



## COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: May 13, 2014  
Staff Report #: 14-082

Agenda Item #: D-3

**CONSENT CALENDAR:**      **Waive the Reading and Adopt Ordinances Amending the Zoning Ordinance to Address Housing Element Implementation Programs Related to Secondary Dwelling Units and Accessory Buildings and Structures**

---

### RECOMMENDATION

Staff recommends that the City Council complete actions related to the adoption of the Housing Element by waiving the full reading of, and adopting the following two ordinances:

1. Ordinance of the City Council of the City of Menlo Park, Amending the Zoning Ordinance Pertaining to Secondary Dwelling Units and Associated Sections (Attachment A); and
2. Ordinance of the City Council of the City of Menlo Park, Amending the Zoning Ordinance Pertaining to Accessory Buildings and Accessory Structures and Associated Sections (Attachment B).

### BACKGROUND

On April 1, 2014, the City Council conducted a public hearing to consider and take action on the Housing Element and associated implementation programs. After reviewing the Planning Commission recommendation and written correspondence from the public, receiving public comment, and deliberating on the items, the Council voted unanimously to adopt the resolutions for the Negative Declaration (environmental review) for the Housing Element and associated Zoning Ordinance amendment and the Housing Element. These resolutions became effective immediately. Since that meeting, staff has received notification that the Housing Element has been certified by the State Housing and Community Development Department, becoming the first jurisdiction in the Bay Area to have a certified Housing Element for the 2015-2023 planning period.

At the same meeting on April 1, the City Council introduced three ordinances pertaining to several Housing Element implementation programs and critical to the certification of the Housing Element. The programs relate to 1) an emergency shelter for the homeless

overlay, 2) transitional and supportive housing and residential care facilities, and 3) procedures for reasonable accommodation. The Council also discussed, but continued two Zoning Ordinance amendments pertaining to secondary dwelling units and accessory buildings and accessory structures.

On April 29, 2014, the City Council formally adopted the three ordinances that were introduced on April 1. These ordinances will become effective on April 30, 2014. Separately, the Council deliberated on the proposed modifications to the secondary dwelling unit and accessory building and accessory structures ordinances. In addition to the written public comment provided in the staff report on the item, three members of the public spoke at the meeting on the item. The primary concern raised by the individuals was the reduction of the minimum lot size for a secondary dwelling unit, and the potential impacts, primarily parking, to the Belle Haven community. The Council recognized the current parking conditions in the neighborhood and believed that it may be best to address the current parking issues before allowing additional dwelling units in the area. The Council also suggested two other modifications to the secondary dwelling unit based upon issues that were previously raised. The following modifications to the proposed ordinance were recommended by the Council:

- **Size:** No change to the minimum lot size for a secondary dwelling unit without a use permit. The minimum lot size remains 6,000 square feet, which makes a majority of the lots in the Belle Haven neighborhood not eligible for a secondary dwelling unit as a permitted use.
- **Tenancy:** The Council added specific criteria to the secondary dwelling unit tenancy requirement in an effort to provide predictability to both the property owner and neighbors during the tenancy registration renewal process.
- **Conversion of Accessory Buildings:** The Council added a clause to the conversion of accessory buildings section of the ordinance to give flexibility in extending the proposed conversion process without potential delay between the sunset and implementation of a new ordinance.

The Council also recommended minor edits to the accessory buildings and accessory structure ordinance. The revisions are “clean up” items for clarity and consistency in application of the development standards and the definitions of accessory building and accessory structure. The Council voted 4-1 to introduce the two ordinances with the proposed modifications noted above.

## **ANALYSIS**

The final version of the two ordinances introduced on April 29, 2014 are included as Attachments A and B. The adoption of the ordinances would serve to implement Housing Element Programs H4.E (Modify Secondary Dwelling Unit Development and Permit Process) and Program H4.F (Establish a Process and Standards to Allow the Conversion of Accessory Buildings and Structures to a Secondary Dwelling Unit). If the Council takes action to adopt the ordinances on May 13, 2014, they will become effective after 30 days, or on June 13, 2014.

## **IMPACT ON CITY RESOURCES**

There is no direct impact on City resources associated with adoption of these ordinances. The setting of the fees for secondary dwelling units, the accessory building conversion process and the tenancy registration process is a policy discussion for the City Council to determine whether to pursue full cost recovery or not. The amounts of the fees are not part of the formal Zoning Ordinance amendments, but staff will be presenting the City Council with options for potential fee reductions or waivers as part of the Master Fee Schedule discussion.

## **POLICY ISSUES**

The recommended action is consistent with the City Council's actions and approvals at its meeting of April 29, 2014 and would serve to implement programs of the adopted Housing Element.

## **ENVIRONMENTAL REVIEW**

On April 1, 2014, the City Council considered and adopted the Negative Declaration prepared for the Housing Element and the associated implementation programs.

## **PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting. In addition to the agenda posting, an email update was sent to subscribers of the project page for the proposal, which is available at the following address: <http://www.menlopark.org/athome>. The project page allows interested parties to subscribe to email updates, and provides up-to-date information about the project, as well as links to previous staff reports and other related documents.

