



**DATE:** November 5, 2019

**CATEGORY:** Public Hearing

**DEPT.:** Community Development

**TITLE:** **Minor Amendments to Chapter 36 (Zoning) of the City Code and the R4 Multi-Family Standards Handout**

### **RECOMMENDATION**

1. Introduce an Ordinance Amending Chapter 36 of the Mountain View City Code Related to Minor Code Amendments, to be read in title only, further reading waived, and set a second reading for December 10, 2019 (Attachment 1 to the Council report).
2. Adopt a Resolution Amending the R4 Multi-Family Standards Handout, to be read in title only, further reading waived (Attachment 2 to the Council report).

### **BACKGROUND**

Staff periodically reviews Chapter 36 (Zoning) of the City Code for clarity and consistency with existing City Code regulations and required updates per State or Federal law. Recent City Code updates and Federal and State legislation require minor code amendments to the Zoning Ordinance and R4 Multi-Family Standards Handout. Additionally, minor text amendments are proposed to increase clarity and reduce inconsistencies within the Zoning Ordinance.

### **Environmental Planning Commission**

On October 2, 2019, the Environmental Planning Commission (EPC) held a public hearing to discuss staff's proposed code amendments to Chapter 36 and the R4 Multi-Family Standards Handout (see Attachment 3 – [Environmental Planning Commission Staff Report – October 2, 2019](#)). No members of the public spoke on the item. The EPC voted unanimously to recommend the City Council adopt the proposed zoning text amendments and the R4 Multi-Family Standards handout as proposed by staff. Since staff's presentation to the EPC, a few minor grammatical revisions were made to the Zoning Ordinance.

## **ANALYSIS**

The amended sections of the Zoning Ordinance (Chapter 36) and the R4 Multi-Family Standards Handout are included as attachments with redlined text to this report and referenced, by the attachment page number, to the corresponding discussions below. Attachment 4 is a summary table of the proposed text amendments.

### **Recent City Code Updates and Federal Legislation**

Staff has incorporated amendments related to other City Code updates not located in the Zoning Ordinance (Chapter 36) and Federal legislative updates; both of which result in necessary updates to the Zoning Ordinance. The proposed text amendments are summarized below.

#### ***Short-Term Rentals***

On November 13, 2018, the City Council adopted a Short-Term Rental Ordinance to establish regulations, business licensing, and taxation for short-term rentals of residential properties in the City, outlined in Chapter 44 of the City Code (see Attachment 5—[City Council Report—November 13, 2018](#)). Short-term rentals are permitted in all zoning districts in the City within a legal residential unit. To better guide the public inquiring about short-term rentals, City staff proposes to add Section 36.06.26 to the Zoning Ordinance to identify short-term rentals as an allowed residential use and refer interested parties to Chapter 44 for regulations (Page 2 of Attachment 1). Staff is also proposing the addition of a definition for short-term rentals in Section 36.60.41, which aligns with the definition in Chapter 44 (Page 39 in Attachment 1).

#### ***Antenna or Communication Facilities***

California Public Utilities Code (CPUC) Section 7901 and the Federal Communications Act of 1996 establish the regulation framework for municipal review of telecommunication facilities on private or public properties and rights-of-way. Ultimately, CPUC Section 7901.1 permits cities to regulate the “time, place, and manner” of telecommunication services so long as city regulations do not prohibit telecommunication services or discriminate between carriers of any telephone services. As such, the City currently requires a discretionary zoning permit for new construction or modifications of antenna or communication facilities on private property or City rights-of-way.

However, in September 2018, the Federal Communications Commission (FCC) passed a declaratory ruling, known as “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment,” which specifically restricts cities’ regulatory authority of small wireless facilities in the public right-of-way and on public property. This ruling provides expedited processing of permit applications (limits city review to 60 days for existing structure or 90 days on new structures), limits the fees that can be assessed for such a facility, and limits discretionary aesthetic criteria cities can apply to such facilities. This FCC action effectively requires cities to convert any discretionary application process for the review of communication facilities in the public right-of-way to a ministerial application process, mandating cities treat telecommunication providers in the same manner as other public utilities.

Because the Zoning Ordinance currently requires a discretionary zoning permit for communication facilities in the public right-of-way, staff proposes to amend the text to specifically exclude the City’s rights-of-way in Sections 36.06.50(n) (Page 5 of Attachment 1), 36.08.30(d) (Page 7 of Attachment 1), and 36.44.65(b)(7) (Page 32 of Attachment 1). These amendments will remove the zoning permit requirement for new or modified wireless facilities in the public right-of-way; however, these facilities will continue to be reviewed through the City’s Public Works Department with an Excavation Permit in the same manner as other utility providers.

#### ***R4 Multi-Family Standards Handout***

On April 30, 2019, the City Council adopted an Ordinance for a Zoning Text Amendment to the R4 (High-Density Residential) Zoning District to increase the allowed density from 60 dwelling units per acre to 80 dwelling units per acre, in conjunction with the 555 West Evelyn Avenue residential project. This project included 471 new apartments and a new 0.68-acre public park (see Attachment 6, [City Council Report – April 30, 2019](#)).

