below:

(a) Single Family Residential District [R-1]

The R-1 single family residential district is intended to create, preserve, and enhance areas suitable for detached dwellings with a strong presence of nature and with open area affording maximum privacy and opportunities for outdoor living and children's play. Minimum site area requirements are established to create and preserve variety among neighborhoods, to provide adequate open area, and to encourage quality design. Second dwelling units and accessory structures or buildings are appropriate where consistent with the site and neighborhood character. Community uses and facilities, such as churches and schools, should be limited unless no net loss of housing would result.

(b) Special Residential Building Site R-1 Subdistricts (7,000), (8,000), (10,000), (20,000)

The special residential building site R-1 subdistricts are intended to modify the site development regulations of the R-1 single family residence district, where applied in

combination with the R-1 district, to create and maintain single-family living areas of varying site size and development characteristics, to reflect and preserve the character of existing neighborhoods.

(c) Single-Story Combining District (S)

The single-story height combining district is intended to modify the site development regulations of the R-1 single-family residence district, to preserve and maintain single-family living areas of predominantly single-story character. An area proposed for a single story combining district should be of a prevailing single story character, thus limiting the number of structures rendered noncomplying by the (S) combining district. It is intended that neighborhoods currently subject to single story deed restrictions be developed in a manner consistent with those deed restrictions. Furthermore, it is desirable that homes be similar in age, design and character, ensuring that residents of an area proposed for rezoning possess like desires for neighborhood preservation and face common home remodeling constraints.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.020 Applicable Regulations

The specific regulations of this chapter and the additional regulations and procedures established by Chapters 18.52 to 18.80 inclusive shall apply to the R-1 district including the R-1 subdistricts.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.030 Land Uses

The permitted and conditionally permitted uses for the single family residential districts are shown in Table 1:

**TABLE 1
PERMITTED AND CONDITIONAL R-1 RESIDENTIAL USES
[P = Permitted Use • CUP =Conditional Use Permit Required]**

	R-1 and all R-1 Subdistricts	Subject to Regulations for:
ACCESSORY AND SUPPORT USES		
Accessory facilities and uses customarily incidental to permitted uses with no more than two plumbing fixtures and no kitchen facility, or of a size less than or equal to 200 square feet	P	18.04.030(a)(3) 18.12.080
Accessory facilities and uses customarily incidental to permitted uses with more than two plumbing fixtures (but with no kitchen), and in excess of 200 square feet in size, but excluding second dwelling units	CUP	18.12.080
Home occupations, when accessory to permitted residential uses	P	18.42.060
Horticulture, gardening, and growing of food products for consumption by occupants of the site	P	
Second Dwelling Units	P	18.12.070
EDUCATIONAL, RELIGIOUS AND ASSEMBLY USES		
Private Educational Facilities	CUP	
Churches and Religious Institutions	CUP	

[Table Continues on Next Page]

	R-1 and all R-1 Subdistricts	Subject to Regulations for:
PUBLIC/QUASI PUBLIC USES		
Community Centers	CUP	
Utility Facilities essential to provision of utility services to the neighborhood, but excluding business offices, construction or storage yards, maintenance facilities, or corporation yards	CUP	
RECREATION USES		
Outdoor Recreation Services	CUP	
RESIDENTIAL USES		
Single-Family	P	
Mobile Homes	P	18.42.100
Residential Care Homes	P	
SERVICE USES		
Day Care Centers	CUP	
Small Adult Day Care Homes	P	
Large Adult Day Care Homes	CUP	
Small Family Day Care Homes	P	
Large Family Day Care Homes	P	
P = Permitted Use		CUP = Conditional Use Permit Required

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.040 Site Development Standards

(a) Site Specifications, Building Size, Height and Bulk, and Residential Density

The development standards for the R-1 district and the R-1 subdistricts are shown in Table 2:

**TABLE 2
R-1 RESIDENTIAL DEVELOPMENT STANDARDS**

	R-1	R-1 Subdistricts				Subject to Regulations in Chapter:
		R-1 (7,000)*	R-1 (8,000)*	R-1 (10,000)*	R-1 (20,000)*	
* Subdistricts based on minimum lot size (sq. ft.)						
Minimum Site Specifications						
Site area (sq. ft.)						
All lots except flag lots ⁽¹⁾	6,000	7,000	8,000	10,000	20,000	
Flag lots	As established by Section 21.20.301 (Subdivision Ordinance)					
Site Width (ft)	60					
Site Depth (ft)	100					
Maximum Lot Size						
Lot area (sq. ft.)	9,999	13,999	15,999	19,999	39,999	18.12.040(d)

[Table Continues on Next Page]

	R-1	R-1 Subdistricts				Subject to Regulations in Chapter:
		R-1 (7,000)*	R-1 (8,000)*	R-1 (10,000)*	R-1 (20,000)*	
		* Subdistricts based on minimum lot size (sq. ft.)				
Minimum Setbacks	<i>Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may also apply</i>					18.12.040(e) 18.12.050
Front Yard (ft.)	Contextual ⁽²⁾					
Rear Yard (ft.)	20					
Interior Side Yard (ft.)	6	8				
Street Side Yard (ft.)	16					
Maximum Height (as measured to the peak of the roof) (ft.)						18.04.030(a)(67) 18.12.050
Standard	30 ⁽³⁾					
Maximum Height for buildings with a roof pitch of 12:12 or greater	33 ⁽³⁾					
With (S) Combining	17 feet; limited to one habitable floor ^(4,5)				18.12.100	
Side Yard Daylight Plane (Excludes street side yards)						18.04.030(44) 18.12.050
Initial Height	10 feet at interior side lot line ⁽⁶⁾					
Angle (Degrees)	45 ⁽⁶⁾					
Rear Yard Daylight Plane						18.12.050
Initial Height	16 feet at rear setback line ⁽⁶⁾					
Angle (Degrees)	60 ⁽⁶⁾					
Maximum Site Coverage:						18.04.030(a)(86A)
Single story development	Equivalent to maximum allowable floor area ratio ⁽⁷⁾					
With (S) Combining	Equivalent to maximum allowable floor area ratio ⁽⁷⁾					
Multiple story development	35% ⁽⁷⁾					
Additional area permitted to be covered by a patio or overhang	5%					
Maximum Floor Area Ratio (FAR)						Table 3 18.04.030(a)(65C) 18.12.040(b)
First 5,000 sq. ft. of lot size	.45					
Square footage of lot size in excess of 5,000 sq. ft.	.30					
Maximum House Size (sq. ft.)	6,000 ⁽⁸⁾					
Residential Density	One unit, except as provided in Section 18.12.070					
Parking	See Residential Parking, Section 18.12.060				Chs. 18.52, 18.54	

- (1) **Minimum Lot Size:** Any lot less than the minimum lot size may be used in accordance with the provisions of Section 18.40.080.
- (2) **Contextual Front Setbacks:** See Section 18.12.040(e) for application of contextual front setbacks.
- (3) **R-1 Floodzone Heights:** Provided, in a special flood hazard area as defined in Chapter 16.52, the maximum heights are increased by one-half of the increase in elevation required to reach base flood elevation, up to a maximum building height of 33 feet.
- (4) **R-1 (S) Height Limitations:** Habitable floors include lofts, mezzanines, and similar areas with interior heights of five feet (5') or more from the roof to the floor, but shall exclude finished basements and shall exclude attics that have no stairway or built-in access.
- (5) **R-1 (S) Floodzone Heights:** Provided, in a special flood hazard area as defined in Chapter 16.52, the maximum height is increased by one-half of the increase in elevation required to reach base flood elevations, up to a maximum building height of 20 feet.
- (6) **R-1 Floodzone Daylight Plane:** Provided, if the site is in a special flood hazard area and is entitled to an increase in the maximum height, the heights for the daylight planes shall be adjusted by the same amount.

- (7) **Site Coverage:** The covering of a court is exempt from the calculation of site coverage provided that the court existed prior to July 20, 1978.
- (8) **Maximum House Size:** The gross floor area of attached garages and attached second dwelling units are included in the calculation of maximum house size. If there is no garage attached to the house, then the square footage of one detached covered parking space shall be included in the calculation.

(b) Gross Floor Area Summary

The following table summarizes how “gross floor area” is counted, for the purpose of compliance with floor area ratio limits outlined in Table 2. “Gross floor area” means the total covered area of all floors of a main structure and accessory structures greater than one hundred twenty square feet in area, including covered parking and stairways, measured to the outside surface of stud walls, subject to the following inclusions, conditions, and exclusions. For exact language, refer to Section 18.04.030(a)(65), *Gross Floor Area* definition.

**TABLE 3
SUMMARY OF GROSS FLOOR AREA FOR LOW DENSITY RESIDENTIAL DISTRICTS**

Description	Included in GFA	Excluded from GFA
Accessory structures greater than 120 sq. ft.	✓	
Second floor equivalent: areas with heights >17'	✓ (counted twice)	
Third floor equivalent: areas with heights > 26'	✓ (counted three times)	
Third floor equivalent, where roof pitch is > 4:12		✓ up to 200 sq. ft. of unusable space
Garages and carports	✓	
Porte cocheres		✓
Entry feature ≤ 12' in height, if not substantially enclosed and not recessed	✓ (counted once)	
Vaulted entry > 12' in height	✓ (footprint counted twice)	
Fireplace footprint	✓ (counted once)	
First floor roofed or unenclosed porches		✓
First floor recessed porches <10' in depth and open on exterior side		✓
Second floor roofed or enclosed porches, arcades, balconies, porticos, breezeways	✓	
Basements (complying with patio & lightwell requirements described in Section 18.12.070)		✓
Areas on floors above the first floor where the height from the floor level to the underside of the rafter or finished roof surface is 5' or greater	✓	
Bay windows (if at least 18" above interior floor, does not project more than 2', and more than 50% is covered by windows)		✓
Basement area for Category 1 & 2 Historic Homes or contributing structure within a historic district (even if greater than 3')		✓
Unusable attic space for Category 1 & 2 Historic Homes		✓ (up to 500 sq. ft.)

(c) Substandard and Flag Lots

The following site development regulations shall apply to all new construction on substandard and flag lots in lieu of comparable provisions in subsection (a).

- (1) Substandard Lots
 - (A) For the purposes of this subsection (c), a substandard lot shall be a lot with a width of less than 50 feet or a depth of less than 83 feet and an area less than 83% of the minimum area required by the zoning of the parcel.
 - (B) Development standards:
 - (i) The maximum height shall be 17 feet, as measured to the peak of the roof.
 - (ii) There shall be a limit of one habitable floor. Habitable floors include loft, mezzanines, and similar areas with interior heights of five feet (5') or more from the roof to the floor, but exclude basements and exclude attics that have no stairway or built-in access. The chief building official shall make the final determination as to whether a floor is habitable.
 - (iii) For lots less than 50 feet in width, the required street side setback shall be 10 feet.
 - (iv) Substandard lots shall not be subject to the R-1 contextual garage placement requirement.
 - (C) Nothing in this subsection (c) shall affect or otherwise redefine the provisions of Section 18.40.080 as to whether a substandard lot may be used as a lot under this title.

- (2) Flag Lots

- (A) A flag lot shall be defined as set forth in Section 18.04.030(a)(84)(B).
- (B) Flag Lot Development Standards:
 - (i) The maximum height shall be 17 feet, as measured to the peak of the roof.
 - (ii) There shall be a limit of one habitable floor. Habitable floors include lofts, mezzanines, and similar areas with interior heights of five feet (5') or more from the roof to the floor, but exclude basements and exclude attics that have no stairway or built-in access. The chief building official shall make the final determination as to whether a floor is habitable.
 - (iii) Front Setback: 10 feet. Flag lots are not subject to contextual front setback requirements.
 - (iv) Flag lots are not subject to contextual front setback requirements.

- (d) **Maximum Lot Sizes in R-1 District and R-1 Subdistricts**

This provision limits the potential for lot combinations with a net loss of housing stock and resultant homes that would be out of scale with homes in the surrounding neighborhood. In the R-1 district and all R-1 subdistricts, no new lot shall be created equal to or exceeding two times the minimum lot size prescribed for the district, except that where 6,000 minimum square foot lots are required in an R-1 district, no new lot shall exceed a maximum lot size of 9,999 square feet, as prescribed in Table 2. Lots larger than the prescribed maximum size are permitted only under the following circumstances: (i) where a village residential land use is approved concurrent with the new lot, resulting in no net loss of housing units on the site(s); (ii) where underlying lots must be merged to eliminate nonconformities and no net loss of housing units would result; (iii) where an adjacent substandard lot of less than 25 feet in width is combined

with another lot, resulting in no net loss of housing units on the site(s); or (iv) where the number of resultant lots increases or stays the same and results in no net loss of housing units.

(e) Contextual Front Setbacks

The minimum front yard ("setback") shall be the greater of twenty feet (20') or the average setback, if the average front setback is 30 feet or more. "Average setback" means the average distance between the front property line and the first main structural element, including covered porches, on sites on the same side of the block, including existing structures on the subject parcel. This calculation shall exclude flag lots and existing multifamily developments of three units or more. For calculation purposes, if five (5) or more properties on the block are counted, the single greatest and the single least setbacks shall be excluded. The street sideyard setback of corner lots that have the front side of their parcel (the narrowest street-facing lot line) facing another street shall be excluded from the calculations. For blocks longer than 600 feet, the average setback shall be based on the ten sites located on the same side of the street and nearest to the subject property, plus the subject site, but for a distance no greater than 600 feet. Blocks with three (3) or fewer parcels are not subject to contextual setbacks. Structures on the site in no case may be located closer than twenty feet (20') from the front property line.

(f) Contextual Garage Placement

If the predominant neighborhood pattern is of garages or carports located within the rear half of the site, or with no garage or carport present, attached garages shall be located in the rear half of the house footprint. Otherwise, an attached garage may be located in the front half of the house footprint. "Predominant neighborhood pattern" means the existing garage placement pattern for more than half of the houses on the same side of the block, including the subject site. This calculation shall exclude flag lots, corner lots and existing multifamily developments of three or more units. For blocks longer than 600 feet, the calculations shall be based on the 10 homes located nearest to and on the same side of the block as the subject property, plus the subject site, but for a distance no greater than 600 feet. Detached garages shall be located in the rear half of the site and, if within a rear or side setback, at least 75 feet from the front property line. Detached garages on lots of less than 95 feet in depth, however, may be placed in a required interior side or rear yard if located in the rear half of the lot. Access shall be provided from a rear alley if the existing development pattern provides for alley access. For the calculation of corner lots, the "predominant pattern" shall be established for the street where the new garage fronts.

(g) Garage Doors

For garages located within 50 feet from a street frontage, on lots less than 75 feet in width, the total combined width of garage doors that are parallel to the street shall not exceed 20 feet.

(h) Minimum Permeable Surface in Front Yard

A minimum of 60% of the required front yard shall have a permeable surface that permits water absorption directly into the soil. Provided, all sites may have an impervious 16' x 20' driveway and an impervious 4' x 20' walkway within the front yard setback.

(i) **Special Setbacks**

Where applicable, setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code shall be followed for the purpose of determining legal setback requirements.

(j) **Certification of Daylight Plane Compliance**

Upon request by the building official, any person building or making improvements to a structure shall provide a certification that the structure, as built, complies with the daylight plane provisions in subsection (a). Such certification shall be prepared by a licensed engineer, architect, or surveyor, and shall be provided prior to frame inspection.

(k) **Lighting**

Recreational and security lighting shall be permitted only so long as the lighting is shielded so that the direct light does not extend beyond the property where it is located. Free-standing recreational and security lighting installed on or later than March 11, 1991 shall be restricted to twelve feet (12') in height. Direct light from outdoor fixtures shall only fall on the walls, eaves, and yard areas of the site on which it is located. Outdoor fixtures shall have lens covers or reflectors that direct the light away from the neighboring properties.

(l) **Location of Noise-Producing Equipment**

All noise-producing equipment, such as air conditioners, pool equipment, generators, commercial kitchen fans, and similar service equipment, shall be located outside of the front, rear and side yard setbacks. Such equipment may, however, be located up to six feet into a street sideyard setback. All such equipment shall be insulated and housed, except that the planning director may permit installation without housing and insulation, provided the equipment is located within the building envelope and where a combination of technical noise specifications, location of equipment, and/or other screening or buffering will assure compliance with the city's Noise Ordinance at the nearest property line. Any replacement of such equipment shall conform to this section where feasible. All service equipment must meet the city's Noise Ordinance in Chapter 9.10 of the Municipal Code.

(Ord. 4964 §§ 11 – 13, 2007; Ord. 4891 § 4, 2006; Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.050 Permitted Encroachments, Projections and Exceptions

The following projections and encroachments into required yards, daylight plane and height are permitted, provided a projection shall not be permitted to encroach into a special setback, as established by the setback map pursuant to Chapter 20.08 of the Palo Alto Municipal Code, except as noted in subsection (a)(1)(D) below.

(a) **Setback/Yard Encroachments and Projections**

(1) **Horizontal Additions**

Where a single-family dwelling legally constructed according to existing yard and setback regulations at the time of construction encroaches upon present required yards, one encroaching side (first floor wall) of the existing structure, at a height not to exceed 12 feet, may be extended in accord with this section. Only one such extension shall be permitted for the life of such building. This subsection shall not be

construed to allow the further extension of an encroachment by any building that is the result of the granting of a variance, either before or after such property became part of the city.

- (A) **Front Yard.** In cases where the existing setback is less than 20 feet, but at least 14 feet, the existing encroachment may be extended for a distance of not more than 100% of the length of the encroaching wall to be extended; provided, that the total length of the existing encroaching wall and the additional wall shall together not exceed one-half the maximum existing width of such building.
 - (B) **Interior Side Yard.** In cases where the existing setback is less than 8 feet, but at least 5 feet, the existing encroachment may be extended for a distance of not more than 100% of the length of the encroaching wall to be extended but not to exceed 20 additional feet.
 - (C) **Street Side Yard.** In cases where the existing setback is less than 16 feet, but at least 10 feet, the existing encroachment may be extended for a distance of not more than 100% of the length of the encroaching wall to be extended, but not to exceed 20 feet.
 - (D) **Special Setbacks.** In cases where a special setback is prescribed pursuant to Chapter 20.08 of the Municipal Code, and the existing setback is less than the special setback distance, and at least 14 feet for the front setback or at least 10 feet for the street side yard setback, the existing encroachment may be extended for a distance of not more than 100% of the length of the encroaching wall to be extended, provided that the total length of the existing encroaching wall and the additional wall shall together not exceed one-half the maximum existing width of such building.
- (2) **Rear Yard Encroachments for Portions of Homes**
- A portion of a main building that is less than half the maximum width of the building may extend into the required rear yard no more than six feet and with a height of no more than one story, except that for a corner lot having a common rear property line with an adjoining corner lot, the building may extend into the required rear yard not more than ten feet with a height of no more than one story.
- (3) **Allowed Projections**
- (A) **Cornices, Eaves, Fireplaces, and Similar Architectural Features**
- For cornices, eaves, fireplaces, and similar architectural features, excluding flat or continuous walls or enclosures of usable interior space, the following projections are permitted:
- (i) A maximum of two feet into a required side yard. Fireplaces in a required side yard may not exceed five feet in width. Fireplaces not exceeding five feet in width may project into a required side yard no more than two feet.
 - (ii) A maximum of four feet into a required front yard.
 - (iii) A maximum of four feet into a required rear yard.
- (B) **Window Surfaces**
- (i) Window surfaces, such as bay windows or greenhouse windows, may extend into a required rear yard a distance not to exceed two feet, or into a required front yard a distance not to exceed three feet.

- (ii) Window surfaces may not extend into required side yards, with the exception that one greenhouse window with a maximum width of six feet, framed into a wall, may project into the side yard no more than two feet. The window surface may not extend into any yard above a first story.

(C) Storage Structures

Storage structures not over six feet in height or twenty-five square feet in floor area may be located in interior side yards and rear yards according to the provisions of Section 18.12.080(b) for accessory structures. Where the provisions of Section 18.12.080(b) for front and/or street side yard setbacks are not met, the following projections are permitted for such structures:

- (i) A maximum of two feet into a required side yard.
- (ii) A maximum of four feet into a required front yard.
- (iii) A maximum of four feet into a required rear yard.

(D) Patios, Decks, Stairways, Landings, Balconies, or Fire Escapes

For uncovered porches (less than 30 inches above grade), patios, decks, stairways, landings, balconies, or fire escapes the following projections are permitted, provided these projections are not permitted above the first story:

- (i) A maximum of three feet into a required side yard.
- (ii) A maximum of six feet into a required front yard.
- (iii) A maximum of six feet into a required rear yard.

(E) Canopy or Patio Cover

A canopy or patio cover may be located in the required rear yard or that portion of the interior side yard, which is more than 75 feet from the street lot line measured along the common lot line. Such canopies shall be subject to the following conditions:

- (i) A canopy or patio cover shall not be more than 12 feet in height.
- (ii) The canopy or patio cover shall be included in the computation of building coverage.
- (iii) The canopy or patio cover and other structures shall not occupy more than fifty percent of the required rear yard.
- (iv) The canopy or patio cover shall not be enclosed on more than two sides.