## **ATTACHMENTS**

- A. Ordinance of the City Council of the City of Menlo Park Amending Title 16 [Zoning] Pertaining to Secondary Dwelling Units
- B. Ordinance of the City Council of the City of Menlo Park Amending Title 16 [Zoning] Pertaining to Accessory Buildings and Accessory Structures

Report prepared by:

*Deanna Chow*

*Senior Planner*

THIS PAGE INTENTIONALLY LEFT BLANK

**ORDINANCE NO.**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AMENDING CHAPTER 16.79 [SECONDARY DWELLING UNITS], CHAPTER 16.04 [DEFINITIONS], CHAPTER 16.10 [R-E RESIDENTIAL ESTATE DISTRICT], CHAPTER 16.12 [R-E-S RESIDENTIAL ESTATE SUBURBAN DISTRICT], CHAPTER 16.14 [R-1-S SINGLE FAMILY SUBURBAN RESIDENTIAL DISTRICT], CHAPTER 16.15 [R-1-S (FG) SINGLE FAMILY SUBURBAN RESIDENTIAL DISTRICT (FELTON GABLES)], CHAPTER 16.16 [R-1-U SINGLE FAMILY URBAN RESIDENTIAL DISTRICT], AND CHAPTER 16.17 [R-1-U (LM) SINGLE FAMILY URBAN RESIDENTIAL DISTRICT (LORELEI MANOR)] OF TITLE 16 [ZONING] OF THE MENLO PARK MUNICIPAL CODE**

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1: The City Council of the City of Menlo Park hereby finds and declares as follows:

- a. The City desires to amend Chapter 16.79 [Secondary Dwelling Units] to provide the ability to create additional housing throughout the City to accommodate varying housing needs.
- b. The City desires to amend Chapter 16.04 [Definitions] for the purpose of clarifying what is meant by cooking provisions in the definition of secondary dwelling units.
- c. The City desires to amend Chapter 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], and Chapter 16.17 [R-1-U (LM) Single Family Urban Residential District (Lorelei Manor) to enumerate a secondary dwelling unit as a permitted use, subject to meeting certain criteria, and to remove secondary dwelling units as a conditional use in all single-family zoning districts for consistency with the requirements of Chapter 16.79 [Secondary Dwelling Units].
- d. The Planning Commission held a duly noticed public hearing on March 10, 2014 to review and consider the proposed amendments to Chapter 16.79 [Secondary Dwelling Units], Chapter 16.04 [Definitions], 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential

District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], and Chapter 16.17 [R-1-U (LM) Single Family Urban Residential District (Lorelei Manor)] of Title 16 [Zoning], at which all interested persons had the opportunity to appear and comment.

- e. The City Council held duly noticed public hearings on April 1, 2014 and April 29, 2014 to review and consider the proposed amendments to Chapter 16.79 [Secondary Dwelling Units], Chapter 16.04 [Definitions], 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], and Chapter 16.17 [R-1-U (LM) Single Family Urban Residential District (Lorelei Manor)] of Title 16 [Zoning], at which all interested persons had the opportunity to appear and comment.
- f. After due consideration of the proposed amendments to Chapter 16.79 [Secondary Dwelling Units], Chapter 16.04 [Definitions], 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], and Chapter 16.17 [R-1-U (LM) Single Family Urban Residential District (Lorelei Manor)] of Title 16 [Zoning], public testimony, staff reports, and the Planning Commission recommendation, the City Council finds that the proposed ordinance is appropriate.

**SECTION 2:** Chapter 16.79 [Secondary Dwelling Units] is hereby amended to Title 16 [Zoning] to read as follows:

### **Chapter 16.79**

#### **SECONDARY DWELLING UNITS**

Sections:

- 16.79.010 Purpose.
- 16.79.020 Permitted use.
- 16.79.030 Conditional use.
- 16.79.040 Development regulations.
- 16.79.045 Conversion of accessory buildings.
- 16.79.050 Mitigation monitoring.

**16.79.010 Purpose.**

The purpose of this chapter is to set forth criteria and regulations to control the development of secondary dwelling units within the single-family residential zoning districts.

**16.79.020 Permitted use.**

A secondary dwelling unit developed within the main dwelling or structurally attached to the main dwelling as defined in Section 16.04.145 Buildings, structurally attached, or a secondary dwelling unit detached from the main dwelling, are permitted in a single-family residential zoning district, subject to the provisions set forth in Section 16.79.040.

**16.79.030 Conditional use.**

A secondary dwelling unit that is either attached or detached and requesting modification to the development regulations, except for items (2) density and (3) subdivision, as established in Chapter 16.79.040.

**16.79.040 Development regulations.**

Development regulations for a secondary dwelling unit are as follows:

- (1) Minimum lot area: 6,000;
- (2) Density: No more than one (1) secondary dwelling unit may be allowed on any one (1) lot;
- (3) Subdivision: A lot having a secondary dwelling unit may not be subdivided in a manner that would allow for the main dwelling and secondary dwelling unit to be located on separate lots that do not meet the minimum lot area, width and/or depth required by the single-family zoning district in which the lot is located;
- (4) Minimum yards:
  - (a) Structurally attached secondary dwelling units: Secondary dwelling units developed within the main dwelling or structurally attached to the main dwelling as defined in Section 16.04.145 Buildings, structurally attached, shall comply with all minimum yard requirements for the main dwelling established by the single-family zoning district in which the lot is located;
  - (b) Detached secondary dwelling units: Detached secondary dwelling units shall comply with all minimum yard requirements for the main dwelling established by the single-family zoning district in which the lot is located, with the exception that the minimum rear yard is 10 feet. Furthermore, the interior side and rear yards may be reduced to five (5) feet, subject to written approval of the owner(s) of the contiguous property abutting the portion of the encroaching structure. If the contiguous interior side or rear property line is an alley, the

minimum setback is five (5) feet. The provision of 16.62.020(1) shall not apply to a detached secondary dwelling unit.

