

Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code to Amend Requirements Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units

The Council of the City of Palo Alto does ORDAIN as follows:

**SECTION 1.** Findings and Declarations. The City Council finds and declares as follows:

- A. Housing in California is increasingly unaffordable. In 2017, the average California home cost about 2.5 times the national average home price and the monthly rent was 50% higher than the rest of the nation. Rents in San Francisco, San Jose, Oakland, and Los Angeles are among the top 10 most unaffordable in the nation.
- B. Housing in Palo Alto is especially unaffordable. The average Palo Alto home currently costs about 8 times the national average home price and the monthly rent is about 2.5 times the national average.
- C. Palo Alto has a jobs/housing imbalance. When addressing this imbalance, the City must not only provide housing but also ensure affordability.
- D. Assembly Bill (“AB”) 2221 and Senate Bill (“SB”) 897 (“State ADU Law”) pertain to accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”) and were approved by the California Legislature in 2022 and signed by the Governor on September 30, 2022. These bills, codified primarily in California Government Code sections 65952.2 and 65952.22, are intended to spur the creation of lower cost housing by easing regulatory barriers to the creation of ADUs and JADUs. The City adopted Ordinance 5507 (now Palo Alto Municipal Code Chapter 18.09), which brought the City’s municipal code into conformance with state laws AB 68, 587, 671 and 881, and SB 13.
  - **SB 897** allows two-story ADUs in some places, prevents local governments from posting unnecessary notices, and prevents a local government from changing the Group R occupancy status as that relates to building codes, among other important changes.
  - **AB 2221** adds front setbacks to the list of standards that must give way to permit an 800sf ADU, establishes a 60-day timeline for complete review of ADUs that are denied, and makes other important changes.
- E. This ordinance is adopted to incorporate changes in state law that have occurred since the adoption of Ordinance 5507, respond to comments the City has received from the California Department of Housing and Community Development regarding its ADU regulations, respond to additional policies advocated by members of the

public, and issues staff has noticed when reviewing permits. This ordinance is also adopted to establish a program for deed-restricted affordable ADU/JADUs.

**SECTION 2.** Chapter 18.09 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of Title 18 (Zoning) of the Palo Alto Municipal Code ("PAMC") is amended to read as follows (additions underlined and deletions ~~struck through~~):

#### **18.09.010 Purpose**

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

#### **18.09.020 Applicable Zoning Districts**

The establishment of an accessory dwelling unit is permitted in zoning districts when single-family or multi-family residential is a permitted land use. The development of a single-family home, ADU, and/or a JADU on a lot that allows for single-family development shall not be considered a multifamily development pursuant to PAMC Section 18.04.030, nor shall they require Architectural Review pursuant to other sections of Chapter 18.

#### **18.09.030 Units Exempt from Generally Applicable Local Regulations**

(a) Government Code section 65852.2, subdivision (e) provides that certain units shall be approved notwithstanding state or local regulations that may otherwise apply. The following types of units shall be governed by the standards in this section. In the event of a conflict between this section and Government Code section 65852.2, subdivision (e), the Government Code shall prevail.

- i. An ADU and ~~or~~ JADU within the existing space of a single-family dwelling or an ADU within the existing space of an accessory structure (i.e. conversion without substantial addition).
- ii. An ADU and ~~or~~ JADU within the proposed space of a single-family dwelling.
- iii. A detached, new construction ADU on a lot with a proposed or existing single-family dwelling, provided the ADU does not exceed 800 square feet, sixteen feet in height, or four-foot side and rear (i.e. interior) setbacks.

- iv. ADUs created by conversion of portions of existing multi-family dwellings not used as livable space.
- v. Up to two detached ADUs on a lot with an existing multi-family dwelling.

(b) The Development Standards for units governed by this section are summarized in Table 1. Regulations set forth in section 18.09.040 do not apply to units created under 18.09.030. The minimum and maximum sizes indicated in Table 1 do not prohibit units that are greater than 800 square feet. These sizes simply serve to distinguish when a unit transitions from regulations set forth in Table 1 and section 18.09.030 to regulations set forth in Table 2 and section 18.09.040.