(F) Pools, Spas, and Hot Tubs

- (i) Pools, spas, and hot tubs may extend into a required rear yard a distance not to exceed fourteen feet, provided that a minimum setback of six feet from the property line shall be maintained.
- (ii) No swimming pool, hot tub, spa, or similar accessory facility shall be located in any portion of a required front or street side yard.

(b) Height and Daylight Plane Exceptions**(1) Height Exceptions**

Flues, chimneys, and antennas may exceed the established height limit by not more than 15 feet.

(2) Daylight Plane Exceptions

The following features may extend beyond the daylight plane established by the applicable district, provided that such features do not exceed the height limit for the district unless permitted to do so by subsection (b)(1) above:

(A) Television and radio antennas;

(B) Chimneys and flues that do not exceed 5 feet in width, provided that chimneys do not extend past the required daylight plane a distance exceeding the minimum allowed pursuant to Chapter 16.04 of this code.

(C) Dormers, roof decks, gables, or similar architectural features, provided that:

(i) the sum of the horizontal lengths of all such features shall not exceed 15 feet on each side; and

(ii) the height of such features does not exceed 24 feet;

(iii) no single feature exceeds 7.5 feet in length; and

(iv) there is a minimum 5 foot separation between each feature.

(D) Cornices, eaves, and similar architectural features, excluding flat or continuous walls or enclosures of usable interior space, provided such features do not extend past the daylight plane more than 2 feet.

(Ord. 4964 § 14, 2007; Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.060 Parking

Off-street parking and loading facilities shall be required for all permitted and conditional uses in accord with Chapters 18.52 and 18.54 of this title. The following parking requirements apply in the R-E, R-2 and RMD districts. These requirements are included for reference purposes only, and in the event of a conflict between this Section 18.10.060 and any requirement of Chapters 18.52 and 18.54, Chapters 18.52 and 18.54 shall apply, except in the case of parcels created pursuant to Section 18.10.130(c) (subdivision incentive for historic preservation).

(a) Parking Requirements for Specific Uses

Table 4 shows the minimum off-street automobile parking requirements for specific uses within the R-1 district.

Table 4 shows the minimum off-street automobile parking requirements for specific uses.*

* Editor's Note: As set forth in Ord. 5051 § 5, 2009. Future legislation will correct the text if needed.

Table 4

Parking Requirements for Specific R-1 Uses

Use	Minimum Off-Street Parking Requirement
Single-family residential use (excluding second dwelling units)	2 spaces per unit, of which one must be covered.
Second dwelling unit, attached or detached	2 spaces per unit, of which one must be covered
Other Uses	See Chs. 18.52 and 18.54

(b) Parking and Driveway Surfaces

Parking and driveway surfaces may have either permeable or impermeable paving. Materials shall be those acceptable to public works department standards. Gravel and similar loose materials shall not be used for driveway or parking surfaces within 10 feet of the public right of way.

(c) Parking in Yards

- (1) No required parking space shall be located in a required front yard.
- (2) No required parking space shall be located in the first ten feet adjoining the property line of a required street side yard.

(d) Tandem Parking

Tandem parking shall be permitted for single-family uses and for single-family uses with a permitted second dwelling unit.

(e) Underground Parking

Underground parking is prohibited for single-family uses, except pursuant to a variance granted in accordance with the provisions of Chapter 18.76, in which case the area of the underground garage shall be counted in determining the floor area ratio for the site.

(f) Design of Parking Areas

Parking facilities shall comply with all applicable regulations of Chapter 18.54 (Parking Facility Design Standards).

(Ord. 5051 § 5, 2009; Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.070 Second Dwelling Units

The following regulations apply to second dwelling units in the R-1 district and all R-1 subdistricts.

(a) Purpose

The intent of this section is to provide regulations to accommodate second dwelling units, in order to provide for variety to the city's housing stock and additional affordable housing opportunities. Second dwelling units shall be separate, self-contained living units, with separate entrances from the main residence, whether attached or detached. The standards below are provided to minimize the impacts of second dwelling units on nearby residents and throughout the city, and to assure that the size, location and design of such dwellings is compatible with the existing residence on the site and with other structures in the area.

(b) Minimum Lot Sizes

- (1) In the R-1 district and all R-1 subdistricts, the minimum lot size for a second dwelling unit shall be 35% greater than the minimum lot size otherwise established for the district. Provided, for flag lots, the minimum lot size shall be 35% greater than the minimum lot size established by Section 21.20.301 of the Subdivision Ordinance.

THIS PAGE INTENTIONALLY LEFT BLANK

- (2) Table 5 shows the minimum lot size required for a second dwelling unit, provided, in the event of a conflict between subsection (1) and this subsection (2), subsection (1) shall control.

**TABLE 5
MINIMUM LOT SIZES FOR SECOND DWELLING UNITS**

District	Minimum Lot Size (all lots except flag lots)	Minimum Lot Size (flag lots) ⁽¹⁾
R-1	8,100 square feet ("sf")	9,720 sf
R-1 (7,000)	9,450 sf	11,340 sf
R-1 (8,000)	10,800 sf	12,960 sf
R-1 (10,000)	13,500 sf	16,200 sf
R-1 (20,000)	27,000 sf	32,400 sf

⁽¹⁾ Exclusive of any portion of the lot used for access to the street

(c) Development Standards for Attached Second Dwelling Units

Attached second dwelling units are those attached to the main dwelling. Attached unit size counts toward the calculation of maximum house size. All attached second dwelling units shall be subject to the following development requirements:

- (1) The minimum site area shall meet the requirements specified in subsection (b) above.
- (2) Maximum size of living area: 450 square feet. The second dwelling unit and covered parking shall be included in the total floor area for the site. Any basement space used as a second dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the second unit.
- (3) Maximum size of covered parking area for the second dwelling unit: 200 square feet.
- (4) Maximum height: one story and 17 feet.
- (5) Except on corner lots, the second dwelling unit may not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit, and exterior staircases to second floor units shall be located toward the interior side or rear yard of the property.

(d) Development Standards for Detached Second Dwelling Units

Detached second dwelling units are those detached from the main dwelling. All detached second dwelling units shall be subject to the following development requirements:

- (1) The minimum site area shall meet the requirements specified in subsection (b) above.
- (2) Minimum separation from the main dwelling: 12 feet.
- (3) Maximum size of living area: 900 square feet. The second dwelling unit and covered parking shall be included in the total floor area for the site. Any basement space used as a second dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the second unit.
- (4) Maximum size of covered parking for the second dwelling unit: 200 square feet.
- (5) Maximum height: one story and 17 feet.

- (6) The detached second dwelling shall be architecturally compatible with the main residence, with respect to style, roof pitch, color and materials.

(e) Street Access

The second dwelling unit shall have street access from a driveway in common with the main residence in order to prevent new curb cuts, excessive paving, and elimination of street trees. Separate driveway access may be permitted by the director upon a determination that separate access will result in fewer environmental impacts such as excessive paving, unnecessary grading or unnecessary tree removal, and that such separate access will not create the appearance, from the street, of a lot division or two-family use.

(f) Parking

The following parking criteria apply to both detached and attached second dwelling units:

- (1) Two parking spaces shall be provided for the second dwelling unit, with at least one of the spaces being covered.
- (2) Such parking shall be located out of required front setbacks and not closer than 10 feet from the street in a street side setback.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.080 Accessory Uses and Facilities

Accessory uses and facilities, as allowed in Section 18.12.030, shall be permitted when incidental to and associated with a permitted use or facility in the R-1 district or R-1 subdistricts, or when incidental to and associated with an allowable and authorized conditional use therein, subject to the provisions of subsection (a), below (Types of Accessory Uses).

(a) Types of Accessory Uses

Accessory uses and facilities include, but are not limited to, the following list of examples; provided that each accessory use or facility shall comply with the provisions of this title:

- (1) Residential garages, carports, and parking facilities, together with access and circulation elements necessary thereto;
- (2) Facilities for storage incidental to a permitted use; and
- (3) Recreational uses and facilities for the use and convenience of occupants or employees, or guests thereof, of a principal use or facility.

(b) Location and Development Standards

Except as otherwise provided in this section, accessory buildings shall at all times be located in conformance with requirements for principal buildings, and shall not be located in any required front, side, or rear yard. See Section 18.12.050(a)(3)(C) for allowed encroachments for small storage structures. Accessory buildings may be located in a required interior yard subject to the following limitations:

- (1) An accessory building shall not be used for living and/or sleeping purposes unless the building was legally constructed for or was legally converted to living and/or sleeping purposes prior to October 13, 1983.
- (2) An accessory building shall not be located in a required front yard, required street yard, or required rear yard of a through lot.
- (3) An accessory building shall not be located in a required interior side or rear yard unless the building is placed at least seventy-five feet from the front lot line and for corner lots at least twenty feet from the street side lot line. Additionally, on lots of less than 95 feet in depth, detached garages and carports may be located in a required interior side or rear yard if placed in the rear half of the lot.
- (4) Accessory buildings located within a required interior yard as permitted by this section shall be subject to a maximum height established by a daylight plane beginning at a height of eight feet at the property line and increasing at a slope of one foot for every three feet of distance from the property line, to a maximum height of twelve feet.
- (5) No such accessory building greater than 200 square feet in size shall have more than two plumbing fixtures.
- (6) Accessory buildings located within a required interior yard, as permitted by this section, shall not individually or cumulatively occupy an area exceeding fifty percent of the required rear yard.
- (7) The minimum distance between separate buildings located on the same site shall be as required by Title 16; provided, accessory buildings in the single-family residential (R-1) district shall be separated from the principal building by at least three feet.
- (8) A principal building and an accessory building, meeting the requirements of Title 16 and each located on a site as otherwise permitted for the principal building and accessory buildings, may be connected by a structure meeting the definition of a breezeway. Such structure, or breezeway, shall be a part of the accessory building.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.090 Basements

Basements shall be permitted in areas that are not designated as special flood hazard areas as defined in Chapter 16.52, and are subject to the following regulations:

(a) Permitted Basement Area

Basements may not extend beyond the building footprint and basements are not allowed below any portion of a structure that extends into required setbacks, except to the extent that the main residence is permitted to extend into the rear yard setback by other provisions of this code.

(b) Inclusion as Gross Floor Area

Basements shall not be included in the calculation of gross floor area, provided that:

- (1) basement area is not deemed to be habitable space, such as crawlspace; or

- (2) basement area is deemed to be habitable space but the finished level of the first floor is no more than three feet above the grade around the perimeter of the building foundation.

Basement space used as a second dwelling unit or portion thereof shall be counted as floor area for the purpose of calculating the maximum size of the unit (but may be excluded from calculations of floor area for the total site). This provision is intended to assure that second units are subordinate in size to the main dwelling and to preclude the development of duplex zoning on the site.

(c) Lightwells, Stairwells, Below Grade Patios and other Excavated Features

- (1) Lightwells, stairwells, and similar excavated features along the perimeter of the basement shall not affect the measurement of grade for the purposes of determining gross floor area, provided that the following criteria are met:
 - (A) such features are not located in the front of the building;
 - (B) such features shall not exceed 3 feet in width;
 - (C) the cumulative length of all such features does not exceed 30% of the perimeter of the basement;
 - (D) such features do not extend more than 3 feet into a required side yard nor more than 4 feet into a required rear yard, but where a side yard is less than 6 feet in width, the features shall not encroach closer than 3 feet from the adjacent side property line;
 - (E) the cumulative length of any features or portions of features that extend into a required side or rear yard does not exceed 15 feet in length;
 - (F) the owner provides satisfactory evidence to the planning division prior to issuance of a building permit that any features or portions of features that extend into a required side or rear yard will not be harmful to any mature trees on the subject property or on abutting properties; and
 - (G) such features have either a drainage system that meets the requirements of the public works department or are substantially sheltered from the rain by a roof overhang or canopy of a permanent nature.
- (2) Below-grade patios, sunken gardens, or similar excavated areas along the perimeter of the basement that exceed the dimensions set forth in subsection (1), are permitted and shall not affect the measurement of grade for the purposes of determining gross floor area, provided that:
 - (A) such areas are not located in the front of the building;
 - (B) all such areas combined do not exceed 2% of the area of the lot or 200 square feet, whichever is greater; that each such area does not exceed 200 square feet; and that each such area is separated from another by a distance of at least 10 feet. Area devoted to required stairway access shall not be included in the 200 square foot limitation.
 - (C) such features do not extend more than 2 feet into a required side yard nor more than 4 feet into a required rear yard;

- (D) the cumulative length of any excavated area or portion thereof that extends into a required side or rear yard does not exceed 15 feet;
- (E) the owner provides satisfactory evidence to the planning director prior to issuance of a building permit that any features or portions of features that extend into a required side or rear yard will not be harmful to any mature trees on the subject property or on abutting properties;
- (F) such features have either a drainage system that meets the requirements of the public works department or are substantially sheltered from the rain by a roof overhang or canopy of a permanent nature;
- (G) any roof overhang or canopy installed pursuant to subsection (F) is within and is counted toward the site coverage requirements established in Section 18.12.040;
- (H) such areas are architecturally compatible with the residence; and
- (I) such areas are screened to off-site views by means of landscaping and/or fencing as determined appropriate by the planning director.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.100 Regulations for the Single Story Overlay (S) Combining District

(a) Applicability of District

The single-story height combining district may be combined with the R-1 single family residence district or with any R-1 subdistrict. Where so combined, the regulations established by this section shall apply in lieu of the comparable provisions established by Section 18.12.040. All applicable provisions of that section shall otherwise govern development in the combining district.

(b) Site Development Regulations

For sites within the single-story height combining district, the following site development regulations shall apply in lieu of the otherwise applicable site development regulations of Section 18.12.040:

- (1) The maximum height shall be 17 feet, as measured to the peak of the roof; provided, in a special flood hazard area as defined in Chapter 16.52, the maximum height is increased by one-half of the increase in elevation required to reach base flood elevation, up to a maximum building height of 20 feet.
- (2) There shall be a limit of one habitable floor. Habitable floors include lofts, mezzanines and similar areas but exclude basements and exclude attics that have no stairway or built-in access. Lofts and mezzanines include any space above the first floor in excess of five feet (5') from the floor to the roof above.

(c) Application for a Single Story (S) Combining District

- (1) Application to create or remove a single-story overlay district may be made by an owner of record of property located in the single-story overlay district to be created or removed.

- (2) Application shall be made to the director on a form prescribed by the director, and shall contain all of the following:
- (A) A written statement setting forth the reasons for the application and all facts relied upon by the applicant in support thereof.
 - (B) A map of the district to be created or removed that includes the address location of those owners whose properties are subject to the zoning request. Boundaries shall correspond with certain natural or man-made features (including, but not limited to, roadways, waterways, tract boundaries and similar features) to define an identifiable neighborhood or development. For creation of a single-story overlay district, the area shall be of a prevailing single story character, such that a minimum of 80% of existing homes within the boundaries are single story.
 - (C) For creating a single-story overlay district, a list of signatures evidencing support by: (i) 70% of included properties; or (ii) 60% of included properties where all included properties are subject to recorded deed restrictions intended to limit building height to a single story, whether or not such restrictions have been enforced. For the removal of a single-story overlay district, a list of signatures evidencing support by 70% of included properties, whether or not deed restrictions intended to limit the building height to single story apply. "Included properties" means all those properties inside the boundaries of the district proposed to be created or removed. The written statement or statements accompanying the signatures must state that the signer is indicating support for a zone map amendment that affects his or her property. One signature is permitted for each included property, and a signature evidencing support of an included property must be by an owner of record of that property.
 - (D) A fee, as prescribed by the municipal fee schedule, no part of which shall be returnable to the applicant.
 - (E) Such additional information as the director may deem pertinent and essential to the application.
- (3) An application for creation or removal of a single-story (S) overlay district made in accordance with this subsection (c) shall be processed in accordance with Chapter 18.80.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.110 Single Family Individual Review

(a) Purpose

The goals and purposes of this chapter are to:

- (1) Preserve the unique character of Palo Alto neighborhoods;
- (2) Promote new construction that is compatible with existing residential neighborhoods;
- (3) Encourage respect for the surrounding context in which residential construction and alteration takes place;
- (4) Foster consideration of neighbors' concerns with respect to privacy, scale and massing, and streetscape; and

- (5) Enable the emergence of new neighborhood design patterns that reflect awareness of each property's effect upon neighboring properties.

This program is intended only to mitigate the effects of second story construction on neighboring homes, and should not be construed to prohibit second story construction when this title would otherwise permit it.

(b) Applicability

The provisions of this Section 18.12.110 apply to the construction of a new singly developed two-story structure; the construction of a new second story; or the expansion of an existing second story by more than 150 square feet in the R-1 single family residential district. All second-story additions on a site after November 19, 2001 shall be included in calculating whether an addition is over 150 square feet.

(c) Individual Review Guidelines

The director of planning and community environment shall issue guidelines to direct staff and project applicants in implementing the goals and purposes and other provisions of this chapter. Guidelines establishing substantive review standards for second story development shall be presented to the planning and transportation commission for their comment prior to adoption or amendment by the director.

(d) Findings

Neither the director, nor the city council on appeal, shall grant an individual review approval, unless it is found that the application is consistent with the individual review guidelines.

(e) Conditions

In granting individual review approvals, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title (Zoning).

(f) Application Review and Action

Applications for individual review approval shall be reviewed and acted upon as set forth in Section 18.77.075.

(g) Preliminary Meeting with Planning Staff

Project applicants are strongly encouraged, before applying for individual review of a project, to meet with planning staff to discuss designing a project that promotes the goals of this chapter and the individual review guidelines, and to discuss the proposed plans with their neighbors.

(h) Changes to Approved Projects

The director may approve changes to a previously approved individual review project without following the procedure set forth in Section 18.77.075 if those changes do not affect compliance with the individual review guidelines. Examples of such changes include:

- (1) Reductions in window or door size, or reductions in the number of windows.

- (2) Changes to aspects of the project not reviewed under individual review, such as materials or non-street-facing first story windows.
- (3) Changes that do not affect privacy/streetscape.
- (4) Increases in setbacks.
- (5) Reductions in second floor mass that do not affect privacy or streetscape.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.120 Home Improvement Exceptions

(a) Purpose

A home improvement exception ("HIE") enables a home improvement or minor addition to an existing single-family or two-family home, or accessory structure, or both, to be consistent with the existing architectural style of the house or neighborhood, to accommodate a significant or protected tree, or to protect the integrity of a historic structure in conformance with the Secretary of the Interior's *Standards for Historic Rehabilitation*. By enabling adaptive reuse of existing buildings, the home improvement exception promotes retention of existing houses within the city.

(b) Applicability

A home improvement exception may be granted as part of a proposed improvement or addition to an existing single-family or two-family structure, or accessory structure, or both, in the RE, R-1, RMD, or R-2 district, as limited in subsection (c). A home improvement exception may be granted as described in subsections (1) through (14) of subsection (c), but may not exceed the limits set forth in those subsections. In order to qualify for a home improvement exception, the project must retain at least 75% of the existing exterior walls.

(c) Limits of the Home Improvement Exception

A home improvement exception may be granted only for one or more of the following, not to exceed the specified limits:

- (1) To allow up to 100 square feet of floor area more than the maximum square footage allowed on the site by the applicable zoning district regulations except when an exception is granted under subsection (c)(10) for residences designated as historic structures.
- (2) To allow the primary building to encroach up to 4 feet into a required front yard setback.
- (3) To allow the primary building to encroach up to 3 feet into a required rear yard setback.
- (4) To allow the primary building to encroach up to 2 feet into a required interior side yard setback.
- (5) To allow the primary building to encroach up to 6 feet into a required street side yard setback (no closer than 10 feet to the property line).