- (5) Unit size:
  - (a) The square footage of all levels of the secondary dwelling unit shall not exceed 640 square feet, except buildings complying with all aspects of the disabled access requirements for kitchens, bathrooms, and accessible routes established in the California Building Code for adaptable residential dwelling units shall have a maximum square footage of 700 square feet. The maximum square footage does not include the square footage of an attached accessory building for which there is no internal connection to the secondary dwelling unit;
  - (b) Secondary dwelling units shall be limited to studio or one-bedroom units and one bathroom.
- (6) Height: The maximum total height is 17 feet.
- (7) Daylight Plane: A daylight plane shall begin at a horizontal line 9 feet, 6 inches above the average natural grade at a line 3 feet from the side property lines and shall slope inwards at a 45 degree angle. There are no permitted intrusions into the daylight plane. Average natural grade means the average of the highest and lowest points of the natural grade of the portion of the lot directly below a line three feet from the side property lines.
- (8) Parking: One (1) off-street parking space, in addition to the required parking for the main dwelling unit, that may be provided in the following configurations and areas in addition to the areas allowed for the main dwelling:
  - (a) In tandem, meaning one car located directly behind another car, including a single-car driveway leading to two required parking spaces for the main dwelling;
  - (b) Within required interior side yards;
  - (c) Within required front yards if no more than 500 square feet of the required front yard is paved for motor vehicle use (inclusive of the main residence driveway and parking areas) and a minimum setback of 18 inches from the side property lines is maintained.

The required off-street parking can be provided in either a covered or uncovered space, but all covered parking shall comply with the setback requirements of the main dwelling, if the parking is attached, or the accessory building regulations, if the parking is detached.
- (9) Consistency: All secondary dwelling units shall comply with all applicable development regulations for the single-family zoning district in which the lot is located and building code requirements set forth in Title 12 Building and Construction of the Municipal Code unless otherwise provided for in this section;

- (10) Aesthetics: The secondary dwelling unit shall have colors, materials, textures and architecture similar to the main dwelling.
- (11) Tenancy: Either the main dwelling or the secondary dwelling unit shall be occupied by the property owner when both units are occupied as dwellings units. If a property owner does not occupy one of the dwelling units, the property owner may apply for a non-tenancy status for a term of one (1) year through a registration process established by the Community Development Director. To be eligible for the registration process, a property owner must have lived at the subject property for a minimum of two (2) years of the previous five (5) years from the date of application. The property owner may renew the registration annually, not to exceed four (4) years in total, subject to the review and approval of the Community Development Director, pursuant to the following criteria and process established by the Community Development Director.
  - 1) The application for the registration and renewal(s) shall be accompanied by a fee, set by the City Council.
  - 2) The application for registration and renewal shall state the reason for the request and provide supporting documentation. The registration shall be approved for any of the following reasons: 1) temporary job relocation, with the intent to return, 2) relocation for school (e.g. mid-year career change), and 3) physically unable to live in the house.
  - 3) The application shall provide a property management plan that includes the name and contact information to address issues or concerns about the use of the property should they arise. The plan should also include information about parking, including 1) a site plan with the parking layout for the property, 2) how parking will be assigned between tenants, and 3) an action plan that demonstrates how parking issues will be resolved effectively and efficiently between tenants if tandem parking is provided.
  - 4) A use permit is required for non-tenancy status longer than four (4) years or for waiver of the requirement that the owner reside in the unit for not less than two (2) of the previous five (5) years prior to the date of application or for a reason other than those stated in item 2 above.

**16.79.045 Conversion of accessory buildings.**

- (1) An accessory building may be eligible to convert into a secondary dwelling unit, subject to meeting criteria as outlined in Section 16.79.045(2) and approval of an administrative permit per Chapter 16.82.
- (2) Eligibility: The following criteria must be met in order to be eligible for the conversion of an accessory building:
  - (a) The accessory building must have received building permits and commenced construction prior to June 13, 2014. Other supporting

documentation to show the building was legally built may be substituted for a building permit subject to review by the Community Development Director.

- (b) The property owner shall have one (1) year from June 13, 2014 to submit a complete administrative permit application, including all applicable fees and plans, to qualify for the conversion process.
  - (c) The accessory building must be upgraded to meet the Building Code requirements based on the change of occupancy at the time of the conversion.
  - (d) The accessory building must meet all of the development regulations of Section 16.79.040, with the exception of minimum yards, which shall be established in the administrative permit.
- (3) All or any portion of an accessory building that meets the eligibility criteria as provided in this Section 16.79.045 may be demolished and reconstructed to meet the Building Code requirements based on the change of occupancy at the time of conversion. The secondary dwelling unit that replaces the accessory building may retain the setbacks and the footprint of the legally constructed accessory building. The existing setbacks and footprint of the accessory building must be evidenced by valid building permits or other supporting documentation subject to review by the Community Development Director. Nothing in this Section shall be deemed to authorize the expansion of the footprint or reduction of the setbacks beyond that evidenced by a valid building permit or other supporting documentation subject to review by the Community Development Director or to allow the continuation of any other nonconformity.
- (4) This section 16.97.045 shall sunset in its entirety and no longer be effective one (1) year from June 13, 2014 for any administrative permit application not received by said date. The City Council, by resolution, may extend the effective date without further public hearings by the Planning Commission and City Council.

**16.79.050 Mitigation Monitoring.**

All second unit development shall comply, at a minimum, with the Mitigation Monitoring and Report Program (MMRP) established through Resolution No. 6149 associated with the Housing Element Update, General Plan Consistency Update, and Zoning Ordinance Amendments Environmental Assessment prepared for the Housing Element adopted on May 21, 2013.

SECTION 3: Section 16.04.295 [Dwelling unit, secondary] of Chapter 16.04 [Definitions] of Title 16 [Zoning] is hereby amended to for clarity and for consistency with implementation of Chapter 16.79 [Secondary Dwelling Units] as follows:

**16.04.295 Dwelling unit, secondary.** A “secondary dwelling unit” means a dwelling unit on a residential lot which provides complete independent living facilities for one or more persons, and shall include permanent provisions for living, sleeping, eating, cooking, and sanitation independent of the main dwelling existing on the residential lot. For purposes of a secondary dwelling unit, permanent provisions for eating and cooking include the following: 1) permanent range, 2) counters, 3) refrigerator, and 4) sink.