Staff is proposing to align the update to the R4 District standards in the Zoning Ordinance (Chapter 36) with the R4 Multi-Family Standards Handout to reflect the allowance of 80 units per acre (Attachment 2).

## **Add Clarifications to Zoning Regulations**

Staff has also incorporated text amendments to clarify zoning requirements and remove inconsistencies for improved use of the Zoning Ordinance. The proposed text amendments include:

### ***Electric Vehicle (EV) Charging Stations and Other Parking Clarifications***

Assembly Bill (AB) 1236 from 2015 is California's EV charging station permit streamlining law that requires cities to expedite permitting of EV charging stations. Currently, the City reviews EV charging stations through the building permit process, exempting them from a zoning permit per the State law. However, staff proposes to clarify this exemption by adding Section 36.06.50(p), Electric Vehicle (EV) Charging Stations, to a group of improvements that are exempt from zoning permit requirements, while also referring to Chapter 8 of the City Code for building permit requirements (Page 6 of Attachment 1).

For clarity, staff also proposes adding text to Section 36.32.50 ("Required number of parking spaces") to state the total number of parking spaces required for a specific land use is inclusive of EV charging stations and accessible (ADA) spaces per the building code (Page 14 of Attachment 1).

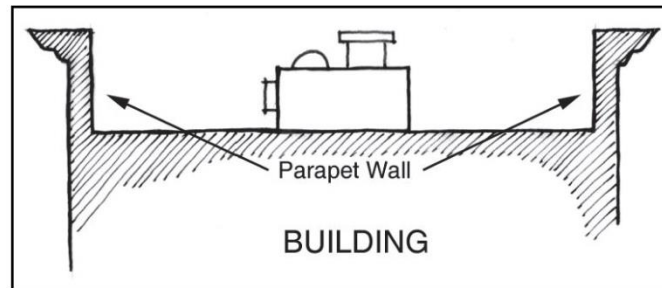
Additionally, staff proposes to modify the Parking Stall Striping graphic (Figure 36.32-2) in Section 36.32.80, "Development standards for off-street parking," to accurately reflect the mathematical parking stall dimensions discussed in the Zoning text. The City of Mountain View requires double-striping of all parking stalls to encourage drivers to visually align their vehicle in the stall to allow space for entering/exiting vehicles. The graphic currently reflects a dimension between double stripes of 12", which is not feasible based on an 18" wide dimension overall (from outside edge-to-edge of the double stripe) and a 4" minimum stripe width (8" total). As a result, staff proposes modifying the 12" dimension to 10" from interior edge-to-edge of the stripe, so it equates to the 18" overall dimension (Page 21 of Attachment 1).

### ***Rooftop Screening***

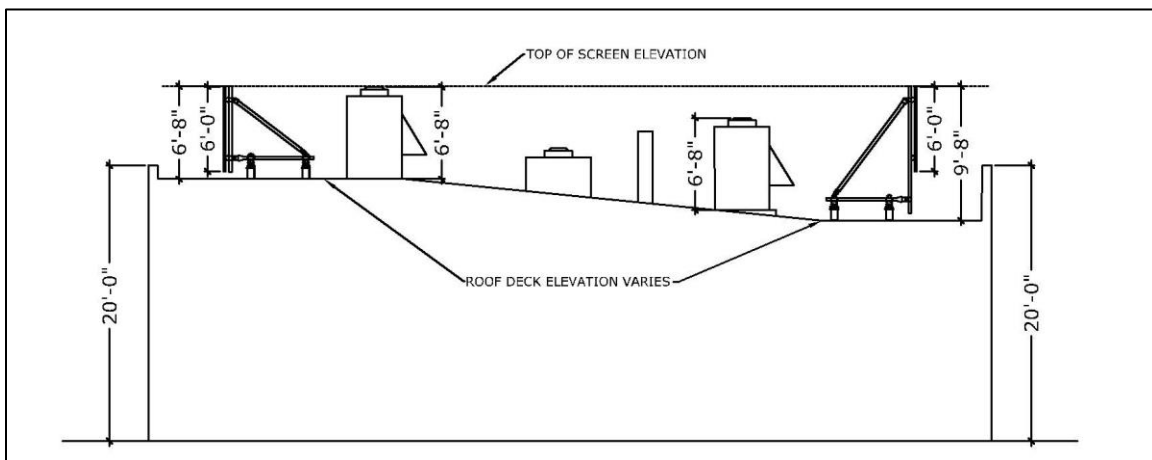
Currently, a parapet wall is allowed to exceed the maximum building height of the zoning district where it is located by up to 4' per Section 36.08.30(a) of the Zoning Ordinance. A parapet is a low wall that is part of the exterior wall of a building, which rises above the roof and is utilized to screen equipment or add an architectural detail or termination to the top of a building (see Figure 1 on following page). While no changes are proposed to this regulation, it does not account for separate roof screens placed on

the interior portions of the rooftop to screen mechanical equipment, which may be more aesthetically appropriate for the architectural design of a building. A roof screen is an accessory element that is fastened into the roof structure that is typically placed interior to the building perimeter walls and is usually constructed of a material that can be painted, formed, and patterned to complement any building architectural style (see Figure 2 below).