- (6) To allow a basement to encroach, along with above grade floor area, as set forth in items 2, 3, 4, or 5.
- (7) To allow an encroaching dormer, roof deck, gable, or similar architectural feature to exceed 24 feet in height by up to three feet.
- (8) To allow a single dormer, roof deck, gable, or similar architectural feature that encroaches into the rear daylight plane to exceed 7.5 feet in length. In no event shall the maximum length exceed 15 feet.
- (9) To permit a site with an existing two-story structure to exceed lot coverage requirements in order to locate remaining available FAR for the site on the first floor.
- (10) For any residence designated on the city's Historic Inventory as a Category 1 or Category 2 historic structure as defined in Section 16.49.020 of the Palo Alto Municipal Code or any contributing structure within a locally designated historic district, to allow up to 250 square feet of floor area in excess of that allowed on the site, provided that any requested addition or exterior modifications associated with the HIE shall be in substantial conformance with the Secretary of the Interior's *Standards for Historic Rehabilitation*. The property owner who is granted a home improvement exception under this subsection (10) shall be required to sign and record a covenant against the property, acceptable to the city attorney, which requires that the property be maintained in accordance with the Secretary of the Interior's *Standards for Historic Rehabilitation*.
- (11) To allow a legal non-conforming building wall that is between 3.5 and 5 feet from the side lot line to be extended up to one-quarter of the length of the existing wall or ten feet, whichever is shorter.
- (12) To allow a horizontal extension (pursuant to Section 18.12.050(a) (Setback/Yard Encroachments and Projections) of a portion of an existing legal nonconforming building wall that is more than twelve feet above grade. Such horizontal extensions must remain within the height and daylight plane limits for the district unless an HIE or variance for a height or daylight plane encroachment is granted.
- (13) To allow an increase in the height of an existing legally non-conforming building wall that encroaches into a setback. Such vertical extensions must remain within the height and daylight plane limits for the district unless an HIE or variance for a height or daylight plane encroachment is granted.
- (14) To allow, for single-story accessory structures within rear and/or side setbacks, one or more of the following:
 - (A) On a corner lot, a detached accessory structure may be as close as ten feet from the street side property line. For detached garages and carports, the exception may be granted as long as a minimum dimension of 18 feet remains between the back of sidewalk and face of the garage or carport supports.
 - (B) Four feet additional height above the twelve foot maximum height, as long as the side daylight plane is met.
 - (C) A rear daylight plane encroachment of up to three feet.

- (15) To allow similar minor exceptions, when determined by the director to be similar in magnitude and scope to those listed in subsections (1) through (14) above. Provided, under no circumstances may such exceptions exceed the limits established in subsections (1) through (14) above.

(d) Findings

Neither the director, nor the city council on appeal, shall grant a home improvement exception unless it is found that:

- (1) The granting of the application is desirable for the preservation of an existing architectural style, neighborhood character, protected tree as defined in Chapter 8.10, or other significant tree, or of a residence that is designated on the city's Historic Inventory as a Category 1 or Category 2 historic structure as defined in Section 16.49.020 of the Palo Alto Municipal Code, or any contributing structure within a locally designated historic district, which would not otherwise be accomplished through the strict application of the regulations; and
- (2) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience; and
- (3) The exception is being granted based on characteristics of the property and improvements on the property, rather than the personal circumstances of the applicant, and is the minimum exception necessary for the project to fulfill the purposes of subsection (a).

(e) Conditions

In granting home improvement exceptions, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title (Zoning).

(f) Application Review and Action

Applications for home improvement exceptions shall be reviewed and acted upon as set forth in Section 18.77.075.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.130 Architectural Review

Architectural review, as required in Chapters 18.76 and 18.77 of the Zoning Ordinance, is required in the R-1 district and R-1 subdistricts whenever three or more adjacent single family residences or duplexes are intended to be developed concurrently, whether through subdivision or individual applications. In addition to the existing ARB findings contained in Chapters 18.76 and 18.77, the single family individual review guidelines shall be used by the ARB in its review of such applications.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.140 Historical Review and Incentives

- (a) Historic residence review, as required in Chapter 16.49 of Title 16 of the Palo Alto Municipal Code, is required in the R-1 district and R-1 subdistricts for alterations or modifications to any residence designated on the city's Historic Inventory as Category 1 or Category 2 historic structure as defined in Section 16.49.020 of this code or any contributing structure located within a locally designated historic district. The Category 1 or Category 2 designation process for becoming a historic structure is contained in Chapter 16.49 of Title 16 of the Municipal Code.
- (b) Exemptions to gross floor area requirements are available for historic residences pursuant to the definition of gross floor area in Section 18.04.030(65)(C)(ii). Home improvement exceptions provide for additional square footage and certain other exceptions for historic homes pursuant to Section 18.12.120.
- (c) Notwithstanding other provisions of this chapter, existing parcels containing two residences may be subdivided into more than one ownership, where all of the following circumstances exist:
- (1) At least one residence is designated on the City's Historic Inventory as a Category 1, Category 2, Category 3, or Category 4 historic structure as defined in Section 16.49.020 of this code or are contributing structures located within a locally designated historic district or are eligible for the National or California Registers; and
 - (2) No increase in the total number of residences on the site is proposed; and
 - (3) Separate lots are proposed to be created, each with a minimum lot size not less than 4,000 square feet in the R-1 district if only one residence is historic or 80% of the minimum lot size for the R-1 subdistricts; if both residences are historic and subject to a covenant, the allowable minimum lot size is 2,000 square feet; and
 - (4) The resultant parcel lines may create less than minimum lot size (no less than the area stated in item (3) of this section), site width and depth, setback and daylight plane encroachments, floor area and site coverage exceeding the maximum allowable for existing development with respect to each new parcel, without the need for approval of a Variance or Home Improvement Exception, but would not generally increase any existing noncomplying building features; however, minor additions for functional improvements may be allowed at the discretion of the Director of Planning and Community Environment; and
 - (5) The Historic Resources Board has determined that at least one existing residence on the property has historic integrity and qualifies for listing on the City's Historic Inventory.
 - (6) A covenant is recorded to run with the land in perpetuity, assuring that the historic residences will be preserved and maintained consistent with the Secretary of the Interior's Standards for Historic Rehabilitation through compliance with Historic Resources Board review and recommendations. The covenant will stipulate that HRB review is required for all major projects on the site including significant changes to any non-historic residence. Any

modifications to a non-historic residence must be compatible with the historic residence and satisfy the Secretary of Interior's Standards for Historic Compatibility.

- (7) The two residences on the property were in existence as of January 28, 2009.
- (8) Application of the state Historic Building Code is available for use on any eligible building.
- (9) Residences subject to a covenant must meet all government health, life and safety codes. (Ord. 5051 § 4, 2009; Ord. 4869 § 14 (Exh. A [part]), 2005)

18.12.150 Grandfathered Uses

(a) Applicability

The uses specified in subsection (b) of this section may remain as grandfathered uses provided that those uses:

- (1) are located in the specified district;
- (2) existed on the specified date;
- (3) on that date, were lawful permitted uses or conditional uses operating subject to a conditional use permit; and
- (4) on that date were conforming uses.

(b) Grandfathered Uses

- (1) Professional and medical office uses (except product testing and analysis, and prototype development), existing on July 20, 1978 or such uses which were, prior to July 20, 1978, located in an R-1 district which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit.
- (2) Two family uses, except where one of the units is a legal nonconforming detached single-family dwelling on a substandard lot size, and multiple family uses existing on July 20, 1978 or such uses which were, prior to July 20, 1978, located in an R-1 district which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful, conforming permitted uses or conditional uses operating subject to a conditional use permit.

(c) Permitted Changes

The following regulations shall apply to the grandfathered uses specified in subsection (b):

- (1) Such uses shall be permitted to remodel, improve, or replace site improvements on the same site, for continual use and occupancy by the same use, provided that:
 - (A) such remodeling, improvement or replacement shall not:
 - (i) result in increased floor area;
 - (ii) result in an increase in the number of offices, in the case of professional or medical office uses, or dwellings, in the case of residential uses;
 - (iii) result in shifting of building footprint;
 - (iv) increase the height, length, building envelope, or size of the improvement; and
 - (v) increase the existing degree of noncompliance, except through the granting of a design enhancement exception pursuant to Chapter 18.76.
 - (2) If a grandfathered use ceases and thereafter remains discontinued for twelve consecutive months, it shall be considered abandoned and may be replaced only by a conforming use.
 - (3) A grandfathered use that is changed to or replaced by a conforming use shall not be reestablished, and any portion of a site or any portion of a building, the use of which changes from a grandfathered use to a conforming use, shall not thereafter be used except to accommodate a conforming use.
 - (4) The following additional regulations shall apply to grandfathered professional or medical office uses:
 - (A) Any remodeling, improvement, or replacement of any building designed and constructed for residential use shall be subject to the issuance of a conditional use permit in accord with Chapter 18.76.
 - (B) In the event of redevelopment of all or a portion of the site for permitted residential uses, professional and medical office uses may not be incorporated in the redevelopment; except that
 - (C) This provision shall not apply to permanent conversion to residential use of space within an existing structure now used for professional and medical office uses.
- (d) Existing Second Dwelling Units on Substandard Size Lots**
- In the R-1 district, and all R-1 subdistricts, notwithstanding any provisions of Chapters 18.40 and 18.42 and/or 18.70, in the case of a legal and nonconforming second detached single-family dwelling existing prior to July 20, 1978 on a substandard size lot, such nonconforming use shall be permitted to remodel, improve, or replace site improvements on the same site without

necessity to comply with site development regulations; provided, that any such remodeling, improvement or replacement shall not result in increased floor area, number of dwelling units, height, length, or any other increase in the size of the improvement.

(e) Existing Homes on Substandard Lots.

In the R-1 district and all R-1 subdistricts, single-family and two-family homes on substandard lots, as defined in Subsection 18.12.040(c)(1), and flag lots existing on August 1, 1991 and which prior to that date were lawful, complying structures, may remain and be remodeled, improved, or replaced without complying with the height and habitable floor limitations for substandard lots specified in Section 18.12.030, provided that:

(1) any such remodeling, improvement, or replacement does not result in a height above seventeen feet or any additional habitable floor area above a first habitable floor, except that any structure damaged or destroyed by a natural disaster (such as fire, flood or earthquake) may be replaced to its previous size without regard to the height and habitable floor limitations imposed by this section; and

(2) in the case of a conflict between the provisions of this section and the provisions of Chapter 18.70, this section shall control.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

remodeled, improved, or replaced without complying with the height and habitable floor limitations for substandard lots specified in Section 18.12.030, provided that:

- (1) any such remodeling, improvement, or replacement does not result in a height above seventeen feet or any additional habitable floor area above a first habitable floor, except that any structure damaged or destroyed by a natural disaster (such as fire, flood or earthquake) may be replaced to its previous size without regard to the height and habitable floor limitations imposed by this section; and
- (2) in the case of a conflict between the provisions of this section and the provisions of Chapter 18.70, this section shall control.

(Ord. 4869 § 14 (Exh. A [part]), 2005)

Chapter 18.13
MULTIPLE FAMILY RESIDENTIAL
(RM-15, RM-30 AND RM-40) DISTRICTS

Sections:

- 18.13.010 Purposes
- 18.13.020 Applicable Regulations
- 18.13.030 Land Uses
- 18.13.040 Development Standards
- 18.13.050 Village Residential Development
- 18.13.060 Multiple Family Context-Based Design Criteria
- 18.13.070 Grandfathered Uses

18.13.010 Purposes

This section specifies regulations for three multiple family residential districts.

(a) RM-15 Low Density Multiple-Family Residence District [RM-15]

The RM-15 low-density multiple-family residence district is intended to create, preserve and enhance areas for a mixture of single-family and multiple-family housing which is compatible with lower density and residential districts nearby, including single-family residence districts. The RM-15 residence district also serves as a transition to moderate density multiple-family districts or districts with nonresidential uses. Permitted densities in the RM-15 residence district range from eight to fifteen dwelling units per acre.

(b) RM-30 Medium Density Multiple-Family Residence District [RM-30]

The RM-30 medium density multiple-family residence district is intended to create, preserve and enhance neighborhoods for multiple-family housing with site development standards and visual characteristics intended to mitigate impacts on nearby lower density residential districts. Projects at this density are intended for larger parcels that will enable developments to provide their own parking spaces and to meet their open space needs in the form of garden apartments or cluster developments. Permitted densities in the RM-30 residence district range from sixteen to thirty dwelling units per acre.

(c) RM-40 High Density Multiple-Family Residence District [RM-40]

The RM-40 high density multiple-family residence district is intended to create, preserve and enhance locations for apartment living at the highest density deemed appropriate for Palo Alto. The most suitable locations for this district are in the downtown area, in select sites in the California Avenue area and along major transportation corridors which are close to mass transportation facilities and major employment and service centers. Permitted densities in the RM-40 residence district range from thirty-one to forty dwelling units per acre.

(Ord. 4964 § 2 (part), 2007)

18.13.020 Applicable Regulations

The specific regulations of this chapter and the additional regulations and procedures established by other pertinent chapters in Title 18 shall apply to all multiple-family residence districts.

(Ord. 4964 § 2 (part), 2007)

18.13.030 Land Uses

Table 1 specifies the permitted and conditionally permitted land uses in the multiple-family residence districts.

**TABLE 1
MULTIPLE FAMILY RESIDENTIAL USES**

[P = PERMITTED USE • CUP = CONDITIONAL USE PERMIT REQUIRED]

	RM-15	RM-30	RM-40	Subject to Regulations in:
ACCESSORY AND SUPPORT USES				
Accessory Facilities and uses customarily incidental to permitted uses	P	P	P	Chapter 18.40
Home Occupations, when accessory to permitted residential uses	P	P	P	Chapter 18.42
Horticulture, Gardening, and Growing of food products for consumption by occupants of a site	P	P	P	
Surface Parking Facilities located on abandoned railroad rights-of-way		CUP	CUP	
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
Churches and Religious Institutions	CUP	CUP	CUP	
Private Clubs, Lodges, or Fraternal Organizations, excluding any such facility operated as a business for profit			CUP	
Private Educational Facilities	CUP	CUP	CUP	
PUBLIC/QUASI-PUBLIC USES				
Community Centers	CUP	CUP	CUP	
Utility Facilities essential to provision of utility services but excluding construction or storage yards, maintenance facilities, or corporation yards.	CUP	CUP	CUP	
RECREATION USES				
Neighborhood Recreational Centers	CUP	CUP	CUP	

[Continued on Next Page]

	RM-15	RM-30	RM-40	Subject to Regulations in:
RESIDENTIAL USES				
Single-Family	P ⁽¹⁾	P ⁽¹⁾	P ⁽²⁾	
Two-Family	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	
Multiple-Family	P	P	P	
Village Residential	P	⁽³⁾	⁽³⁾	18.13.050
Mobile Homes	P	P	P	
Residential Care Homes	P	P	P	
SERVICE AND RETAIL USES				
Convalescent Facilities			CUP	
Day Care Centers	CUP	CUP	P	
Small Family Day Care Homes	P	P	P	
Large Family Day Care Homes	P	P	P	
Small Adult Day Care Homes	P	P	P	
Large Adult Day Care Homes	CUP	CUP	CUP	
Eating and Drinking Services, except drive-in and take-out services		CUP	CUP	18.13.040(f)
Personal Services and Retail Services of a neighborhood-serving nature		CUP	CUP	18.13.040(f)
TEMPORARY USES				
Temporary Uses, subject to regulations in Chapter 18.42	CUP	CUP	CUP	18.42.050
P = Permitted Use CUP = Conditional Use Permit Required				

- (1) Permitted use only on lots less than 8,500 square feet in size.
- (2) Permitted use only on lots less than 6,000 square feet in size.
- (3) Permitted use only if lot is substandard in size, e.g., less than 8,500 square feet or less than 70 feet in width, or at the perimeter of a site in excess of one acre where used as a transition to low-density residential area.

(Ord. 4964 § 2 (part), 2007)

18.13.040 Development Standards

(a) Site Specifications, Building Size and Bulk, and Residential Density

The site development regulations in Table 2 shall apply in the multiple-family residence districts, provided that more restrictive regulations may be recommended by the Architectural Review Board and approved by the Director of Planning and Community Environment, pursuant to the regulations set forth in Chapter 18.76, performance criteria set forth in Chapter 18.23, and the context-based design criteria set forth in Section 18.13.060.

TABLE 2
MULTIPLE FAMILY RESIDENTIAL DEVELOPMENT TABLE

	RM-15	RM-30	RM-40	Subject to regulations in:
Minimum Site Specifications				
Site Area (ft ²)		8,500		
Site Width (ft)		70		
Site Depth (ft)		100		
Substandard Lot Specifications				
Site Area (ft ²)	Less than 8,500 square feet and/or			
Site Width (ft)	less than 70 feet in width			
Minimum Setbacks	<i>Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply</i>			18.13.040(b)
Front Yard (ft)	20	20	0-25 ⁽¹⁾	
On arterial roadways ⁽¹⁾	0-20 ⁽¹⁾	0-20 ⁽¹⁾	0-25 ⁽¹⁾	
Interior Side Yards (ft)				
For lots with width of 70 feet or greater	10	10	10	
For lots with width of less than 70 feet	6 feet			
Interior Rear Yards (ft)	10	10	10	
Street Side and Street Rear Yards (ft)	16	16	0-16 ⁽²⁾	
Maximum Height (ft)	30	35	40	
Maximum height for those portions of a site within 50 feet of a more restrictive residential district or a site containing a residential use in a nonresidential district			35	
Daylight Planes⁽⁷⁾				
<ul style="list-style-type: none"> Daylight Plane for side and rear lot lines for sites abutting any R-1, R-2, RMD, or RM-15 district or abutting a site containing a single-family or two-family residential use in a nonresidential district: 				
Initial Height (ft)		10		
Angle (degrees)		45		
<ul style="list-style-type: none"> Daylight Plane for side and rear lot lines for sites abutting a RM-30, RM-40, Planned Community, or nonresidential district that does not contain a single-family or two-family residential use: 				
For lots with width of 70 feet or greater	None			
For lots with width of less than 70 feet, limited to the first 10 feet from the property line (no daylight plane beyond 10 feet):				
Initial Height (ft)		10		
Angle (degrees)		45		

[Continued on Next Page]

	RM-15	RM-30	RM-40	Subject to regulations in:
Maximum Site Coverage				
Base	35%	40%	45%	
Additional area to be covered by covered patios or overhangs otherwise in compliance with all applicable laws	5%	5%	5%	
Maximum Floor Area Ratio (FAR) ⁽⁴⁾	0.5:1	0.6:1	1.0:1	
Maximum Residential Density (units)				
Maximum number of units per acre ⁽³⁾	15	30	40	
Minimum Size of Open Space (percent)	35	30	20	18.13.040(e)
Minimum Usable Open Space (sf per unit) ⁽⁵⁾	200	150	100	
Minimum Common Open Space (sf per unit)	100	75	50	18.13.040(e)
Minimum Private Open Space (sf per unit)	50	50	50	
Performance Criteria	See provisions of Chapter 18.23			Ch. 18.23
Landscape Requirements				18.40.130
Parking ⁽⁶⁾	See provisions of Chapter 18.52			Ch. 18.52

- (1) Minimum front setbacks shall be determined by the Architectural Review Board upon review pursuant to criteria set forth in Chapter 18.76 and the context-based criteria outlined in Section 18.13.060. Arterial roadways do not include residential arterials.
- (2) Minimum street side setbacks in the RM-40 zone may be from 0 to 16 feet and shall be determined by the Architectural Review Board upon review pursuant to criteria set forth in Chapter 18.76 and the context-based criteria outlined in Section 18.13.060.
- (3) Provided that, for any lot of 5,000 square feet or greater, two units are allowed, subject to compliance with all other development regulations.
- (4) Covered parking is not included as floor area in multi-family development, up to a maximum of 230 square feet per required parking space that is covered. Covered parking spaces in excess of required parking spaces count as floor area.
- (5) Subject to the limitations of Section 18.13.040(e). Usable open space is included as part of the minimum site open space; required usable open space in excess of the minimum required for common and private open space may be used as either common or private usable open space; landscaping may count towards total site open space after usable open space requirements are met.
- (6) Tandem parking is allowed for any unit requiring two parking spaces, provided that both spaces in tandem are intended for use by the same residential unit. For projects with more than four (4) units, not more than 25% of the required parking spaces shall be in a tandem configuration.
- (7) Each daylight plane applies specifically and separately to each property line according to the adjacent use.

(b) Setbacks, Daylight Planes and Height – Additional Requirements and Exceptions**(1) Setbacks**

- (A) Setbacks for lot lines adjacent to an arterial street, expressway or freeway, as designated in the Palo Alto Comprehensive Plan, shall be a minimum of twenty-five feet (25'), except that lesser setbacks may be allowed or required by the Planning Director, upon recommendation by the Architectural Review Board, where prescribed by the context-based criteria outlined in Section 18.13.060. Special setbacks of greater than 25 feet may not be reduced except upon approval of a design enhancement exception or variance.
- (B) Required parking spaces shall not be located in a required front yard, nor in the first ten feet (10') adjoining the street property line of a required street side yard.
- (C) Projections into yards are permitted only to the extent allowed by Section 18.40.070 of this code.

(2) Height and Daylight Planes

- (A) Exceptions to maximum height limitations are permitted only to the extent allowed by Section 18.40.090 of this code.
- (B) The following features may extend beyond the daylight plane established by the applicable district, provided that such features do not exceed the height limit for the district unless permitted to by Section 18.40.090 of this code:
 - i. Television and radio antennas;
 - ii. Chimneys and flues that do not exceed 5 feet in width, provided that chimneys do not extend past the required daylight plane a distance exceeding the minimum allowed pursuant to Chapter 16.04 of this code.
 - iii. Cornices and eaves, excluding flat or continuous walls or enclosures of usable interior space, provided such features do not extend past the daylight plane more than 4 feet, and so long as they do not encroach into the side setback greater than 2 feet.