SECTION 4: Sections 16.10.010 [Permitted uses] and 16.10.020 [Conditional uses] of Chapter 16.10 [R-E Residential Estate District] of Title 16 [Zoning] are hereby amended to add secondary dwelling units as a permitted use and delete secondary dwelling units as a conditional use for consistency with Chapter 16.79 [Secondary Dwelling Units] as follows:

**16.10.010 Permitted uses.** The following uses are permitted in the R-E district:

- (1) Single family dwellings;
- (2) Secondary dwelling units in accordance with Chapter 16.79;
- (3) Accessory buildings.

**16.10.020 Conditional uses.** Conditional uses allowed in the R-E district, subject to obtaining a use permit or, in the case of home occupations, a home occupation permit are as follows:

- (1) Public utilities in accordance with Chapter 16.76;
- (2) Private schools and churches in accordance with Chapter 16.78;
- (3) Child day care centers in accordance with Chapter 16.78;
- (4) Home occupations in accordance with Section 16.04.340.

SECTION 5: Sections 16.12.010 [Permitted uses] and 16.12.020 [Conditional uses] of Chapter 16.12 [R-E-S Residential Estate Suburban District] of Title 16 [Zoning] are hereby amended to add secondary dwelling units as a permitted use and delete secondary dwelling units as a conditional use for consistency with Chapter 16.79 [Secondary Dwelling Units] as follows:

**16.12.010 Permitted uses.** The following uses are permitted in the R-E-S district:

- (1) Single family dwellings;
- (2) Accessory buildings.

**16.12.020 Conditional uses.** Conditional uses allowed in the R-E-S district, subject to obtaining a use permit or, in the case of home occupations, a home occupation permit are as follows:

- (1) Public utilities in accordance with Chapter 16.76;
- (2) Private schools and churches in accordance with Chapter 16.78;
- (3) Child day care centers in accordance with Chapter 16.78;
- (4) Home occupations in accordance with Section 16.04.340.

**SECTION 6:** Sections 16.14.010 [Permitted uses] and 16.14.020 [Conditional uses] of Chapter 16.14 [R-1-S Single Family Suburban Residential District] of Title 16 [Zoning] are hereby amended to add secondary dwelling units as a permitted use and delete secondary dwelling units as a conditional use for consistency with Chapter 16.79 [Secondary Dwelling Units] as follows:

**16.14.010 Permitted uses.** The following uses are permitted in the R-1-S district:

- (1) Single family dwellings;
- (2) Secondary dwelling unit in accordance with Chapter 16.79;
- (3) Accessory buildings.

**16.14.020 Conditional uses.** Conditional uses allowed in the R-1-S district, subject to obtaining a use permit or, in the case of home occupations, a home occupation permit are as follows:

- (1) Public utilities in accordance with Chapter 16.76;
- (2) Private schools and churches in accordance with Chapter 16.78;
- (3) Child day care centers in accordance with Chapter 16.78;
- (4) Home occupations in accordance with Section 16.04.340.

**SECTION 7:** Sections 16.15.010 [Permitted uses] and 16.15.020 [Conditional uses] of Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)] of Title 16 [Zoning] are hereby amended to add secondary dwelling units as a permitted use and delete secondary dwelling units as a conditional use for consistency with Chapter 16.79 [Secondary Dwelling Units] as follows:

**16.15.010 Permitted uses.** The following uses are permitted in the R-1-S (FG) district:

- (1) Single family dwellings;
- (2) Secondary dwelling unit in accordance with Chapter 16.79;
- (3) Accessory buildings.

**16.15.020 Conditional uses.** Conditional uses allowed in the R-1-S (FG) district, subject to obtaining a use permit or, in the case of home occupations, a home occupation permit are as follows:

- (1) Public utilities in accordance with Chapter 16.76;
- (2) Private schools and churches in accordance with Chapter 16.78;
- (3) Child day care centers in accordance with Chapter 16.78;
- (4) Home occupations in accordance with Section 16.04.340.

**SECTION 8:** Sections 16.16.010 [Permitted uses] and 16.16.020 [Conditional uses] of Chapter 16.16 [R-1-U Single Family Urban Residential] of Title 16 [Zoning] are hereby amended to add secondary dwelling units as a permitted use and delete secondary dwelling units as a conditional use for consistency with Chapter 16.79 [Secondary Dwelling Units] as follows:

**16.16.010 Permitted uses.** The following uses are permitted in the R-1-U district:

- (1) Single family dwellings;
- (2) Secondary dwelling unit in accordance with Chapter 16.79;
- (3) Accessory buildings.

**16.16.020 Conditional uses.** Conditional uses allowed in the R-1-U district, subject to obtaining a use permit or, in the case of home occupations, a home occupation permit are as follows:

- (1) Public utilities in accordance with Chapter 16.76;
- (2) Private schools and churches in accordance with Chapter 16.78;
- (3) Child day care centers in accordance with Chapter 16.78;
- (4) Home occupations in accordance with Section 16.04.340.

SECTION 9: Sections 16.17.010 [Permitted uses] and 16.17.020 [Conditional uses] of Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor)] of Title 16 [Zoning] are hereby amended to add secondary dwelling units as a permitted use and delete secondary dwelling units as a conditional use for consistency with Chapter 16.79 [Secondary Dwelling Units] as follows:

**16.17.010 Permitted uses.** The following uses are permitted in the R-1-U (LM) district:

- (1) Single family dwellings;
- (2) Secondary dwelling unit in accordance with Chapter 16.79;
- (3) Accessory buildings.

