



**DATE:** October 27, 2020

**CATEGORY:** Public Hearing

**DEPT.:** Community Development Department

**TITLE:** **Zoning Ordinance Amendments  
Pertaining to Accessory Dwelling  
Units (ADUs)**

## **RECOMMENDATION**

Introduce an Ordinance of the City of Mountain View Amending Sections of Chapter 36 (Zoning Ordinance) of the City Code to Update Accessory Dwelling Unit Regulations to Align with State Law, to be read in title only, further reading waived, and set a second reading for November 10, 2020 (Attachment 1 to the Council report).

## **BACKGROUND**

On October 9, 2019, California Governor Gavin Newsom signed into law several bills (Senate Bill No. 13, Assembly Bill No. 68, Assembly Bill No. 587, Assembly Bill No. 670, Assembly Bill No. 671, and Assembly Bill No. 881) amending multiple Government Code sections related to encouraging the production of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). This legislation became effective on January 1, 2020.

In spring 2020, staff brought proposed Zoning Ordinance amendments related to ADUs to the Environmental Planning Commission (EPC) for recommendation and to the City Council for adoption (see Attachment 2 – [March 4, 2020 EPC Staff Report](#) and Attachment 3 – [April 28, 2020 Council Staff Report](#)). Before the second reading of the proposed ordinance, it was pulled from the agenda for further evaluation. The updated version of the proposed ADU regulations has been refined from the previously considered draft and reflects the latest information and interpretations available from the California Department of Housing and Community Development (HCD) on the numerous housing bills adopted earlier this year.

Zoning Ordinance amendments are required to be reviewed by the Santa Clara County Airport Land Use Commission (ALUC). On September 9, 2020, City staff presented the draft ADU code amendments to the ALUC. The ALUC determined that the proposed Zoning Text Amendments were consistent with the Comprehensive Land Use Plan for Moffett Federal Airfield.

On September 15, 2020, the California Department of Housing and Community Development (HCD) published guidelines and interpretations on the several ADU bills that have gone into effect this year. Staff has reviewed HCD's guidelines and determined that the proposed regulations were consistent with their guidelines and interpretations.

On September 16, 2020, staff presented the updated version of the proposed ADU regulations to the Environmental Planning Commission for recommendation (see Attachment 4—[September 16 EPC Staff Report](#)). The EPC voted unanimously to recommend that the City Council adopt the proposed Zoning Text Amendments with no changes.

## **ANALYSIS**

The following is a summary of the proposed amendments to the City's existing ADU regulations, which would bring them into compliance with State law. This summary specifically highlights modifications to the proposed ADU regulations since they were last presented to Council in April 2020. The proposed Mountain View City Code amendments can be found in their entirety in Attachment 1—Ordinance of Zoning Text Amendments (Chapter 36).

### **Accessory Dwelling Unit and Junior Accessory Dwelling Unit Definitions**

Since this item was last considered by Council, staff has added a new section (Section 36.12.65) to define terms specific to ADUs and JADUs. The purpose of the new section is to provide clarity and maintain internal consistency within the Zoning Code.

### **Single-Family ADUs**

State law stipulates many new development standards relating to the size of units, location, setbacks, heights, and exceptions. Upon further consideration, staff has modified the following standards for single-family ADUs since they were last considered by Council:

- **Setbacks:** State law mandates that local jurisdictions require no more than a 4' side and rear setback for all ADUs. Since March 2020, staff has added a requirement that the front setback of ADUs be consistent with the front setback of the underlying zone, and eliminated the minimum 10' separation between ADUs and other structures. Minimum separation requirements will still apply under the California Building Code.
- **Rear Yard Coverage and Design:** Previously, staff recommended a maximum rear yard coverage of 30 percent (30%) for ADUs, which is consistent with the existing standards for accessory structures. Additionally, staff recommended a requirement for ADUs to be constructed in the same architectural style and with the same materials as the

primary residence. Staff has eliminated these recommendations in order to remove potential barriers to the construction of ADUs.