(c) Single-Family and Two-Family Uses

- (1) The regulations in Chapter 18.12 that apply to the R-1 district shall apply to sites in single-family use in the multiple-family residence districts. The regulations in Chapter 18.10 that apply to the R-2 district may be applied, at the applicant's discretion, to sites in two-family use in the multiple-family residence districts, in lieu of the multi-family standards.
- (2) The Individual Review provisions of Section 18.12.110 of the Zoning Ordinance shall be applied to any single-family or two-family residence in the multi-family districts, to those sides

of a site that share an interior side lot line with the interior side or rear lot line of a property zoned for or used for single-family or two-family dwellings. The Individual Review shall not be applied to adjacent uses other than single-family and two-family uses.

- (3) Notwithstanding other provisions of this chapter, existing two-family residential development in multiple family residential districts may be divided into two separate ownership parcels where all of the following circumstances exist:
- (A) At least one residence is designated on the City's Historic Inventory as a Category 1, Category 2, Category 3, or Category 4 historic structure as defined in Section 16.49.020 of this code or are contributing structures located within a locally designated historic district or are eligible for the National or California Registers; and
 - (B) No increase in the total number of residences on the site is proposed; and
 - (C) Separate lots are proposed to be created, each with a minimum lot size not less than 4,000 square feet if only one residence is historic; if both residences are historic and subject to a covenant, the allowable minimum lot size is 2,000 square feet and
 - (D) The resultant parcel lines may create less than minimum lot size (no less than the area stated in item (C) of this section), site width and depth, setback and daylight plane encroachments, floor area and site coverage exceeding the maximum allowable for existing development with respect to each new parcel, without the need for approval of a Variance or Home Improvement Exception, but would not generally increase any existing non-complying building features; however, minor additions for functional improvements may be allowed at the discretion of the Director of Planning and Community Environment; and
 - (E) The Historic Resources Board has determined that at least one existing residence on the property has historic integrity and qualities for listing on the City's Historic Inventory.
 - (F) A covenant is recorded to run with the land in perpetuity, assuring that the historic residences will be maintained consistent with the Secretary of the Interior's Standards for Historic Rehabilitation through compliance with Historic Resources Board review and recommendation. The covenant will stipulate that HRB review is required for all major projects on the site including significant changes to any non-historic residence. Any modifications to a non-historic residence must be compatible with the historic residence and satisfy the Secretary of Interior's Standards for Historic Compatibility.
 - (G) The two residences on the property were in existence as of January 28, 2009.
 - (H) Application of the state Historic Building Code is available for use on any eligible building.
 - (I) Residences subject to a covenant must meet all government health, life and safety codes.

(d) Substandard Lots

Substandard lots in the multiple family zoning districts are those that are: 1) less than the minimum 8,500 square feet in size, or 2) less than 70 feet in width. These lots may be developed pursuant to the regulations outlined in Table 2 or may be developed according to the regulations provided for Village Residential development, as outlined in Section 18.13.050. Single-family and two-family development on these lots shall be developed as outlined in subsection (c) above.

(e) Usable Open Space

The following usable open space regulations shall apply:

- (1) **Required Minimum Site Open Space.** Each site shall, at a minimum, have a portion of the site, as prescribed in Table 2, developed into permanently maintained open space. Site open space includes all usable open space plus landscape or other uncovered areas not used for driveways, parking, or walkways.
- (2) **Usable Open Space (Private and Common).** Each project shall, at a minimum, have a portion of the site, as prescribed in Table 2, developed into permanently maintained usable open space, including private and common usable open space areas. Usable open space shall be located protected from the activities of commercial areas and adjacent public streets and shall provide noise buffering from surrounding uses where feasible. Parking, driveways and required parking lot landscaping shall not be counted as usable open space.
 - (A) **Private Usable Open Space.** Each dwelling unit shall have at least one private usable open space area contiguous to the unit that allows the occupants of the unit the personal use of the outdoor space. The minimum size of such areas shall be as follows:
 - (i) **Balconies (above ground level):** 50 square feet, the least dimension of which shall be 6 feet.
 - (ii) **Patios or yards in the RM-15 and RM-30 districts:** 100 square feet, the least dimension of which is 8 feet for at least 75% of the area.
 - (iii) **Patios or yards in the RM-40 district:** 80 square feet, the least dimension of which is 6 feet for at least 75% of the area.
 - (B) **Common Usable Open Space.** The minimum designated common open space area on the site shall be 10 feet wide and each such designated area shall comprise a minimum of 200 square feet. In the RM-30 and RM-40 districts, part or all of the required private usable open space areas may be added to the required common usable open space in a development, for purposes of improved design, privacy, protection and increased play area for children, upon a recommendation of the Architectural Review Board and approval of the Director.

(f) Personal Services, Retail Services, and Eating and Drinking Services in the RM-30 and RM-40 Districts

Within a single residential development containing not less than 40 dwelling units, personal services, retail services, and eating and drinking services solely of a neighborhood-serving nature to residents in the development or in the general vicinity of the project may be allowed upon approval of a conditional use permit, subject to the following limitations and to such additional conditions as may be established by the conditional use permit:

- (1) Total gross floor area of all such uses shall not exceed 5,000 square feet or three percent of the gross residential floor area within the development, whichever is smaller, and may not occupy any level other than the ground level or below grade levels.
- (2) A maximum of 2,500 square feet of retail and/or service and/or eating and drinking uses shall be allowed per establishment.
- (3) Personal services, retail services, and eating and drinking services provided in accordance with this section shall not be included in the gross floor area for the site.
- (4) The conditional use permit for the project may preclude certain uses and shall include conditions that are appropriate to limit impacts of noise, lighting, odors, parking and trash disposal from the operation of the commercial establishment. The hours of operation shall be limited to assure compatibility with the residential use and surrounding residential uses.
- (5) Allowable Neighborhood-Serving Uses. A neighborhood-serving use primarily serves individual consumers and households, not businesses, is generally pedestrian oriented in design, and does not generate noise, fumes or truck traffic greater than that typically expected for uses with a local customer base. A neighborhood-serving use is also one to which a significant number of local customers and clients can walk, bicycle or travel short distances, rather than relying primarily on automobile access or the provider of the goods or services traveling off-site. Allowable neighborhood-serving personal services, retail services and eating and drinking services may include, but are not limited to, "agent" dry cleaners, flower shops, convenience grocery stores (excluding liquor stores), delicatessens, cafes, fitness facilities, day care facilities, and similar uses found by the Planning Director to be compatible with the intent of this provision.
- (6) Sign programs, including size, number, color, placement, etc. shall be permitted only as specified in the conditional use permit and by the Planning Director upon recommendation of the Architectural Review Board
- (7) Off-street parking and bicycle facilities, in addition to facilities required for residential uses, shall be provided as may be specified by the conditional use permit. However, there shall not be less than one parking space for each employee working or expected to be working at the same time.

- (8) For any project containing forty (40) or greater units and located more than 500 feet from neighborhood commercial services, as determined by the Director, a minimum of 1,500 square feet of neighborhood serving retail, personal service, and/or eating or drinking uses shall be provided, subject to the above limitations. No conditional use permit is required, but the commercial use shall be reviewed by the Architectural Review Board as part of the architectural review approval. A minimum of one parking space for each employee working or expected to be working at the same time shall be provided.

(g) Below Market Rate Units and Rental Housing Protection

- (1) In developments of five or more units on sites of less than five acres, not less than fifteen percent (15%) of the units shall be provided at below-market rates (BMR) to very-low, low and moderate income households in accordance with Program H-36 of the Palo Alto Comprehensive Plan Housing Element. In developments of five or more units on sites of five acres or more, not less than twenty percent (20%) of the units shall be provided at below-market rates (BMR). Specified percentages are applied to all proposed units in a project, including those designated as BMR units.
- (2) Further details of the BMR program requirements, including their applicability to subdivisions and for density bonus purposes, are found in the discussion of Programs H-36 and H-38 of the Palo Alto Comprehensive Plan Housing Element.
- (3) Below market rate units shall be fully integrated into the development unless good cause is shown for an exception.

(h) Performance Criteria

In addition to all other provisions of this chapter, all multi-family development shall comply with applicable provisions of Chapter 18.23 (Performance Criteria for Multiple Family, Commercial, Industrial and Planned Community Districts).

(Ord. 5051 § 6, 2009; Ord. 4964 § 2 (part), 2007)

18.13.050 Village Residential Development

(a) Purpose

Village Residential multiple-family development is intended to create, preserve and enhance areas for a mixture of single-family and multiple-family housing that is compatible with lower density and residential districts nearby, including single-family residence districts. Housing types may include but are not limited to single family houses on small lots, attached rowhouse/townhouse, and cottage clusters. Village Residential development also serves as a transition to moderate density multiple-family districts or districts with nonresidential uses. Permitted densities range from eight to twelve dwelling units per acre. Village Residential housing also provides a means to accommodate home ownership options in multiple-family zones.

(b) Applicability of Regulations

Village Residential development standards may be applied to RM-15 multiple-family residence district sites, as well as to substandard RM-30 and RM-40 multiple-family residence sites. It may also be applied to the perimeter of RM-30 and RM-40 sites larger than one acre in size where a transition to a lower-density adjacent use is desired. The Director may require the submittal of Covenants, Conditions and Restrictions (CC&Rs), maintenance agreements, easements, and/or other legal instruments to document and disclose conditions of the project approval.

(c) Development Standards

Table 3 specifies the development standards for new Village Residential developments that provide for individual lots established for sale of one housing unit on a lot. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.13.060, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and community environment, pursuant to Section 18.76.020:

TABLE 3

VILLAGE RESIDENTIAL DEVELOPMENT TABLE

	Village Residential	Subject to regulations in:
Minimum Site Specifications		
Site Area (ft ²)	6,000	
Site Width (ft)	50	
Site Depth (ft)	100	
Minimum Setbacks	RM-15 development standards apply to perimeter of site	
Minimum Lot Specifications ⁽¹⁾		
Lot Area (ft ²), Attached Units	1,500	
Lot Area (ft ²), Detached Units	2,500	
Maximum Lot Area (ft ²)	4,000	
Front lot setback (ft)	5	
Rear lot setback (ft)	3	
Side lot setback (ft)	0	
Distance between detached units (ft)	3	

TABLE 3 (continued)

VILLAGE RESIDENTIAL DEVELOPMENT TABLE

	Village Residential	Subject to regulations in:
Maximum House Size (ft ²)	2,500 ⁽²⁾	
Maximum Height (ft)	30	
Daylight Planes	RM-15 development standards apply to perimeter of site	
Maximum Site Coverage	RM-15 development standards apply to site	
Maximum Floor Area Ratio (FAR) ⁽³⁾	0.5:1 applied to entire site	
Maximum Residential Density (units)		
Maximum number of units per acre	12	
Minimum Site Open Space ⁽⁴⁾	35% of entire site 18.13.040	18.13.040(e)
Minimum Usable Open Space (per unit) ⁽³⁾	300 sq. ft.	
Minimum Common Open Space (per unit)	No requirement	18.13.040(e)
Minimum Private Open Space (per unit)	100 sq. ft.	
Performance Criteria		Ch. 18.23
Landscape Requirements		18.14.130
Parking ⁽⁵⁾	See provisions of Chapter 18.52	Ch. 18.52

(1) Individual lots are created by subdividing the development site to create one for-sale lot per dwelling unit. Overall development intensity (FAR, site coverage, landscape/open space) shall be calculated across the entire site to comply with RM-15 zone standards, and setbacks and daylight

planes at the perimeter of the site shall comply with RM-15 setbacks and daylight planes. For common-ownership developments such as condominiums and apartments, the underlying multiple-family zone district development standards shall apply.

- (2) Covered parking that is attached to the residence shall be included in the maximum house size.
- (3) Covered parking is not included as floor area in multi-family development, up to a maximum of 230 square feet per required parking space that is covered. Covered parking spaces in excess of required parking spaces count as floor area.
- (4) Subject to the limitations of Section 18.13.040(e). Usable open space is included as part of the minimum site open space; required usable open space in excess of the minimum required for common and private open space may be used as either common or private usable open space; landscaping may count towards total site open space after usable open space requirements are met.
- (5) Tandem parking is allowed for any unit requiring two parking spaces, provided that both spaces in tandem are intended for use by the same residential unit. For projects with more than four (4) units, not more than 25% of the required parking spaces shall be in a tandem configuration.

(d) Design for Entire Site

The entire development plan for a Village Residential project, including subdivision of the site into individual lots and design of buildings, streets, driveways, parking, and open space shall be submitted and reviewed at one time. Design for individual lots may not be phased for subsequent approval.

(e) Post-Construction Modifications

- (1) Modifications to completed units, such as additions to dwelling units, changes in circulation or parking, exterior building design features, and provisions for open space, must be submitted as an amendment to the Village Residential development, unless an alternate review process is outlined in the initial project approval. The Director may require the submittal of Covenants, Conditions and Restrictions (CC&Rs) and/or other legal instruments to document and disclose the post-construction approval process.
- (2) An amendment to the Village Residential approval may only be submitted by the owner of the entire site or by an entity (such as a homeowners association) representing the property owners. The amendment shall be reviewed in the same manner as the original approval and must demonstrate compliance with the applicable standards for the entire site. Minor architectural review may be approved by staff, pursuant to the process outlined in Section 18.76.020 for exterior architectural or site modifications deemed minor by the Director.

(Ord. 4964 § 2 (part), 2007)

18.13.060 Multiple Family Context-Based Design Criteria

(a) Contextual and Compatibility Criteria

Development in a multiple-family residential district shall be responsible to its context and compatible with adjacent development.

- (1) Context
 - (A) Context as used in this section is intended to indicate relationships between the site's development to adjacent street types, surrounding land uses, and on-site or nearby natural features, such as creeks or trees. Effective transitions to these adjacent uses and features are strongly reinforced by Comprehensive Plan policies.
 - (B) The word "context" should not be construed as a desire to replicate existing surroundings, but rather to provide appropriate transitions to those surroundings. "Context" is also not specific to architectural style or design, though in some instances relationships may be reinforced by an architectural response.
- (2) Compatibility
 - (A) Compatibility is achieved when the apparent scale and mass of new buildings share general characteristics and establishes design linkages with the overall pattern of buildings so that the visual unity of the neighborhood or street is maintained. For active streetscapes, compatibility is achieved when the scale and mass of new buildings are consistent with the pattern of achieving a pedestrian oriented design.
 - (B) Compatibility goals may be accomplished through various means, including but not limited to:
 - (i) the siting, scale, massing, and materials;
 - (ii) the rhythmic pattern of the street established by the general width of the buildings and the spacing between them;
 - (iii) the pattern of roof lines and projections;
 - (iv) the sizes, proportions, and orientations of windows, bays and doorways;
 - (v) the location and treatment of entryways;
 - (vi) the shadow patterns from massing and decorative features;
 - (vii) the siting and treatment of parking; and
 - (viii) the treatment of landscaping.

(b) Context-Based Design Considerations and Findings

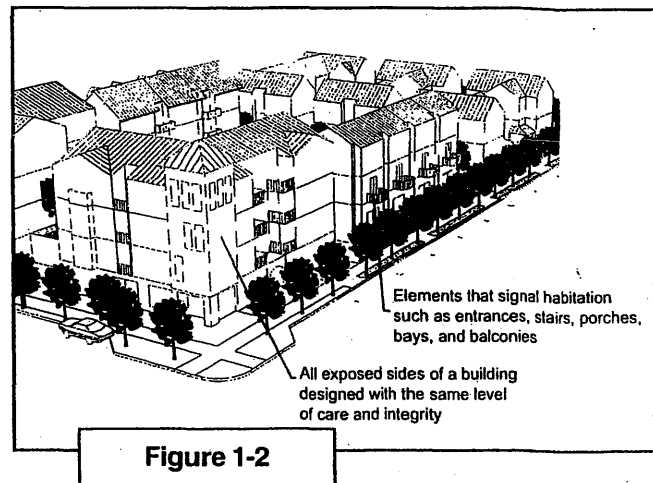
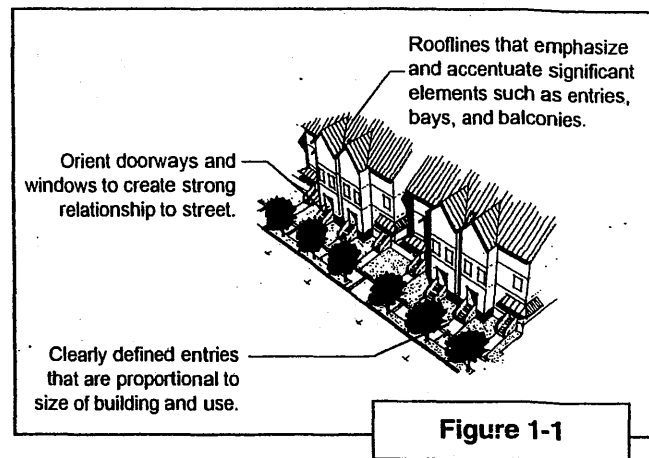
In addition to the findings for Architectural Review contained in Section 18.76.020(d) of the Zoning Ordinance, the following additional findings are applicable in the RM-15, RM-30, and RM-40 districts, as further illustrated on the accompanying diagrams:

<p style="text-align: center;">Editor's Note Diagrams Begin on Next Page</p>

(1) Massing and Building Facades

Massing and building facades shall be designed to create a residential scale in keeping with Palo Alto neighborhoods, and to provide a relationship with street(s) through elements such as:

- A. Articulation, setbacks, and materials that minimize massing, break down the scale of buildings, and provide visual interest (Figure 1-1);
- B. Rooflines that emphasize and accentuate significant elements of the building such as entries, bays, and balconies (Figure 1-1);
- C. Placement and orientation of doorways, windows, and landscape elements to create a relationship with the street (Figure 1-1);
- D. Facades that include projecting eaves and overhangs, porches, and other architectural elements that provide human scale and help break up building mass (Figure 1-1);
- E. Entries that are clearly defined features of front facades, and that have a scale that is in proportion to the size and type of the building and number of units being accessed; larger buildings should have a more prominent building entrance, while maintaining a pedestrian scale;
- F. Residential units that have a presence on the street and are not walled-off or oriented exclusively inward;
- G. Elements that signal habitation such as entrances, stairs, porches, bays and balconies that are visible to people on the street (Figure 1-2);
- H. All exposed sides of a building designed with the same level of care and integrity (Figure 1-2).



(2) Low-Density Residential Transitions

Where new projects are built abutting existing lower-scale residential development, care shall be taken to respect the scale and privacy of neighboring properties through:

- A. Transitions of development intensity from higher density development building types to building types that are compatible with the lower intensity surrounding uses, such as small-lot units and rowhouses (Figure 2-1);

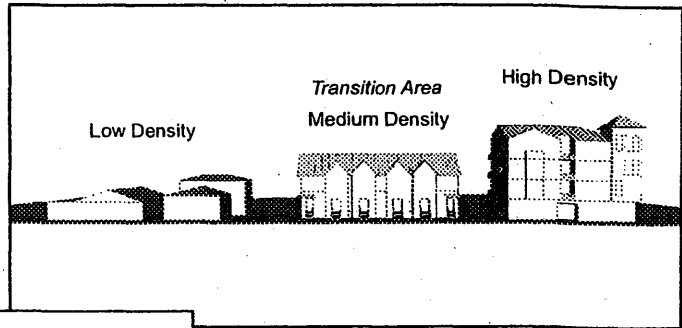


Figure 2-1

- B. Massing and orientation of buildings that respect and mirror the massing of neighboring structures by stepping back upper stories to transition to smaller scale buildings, including setbacks and daylight planes that match abutting R-1 and R-2 zone requirements (Figure 2-2);

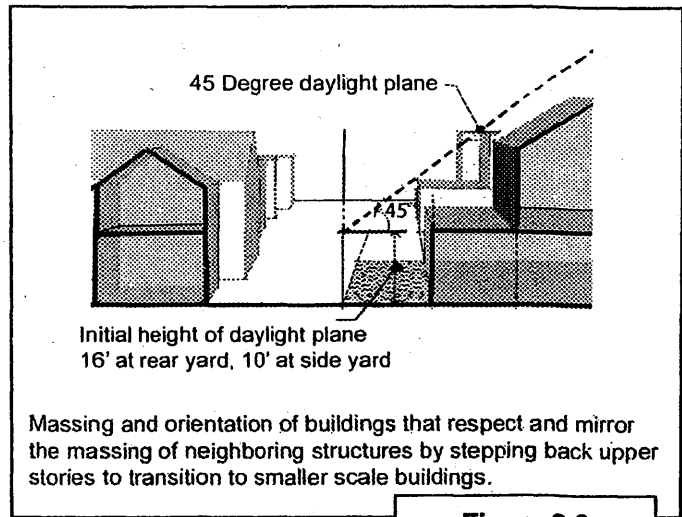


Figure 2-2

- C. Respecting privacy of neighboring structures, with windows and upper floor balconies positioned so they minimize views into neighboring properties (Figure 2-3);

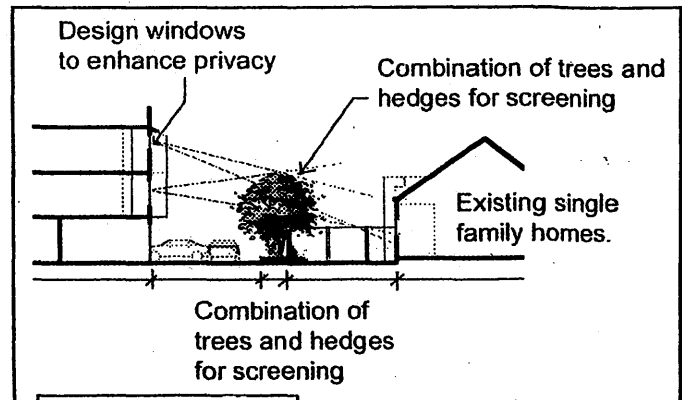


Figure 2-3

- D. Minimizing sight lines into and from neighboring properties (Figure 2-3);
- E. Limiting sun and shade impacts on abutting properties; and
- F. Providing pedestrian paseos and mews to create separation between uses.