**16.17.020 Conditional uses.** Conditional uses allowed in the R-1-U (LM) district, subject to obtaining a use permit or, in the case of home occupations, a home occupation permit are as follows:

- (1) Public utilities in accordance with Chapter 16.76;
- (2) Private schools and churches in accordance with Chapter 16.78;
- (3) Child day care centers in accordance with Chapter 16.78;
- (4) Home occupations in accordance with Section 16.04.340.

SECTION 10: A Negative Declaration was prepared that considered the environmental impacts of the adoption of the proposed modifications to the secondary dwelling unit ordinance and associated consistency amendments for the identified areas. The Negative Declaration determined that any potential environmental impacts were less than significant.

SECTION 11: If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 12: This Ordinance shall become effective 30 days after the date of its adoption, and is applicable to any building permit application received after the date of adoption of this Ordinance. Within 15 days of its adoption, the Ordinance shall be posted in three public places within the City of Menlo Park, and the Ordinance, or a summary of the Ordinance prepared by the City Attorney shall be published in the local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the twenty-ninth day of April, 2014.

PASSED AND ADOPTED as an Ordinance of the City of Menlo Park at a regular meeting of the City Council of the City of Menlo Park on the thirteenth day of May, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Ray Mueller  
Mayor

ATTEST:

---

Pamela Aguilar  
City Clerk

**ORDINANCE NO.**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AMENDING CHAPTER 16.68 [BUILDINGS], CHAPTER 16.04 [DEFINITIONS], CHAPTER 16.10 [R-E RESIDENTIAL ESTATE DISTRICT], CHAPTER 16.12 [R-E-S RESIDENTIAL ESTATE SUBURBAN DISTRICT], CHAPTER 16.14 [R-1-S SINGLE FAMILY SUBURBAN RESIDENTIAL DISTRICT], CHAPTER 16.15 [R-1-S (FG) SINGLE FAMILY SUBURBAN RESIDENTIAL DISTRICT (FELTON GABLES)], CHAPTER 16.16 [R-1-U SINGLE FAMILY URBAN RESIDENTIAL DISTRICT], CHAPTER 16.17 [R-1-U (LM) SINGLE FAMILY URBAN RESIDENTIAL (LORELEI MANOR)], CHAPTER 16.18 [R-2 LOW DENSITY RESIDENTIAL DISTRICT], CHAPTER 16.20 [R-3 APARTMENT DISTRICT], CHAPTER 16.22 [R-4 HIGH DENSITY RESIDENTIAL DISTRICT], CHAPTER 16.23 [R-4-S HIGH DENSITY RESIDENTIAL, SPECIAL DISTRICT], CHAPTER 16.24 [R-3-A GARDEN APARTMENT DISTRICT], CHAPTER 16.26 [R-3-C APARTMENT-OFFICE DISTRICT], CHAPTER 16.28 [R-L-U RETIREMENT LIVING UNIT DISTRICT], CHAPTER 16.48 [OSC OPEN SPACE AND CONSERVATION DISTRICT], CHAPTER 16.50 [FP FLOOD PLAIN DISTRICT], CHAPTER 16.67 DAYLIGHT PLANES, AND CHAPTER 16.72 [OFF-STREET PARKING] OF TITLE 16 [ZONING] OF THE MENLO PARK MUNICIPAL CODE**

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1: The City Council of the City of Menlo Park hereby finds and declares as follows:

- a. The City desires to amend Section 16.68.030 [Accessory buildings and/or structures] of Chapter 16.68 [Buildings] of Title 16 [Zoning] to more clearly differentiate accessory buildings from secondary dwelling units and accessory buildings from accessory structures, and amend related sections pertaining to daylight planes and off-street parking.
- b. The Planning Commission held duly a noticed public hearing on March 10, 2014 to review and consider the proposed amendments to Chapter 16.68 [Buildings], 16.04 [Definitions], Chapter 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], Chapter

16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor)], Chapter 16.18 [R-2 Low Density Residential District], Chapter 16.20 [R-3 Apartment District], Chapter 16.22 [R-4 High Density Residential District], Chapter 16.23 [R-4-S High Density Residential, Special District], Chapter 16.24 [R-3-A Garden Apartment District], Chapter 16.26 [R-3-C Apartment-Office District], Chapter 16.28 [R-L-U Retirement Living Unit District], Chapter 16.48 [OSC Open Space and Conservation District], Chapter 16.50 [FP Flood Plain District], Chapter 16.67 Daylight Planes, and Chapter 16.72 [Off-Street Parking] of Title 16 [Zoning], at which all interested persons had the opportunity to appear and comment.

- c. The City Council held a duly noticed public hearings on April 1, 2014 and April 29, 2014 to review and consider the proposed amendments to Chapter 16.68 [Buildings], 16.04 [Definitions], Chapter 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor)], Chapter 16.18 [R-2 Low Density Residential District], Chapter 16.20 [R-3 Apartment District], Chapter 16.22 [R-4 High Density Residential District], Chapter 16.23 [R-4-S High Density Residential, Special District], Chapter 16.24 [R-3-A Garden Apartment District], Chapter 16.26 [R-3-C Apartment-Office District], Chapter 16.28 [R-L-U Retirement Living Unit District], Chapter 16.48 [OSC Open Space and Conservation District], Chapter 16.50 [FP Flood Plain District], Chapter 16.67 Daylight Planes, and Chapter 16.72 [Off-Street Parking] of Title 16 [Zoning], at which all interested persons had the opportunity to appear and comment.
- d. After due consideration of the proposed amendments to Chapter 16.68 [Buildings], 16.04 [Definitions], Chapter 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor)], Chapter 16.18 [R-2 Low Density Residential District], Chapter 16.20 [R-3 Apartment District], Chapter 16.22 [R-4 High Density Residential District], Chapter 16.23 [R-4-S High Density Residential, Special District], Chapter 16.24 [R-3-A Garden Apartment District], Chapter 16.26 [R-3-C Apartment-Office District], Chapter 16.28 [R-L-U Retirement Living Unit District], Chapter 16.48 [OSC Open Space and Conservation District], Chapter 16.50 [FP Flood Plain District], Chapter 16.67 Daylight Planes, and Chapter 16.72 [Off-Street Parking] of Title 16 [Zoning], public testimony, staff reports, and the Planning Commission recommendation, the City Council finds that the proposed ordinance is appropriate.