**Figure 1 – Parapet**



**Figure 2 – Rooftop Screen**



Recently, new construction and major renovation projects that include large HVAC equipment, elevator/staircase penthouses, or new rooftop telecommunication facilities have required greater flexibility for additional building height for rooftop screening. Staff proposes to add Section 36.08.30(e) under the height exceptions section of the Zoning Ordinance to permit additional building height, up to 10', for rooftop screens in order to allow greater flexibility on a case-by-case basis (Page 7 of Attachment 1). An applicant would be required to show through project plans (e.g., building elevations, building cross-sections, etc.) that the additional height is the least amount needed

beyond the maximum building height (up to 10' maximum) to cover the visibility of the rooftop equipment from all sides of the building.

To add further clarification, staff is also proposing to add text to Section 36.18.30(c) regarding rooftop equipment in the commercial zone development standards. This text will point interested parties to Section 36.08.30(e), discussed above, related to the additional height allowance for rooftop screens (Page 9 of Attachment 1).

### ***Residential Mechanical Equipment***

Today, mechanical equipment in the R1 (Single-Family Residential) Zoning District, such as an air-conditioning unit, is not explicitly identified in the accessory structure setback requirements. Historically, staff has applied the same setbacks for pool equipment in Section 36.12.55(d)(2) to any installation of mechanical equipment, which allows equipment to be 3' from the side or rear property line. To improve clarity, staff proposes to add Section 36.12.55(h) to separately identify mechanical equipment setback requirements within the accessory structure section; applying the same setbacks as pool equipment. Specifically, the requirements would not allow mechanical equipment in the front yard setback area or be visible from the public street. Additionally, the equipment can only be allowed in a street side yard setback area if located within a fenced yard (Page 9 of Attachment 1).

### ***Office Definitions***

Currently, there are multiple subcategory definitions for an office use in the Zoning Ordinance, and they are not all located under the office definition. Thus, staff proposes to relocate "Administrative Office" from the "A" section of the definitions to the "O" section of the definitions, where the other office subcategories are located. This will allow for easier readability all definitions will be located together (Pages 33 and 36 of Attachment 1).

### ***Industrial Land Use for Office***

The "office" land use category in the Industrial Land Use Table includes the subuse of "Financial"; however, the associated definition is "banks and financial services," which is listed as a separate use from office in the Commercial Land Use Table. Because the same definition applies to "Financial," staff is proposing to rectify the inconsistency between the Commercial and Industrial Land Use Tables by amending the Industrial Land Use Table to remove "Financial" as an office subuse, replace it with "Banks and financial services," and list the use separate from office in the table. Staff also proposes

to add a subcategory header of “Office” to clarify that general office is an allowed use. These format and renaming changes will improve consistency between the Commercial and Industrial Land Use Tables and directly correlate with the associated definition; the permit requirements will remain in place as existed with the “Financial” category (Page 13 of Attachment 1).

### *Signs*

Staff proposes to amend the sign regulations for the PF (Public Facilities), ML (Limited Industrial), and MM (General Industrial) Zoning Districts to separate requirements for permitted building-mounted signs and monument (site) signs. Currently, the requirements between building-mounted signs and monument signs are duplicated. Staff proposes to clarify by retaining the applicable regulations under each sign type and deleting the regulations that are not applicable to that type of sign (Pages 27 through 29 of Attachment 1). For example, building-mounted sign regulations apply to signs proposed to be installed on a building exterior wall, whereas sign height and placement are applicable to monument signs located on the ground along a driveway entrance or near the sidewalk.

### **ENVIRONMENTAL REVIEW**

The proposed text amendments to Chapter 36 (Zoning) of the City Code comply with the California Environmental Quality Act pursuant to Section 15061(b)(3) (the “common sense” exemption) because it includes minor amendments to clarify existing City Code requirements and minor amendments required for the City Code to be consistent with State law. Therefore, it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment.

**FISCAL IMPACT** – None, other than staff time.

### **CONCLUSION**

The amendments proposed by staff are intended to clarify existing regulations and update sections of the Zoning Ordinance based on recent City Code updates and State and Federal laws. These amendments are based upon staff’s experience implementing the Zoning Ordinance and addressing frequently asked questions at the public counter and during review of project proposals.

## **ALTERNATIVES**

1. Request additional information or analysis and continue the item.
2. Do not adopt an ordinance for the Minor Zoning Text Amendments to Chapter 36 (Zoning Ordinance) of the City Code nor updates to the R4 Multi-Family Standards Handout.
3. Provide other direction to staff.

## **PUBLIC NOTICING**

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

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- Attachments:
1. Ordinance of Zoning Text Amendments (Chapter 36)
  2. Resolution to Update R4 Multi-Family Standards
  3. [Environmental Planning Commission Staff Report – October 2, 2019](#)
  4. Summary of Draft Amendments
  5. [City Council Report – November 13, 2018](#)
  6. [City Council Report – April 30, 2019](#)