(3) Project Open Space

Private and public open space shall be provided so that it is usable for the residents and visitors of a site.

- A. The type and design of the usable private open space shall be appropriate to the character of the building(s), and shall consider dimensions, solar access, wind protection, views, and privacy;
- B. Open space should be sited and designed to accommodate different activities, groups, active and passive uses, and should be located convenient to the residents.
- C. Common open spaces should connect to the pedestrian pathways and existing natural amenities of the site and its surroundings (Figure 3-1);
- D. Usable open space may be any combination of private and common spaces;
- E. Open space should be located to activate the street facade and increase "eyes on the street" when possible (Figure 3-2);
- F. Usable open space does not need to be located on the ground and may be located in porches, decks, balconies and/or podiums (Figure 3-3);
- G. Both private and common open space areas should be buffered from noise where feasible through landscaping and building placement;
- H. Open space situated over a structural slab/podium or on a rooftop shall have a combination of landscaping and high quality paving materials, including elements such as planters, mature trees, and use of textured and/or colored paved surfaces (Figure 3-3); and
- I. Parking may not be counted as open space.

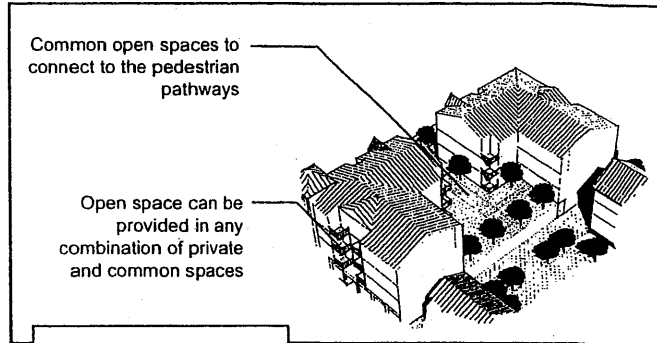


Figure 3-1

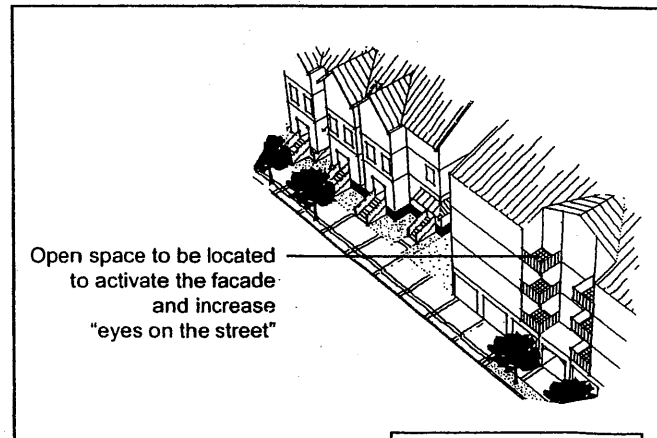


Figure 3-2

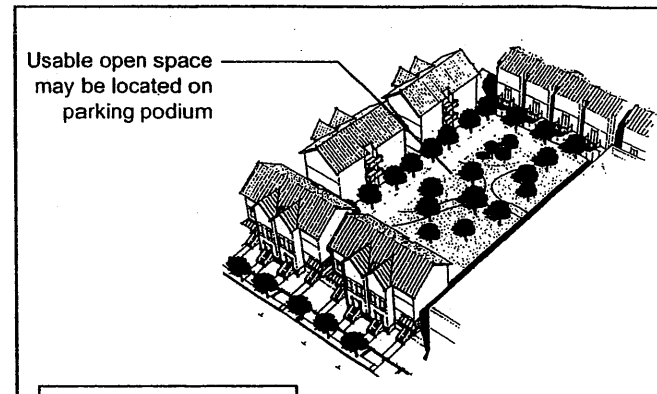


Figure 3-3

(4) Parking Design

Parking needs shall be accommodated but shall not be allowed to overwhelm the character of the project or detract from the pedestrian environment, such that:

A. Parking is located behind buildings, below grade or, where those options are not feasible, screened by landscaping, low walls, garages and carports, etc.;

B. Structured parking is fronted or wrapped with habitable uses when possible (Figure 4-1);

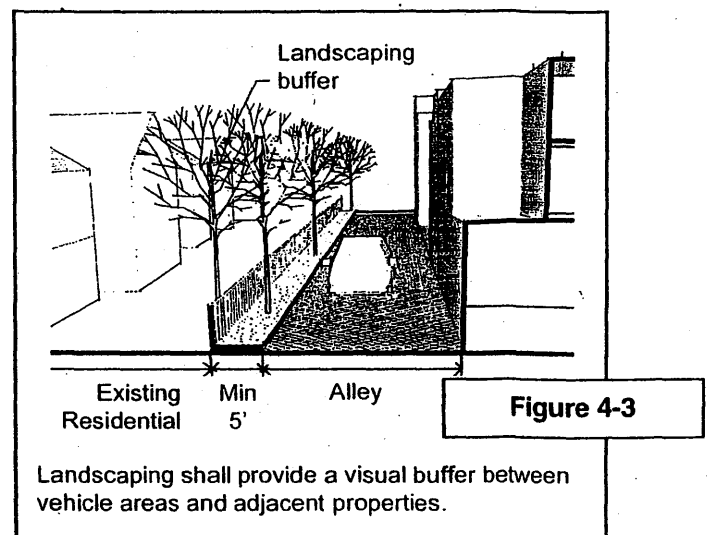
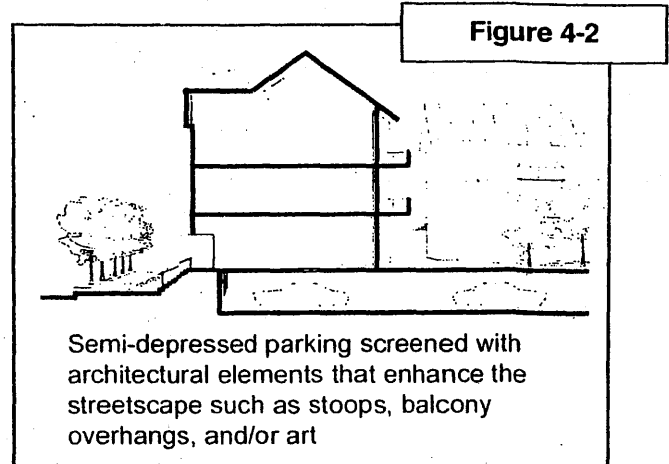
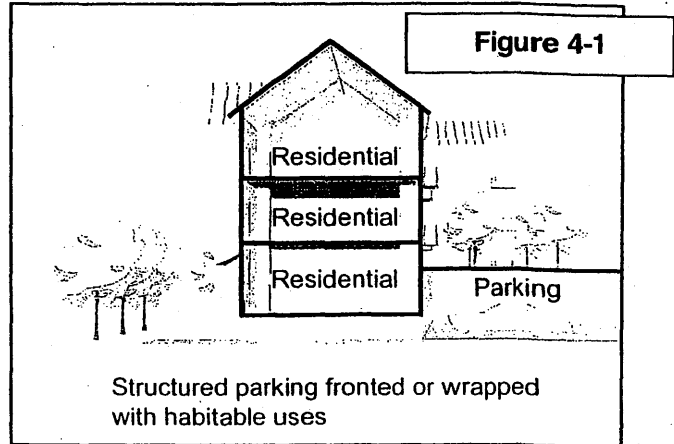
C. Parking that is semi-depressed is screened with architectural elements that enhance the streetscape such as stoops, balcony overhangs, and/or art (Figure 4-2);

D. Landscaping such as trees, shrubs, vines, or groundcover is incorporated into surface parking lots (Figure 4-2);

E. For properties with parking access from the rear of the site (such as a rear alley or driveway) landscaping shall provide a visual buffer between vehicle circulation areas and abutting properties (Figure 4-3);

F. Street parking is utilized for visitor or customer parking and is designed in a manner to enhance traffic calming;

G. Parking is accessed from side streets or alleys when possible.

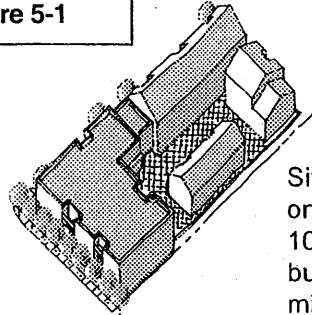


(5) Large (multi-acre) Sites

Large (in excess of one acre) sites shall be designed so that street, block, and building patterns are consistent with those of the surrounding neighborhood, and such that:

New development of large sites maintains and enhances connectivity with a hierarchy of public streets, private streets, walks and bike paths (integrated with Palo Alto's Bicycle Master Plan, when applicable);

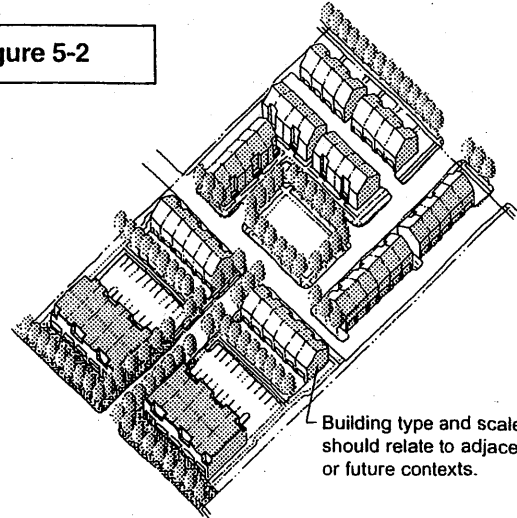
Figure 5-1



Sites greater than one acre may have 100% Residential buildings as part of the mixed-use concept.

The diversity of building types increases with increased lot size (e.g., <1 acre = minimum 1 building type; 1-2 acres = minimum 2 housing types; greater than 2 acres = minimum 3 housing types) (Figures 5-1 through 5-3); and

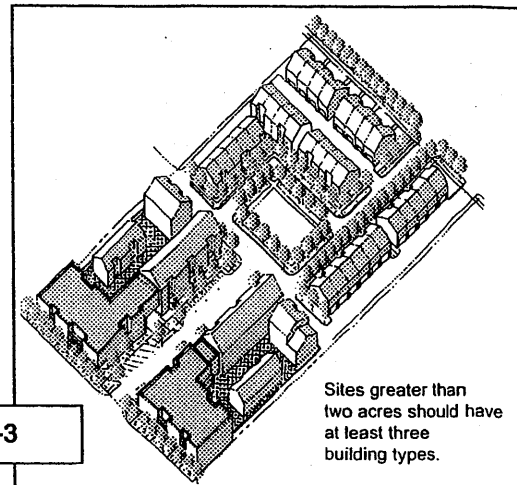
Figure 5-2



Building type and scale should relate to adjacent or future contexts.

Where a site includes more than one housing type, each building type should respond to its immediate context in terms of scale, massing, and design (e.g., small lot units or rowhouse building types facing or abutting existing single-family residences) (Figures 5-2 and 5-3).

Figure 5-3

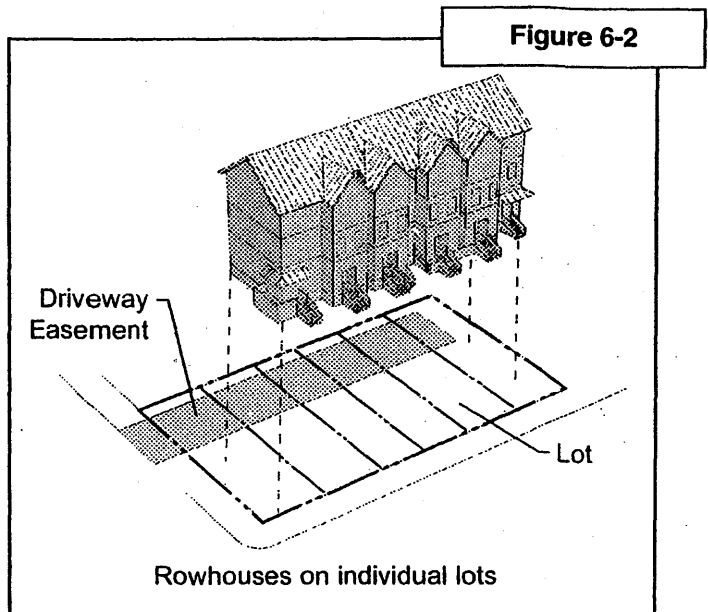
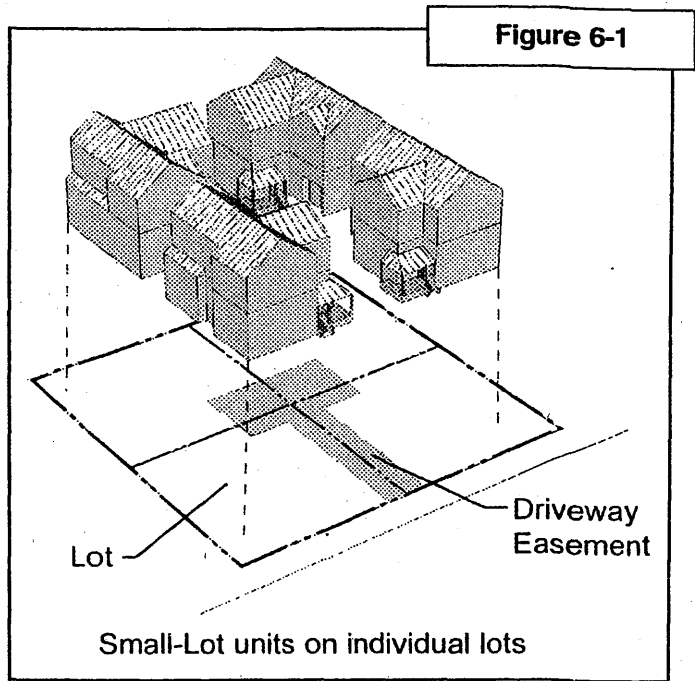


Sites greater than two acres should have at least three building types.

(6) Housing Variety and Units on Individual Lots

Multifamily projects may include a variety of unit types such as small-lot detached units (Figure 6-1), attached rowhouses/townhouses (Figure 6-2), and cottage clusters in order to achieve variety and create transitions to adjacent existing development, provided that:

- A. Setbacks and daylight planes along the perimeter of the site shall conform to RM-15 zone standards;
- B. Overall development intensity (FAR, landscape coverage, open space) shall be calculated across the entire site to comply with the RM-15 zone standards;
- C. Individual detached units shall be spaced a minimum of 3 feet apart;
- D. For units on individual “fee simple” lots, units may be situated along the property line of the individual parcel (i.e., zero-lot line) to allow usable open space in the opposite side setback;
- E. Each detached unit shall have at least one usable side yard between the house and fence to provide outdoor passage between the front and rear yards;
- F. Spaces between buildings shall be landscaped and/or shall provide for usable hardscape (patios, decks, etc.);
- G. Sidewall windows should be designed with privacy features such as obscure glass or glass block;
- H. Windows on sidewalls opposite each other should be above eye level or should be offset to prevent views into adjacent units; and
- I. Architectural treatment shall be carried along the sidewalls of detached units, particularly sidewalls facing streets and pathways.



(7) Sustainability and Green Building Design

Project design and materials to achieve sustainability and green building design shall be incorporated into the project. Green building design considers the environment during design and construction. Green building design aims for compatibility with the local environment: to protect, respect and benefit from it. In general, sustainable buildings are energy efficient, water conserving, durable and nontoxic, with high-quality spaces and high recycled content materials. The following considerations should be included in site and building design:

- A. Optimize building orientation for heat gain, shading, daylighting, and natural ventilation (Figure 7-1);
- B. Design landscaping to create comfortable micro-climates and reduce heat island effects (Figure 7-2);
- C. Design for easy pedestrian, bicycle, and transit access;
- D. Maximize onsite stormwater management through landscaping and permeable pavement (Figure 7-3);
- E. Use sustainable building materials.
- F. Design lighting, plumbing and equipment for efficient energy use;
- G. Create healthy indoor environments;
- H. Use creativity and innovation to build more sustainable environments. One example is establishing gardens with edible fruits, vegetables or other plants to satisfy a portion of project open space requirements (Figure 7-2); and
- I. Provide protection for creeks and riparian vegetation and integrate stormwater management measures and open space to minimize water quality and erosion impacts to the creek environment.

(Ord. 4964 § 2 (part), 2007)

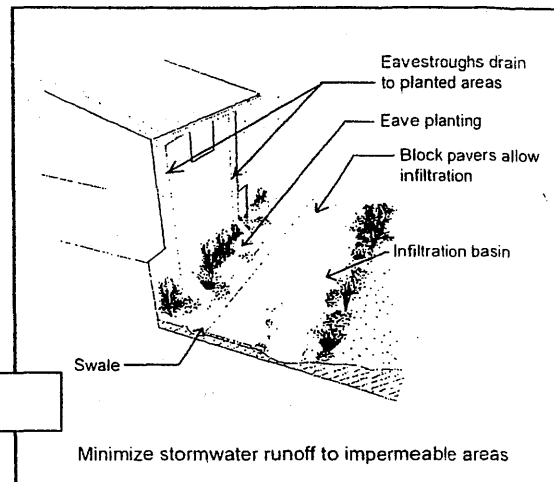
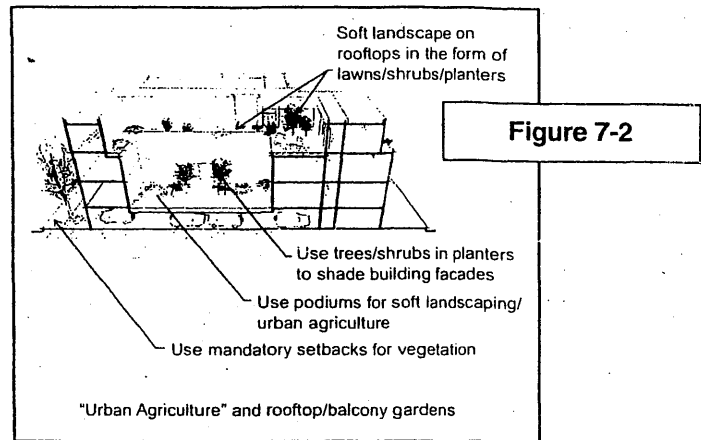
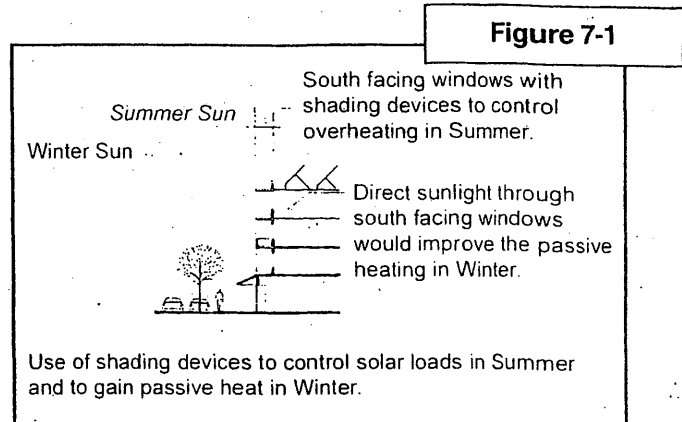


Figure 7-3

18.13.070 Grandfathered Uses**(a) Grandfathered Uses**

The following uses may remain as grandfathered uses and shall not be subject to the provisions of Chapter 18.70:

(1) RM-15 district:

- (A) Professional and medical office uses existing on July 20, 1978 and which, prior to that date, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit, or which uses were, prior to July 20, 1978, located in an RM-1 or RM-2 district, which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit.
- (B) Two-family uses and multiple-family uses existing on July 20, 1978 and which, prior to that date, were lawful conforming permitted uses or conditional uses operating pursuant to a conditional use permit, or which uses were, prior to July 20, 1978, located in an RM-1 or RM-2 district, which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit.
- (C) Motel uses existing on July 20, 1978, and which, prior to that date, were lawful conforming permitted uses or conditional uses subject to a conditional use permit.