SECTION 2: Section 16.68.030 [Accessory buildings and/or structures] of Chapter 16.68 [Buildings] of Title 16 [Zoning] is hereby amended to read as follows:

**16.68.030 Accessory buildings and accessory structures.**

- (1) **Purpose.** The purpose of this section is to set forth regulations to control the development of accessory buildings and accessory structures to ensure their orderly development and compatibility of such uses with surrounding uses and properties, and to minimize impacts associated with such buildings and structures, which are purely ancillary and/or ornamental to the main building or use of the site.
- (2) **Requirements generally.** Unless otherwise provided for in a specific zoning district, requirements for accessory buildings and accessory structures in all zoning districts shall be stated in this section; except in non-residential zoning districts, accessory structures not meeting the development regulations may be permitted through approval of a use permit, architectural control, or other discretionary process as part of the project development, or through the approval of the Community Development Director provided the proposed accessory structure is consistent with the use of the site, is compatible with the site and surrounding land uses, and does not add gross floor area.
- (3) **Development Regulations.** Development regulations for accessory buildings (living and non-living space) and accessory structures are as follows:

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

## Accessory Buildings and Accessory Structures

<b>Size</b>	Building	The combined square footage of all levels of all accessory buildings and accessory structures shall not exceed 25 percent of the square footage of all levels of the main building or 700 square feet, whichever is greater. The size may be increased subject to a use permit and recordation of a condition and covenant relative to the use of the building.
	Structure	
<b>Minimum Yard (Front)</b>	Building	An accessory building shall be located on the rear half of the lot, except in the R-4-S zoning district where the minimum front setback is 50 feet. A use permit may be requested to modify the front setback requirement, so long as the minimum setback established for the main building as established by the zoning district in which the building is located is maintained.
	Structure	Minimum setback established for the main building as established by the zoning district in which it is located.
<b>Minimum Yard (Side, Interior)</b>	Building; Non-Living Space	Minimum 3 feet; 5 feet if abutting an alley
	Building; Living Space	Minimum setback established for the main building as established by the zoning district in which it is located. The minimum setback may be decreased subject to a use permit and recordation of a condition and covenant relative to the use of the building.
	Structure	Front half of lot: Minimum setback established for the main building as established by the zoning district in which it is located. Rear half of lot: Minimum 3 feet; 5 feet if abutting an alley
<b>Minimum Yard (Side, Corner)</b>	Building	Setback of adjacent lot
	Structure	Setback of adjacent lot
<b>Minimum Yard (Rear)</b>	Building; Non-Living Space	Minimum 3 feet; 5 feet if abutting an alley
	Building; Living Space	Minimum 10 feet; 5 feet if abutting an alley. The minimum setback may be decreased subject to a use permit and recordation of a condition and covenant relative to the use of the building.
	Structure	Minimum 3 feet, 5 feet if abutting an alley
<b>Separation Between Buildings</b>	Building	Minimum 10 feet from any dwelling on lot or adjacent lot, unless attached to a secondary dwelling unit
	Structure	None
<b>Height</b>	Building	Overall height – 14 feet See also Daylight Plane
	Structure	
<b>Daylight Plane</b>	Building	A daylight plane shall begin at a horizontal line 9 feet, 6 inches above the average natural grade at a line three feet from the side property lines and shall slope inwards at a 45 degree angle. There are no permitted intrusions into the daylight plane. Average natural grade means the average of the highest and lowest points of the natural grade of the portion of the lot directly below a line three feet from the side property lines.
	Structure	

SECTION 3: Section 16.04.110 [Building and/or structure, accessory] of Chapter 16.04 [Definitions] of Title 16 [Zoning] is hereby amended as follows:

**16.04.110 Building, accessory.** “Accessory building” means a subordinate detached building, the use of which is incidental to that of the main building or buildings and/or the use of the land on the same lot or building site, and shall not include any building providing an area for cooking or permanent sleeping quarters. An accessory building may be attached to a secondary dwelling unit. For the purpose of an accessory building, an area containing four (4) or more plumbing fixtures, regardless of the intended use of the space, shall be defined and regulated as “living space” in the accessory building. Water supplied to washing machines and water heaters is not considered a plumbing fixture for the purposes of this section. In no case shall the “living space”, as defined by this section for the purpose of minimum yard requirements, be used as a dwelling unit. An accessory building that was legally permitted and constructed with four (4) or more plumbing fixtures prior to June 13, 2014 shall not be subject to the limitations set forth in Section 16.68.030 pertaining to minimum yard requirements. The addition of plumbing fixtures would be subject to the minimum yard requirements.

SECTION 4: Section 16.04.665 [Structure, accessory] is hereby added to Chapter 16.04 [Definitions] of Title 16 [Zoning] as follows:

**16.04.665 Structure, accessory.**

"Accessory structure" means a separate and subordinate structure, which is open in nature and the use of which is incidental to that of the main building or buildings and/or use of the land on the same lot or building site. Examples of such structures include, but are not limited to arbors, trellises, play structures, built-in barbeques, outdoor fireplaces, and water features. Unenclosed ground mounted mechanical equipment and fences/walls are not considered accessory structures.

