

ORDINANCE NO. 1005

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: Carlton, Cline, Keith, Ohtaki

NOES: Mueller

ABSENT: None

ABSTAIN: None



Ray Mueller
Mayor

ATTEST:



Pamela Aguilar
City Clerk