(2) RM-30 district:

- (A) Professional and medical office uses existing on July 20, 1978 and which, prior to that date, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit, or which uses were, prior to July 20, 1978, located in an RM-3 or RM-4 district, which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit
- (B) Two-family uses and multiple-family uses existing on July 20, 1978 and which, prior to that date, were lawful conforming permitted uses or conditional uses operating pursuant to a conditional use permit, or which uses were, prior to July 20, 1978, located in an RM-3 or RM-4 district, which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit.
- (C) Motel uses existing on July 20, 1978, and which, prior to that date, were lawful conforming permitted uses or conditional uses subject to a conditional use permit.

(3) RM-40 district:

- (A) Professional and medical office uses existing on July 20, 1978 and which, prior to that date, were lawful conforming permitted uses or conditional uses operating

subject to a conditional use permit, or which uses were, prior to July 20, 1978, located in an RM-5 district, which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit

- (B) Two-family uses and multiple-family uses existing on July 20, 1978 and which, prior to that date, were lawful conforming permitted uses or conditional uses operating pursuant to a conditional use permit, or which uses were, prior to July 20, 1978, located in an RM-5 district, which was imposed by reason of annexation of the property to the city without benefit of rezoning and which, prior to the date of annexation, were lawful conforming permitted uses or conditional uses operating subject to a conditional use permit.
- (C) Motel uses existing on July 20, 1978, and which, prior to that date, were lawful conforming permitted uses or conditional uses subject to a conditional use permit

(b) Permitted Changes

The following regulations shall apply to the grandfathered uses specified in subsection (a):

- (1) Such uses shall be permitted to remodel, improve, or replace site improvements on the same site, for continual use and occupancy by the same use, provided that such remodeling, improvement or replacement:
 - (A) shall not result in increased floor area;
 - (B) shall not result in an increase in the number of offices, in the case of professional or medical office uses, or dwelling units, in the case of residential or motel uses;
 - (C) shall not result in shifting of building footprint;
 - (D) shall not increase the height, length, building envelope, or size of the improvement;
 - (E) shall not increase the existing degree of noncompliance, except through the granting of a design enhancement exception pursuant to Chapter 18.76, with respect to multiple-family, professional and medical office, and motel uses, or a home improvement exception pursuant to Chapter 18.76, with respect to two-family use.
 - (F) in the RM-15 district, such remodeling, improvement, or replacement shall be for continual use and occupancy by the same use.
- (2) If a grandfathered use ceases and thereafter remains discontinued for twelve consecutive months, it shall be considered abandoned and may be replaced only by a conforming use.
- (3) A grandfathered use which is changed to or replaced by a conforming use shall not be reestablished, and any portion of a site or any portion of a building, the use of which changes from a grandfathered use to a conforming use, shall not thereafter be used except to accommodate a conforming use.
- (4) The following additional regulations shall apply to grandfathered professional or medical office uses:

- (A) Any remodeling, improvement, or replacement of any building designed and constructed for residential use shall be subject to the issuance of a conditional use permit in accord with Chapter 18.76.
- (B) In the event of redevelopment of all or a portion of the site for permitted residential uses, professional and medical office uses may not be incorporated in the redevelopment, except that this provision shall not apply to permanent conversion to residential use of space within an existing structure now used for professional and medical office uses.

(Ord. 4964 § 2 (part), 2007)

ORDINANCE NO. 1611 (2015 Series)**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS
OBISPO, CALIFORNIA, AMENDING TITLE 17 (ZONING
REGULATIONS) OF THE MUNICIPAL CODE REGARDING HOMESTAY
RENTALS AND APPROVING THE NEGATIVE DECLARATION OF
ENVIRONMENTAL IMPACT
(CODE 0058-2014)**

WHEREAS, the City Council of the City of San Luis Obispo conducted a study session in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on November 12, 2013, and directed staff to temporarily suspend enforcement of Municipal Code §17.22.010(G) related to the prohibition of vacation rentals, pending adoption of an ordinance which provides for homestay rentals; and

WHEREAS, the Planning Commission of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on October 8, 2014, for the purpose of considering the Negative Declaration of environmental impact and amendments to Title 17 (Zoning Regulations) of the Municipal Code to add provisions to allow homestay rentals; and

WHEREAS, the City Council of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on January 6, 2015, for the purpose of considering the Negative Declaration of environmental impact and amendments to Title 17 (Zoning Regulations) of the Municipal Code to add provisions to allow homestay rentals; and

WHEREAS, the City does regulate similar transient uses with similar impacts such as bed and breakfast establishments; and

WHEREAS, the City finds that, unless properly regulated, homestays could result in impacts to adjacent properties; and

WHEREAS, the purpose of these regulations is to ensure that homestays conform to the existing character of the neighborhood in which they are located and do not create impacts to adjacent properties; and

WHEREAS, staff facilitated meetings with the public and community organizations to gather community input on how homestay rentals should be operated, located and managed; and

WHEREAS, it is the purpose of this Ordinance to protect the public health, safety, and welfare within the City by establishing rules and requirements for homestay rental; and

WHEREAS, notices of said public hearings were made at the time and in the manner required by law; and

BE IT ORDAINED by the Council of the City of San Luis Obispo as follows:

SECTION 1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

SECTION 2. Environmental Determination. The project has been found to have a negative declaration of environmental impact through the completion of an initial study environmental review per CEQA Guidelines. Municipal Code amendments included in Section 17.08.140 of this ordinance are summarized below which conclude that it can be seen with certainty that proposed amendments to the Municipal Code could not have a significant effect on the environment.

SECTION 3. Findings. Based upon all the evidence, the Council makes the following findings:

1. The increasing popularity of homestay rentals in the City require the implementation of appropriate regulations to the character of existing neighborhoods is maintained, while providing an expanded type of lodging facility available within the City.
2. The Homestay Ordinance is consistent with General Plan policies, which directs the City to provide for visitor uses and protect neighborhoods through the establishment of requirements and standards for operation and management of homestay rentals.
3. The project has been found to have a negative declaration of environmental impact through the completion of an initial study environmental review per CEQA Guidelines as detailed in Section 2 above.

SECTION 4. Chapter 17.08.140 “Homestay Rentals” of the City of San Luis Obispo’s Municipal Code is added to read as follows:

SECTION 17.08.140 – HOMESTAY RENTALS

A. Purpose and Intent. The purpose of these regulations is to allow owner occupied homestay rentals in the City with reasonable standards to preserve neighborhood character and quality of life.

B. Definitions.

1. **Bed and Breakfast Inn.** A building or group of buildings providing less than 15 bedrooms or suites that are rented for overnight lodging, with a common eating area for guests.
2. **Homestay.** An owner-occupied dwelling unit where bedrooms are provided for compensation for fewer than thirty consecutive days with a maximum of four adult overnight guests.

3. **Owner Occupancy.** A lawfully permitted dwelling that is occupied by the owner(s) named on the property deed as their primary residence and is occupied by them for the major portion of the year.
 4. **Responsible party.** A person over the age of 18 who is designated by the owner of the property as a point of contact for the homestay rental in the event the owner occupier is not on the property at all time during the rental to answer for the maintenance of the property and conduct and acts of homestay guests. The responsible party's contact information must be provided to homestay guests, adjacent neighbors and stated on the application.
 5. **Vacation Rental.** A dwelling or part of a dwelling where lodging is furnished for compensation for fewer than thirty consecutive days without concurrently being occupied by the property owner. Vacation rentals are not allowed in the City of San Luis Obispo.
- C. **Permit Required.** The operation of a homestay requires a homestay permit through an administrative approval by the Community Development Director, who may add, delete, or modify conditions to further the intent of the ordinance. Any request to waive or modify 17.08.140 D. 4. shall require an administrative use permit.

D. Application Requirements.

1. Operators of homestays in all zones are required to obtain a homestay permit and a business license.
2. The operator of the homestay shall pay Transient Occupancy Tax and Tourism Business Improvement District tax as required by San Luis Obispo Municipal Code.
3. The operator of the homestay must annually provide verification of primary residence through the Homeowner's Property Tax Exemption or other appropriate documentation.
4. The operator of the homestay must provide a site plan with at least one (1) on-site parking space in addition to their required residential parking. Parking in a driveway that has a minimum depth of 20 feet from the back of sidewalk and is made available during rentals shall meet the definition of a parking space.
5. The operator of the homestay must provide the name and contact information of a responsible party in the application, if the owner occupier anticipates he or she may not be on the premises at all times during the homestay rental.

E. Performance Standards.

1. Homestays shall comply with the property development and performance

standards listed in Section 17.18 and 17.19.

2. All Building and Fire Code and regulations shall be met.
3. The number of overnight guests shall be limited to four adults. Bedrooms shall meet the minimum size requirements as defined in the Building Code.
4. At all times when a homestay rental is occurring, the owner or responsible party must be within a fifteen (15) minute drive of the property. The owner or responsible party must be available via telephone twenty-four (24) hours a day, seven (7) days a week, to respond to complaints regarding the homestay. Contact information for the owner and responsible party must be provided to homestay guests, adjacent neighbors and stated on the application.
5. Upon sale or transfer of the home for which a homestay permit has been granted, a new homestay application shall be required within 60 days of the transfer. Failure to submit a new application as required within 60 days shall result in the termination of the existing permitted use.
6. The homestay shall be limited to only the owner occupied dwelling unit on the property.
7. Homestays are not permitted in guest houses or guest quarters.
8. Any advertisements for the homestay shall include the Business License number. On-site advertising of the homestay is prohibited.

F. Revocation of a Permit.

1. Violation of these requirements and standards shall constitute grounds for revocation of the Homestay Permit.
2. At any time, the permit can be referred to an Administrative Review Hearing if determined by the Community Development Director upon receipt of substantiated written complaints from any citizen, Code Enforcement Officer, or Police Department Officer, which includes information and/or evidence supporting a conclusion that a violation of the permit, or of City ordinances or regulations applicable to the property or operation of the homestay, has occurred. At the time of the Permit review, to ensure compliance with applicable laws and conditions of permit, conditions of approval may be added, deleted, modified, or the permit may be revoked.

G. Appeal. Appeal procedures for this section shall be as provided by Chapter 17.66 (Appeals).

SECTION 5. The definition of "Vacation rental" as set forth in Chapter 17.100.220 is

hereby amended as follows:

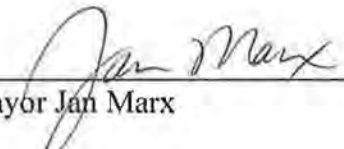
“Vacation rental” means a dwelling or part of a dwelling where lodging is furnished for compensation for fewer than thirty consecutive days. Does not include fraternities, sororities, convents, monasteries, hostels, bed and breakfast inns, homestays, hotels, motels, or boarding/rooming houses, which are separately defined.

SECTION 6. Severability. If any subdivision, paragraph, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this ordinance, or any other provisions of the City’s rules and regulations. It is the City’s express intent that each remaining portion would have been adopted irrespective of the fact that any one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

SECTION 7. A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage, in The Tribune, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

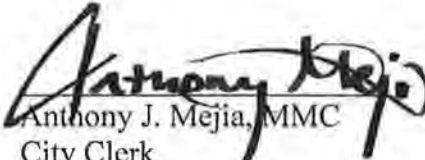
INTRODUCED on the 6th day of January, 2015, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the 20th day of January, 2015, on the following vote:

AYES: Council Members Christianson and Rivoire,
Vice Mayor Ashbaugh and Mayor Marx
NOES: Council Member Carpenter
ABSENT: None



Mayor Jan Marx

ATTEST:


Anthony J. Mejia, MMC
City Clerk

APPROVED AS TO FORM:



J. Christine Dietrick
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, this 28th day of January, 2015.


Anthony J. Mejia, MMC
City Clerk

AMENDED IN BOARD

10/7/14

FILE NO. 140381

ORDINANCE NO. 218-14

1 [Administrative, Planning Codes - Amending Regulation of Short-Term Residential Rentals
2 and Establishing Fee]

3 **Ordinance amending the Administrative Code to provide an exception for permanent**
4 **residents to the prohibition on short-term residential rentals under certain conditions;**
5 **to create procedures, including a registry administered by the Planning Department, for**
6 **tracking short-term residential rentals and compliance; to establish an application fee**
7 **for the registry; amending the Planning Code to clarify that short-term residential**
8 **rentals shall not change a unit's type as residential; affirming the Planning**
9 **Department's determination under the California Environmental Quality Act; and**
10 **making findings of consistency with the General Plan, and the eight priority policies of**
11 **Planning Code, Section 101.1.**

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.
14 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
15 **Board amendment additions** are in double-underlined Arial font.
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.
17 **Asterisks (* * * *)** indicate the omission of unchanged Code
18 subsections or parts of tables.

19 Be it ordained by the People of the City and County of San Francisco:

20 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
21 finds and determines that:

22 (a) General Plan and Planning Code Findings.

23 (1) On August 7, 2014, at a duly noticed public hearing, the Planning
24 Commission in Resolution No. 19213 found that the proposed Planning Code amendments
25 contained in this ordinance were consistent with the City's General Plan and with Planning
Code Section 101.1(b) and recommended that the Board of Supervisors adopt the proposed
Planning Code amendments. A copy of said Resolution is on file with the Clerk of the Board of

1 Supervisors in File No. 140381 and is incorporated herein by reference. The Board finds that
2 the proposed Planning Code amendments contained in this ordinance are on balance
3 consistent with the City's General Plan and with Planning Code Section 101.1(b) for the
4 reasons set forth in said Resolution.

5 (2) Pursuant to Planning Code Section 302, the Board finds that the
6 proposed ordinance will serve the public necessity, convenience and welfare for the reasons
7 set forth in Planning Commission Resolution No. 19213, which reasons are incorporated
8 herein by reference as though fully set forth.

9 (b) Environmental Findings. The Planning Department has determined that the
10 actions contemplated in this ordinance comply with the California Environmental Quality Act
11 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
12 the Clerk of the Board of Supervisors in File No. 140381 and is incorporated herein by
13 reference. The Board affirms this determination.

14 (c) General Findings.

15 (1) The widespread conversion of residential housing to short-term rentals,
16 commonly referred to as hotelization, was prohibited by this Board because, when taken to
17 extremes, these conversions could result in the loss of housing for permanent residents. But,
18 with the advent of new technology, the rise of the sharing economy, and the economic and
19 social benefits to residents of sharing resources, short-term rental activity continued to
20 proliferate. This has not only led the City to strengthen enforcement of short-term rental laws,
21 but also prompted an examination of parameters to regulate short-term rentals and create a
22 pathway to legalize this activity. The goal of regulation is to ensure compliance with all
23 requirements of the Municipal Code, including but not limited to the Business and Tax
24 Regulations Code and the Residential Rent Stabilization and Arbitration Ordinance, and
25 accountability for neighborhood quality of life.

1 (2) The exception created here for permanent residents would allow for
2 reasonable flexibility in renting residential spaces on an occasional basis; however, this
3 exception is only intended for residents who meet the definition of permanent resident so that
4 these units remain truly residential in use. Thus, the exception is only for primary residences
5 in which permanent residents are present for a significant majority of the calendar year.

6 (3) The hosting platforms, as part of a new but growing industry, would also
7 benefit from regulation to ensure good business standards and practices. Such regulation
8 includes required notification to users of local short-term rental laws and transient occupancy
9 tax obligations to San Francisco.

10 (4) The Office of the Treasurer & Tax Collector retains all of its existing
11 authority under the Business & Tax Regulations Code with regard to the subject matter of this
12 ordinance.

13
14 Section 2. The Administrative Code is hereby amended by revising Sections 37.9(a),
15 41A.4, 41A.5, and 41A.6, to read as follows:

16
17 **SEC. 37.9. EVICTIONS.** Notwithstanding Section 37.3, this Section shall apply as of
18 August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

19 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

20 (1) The tenant:

21 (A) Has failed to pay the rent to which the landlord is lawfully entitled
22 under the oral or written agreement between the tenant and landlord:

23 (i) Except that a tenant's nonpayment of a charge prohibited
24 by Section 919.1 of the Police Code shall not constitute a failure to pay rent; and
25

1 (ii) Except that, commencing August 10, 2001, to and including
2 February 10, 2003, a landlord shall not endeavor to recover or recover possession of a rental
3 unit for failure of a tenant to pay that portion of rent attributable to a capital improvement
4 passthrough certified pursuant to a decision issued after April 10, 2000, where the capital
5 improvement passthrough petition was filed prior to August 10, 2001, and a landlord shall not
6 impose any late fee(s) upon the tenant for such non-payment of capital improvements costs;
7 or

8 (B) Habitually pays the rent late; or

9 (C) Gives checks which are frequently returned because there are
10 insufficient funds in the checking account; or

11 (2) The tenant has violated a lawful obligation or covenant of tenancy other
12 than the obligation to surrender possession upon proper notice or other than an obligation to
13 pay a charge prohibited by Police Code Section 919.1, and failure to cure such violation after
14 having received written notice thereof from the landlord.

15 (A) Provided that notwithstanding any lease provision to the contrary,
16 a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of
17 the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet
18 following a written request by the tenant, so long as the tenant continues to reside in the rental
19 unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the
20 landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the
21 tenant's written request, the tenant's request shall be deemed approved by the landlord.

22 (B) Provided further that where a rental agreement or lease provision
23 limits the number of occupants or limits or prohibits subletting or assignment, a landlord shall
24 not endeavor to recover possession of a rental unit as a result of the addition to the unit of a
25 tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic

1 partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as
2 a result of the addition of the spouse or domestic partner of a tenant, so long as the maximum
3 number of occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord
4 has unreasonably refused a written request by the tenant to add such occupant(s) to the unit.
5 If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the
6 tenant's written request, the tenant's request shall be deemed approved by the landlord. A
7 landlord's reasonable refusal of the tenant's written request may not be based on the
8 proposed additional occupant's lack of creditworthiness, if that person will not be legally
9 obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the
10 tenant's written request may be based on, but is not limited to, the ground that the total
11 number of occupants in a unit exceeds (or with the proposed additional occupant(s) would
12 exceed) the lesser of (i) or (ii):

13 (i) Two persons in a studio unit, three persons in a one-
14 bedroom unit, four persons in a two-bedroom unit, six persons in a three-bedroom unit, or
15 eight persons in a four-bedroom unit; or

16 (ii) The maximum number permitted in the unit under
17 state law and/or other local codes such as the Building, Fire, Housing and Planning Codes; or

18 (3) The tenant is committing or permitting to exist a nuisance in, or is causing
19 substantial damage to, the rental unit, or is creating a substantial interference with the
20 comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such
21 nuisance, damage or interference is specifically stated by the landlord in writing as required
22 by Section 37.9(c); or

23 (4) The tenant is using or permitting a rental unit to be used for any illegal
24 purpose, provided however that a landlord shall not endeavor to recover possession of a rental unit
25

1 solely as a result of a first violation of Chapter 41A that has been cured within 30 days written notice to
2 the tenant; or

3 (5) The tenant, who had an oral or written agreement with the landlord which
4 has terminated, has refused after written request or demand by the landlord to execute a
5 written extension or renewal thereof for a further term of like duration and under such terms
6 which are materially the same as in the previous agreement; provided, that such terms do not
7 conflict with any of the provisions of this Chapter; or

8 (6) The tenant has, after written notice to cease, refused the landlord access
9 to the rental unit as required by State or local law; or

10 (7) The tenant holding at the end of the term of the oral or written agreement
11 is a subtenant not approved by the landlord; or

12 (8) The landlord seeks to recover possession in good faith, without ulterior
13 reasons and with honest intent:

14 (i) For the landlord's use or occupancy as his or her principal
15 residence for a period of at least 36 continuous months;

16 (ii) For the use or occupancy of the landlord's grandparents,
17 grandchildren, parents, children, brother or sister, or the landlord's spouse, or the spouses of
18 such relations, as their principal place of residency for a period of at least 36 months, in the
19 same building in which the landlord resides as his or her principal place of residency, or in a
20 building in which the landlord is simultaneously seeking possession of a rental unit under
21 Section 37.9(a)(8)(i). For purposes of this Section 37.9(a)(8)(ii), the term spouse shall include
22 domestic partners as defined in San Francisco Administrative Code Sections 62.1 through
23 62.8.

24 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who
25 become owners of record of the rental unit on or before February 21, 1991, the term "landlord"

1 shall be defined as an owner of record of at least 10 percent interest in the property or, for
2 Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San
3 Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of
4 record is at least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who
5 become owners of record of the rental unit after February 21, 1991, the term "landlord" shall
6 be defined as an owner of record of at least 25 percent interest in the property or, for Section
7 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco
8 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
9 least 25 percent.