SECTION 5: Section 16.10.010 [Permitted uses] of Chapter 16.10 [R-E Residential Estate District] of Title 16 [Zoning] is hereby amended as follows:

**16.10.010 Permitted uses.** The following uses are permitted in the R-E district:

- (1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

SECTION 6: Section 16.12.010 [Permitted uses] of Chapter 16.12 [R-E-S Residential Estate Suburban District] of Title 16 [Zoning] is hereby amended as follows:

**16.12.010 Permitted uses.** The following uses are permitted in the R-E district:

- (1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

SECTION 7: Section 16.14.010 [Permitted uses] of Chapter 16.14 [R-1-S Single Family Suburban Residential District] of Title 16 [Zoning] is hereby amended] as follows:

**16.14.010 Permitted uses.** The following uses are permitted in the R-1-S district:

- (1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

SECTION 8: Section 16.15.010 [Permitted uses] of Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)] of Title 16 [Zoning] is hereby amended as follows:

**16.15.010 Permitted uses.** The following uses are permitted in the R-1-S (FG) district:

- 1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

SECTION 9: Section 16.16.010 [Permitted uses] of Chapter 16.16 [R-1-U Single Family Urban Residential District] of Title 16 [Zoning] is hereby amended as follows:

**16.16.010 Permitted uses.** The following uses are permitted in the R-1-U district:

- 1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

SECTION 10: Section 16.17.010 [Permitted uses] of Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor) District] of Title 16 [Zoning] is hereby amended as follows:

**16.17.010 Permitted uses.** The following uses are permitted in the R-1-U (LM) district:

- 1) Single family dwellings;
- (2) Secondary dwelling units;

- (3) Accessory buildings;
- (4) Accessory structures.

SECTION 11: Section 16.18.010 [Permitted uses] of Chapter 16.18 [R-2 Low Density Apartment District] of Title 16 [Zoning] is hereby amended as follows:

**16.18.010 Permitted uses.** The following uses are permitted in the R-2 district:

- (1) Single-family dwellings;
- (2) Duplexes and projects of three or more dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

SECTION 12: Section 16.20.010 [Permitted uses] of Chapter 16.20 [R-3 Apartment District] of Title 16 [Zoning] is hereby amended as follows:

**16.20.010 Permitted uses.**

The following uses are permitted in the R-3 (Apartment) district:

- (1) Single-family dwellings;
- (2) Duplexes;
- (3) Three or more units on lots 10,000 square feet or more;
- (4) Accessory buildings;
- (5) Accessory structures.

SECTION 13: Section 16.22.010 [Permitted uses] of Chapter 16.22 [R-4 High Density Residential District] of Title 16 [Zoning] is hereby amended as follows:

**16.22.020 Permitted Uses.** The following uses are permitted in the R-4 District:

- (1) Single-family dwellings;
- (2) Duplexes;
- (3) Accessory buildings;
- (4) Accessory structures.

SECTION 14: Section 16.23.020 [Permitted uses] of Chapter 16.23 [R-4-S High Density Residential, Special District] of Title 16 [Zoning] is hereby amended as follows:

**16.10.010 Permitted uses.** The following uses are permitted in the R-4-S district:

- (1) Multiple dwellings;
- (2) Accessory Buildings;
- (3) Accessory Structures.

SECTION 15: Section 16.28.010 [Permitted uses] of Chapter 16.28 [R-L-U Retirement Living Units District] of Title 16 [Zoning] is hereby amended as follows:

**16.28.010 Permitted uses.** The only permitted use in the R-L-U zoning district is accessory structures.

**SECTION 16:** Section 16.48.030 [Permitted uses] of Chapter 16.48 [OSC Open Space and Conservation District] of Title 16 [Zoning] is hereby amended as follows:

**16.48.030 Permitted uses.** The only permitted use in the OSC zoning district is accessory structures.

**SECTION 17:** Section 16.50.030 [Permitted uses] of Chapter 16.50 [FP Flood Plain District] of Title 16 [Zoning] is hereby amended as follows:

**16.50.010 Permitted uses.** The following uses are permitted in the FP district:

- (1) Agricultural uses;
- (2) Accessory buildings;
- (3) Accessory structures;
- (4) Extraction of chemicals from sea water;
- (5) Dredging.

**SECTION 18:** Sections 16.67.010 [Daylight planes in R-E, R-E-S and R-2 zoning districts] and 16.67.020 [Daylight planes in R-1-A and R-1-U zoning districts] of Chapter 16.67 [Daylight Planes] of Title 16 [Zoning] are hereby amended as follows:

**16.67.010 Daylight planes in R-E, R-E-S and R-2 zoning districts.** Daylight planes for the main dwelling unit are established for each lot as follows:

- (A) Daylight plane: A daylight plane shall begin at a horizontal line at a certain distance directly above each side setback line of each lot and shall slope inwards at a 45 degree angle. The distance between the side setback line and the horizontal line directly above it shall be 19 feet, 6 inches above the grade of the side setback line. For an addition to an existing structure, such distance shall be the higher of:
  - (1) 19 feet, 6 inches above the grade of the side setback line; or
  - (2) 18 feet above the underside of the actual first floor, measured at the side wall, or 20 feet, 6 inches above the grade of the sidewall, whichever is lower.