### **Multi-Family ADUs**

The City's current regulations do not allow ADUs in multi-family structures. State law mandates that local jurisdictions allow ADUs in existing multi-family structures as follows:

- ADUs within the portions of an existing multi-family dwelling structure that are not used as livable space, provided that each unit complies with State building standards for dwellings. Such accessory dwelling units shall not be created within any portion of the habitable area of an existing dwelling unit in a multi-family structure.
- Up to 25 percent (25%) of the number of existing multi-family units in the building, but at least one unit, shall be allowed. Up to two detached accessory dwelling units shall be permitted on a lot with an existing multi-family dwelling structure, provided that the height does not exceed 16', and 4' side and rear yard setbacks are maintained.

### **Parking**

The City's current regulations require one parking space for an ADU, which may be covered or uncovered and can be located anywhere on the lot. The one parking space shall not be required if certain conditions about the property are met or if the ADU has no bedrooms (studio). State law has added a provision which eliminates the requirement to replace the parking lost if an existing garage or carport is converted to an ADU. Since Council last considered the proposed amendments, staff has clarified that no parking space is required for an ADU with no bedrooms.

### **Junior Accessory Dwelling Units**

The City's current regulations do not address JADUs. Previous State law mandated that local jurisdictions allow one JADU within the footprint of a single-family home in addition to one detached ADU, and gave local agencies the discretion to impose a floor area limitation on the detached ADU of not more than 800 square feet. Since Council last considered the proposed amendments, the State adopted legislation that will become effective on January 1, 2021, which permits JADUs on lots with a single-family home and a detached ADU *and* lots with a single-family home and an interior ADU.

Staff's proposed ordinance allows JADUs in addition to an interior *or* detached ADU, in conformance with the new state law, and removes the 800 square foot limitation on detached ADUs in order to eliminate a potential barrier to constructing ADUs and JADUs.

Additionally, staff revised the proposed ordinance to allow JADUs on sites in any residential zone that contain one single-family home, as opposed to only in the R1 zone.

### **Development Standard Exceptions**

The proposed development standards exception section was modified since last considered by Council to clarify that any development standard can be waived to allow construction of an 800 square foot ADU, and height and setback standards do not apply to ADUs located entirely within a single-family dwelling, nonlivable space of a multi-family dwelling structure or accessory structure, or in the place of, and to the same dimensions as, an existing accessory structure.

### **Amnesty Program**

Under State law, owners of unpermitted ADUs built before January 1, 2020 that receive notice to correct violations may request that the enforcement of the violations be delayed for five years, if correcting the violation is not necessary to protect health and safety. The option for deferred enforcement of up to five years may incentivize the legalization of existing illegal ADUs by providing property owners with additional time to go through the permitting process without also incurring fines or other enforcement deadlines.

When the ADU ordinance was originally considered in April, Council supported staff's recommendation of a five-year amnesty program (to align with the State time frame for deferred enforcement), which would provide an expedited building permit process and waiver of illegal construction penalty fees for building permit applications to legalize unpermitted ADUs. Staff is in the process of creating an informational handout describing the overall ADU regulations and permitting process as well as the ADU amnesty policy and benefits for legalization of illegal ADUs.

### **ENVIRONMENTAL REVIEW**

The action to modify Chapter 36 for updates to the zoning text is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code, which provides that CEQA does not apply to the adoption of an Accessory Dwelling Unit ordinance to implement the provisions of Section 65852.2 of the Government Code. In addition, the action being considered does not constitute a "project" within the meaning of CEQA pursuant to CEQA Guidelines Section 15061(b)(3), as these changes have no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

**FISCAL IMPACT** – None.

## **ALTERNATIVES**

1. Approve of the Zoning Text Amendments with modifications.
2. Refer the ordinance back to the EPC for further analysis and reconsideration.
3. Disapprove the Zoning Text Amendments.

## **PUBLIC NOTICING**

Agenda posting, newspaper publication, and a copy of the report on the City website.

Prepared by:

Brittany Whitehill  
Assistant Planner

Stephanie Williams  
Zoning Administrator/  
Planning Manager

Approved by:

Aarti Shrivastava  
Assistant City Manager/  
Community Development Director

Kimbra McCarthy  
City Manager

SW-BW/4/CAM  
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- Attachments:
1. Ordinance of Zoning Text Amendments (Chapter 36)
  2. [March 4, 2020 EPC Staff Report](#)
  3. [April 28, 2020 Council Staff Report](#)
  4. [September 16, 2020 EPC Staff Report](#)