10 (iv) A landlord may not recover possession under this Section
11 37.9(a)(8) if a comparable unit owned by the landlord is already vacant and is available, or if
12 such a unit becomes vacant and available before the recovery of possession of the unit. If a
13 comparable unit does become vacant and available before the recovery of possession, the
14 landlord shall rescind the notice to vacate and dismiss any action filed to recover possession
15 of the premises. Provided further, if a noncomparable unit becomes available before the
16 recovery of possession, the landlord shall offer that unit to the tenant at a rent based on the
17 rent that the tenant is paying, with upward or downward adjustments allowed based upon the
18 condition, size, and other amenities of the replacement unit. Disputes concerning the initial
19 rent for the replacement unit shall be determined by the Rent Board. It shall be evidence of a
20 lack of good faith if a landlord times the service of the notice, or the filing of an action to
21 recover possession, so as to avoid moving into a comparable unit, or to avoid offering a
22 tenant a replacement unit.

23 (v) It shall be rebuttably presumed that the landlord has not acted in
24 good faith if the landlord or relative for whom the tenant was evicted does not move into the
25

1 rental unit within three months and occupy said unit as that person's principal residence for a
2 minimum of 36 continuous months.

3 (vi) Once a landlord has successfully recovered possession of a rental
4 unit pursuant to Section 37.9(a)(8)(i), then no other current or future landlords may recover
5 possession of any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention
6 of this Section that only one specific unit per building may be used for such occupancy under
7 Section 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies
8 under Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a
9 petition with the Rent Board, or at the landlord's option, commence eviction proceedings,
10 claiming that disability or other similar hardship prevents him or her from occupying a unit
11 which was previously occupied by the landlord.

12 (vii) If any provision or clause of this amendment to Section 37.9(a)(8)
13 or the application thereof to any person or circumstance is held to be unconstitutional or to be
14 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other
15 chapter provisions, and clauses of this Chapter are held to be severable; or

16 (9) The landlord seeks to recover possession in good faith in order to sell the
17 unit in accordance with a condominium conversion approved under the San Francisco
18 subdivision ordinance and does so without ulterior reasons and with honest intent; or

19 (10) The landlord seeks to recover possession in good faith in order to
20 demolish or to otherwise permanently remove the rental unit from housing use and has
21 obtained all the necessary permits on or before the date upon which notice to vacate is given,
22 and does so without ulterior reasons and with honest intent; provided that a landlord who
23 seeks to recover possession under this Section 37.9(a)(10) shall pay relocation expenses as
24 provided in Section 37.9C except that a landlord who seeks to demolish an unreinforced
25 masonry building pursuant to Building Code Chapters 16B and 16C must provide the tenant

1 with the relocation assistance specified in Section 37.9A(f) below prior to the tenant's vacating
2 the premises; or

3 (11) The landlord seeks in good faith to remove temporarily the unit from
4 housing use in order to be able to carry out capital improvements or rehabilitation work and
5 has obtained all the necessary permits on or before the date upon which notice to vacate is
6 given, and does so without ulterior reasons and with honest intent. Any tenant who vacates
7 the unit under such circumstances shall have the right to reoccupy the unit at the prior rent
8 adjusted in accordance with the provisions of this Chapter. The tenant will vacate the unit only
9 for the minimum time required to do the work. On or before the date upon which notice to
10 vacate is given, the landlord shall advise the tenant in writing that the rehabilitation or capital
11 improvement plans are on file with the Central Permit Bureau of the Department of Building
12 Inspection and that arrangements for reviewing such plans can be made with the Central
13 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
14 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
15 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
16 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;
17 provided, however, that such time period may be extended by the Board or its Administrative
18 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
19 implement the application procedure. Any landlord who seeks to recover possession under
20 this Section 37.9(a)(11) shall pay relocation expenses as provided in Section 37.9C; or

21 (12) The landlord seeks to recover possession in good faith in order to carry
22 out substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
23 permits on or before the date upon which notice to vacate is given, and does so without
24 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor
25 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this

1 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; Any
2 landlord who seeks to recover possession under this Section 37.9(a)(12) shall pay relocation
3 expenses as provided in Section 37.9C; or

4 (13) The landlord wishes to withdraw from rent or lease all rental units within
5 any detached physical structure and, in addition, in the case of any detached physical
6 structure containing three or fewer rental units, any other rental units on the same lot, and
7 complies in full with Section 37.9A with respect to each such unit; provided, however, that
8 guestrooms or efficiency units within a residential hotel, as defined in Section 50519 of the
9 Health and Safety Code, may not be withdrawn from rent or lease if the residential hotel has a
10 permit of occupancy issued prior to January 1, 1990, and if the residential hotel did not send a
11 notice of intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f),
12 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1,
13 2004; or

14 (14) The landlord seeks in good faith to temporarily recover possession of the
15 unit solely for the purpose of effecting lead remediation or abatement work, as required by
16 San Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the
17 minimum time required to do the work. The relocation rights and remedies, established by
18 San Francisco Administrative Code Chapter 72, including but not limited to, the payment of
19 financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

20 (15) The landlord seeks to recover possession in good faith in order to
21 demolish or to otherwise permanently remove the rental unit from housing use in accordance
22 with the terms of a development agreement entered into by the City under Chapter 56 of the
23 San Francisco Administrative Code.

24 (16) The tenant's Good Samaritan Status (Section 37.2(a)(1)(D)) has expired,
25 and the landlord exercises the right to recover possession by serving a notice of termination of

1 tenancy under this Section 37.9(a)(16) within 60 days after expiration of the Original and any
2 Extended Good Samaritan Status Period.

3 * * * *

4
5 **SEC. 41A.4. DEFINITIONS.**

6 Whenever used in this Chapter 41A, the following words and phrases shall have the definitions
7 provided in this Section:

8 **Business Entity.** A corporation, partnership, or other legal entity that is not a natural
9 person that owns or leases one or more residential units.

10 **Complaint.** A complaint submitted to the Department by an interested party alleging
11 a violation of this Chapter 41A and that includes the rResidential uUnit's address, including unit
12 number, date(s) and nature of alleged violation(s), and any available contact information for the
13 oOwner and/or resident of the rResidential uUnit at issue.

14 **Conversion or Convert.** A change of use from rResidential uUse to tTourist or
15 tTransient uUse, including, but not limited to, renting a rResidential uUnit as a tTourist or tTransient
16 uUse.

17 **Department.** The Planning Department.

18 **Director.** The Director of the Planning Department.

19 **Hosting Platform.** A person or entity that provides a means through which an oOwner
20 may offer a rResidential uUnit for tTourist or tTransient uUse. This service is usually, though not
21 necessarily, provided through an online platform and generally allows an oOwner to advertise the
22 rResidential uUnit through a website provided by the hHosting pPlatform and provides a means for
23 potential tourist or transient users to arrange tTourist or tTransient uUse and payment, whether the
24 tourist or transient pays rent directly to the oOwner or to the hHosting pPlatform.

1 **Interested Party.** A ~~p~~Permanent ~~r~~Resident of the building in which the ~~t~~Tourist or
2 ~~t~~Transient ~~u~~Use is alleged to occur, any homeowner association ~~o~~associated with the building
3 Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the
4 Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of
5 San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501
6 of the United States Code, which has the preservation or improvement of housing as a stated purpose in
7 its articles of incorporation or bylaws.

8 **Owner.** Owner includes any person who is the owner of record of the real property. As
9 used in this Chapter 41A, the term "Owner" includes a lessee where the lessee is offering a
10 ~~r~~Residential ~~u~~Unit for ~~t~~Tourist or ~~t~~Transient use.

11 **Permanent Resident.** A person who occupies a ~~r~~Residential ~~u~~Unit for at least 60
12 consecutive days with intent to establish that unit as his or her primary residence. A ~~p~~Permanent
13 ~~r~~Resident may be an owner or a lessee.

14 **Primary Residence.** The ~~p~~Permanent ~~r~~Resident's usual place of return for housing as
15 documented by at least two of the following: motor vehicle registration; driver's license; voter
16 registration; tax documents showing the Residential Unit as the Permanent Resident's
17 residence for the purposes of a home owner's tax exemption; or other such evidence a utility bill.
18 A person may have only one Primary Residence.

19 (a) **Residential Unit.** Room or rooms, including a condominium or a room or
20 dwelling unit that forms part of a tenancy-in-common arrangement, in any building, or portion
21 thereof, which is designed, built, rented, leased, let or hired out to be occupied for ~~r~~Residential
22 ~~u~~Use, or which is occupied as the home or residence of four or more households living independently
23 of each other in dwelling units as defined in the San Francisco Housing Code, provided that the
24 residential unit was occupied by a permanent resident on or after February 8, 1981. It is presumed that
25

1 ~~a residential unit was occupied by a permanent resident on or after February 8, 1981, and the owner~~
2 ~~has the burden of proof to show that a residential unit is not subject to this Chapter.~~

3 (b) **Residential Use.** Any use for occupancy of a ~~dwelling~~ Residential Unit by a
4 Permanent Resident.

5 **Short-Term Residential Rental.** A Tourist or Transient Use where all of the
6 following conditions are met:

7 (a) the Residential Unit is offered for Tourist or Transient Use by the
8 Permanent Resident of the Residential Unit;

9 (b) the Permanent Resident is a natural person;

10 (c) the Permanent Resident has registered the Residential Unit and maintains
11 good standing on the Department's Short-Term Residential Rental Registry; and

12 (d) the Residential Unit is not subject to the Inclusionary Affordable Housing
13 Program set forth in Planning Code Section 415 et seq.; is not a residential hotel unit as defined in
14 subject to the provisions of Chapter 41, unless such unit has been issued a Permit to Convert
15 under Section 41.12; is not otherwise designated as a below market rate or income-
16 restricted Residential Unit under City, state, or federal law; and no other requirement of federal or
17 state law, this Municipal Code, or any other applicable law or regulation prohibits the
18 permanent resident from subleasing, renting, or otherwise allowing Short-Term Residential Rental of
19 the Residential Unit.

20 **Short-Term Residential Rental Registry or Registry.** A database of information
21 maintained by the Department that includes information regarding Permanent Residents who are
22 permitted to offer Residential Units for Short-Term Residential Rental. Only one Permanent
23 Resident per Residential Unit may be included on the Registry at any given time. The Registry
24 shall be available for public review to the extent required by law, except that, to the extent permitted by
25

1 law, the Department shall redact any pPermanent rResident names from the records available for
2 public review.

3 (e) — **Tourist or Transient Use.** Any Use of a rResidential uUnit for occupancy for
4 less than a 30-day term of tenancy, or occupancy for less than 30 days of a rResidential uUnit
5 leased or owned by a bBusiness eEntity, whether on a short-term or long-term basis,
6 including any occupancy by employees or guests of a bBusiness eEntity for less than 30 days
7 where payment for the rResidential uUnit is contracted for or paid by the bBusiness eEntity.

8 (d) — Permanent Resident. A person who occupies a residential unit for at least 60
9 consecutive days with intent to establish that unit as his or her principal place of residence.

10 (e) — Conversion or Convert. The change of the use or to rent a residential unit from
11 residential use to tourist or transient use.

12 (f) — Owner. Owner includes any person who is the owner of record of the real property.
13 Owner includes a lessee where an interested party alleges that a lessee is offering a residential unit for
14 tourist or transient use.

15 (g) — Interested Party. A permanent resident of the building in which the tourist or transient
16 use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt
17 from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation
18 or improvement of housing as a stated purpose in its articles of incorporation or bylaws.

19 (h) — Director. The Director of the Department of Building Inspection.

21 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

22 (a) **Unlawful Actions.** Except as set forth in subsection 41A.5(g), it shall be unlawful
23 for

24 (1) any Oowner to offer an apartment Rresidential Uunit for rent for Ttourist or
25 Ttransient Uuse;

1 (2) any Owner to offer a Residential Unit for rent to a Business Entity
2 that will allow the use of a Residential Unit for Tourist or Transient Use; or

3 (3) any Business Entity to allow the use of a Residential Unit for Tourist
4 or Transient Use.

5 (b) **Records Required.** The Owner and Business Entity, *if any*, shall retain and
6 make available to the Department ~~or Building Inspection occupancy~~ records to demonstrate
7 compliance with this Chapter 41A upon written request as provided herein. Any Permanent Resident
8 offering his or her Primary Residence as a Short-Term Residential Rental shall retain and make
9 available to the Department records to demonstrate compliance with this Chapter 41A, including but
10 not limited to records demonstrating Primary Residency, and the number of days per calendar year he
11 or she has occupied the Residential Unit, and the number of days per calendar year, with dates
12 and the duration of each stay, the Residential Unit has been rented for Short-Term Residential
13 Rental Use.

14 (c) **Determination of Violation.** Upon the filing of a written Complaint that an
15 Owner or Business Entity has engaged in an alleged unlawful eConversion ~~has occurred or~~
16 that a Hosting Platform is not complying with the requirements of subsection (g)(54)(A), the
17 Director shall take reasonable steps necessary to determine the validity of the Complaint.
18 The Director may independently determine whether an Owner or Business Entity may be
19 renting a Residential Unit for Tourist or Transient Use ~~as defined~~ in violation of this Chapter
20 41A or whether a Hosting Platform has failed to comply with the requirements of subsection
21 (g)(54)(A). To determine if there is a violation of this Chapter 41A, the Director may initiate an
22 investigation of the subject property or Hosting Platform's allegedly unlawful activities. This
23 investigation may include, but is not limited to, an inspection of the subject property and/or a
24 request for any pertinent information from the Owner, ~~or Business Entity,~~ or Hosting Platform,
25 such as leases, business records, or other documents. The Director shall have discretion to

1 determine whether there is a potential violation of this Chapter 41A and whether to conduct an
2 administrative review hearing as set forth below. Notwithstanding any other provision of this
3 Chapter 41A, any alleged violation related to failure to comply with the requirements of the
4 Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector under
5 the provisions of that Code.

6 (d) **Civil Action.** Following the filing of a Ceomplaint and the determination of a
7 violation by the Director through an administrative review hearing as set forth in this Chapter
8 41A, the City and County of San Francisco may institute civil proceedings for injunctive and
9 monetary relief against a Hosting Platform for violation of subsection (g)(4)(A) or the City or
10 any other interested pParty may institute civil proceedings for injunctive and monetary relief
11 against an Owner or Business Entity. In addition, the an Owner, or, or Business Entity in
12 violation of this Chapter or a Hosting Platform in violation of subsection (g)(4)(A) may be liable
13 for civil penalties of not more than \$1,000 per day for the period of the unlawful rental activity. If
14 the City or the interested pParty is the prevailing party, the City or the interested pParty shall
15 be entitled to the costs of enforcing this Chapter 41A, including reasonable attorneys' fees, up
16 to the amount of the monetary award, pursuant to an order of the Court. Any monetary award
17 obtained by the City and County of San Francisco in such a civil action shall be deposited in
18 the Mayor's Office of Housing, Housing Affordability Fund less the reasonable costs incurred
19 by the City and County of San Francisco in pursuing the civil action Department to be used for
20 enforcement of Chapter 41A. The Department, through the use of these funds, shall
21 reimburse City departments and agencies, including the City Attorney's Office, for all costs
22 and fees incurred in the enforcement of this Chapter 41A.

23 (e) **Criminal Penalties.** Any Owner or Business Entity who rents a Residential
24 Unit for Tourist or Transient Use as defined in violation of this Chapter 41A without correcting
25 or remedying the violation as provided for in subsection 41A.6(b)(7) shall be guilty of a

1 misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by a
2 fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more
3 than six months, or by both. Each ~~R~~esidential ~~U~~nit rented for ~~T~~ourist or ~~T~~ransient ~~U~~se
4 shall constitute a separate offense.

5 (f) **Method of Enforcement, Director.** The Director shall have the authority to
6 enforce this Chapter against violations thereof by any or all of the means provided for in this
7 Chapter 41A.

8 (g) **Exception for Short-Term Residential Rental.**

9 (1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent
10 Resident may offer his or her Primary Residence as a Short-Term Residential Rental if he or she:

11 (A) occupies t~~The Residential Unit is occupied by the Permanent~~
12 Resident occupies the Residential Unit for no less than 275 days out of the preceding per out of
13 any given the calendar year in which the Residential Unit is rented as a Short-Term Residential
14 Rental or, proportional share thereof if he or she if the Permanent Resident has not rented or
15 owned the Residential Unit for the full preceding calendar year, for no less than 75% of the
16 days he or she has owned or rented the Residential Unit;

17 (B) The Permanent Resident maintains records for two years
18 demonstrating compliance with this Chapter, including but not limited to information demonstrating
19 Primary Residency, the number of days per calendar year he or she has occupied the Residential Unit,
20 the number of days per calendar year the Residential Unit has been rented as a Short-Term
21 Residential Rental, and compliance with the insurance requirement in Subsection (D). These records
22 shall be made available to the Department upon request;

23 (C) The Permanent Resident complies with any and all applicable
24 provisions of state and federal law and the San Francisco Municipal Code, including but not limited to
25 the requirements of the Business and Tax Regulations Code by, among any other applicable

1 requirements, collecting and remitting all required transient occupancy taxes, and the occupancy
2 requirements of the Housing Code;

3 (D) The Permanent Resident maintains homeowner's or renter's
4 property or casualty liability insurance appropriate to cover the Short-Term Residential Rental
5 Use in the aggregate of not less than \$150,000/500,000 or conducts each Short-Term Residential
6 Rental transaction through a Hosting Platform that provides a guarantee program relating to
7 property damage in an amount not less than \$150,000 to owners per incident equal or greater
8 coverage. Such coverage shall defend and indemnify the Owner(s), as named additional
9 insured, and any tenant(s) in the building for their bodily injury and property damage arising
10 from the Short-Term Residential Use;

11 (E) registers, and maintains registry of, the The Residential Unit is
12 registered on the Short-Term Residential Rental Registry prior to offering the Residential Unit for
13 use as a Short-Term Residential Rental. Offering a Residential Unit for Short-Term
14 Residential Rental while not maintaining good standing on the registry shall constitute a
15 violation of this Chapter 41A; and

16 (F) includes the Permanent Resident includes the Department-issued
17 registration number is included on any Hosting Platform listing or other listing offering the
18 Residential Unit for use as a Short-Term Residential Rental;

19 (G) For units subject to the rent control provisions of Section 37.3, the
20 Permanent Resident complies with the initial rent limitation for subtenants and charges no more rent
21 than the rent the primary Permanent Resident is paying to any landlord per month; and

22 (H) The Permanent Resident can demonstrate to the satisfaction of the
23 Department that the Residential Unit and the property on which it is located is not subject to any
24 outstanding Building, Electrical, Plumbing, Mechanical, Fire, Health, Housing, Police, or Planning
25 Code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and

1 desist orders, or correction notices. The Department shall not include a property that is subject to any
2 such outstanding violations in the Registry. If such a violation occurs once a Residential Unit has
3 been included in the Registry, the Department shall suspend the Residential Unit's registration
4 and registration number until the violation has been cured.

5 (2) Additional Requirements.

6 (A) Offering a Residential Unit for Short-Term Residential Rental,
7 including but not limited to advertising the Residential Unit's availability, while not maintaining
8 good standing on the Registry shall constitute an unlawful conversion in violation of this
9 Chapter 41A and shall subject the person or entity offering the unit in such a manner to the
10 administrative penalties and enforcement procedures, including civil penalties, of this Chapter.

11 (B) Only one Permanent Resident may be associated with a
12 Residential Unit on the Registry, and it shall be unlawful for any other person, even if that
13 person meets the qualifications of a "Permanent Resident", to offer a Residential Unit for
14 Short-Term Residential Rental.

15 (C) A Permanent Resident offering a Residential Unit for Short-Term
16 Residential Rental shall maintain a valid business registration certificate.

17 (D) A Permanent Resident offering a Residential Unit for Short-Term
18 Residential Rental shall post a clearly printed sign inside his or her Residential Unit on the
19 inside of the front door that provides information regarding the location of all fire extinguishers
20 in the unit and building, gas shut off valves, fire exits, and pull fire alarms.

21 (23) Short-Term Residential Rental Registry Applications, and Fee, and Reporting
22 Requirement.

23 (A) Application. Registration shall be for a two-year term, which may be
24 renewed by the Permanent Resident by filing a completed renewal application. Initial and renewal
25 applications shall be in a form prescribed by the Department. The Department shall determine, in its

1 sole discretion, the completeness of an application. Upon receipt of a complete initial application,
2 the Department shall send mailed notice to the owner of record of the Residential Unit,
3 informing the owner that an application to the Registry for the unit has been received. If the
4 Residential Unit is in a RH-1(D) zoning district, the Department shall also send mailed notice
5 to any directly associated homeowner association that has previously requested such notice.