**16.67.020 Daylight planes in R-1-S and R-1-U zoning districts.** Daylight planes for the main dwelling unit are established for each lot as follows:

- (A) Daylight plane: A daylight plane shall begin at a horizontal line at a certain distance directly above each side setback line of each lot and shall slope inwards at a 45 degree angle. The distance between the side setback line and the horizontal line directly above it shall be as follows:
  - (1) Single-story development: 12 feet, 6 inches above the grade of the side setback line;
  - (2) Development of two or more stories: 19 feet, 6 inches above the grade of the side setback line. For an addition to an existing structure, such distance shall be the higher of:
    - (a) 19 feet, 6 inches above the grade of the side setback line; or

- (b) 18 feet above the underside of the actual first floor, measured at the side wall, or 20 feet, 6 inches above the grade of the side wall, whichever is lower.

**SECTION 19:** Section 16.15.020 [Development regulations] of Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential (Felton Gables) District] of Title 16 [Zoning] is hereby amended as follows:

**16.15.020 Development regulations.** Development regulations in the R-1-S (FG) district shall be the same as those in the R-1-S district except for the following:

- (1) Daylight plane: A daylight plane for the main dwelling unit shall begin at each side property line, shall extend directly upwards above the natural grade of each side property line for a distance of 20 feet minus the width of the adjacent required yard, and shall then slope inwards towards the interior of the lot at a 34-degree angle. As used in this section, the natural grade of a side property line is the average grade of the highest and lowest points of the natural grade of the lot at the side property line. No portion of the structure shall intrude beyond the daylight plane except for dormers and gables as provided below and chimneys, vents, antennae, flues, and solar collectors.

Gables and dormers may intrude into the daylight plane of a lot that is 10,000 square feet or less. The permitted intrusion shall decrease on an even gradient from 10 feet in the case of a 5 foot required side setback to no permitted intrusion in the case of an 8 foot required side setback. Thus the permitted intrusion will be 6 feet, 8 inches in the case of a 6 foot required side setback, 5 feet in the case of a 6.5 foot required side setback, and 3 feet, 4 inches in the case of a 7 foot required side setback. Calculations of the permitted intrusion shall include fractional computations when necessary to maintain the even gradient. Gables and dormers may intrude into the daylight plane on one side of a lot only. The gable or dormer must not extend beyond a triangle described as follows:

- (a) The base of the triangle is the line formed by the intersection of the building wall with the daylight plane;
- (b) The aggregate length of the bases of all triangles intruding into a daylight plane shall not exceed 30 feet; and
- (c) The triangle must be entirely within the maximum building height.

**SECTION 20:** Section 16.17.030 [Development regulations] of Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor) District] of Title 16 [Zoning] is hereby amended as follows:

**16.17.030 Development regulations.** Development regulations in the R-1-U (LM) district are as follows:

- (11) Daylight Plane: A daylight plane for the main dwelling unit shall begin a minimum of 5 feet from the side property line and extend directly upwards from the grade of the property for a distance of 15 feet, 6 inches (vertical plane), and then slope inwards towards the interior of the lot at a 45-degree angle. The vertical plane may be extended to a maximum height of 19 feet, 6 inches above grade subject to written approval of the owner(s) of contiguous property abutting the extended vertical plane or a use permit in accordance with Chapter 16.82. No portion of the structure shall intrude beyond the daylight plane except for dormers and gables as provided below and chimneys, vents, flues and eave overhangs. Solar collectors and antennae may intrude subject to written approval of the owner(s) of contiguous property abutting the intrusion or a use permit in accordance with Chapter 16.82;

Gables and dormers may intrude into the daylight plane. The permitted intrusion shall decrease on an even gradient from 10 feet in the case of a 5 foot required above ground side yard to no permitted intrusion at an 8 foot required above ground side yard. Calculation of the permitted intrusion shall include fractional computation when necessary to maintain the even gradient. The intrusion shall be measured along the uppermost horizontal roofline of the gable or dormer. The gable or dormer intrusion must not extend beyond a triangle in the plane of the building face described as follows:

- (a) The base of the triangle is the line formed by the intersection of the building wall with the daylight plane;
- (b) The aggregate length of the bases of all triangles intruding into the daylight planes must not exceed 30 feet, of which no more than 12 feet may occur at an interior side yard;
- (c) The triangle is limited to a maximum peak height of 24 feet above grade;

SECTION 21: Section 16.72.020[ R district uses] of Chapter 16.72 [Off-street Parking] of Title 16 [Zoning] is hereby amended as follows:

**Section 16.72.020 R district uses.** R district parking uses are as follows:

- (1) Dwellings: Two spaces per unit, not in any required front or side yard, at least one of which shall be in a garage or carport, unless otherwise specified. However, when required parking is provided in a detached garage or carport, the parking space may be located in the interior side yard, but not closer than three feet from the property line. Any garage or carport entrance fronting on any lot line, except an alley, shall be a minimum of 20 feet from such line. For alleys, the minimum setback for an entrance facing an alley is five feet.

SECTION 22: A Negative Declaration was prepared that considered the environmental impacts of the adoption of the proposed modifications to the accessory building and/or structure ordinance and associated consistency amendments for the identified area. The Negative Declaration determined that any potential environmental impacts were less than significant.

SECTION 23: If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 24: This Ordinance shall become effective 30 days after the date of its adoption, and is applicable to any building permit application received after the date of adoption of this Ordinance. Within 15 days of its adoption, the Ordinance shall be posted in three public places within the City of Menlo Park, and the Ordinance, or a summary of the Ordinance prepared by the City Attorney shall be published in the local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the 29th day of April, 2014.

PASSED AND ADOPTED as an Ordinance of the City of Menlo Park at a regular meeting of the City Council of the City of Menlo Park on the 13th day of May, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Ray Mueller  
Mayor

ATTEST:

---

Pamela Aguilar  
City Clerk

THIS PAGE INTENTIONALLY LEFT BLANK