6 Both the initial application and any renewal application shall contain information sufficient to
7 show that the Residential Unit is the Primary Residence of the applicant, and that the applicant is the
8 unit's Permanent Resident, and that the applicant has the required insurance coverage and
9 business registration certificate. In addition to the information set forth here, the Department may
10 require any other additional information necessary to show the Permanent Resident's compliance with
11 this Chapter 41A. Primary Residency may shall be established by showing the Residential Unit is
12 listed as the applicant's residence on at least two of the following: any motor vehicle registration;
13 driver's license; or voter registration; or tax documents showing the Residential Unit as the
14 Permanent Resident's Primary Residence for home owner's tax exemption purposes, and/; or any
15 other information as required by the Department utility bill. A renewal application shall contain
16 sufficient information to show that the applicant is the Permanent Resident and has occupied the unit
17 for at least 275 days of each of the two preceding calendar years. Upon the Department's
18 determination that an application is complete, the unit shall be entered into the Short-Term Residential
19 Rental Registry and assigned an individual registration number.

20 (B) Fee. The fee for the initial application and for each renewal shall be
21 \$50, payable to the Director. The application fee shall be due at the time of application. Beginning with
22 fiscal year 2014-2015, fees set forth in this Section may be adjusted each year, without further action
23 by the Board of Supervisors, as set forth in this Section. Not later than April 1 Within six months of
24 the effectiveoperative date of this ordinance and after holding a duly noticed informational
25 hearing at the Planning Commission, the Director shall report to the Controller the revenues

1 generated by the fees for the prior fiscal year and the prior fiscal year's costs of establishing and
2 maintaining the registry and enforcing the requirements of this Chapter 41A, as well as any other
3 information that the Controller determines appropriate to the performance of the duties set forth in this
4 Chapter. After the hearing by the Planning Commission, but ~~Not later than May 15~~ August 1,
5 2015, the Controller shall determine whether the current fees have produced or are projected to
6 produce revenues sufficient to support the costs of establishing and maintaining the registry, enforcing
7 the requirements of this Chapter 41A and any other services set forth in this Chapter and that the
8 fees will not produce revenue that is significantly more than the costs of providing such services. The
9 Controller shall, if necessary, adjust the fees upward or downward for the upcoming fiscal year as
10 appropriate to ensure that the program recovers the costs of operation without producing revenue that
11 is significantly more than such costs. The adjusted rates shall become operative on July 1.

12 (C) Reporting Requirement. To maintain good standing on the
13 Registry, the Permanent Resident shall submit a report to the Department on January 1 of
14 each year regarding the number of days the Residential Unit or any portion thereof has been
15 rented as a Short-Term Residential Rental since either initial registration or the last report,
16 whichever is more recent, and any additional information the Department may require to
17 demonstrate compliance with this Chapter 41A.

18 (454) Requirements for Hosting Platforms.

19 (A) Notice to Users of Hosting Platform. All Hosting Platforms shall provide
20 the following information in a notice to any user listing a Residential Unit located within the City and
21 County of San Francisco through the Hosting Platform's service. The notice shall be provided prior to
22 the user listing the Residential Unit and shall include the following information: that Administrative
23 Code Chapters 37 and 41A regulate Short-Term Rental of Residential Units; the requirements for
24 Permanent Residency and registration of the unit with the Department; and the transient occupancy tax
25 obligations to the City.

1 (B) A Hosting Platform shall comply with the requirements of the Business
2 and Tax Regulations Code by, among any other applicable requirements, collecting and remitting all
3 required Transient Occupancy Taxes, and this provision shall not relieve a Hosting Platform of liability
4 related to an occupant's, resident's, Business Entity's, or Owner's failure to comply with the
5 requirements of the Business and Tax Regulations Code. A Hosting Platform shall maintain a record
6 demonstrating that the taxes have been remitted to the Tax Collector and shall make this
7 record available to the Department Tax Collector upon request. Additionally, a Hosting
8 Platform's failure to provide the required notice to users under subsection 41A.5(g)(4)(A) shall
9 be a violation of this Chapter.

10 (C) Any such violation of a Hosting Platform's responsibilities under this
11 subsection (g)(5)(A) shall subject the Hosting Platform to the administrative penalties and
12 enforcement provisions of this Chapter, including but not limited to payment of civil penalties a
13 fine payable to the Department of up to \$1,000 per day for the period of the failure to
14 comply provide notice or the failure to provide the required information to the Department, with
15 the exception that any violation related to failure to comply with the requirements of the
16 Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector under
17 that Code.

18 (565) The exception set forth in this subsection (g) provides an exception only to the
19 requirements of this Chapter 41A. It does not confer a right to lease, sublease, or otherwise offer a
20 residential unit for Short-Term Residential Use where such use is not otherwise allowed by law, a
21 homeowners association agreement or requirements, any applicable covenant, condition, and
22 restriction, a rental agreement, or any other restriction, requirement, or enforceable agreement. All
23 Owners and residents are required to comply with the requirements of Administrative Code Chapter
24 37, the Residential Rent Stabilization and Arbitration Ordinance, including but not limited to the
25 requirements of Section 37.3(c).

1 ~~(676)~~ Department Contact Person. The Department shall designate a contact person
2 for members of the public who wish to file Complaints under this Chapter or who otherwise seek
3 information regarding this Chapter or Short-Term Residential Rentals. This contact person shall also
4 provide information to the public upon request regarding quality of life issues, including for example
5 noise violations, vandalism, or illegal dumping, and shall direct the member of the public and/or
6 forward any such Complaints to the appropriate City department.

7 ~~(787)~~ Notwithstanding any other provision of this Chapter, nothing in this Chapter
8 shall relieve an individual, Business Entity, or Hosting Platform of the obligations imposed by any and
9 all applicable provisions of state law and the San Francisco Municipal Code including but not limited
10 to those obligations imposed by the Business and Tax Regulations Code. Further, nothing in this
11 Chapter shall be construed to limit any remedies available under any and all applicable provisions of
12 state law and the San Francisco Municipal Code including but not limited to the Business and Tax
13 Regulations Code.

14 ~~(98)~~ Annual Department Reporting Requirement. Within one year of the
15 effective date of this ordinance and annually thereafter, the Department shall provide a report
16 to the Board of Supervisors regarding the Department's administration and enforcement of the
17 Short-Term Residential Rental program. The study shall make recommendations regarding
18 proposed amendments to this Chapter 41A necessary to reduce any adverse effects of the
19 Short-Term Residential Rental program.

20 **SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.**

21 (a) **Notice of Complaint.** Within 4530 days of the filing of a Ccomplaint and upon
22 the Director's independent finding that there may be a violation of this Chapter, the Director
23 shall notify the Oowner by certified mail that the Oowner's Rresidential Uunit is the subject of
24 an investigation for an unlawful use and provide the date, time, and place of an administrative
25 review hearing in which the eOwner can respond to the Ccomplaint. If the Director finds there

1 is no violation of this Chapter or basis for an investigation for an unlawful activity, the Director
2 shall so inform the complainant within 30 days of the filing of the Complaint. If the Complaint
3 concerns the failure of a Hosting Platform to comply with the requirements of subsection
4 (g)(54)(A), within 1530 days of the filing of the Complaint and upon the Director's independent
5 finding that there may be a violation of this Chapter, the Director shall notify the Hosting
6 Platform by certified mail that the Hosting Platform is the subject of an investigation for failure
7 to comply with the requirements of this Chapter that subsection and provide the date, time,
8 and place of an administrative review hearing in which the Hosting Platform can respond to
9 the Complaint.

10 (b) **Administrative Review Hearings.** In the event the Director determines that an
11 administrative review hearing shall be conducted, the Director's appointed hearing officer will
12 hold an administrative review hearing within 6045 days of the filing of the Complaint
13 Director's finding that there may be a violation of this Chapter 41A to review all information
14 provided by the Interested Party, members of the public, City staff, and the Owner or Hosting
15 Platform for the investigation and the hearing officer shall thereafter make a determination
16 whether the Owner or Hosting Platform has violated this Chapter.

17 (1) For hearings regarding alleged unlawful conversions, Notice of the
18 hearing shall be conspicuously posted on the building that is the subject of the hearing. The
19 Owner shall state under oath at the hearing that the notice remained posted for at least
20 seven calendar days prior the hearing. The Director shall appoint a hearing officer to conduct
21 the hearing.

22 (2) Pre-hearing Submission. No less than ten working days prior to the
23 administrative review hearing, parties to the hearing shall submit written information to the
24 Director including, but not limited to, the issues to be determined by the hearing officer and
25

1 the evidence to be offered at the hearing. Such information shall be forwarded to the hearing
2 officer prior to the hearing along with any information compiled by the Director.

3 (3) Hearing Procedure. If more than one hearing is requested for Residential
4 Units located in the same building at or about the same time, the Director shall consolidate
5 all of the hearings into one hearing. The hearing shall be ~~tape~~ recorded. Any party to the
6 hearing may at his or her own expense cause the hearing to be recorded by a certified court
7 reporter. Parties may be represented by counsel and shall have the right to cross-examine
8 witnesses. All testimony shall be given under oath. Written decisions and findings shall be
9 rendered by the hearing officer within ~~20~~30 working days of the hearing. Copies of the findings
10 and decision shall be served upon the parties by certified mail. A notice that a copy of the
11 findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00 p.m.
12 Monday through Friday shall be posted by the Owner or the Director in the building in the
13 same location in which the notice of the administrative review hearing was posted.

14 (4) Failure to Appear. In the event the Owner, authorized Hosting Platform
15 representative, or an interested party fails to appear at the hearing, the hearing officer may
16 nevertheless make a determination based on the evidence in the record and files at the time
17 of the hearing, and issue a written decision and findings.

18 (5) Finality of the Hearing Officer's Decision and Judicial Review. The
19 decision of the hearing officer shall be final. Within 20 days after service of the hearing
20 officer's decision, any party may seek judicial review of the hearing officer's decision.

21 (6) Hearing Officer Decision and Collection of Penalties. ~~If any imposed~~
22 ~~administrative penalties and costs have not been deposited at the time of the Hearing~~
23 ~~Officer's decision~~ Upon the Hearing Officer's decision, the Director may proceed to collect the
24 penalties and costs pursuant to the lien procedures set forth in Subsection 41A.6(ed),
25 consistent with the Hearing Officer's decision.

1 (7) Remedy of Violation. If the Hearing Officer determines that a violation has
2 occurred, the Hearing Officer's Decision ~~should~~ shall:

3 (A) Specify a reasonable period of time during which the Owner,
4 Business Entity, or Hosting Platform must correct or otherwise remedy the violation; ~~and~~

5 (B) ~~State that if the violation is not corrected or otherwise remedied~~
6 ~~within this period,~~ Detail the amount of any administrative penalties the Owner or Hosting
7 Platform shall be ~~may be~~ required to pay the administrative penalties as set forth in Subsection
8 41A.6(c); ~~and.~~

9 (C) For violations by Owners, State that if the violation is not corrected
10 or otherwise remedied within this period, the Department shall remove or prohibit the registration
11 of the Residential Unit from the Short-Term Residential Registry for one year even if the
12 Residential Unit otherwise meets the requirements for Short-Term Residential Rental and may
13 prohibit the offending Owner from including such Residential Unit on any Hosting Platform for
14 a period of one year.

15 (8) If the Hearing Officer determines that no violation has occurred, the
16 determination is final.

17 (c) **Imposition of *Administrative* Penalties for Unabated Violations and**
18 **Enforcement Costs.**

19 (1) Administrative Penalties. If the violation ~~has continued unabated beyond~~
20 ~~the time specified in the notice required by the Hearing Officer~~ determines that a violation has
21 occurred, an administrative penalty ~~of~~ shall be assessed as follows:

22 (A) for the initial violation, not more than four times the standard hourly
23 administrative rate of ~~\$104.00~~ 121.00 shall be charged for each unlawfully converted unit, or for
24 each identified failure of a Hosting Platform to comply with the requirements of subsection

1 (g)(54), per day from the day the unlawful use activity commenced notice of Complaint until
2 such time as the unlawful use activity terminates;

3 (B) for the second violation within six months of any hearing held
4 pursuant to this Chapter by the same Owner(s), Business Entity, or Hosting Platform, not more
5 than eight times the standard hourly administrative rate of \$121.00 for each unlawfully converted unit,
6 or for each identified failure of a Hosting Platform to comply with the requirements of
7 subsection (g)(54), per day from the day the unlawful use activity commenced until such time as the
8 unlawful use activity terminates; and

9 (C) for the third and any subsequent violation within 12 months of any
10 hearing held pursuant to this Chapter by the same Owner(s), Business Entity, or Hosting
11 Platform, not more than twelve times the standard hourly administrative rate of \$121.00 for each
12 unlawfully converted unit or for each identified failure of a Hosting Platform to comply with the
13 requirements of subsection (g)(54) per day from the day the unlawful use activity commenced
14 until such time as the unlawful use activity terminates.

15 (2) Enforcement Costs. The Owner or Hosting Platform shall reimburse the
16 City for the costs of enforcement of this Chapter, which shall include, but not be limited to,
17 reasonable attorneys' fees.

18 (3) Prohibition on Registration and Listing Unit(s) on Any Hosting Platform. If the
19 violation has continued unabated beyond the time specified in the notice required by the
20 Hearing Officer, in the event of multiple violations, the Department shall remove the Residential
21 Unit(s) from the Registry for one year and include the Residential Unit(s) on a list maintained by
22 the Department of Residential Units that may not be listed by any Permanent Resident on any
23 Hosting Platform until compliance. Any Owner or Business Entity who continues to list a Residential
24 Unit in violation of this section shall be liable for additional administrative penalties and civil
25 penalties of up to \$1,000 per day of unlawful inclusion.

1 (d) **Notice of Continuing Violation and Imposition of Penalties.** The Director shall
2 notify the Owner or Hosting Platform by certified mail that of the violation has continued
3 unabated and that administrative penalties shall be imposed pursuant to this Chapter 41A.
4 The notice shall state the time of the continued existence of the violation and the resulting
5 imposition of penalties. Payment of the administrative penalties and enforcement costs shall
6 be made within 30 days of the certified mailed notice to the Owner or Hosting Platform. If the
7 administrative penalties and enforcement costs are not paid, the Director shall refer the matter
8 to the Treasurer/Tax Collector and/or initiate lien procedures to secure the amount of the
9 penalties and costs against the real property that is subject to this Chapter, under Article XX
10 of Chapter 10 of the *San Francisco* Administrative Code to make the penalty, plus accrued
11 interest, a lien against the real property regulated under this Chapter. Except for the release of
12 the lien recording fee authorized by Administrative Code Section 10.237, all sums collected by
13 the Tax Collector pursuant to this ordinance shall be held in trust by the Treasurer and
14 distributed as provided in Section 41A.5(d) of this Chapter deposited as set forth in subsection
15 (e) below.

16 (e) **Deposit of Penalties.** Administrative penalties paid pursuant to this Chapter
17 shall be deposited in the Mayor's Office of Housing, Housing Affordability Fund less the
18 reasonable costs incurred by the City and County of San Francisco in pursuing enforcement
19 under this Chapter 41A. If enforcement costs were imposed, such funds shall be distributed
20 according to the purpose for which they were collected. Any fees and penalties collected
21 pursuant to this Chapter 41A shall be deposited in the Department, which shall reimburse City
22 departments and agencies, including the City Attorney's Office, for all costs and fees incurred
23 in the enforcement of this Chapter 41A.
24
25

1 Section 3. The Planning Code is hereby amended by revising Sections 102.7, 102.13,
2 790.88 and 890.88, to read as follows:

3
4 **SEC. 102.7. DWELLING UNIT.**

5 A room or suite of two or more rooms that is designed for, or is occupied by, one family
6 doing its own cooking therein and having only one kitchen. A housekeeping room as defined
7 in the Housing Code shall be a dwelling unit for purposes of this Code. For the purposes of
8 this Code, a live/work unit, as defined in Section 102.13 of this Code, shall not be considered
9 a dwelling unit. Notwithstanding the foregoing, use of a dwelling unit as a Short-Term Residential
10 Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a
11 residential use.

12 * * * *

13
14 **SEC. 102.13. LIVE/WORK UNIT.**

15 A live/work unit is a structure or portion of a structure combining a residential living
16 space for a group of persons including not more than four adults in the same unit with an
17 integrated work space principally used by one or more of the residents of that unit; provided,
18 however, that no otherwise qualifying portion of a structure which contains a Group A
19 occupancy under the San Francisco Building Code shall be considered a live/work unit.
20 Notwithstanding the foregoing, use of a live/work unit as a Short-Term Residential Rental in
21 compliance with Administrative Code Section 41A.5 shall not alter the use type as a live/work unit.

22 * * * *

23
24 **SEC. 790.88. RESIDENTIAL USE.**

1 A use which provides housing for San Francisco residents, rather than visitors,
2 including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a
3 residential hotel, as defined in Section 790.47 of this Code and in Chapter 41 of the San
4 Francisco Administrative Code. Notwithstanding the foregoing, use of a dwelling unit as a Short-
5 Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use
6 type as a residential use.

7 (a) Dwelling Unit. A residential use which consists of a suite of two or more rooms
8 and includes sleeping, bathing, cooking, and eating facilities, but has only one kitchen.

9 (b) Group Housing. A residential use which provides lodging or both meals and
10 lodging without individual cooking facilities for a week or more at a time in a space not defined
11 as a dwelling unit. Group housing includes, but is not limited to, a rooming house, boarding
12 house, guest house, lodging house, residence club, commune, fraternity and sorority house,
13 monastery, nunnery, convent, and ashram. It also includes group housing operated by a
14 medical or educational institution when not located on the same lot as such institution.

15 * * * *

16
17 **SEC. 890.88. RESIDENTIAL USE.**

18 A use which provides housing for San Francisco residents, rather than visitors,
19 including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a
20 residential hotel, as defined in Section 890.47 of this Code and in Chapter 41 of the San
21 Francisco Administrative Code. Notwithstanding the foregoing, use of a dwelling unit as a Short-
22 Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use
23 type as a residential use.

24 (a) Dwelling Unit. A residential use which consists of a suite of two or more rooms
25 and includes sleeping, bathing, cooking, and eating facilities, and has only one kitchen.

1 (b) Group Housing. A residential use which provides lodging or both meals and
2 lodging without individual cooking facilities for a week or more at a time in a space not defined
3 as a dwelling unit. Group housing includes, but is not limited to, a roominghouse, boarding
4 house, guest house, lodging house, residence club, commune, fraternity and sorority house,
5 monastery, nunnery, convent, and ashram. It also includes group housing operated by a
6 medical or educational institution when not located on the same lot as such institution.

7 (c) Single Room Occupancy (SRO) Unit. A dwelling unit or group housing room
8 consisting of no more than one occupied room with a maximum gross floor area of 350 square
9 feet and meeting the Housing Code's minimum floor area standards. The unit may have a
10 bathroom in addition to the occupied room. As a dwelling unit, it would have a cooking facility
11 and bathroom. As a group housing room, it would share a kitchen with one or more other
12 single room occupancy unit/s in the same building and may also share a bathroom. A single
13 room occupancy building (or "SRO" building) is one that contains only SRO units and non
14 nonaccessory living space.

15
16 Section 4. Other Uncodified Provisions.

17 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
18 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
19 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
20 Supervisors overrides the Mayor's veto of the ordinance.

21 (b) Operative Date. This ordinance shall become operative on February 1, 2015.

22 (c) Undertaking for the General Welfare. In enacting and implementing this
23 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
24 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
25

1 would be liable in money damages to any person who claims that such breach proximately
2 caused injury.

3 (ed) No Conflict with State or Federal Law. Nothing in this ordinance shall be
4 interpreted or applied so as to create any requirement, power, or duty in conflict with any
5 State or federal law.

6 (de) Severability. If any of section, subsection, sentence, clause, phrase or word of
7 this ordinance is for any reason held to be invalid or unconstitutional by a decision of any
8 court of competent jurisdiction, such decision shall not affect the validity of the remaining
9 portions of the ordinance. The Board of Supervisors hereby declares that it would have
10 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and
11 word not declared invalid or unconstitutional without regard to whether any other portion of
12 this ordinance would be subsequently declared invalid or unconstitutional.

13 (ef) Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

21 By: 
22 MARLENA G. BYRNE
23 Deputy City Attorney

24 n:\egana\as2014\1200498\00963400.doc



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 140381

Date Passed: October 21, 2014

Ordinance amending the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Planning Department, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

September 15, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 15, 2014 Land Use and Economic Development Committee - CONTINUED AS AMENDED

September 29, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 29, 2014 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee
Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 07, 2014 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 7 - Breed, Chiu, Cohen, Farrell, Kim, Tang and Wiener

Noes: 4 - Avalos, Campos, Mar and Yee

October 07, 2014 Board of Supervisors - DUPLICATED AS AMENDED

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener


October 21, 2014 Board of Supervisors - FINALLY PASSED

Ayes: 7 - Breed, Chiu, Cohen, Farrell, Kim, Tang and Wiener

Noes: 4 - Avalos, Campos, Mar and Yee

File No. 140381

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
10/21/2014 by the Board of Supervisors of
the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



Mayor



Date Approved