**Table 1: Development Standards for Units Described in Government Code Section 65852.2(e)**

	Single-Family			Multi-Family	
	Conversion of Space Within <del>an</del> the Existing Space of a Single-Family Home or Accessory Structure	Construction of Attached ADU Within the <u>Proposed</u> Space of a <del>Proposed</del> Single-Family Home	New Construction of Detached ADU	Conversion of Non-Habitable Space Within Existing Multi-family Dwelling Structure	Conversion or Construction of Detached <sup>(4)</sup> ADU
Number of Units Allowed	1 ADU and 1 JADU			25% of the existing units (at least one)	2
Minimum size <sup>(1)</sup>	150 sf				
Maximum size <sup>(1)</sup>	N/A <sup>2</sup>		800 sf	N/A	
Setbacks	N/A, if condition is sufficient for fire and safety	Underlying zone standard for Single Family Home  (ADU must be within allowable space of Single-Family Home) <sup>(2)</sup>	4 feet from side and rear lot lines; underlying zoning for front setback	N/A	4 feet from side and rear lot lines; underlying zoning for front setback
Daylight Plane	N/A		N/A		
Maximum Height <sup>(3)</sup>	N/A		16 <sup>(5)3</sup>	N/A	16 <sup>(4)(5)(6)</sup>
Parking	None				
State Law Reference	65852.2(e)(1)(A)	65852.2(e)(1)(A)	65852.2(e)(1)(B)	65852.2(e)(1)(C)	65852.2(e)(1)(D)

- (1) Lofts where the height from the floor level to the underside of the rafter or finished roof surface is 5' or greater shall count towards the unit's floor area.
- (2) New construction must be consistent with allowable space (e.g. FAR, Lot Coverage) of a single family residence, except that Up to 150 sf may be added for the purpose of ingress and egress only, without regard to underlying zone standards.
- (3) Units built in a flood zone are not entitled to any height extensions granted to the primary dwelling.
- (4) Units must be detached from existing primary dwellings but may be attached to each other.
- (5) A height of 18 feet for a detached ADU on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional two feet in height shall be provided to accommodate a roof pitch on an ADU that is aligned with the roof pitch of the primary dwelling unit.
- (6) A height of 18 feet for a detached ADU on a lot with an existing or proposed multifamily, multistory dwelling.

~~A height of 25 feet or the height limitation in the underlying zone district that applies to the primary dwelling, whichever is lower, for an ADU that is attached to a primary dwelling. These ADUs shall not exceed two stories in height.~~

- (c) Development standards stated elsewhere in this Section or Title 18, including standards related to FAR, lot coverage, and privacy, are not applicable to ADUs or JADUs that qualify for approval under this section.
- (d) The establishment of accessory dwelling units and junior accessory dwelling units pursuant to this section shall not be conditioned on the correction of non-conforming zoning conditions; provided, however, that nothing in this section shall limit the authority of the Chief Building Official to require correction of building standards relating to health and safety.
- (e) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. Nothing in this section shall preclude the Fire Marshal from accepting fire sprinklers as an alternative means of compliance with generally applicable fire protection requirements.
- (f) Rental of any unit created pursuant to this section shall be for a term of 30 days or more.
- (g) Attached units shall have independent exterior access from a proposed or existing single-family dwelling. Except for JADUs, attached units shall not have an interior access point to the primary dwelling (e.g. hotel door or other similar feature/appurtenance).

- (h) Conversion of an existing accessory structure pursuant to Government Code section 65852.2(e)(1)(A) may include reconstruction in-place of a non-conforming structure, so long as the renovation of reconstruction does not increase the degree of non-compliance, such as increased height, envelope, or further intrusion into required setbacks.
- (i) Street addresses shall be assigned to all units prior to building permit final to assist in emergency response.
- (j) The unit shall not be sold separately from the primary residence.
- (k) Replacement parking is not required when a garage, carport, or covered parking structure is converted to, or demolished in conjunction with the construction of, an ADU.
- (l) JADUs shall comply with the requirements of Section 18.09.050.

**18.09.040 Units Subject to Local Standards**

- (a) This section shall govern applications for ADUs and JADUs that do not qualify for approval under section 18.09.030 and for which the City may impose local standards pursuant to Government Code section 65852.2, subdivisions (a) through (d). Nothing in this section shall be interpreted to prohibit an ADU of up to 800 square feet, at the heights stated in Table 2, with a four foot side and rear setbacks.
- (b) The Development Standards for units governed by this section are provided in Table 2. These regulations do not limit the height of existing structures converted into ADU/JADUs unless the envelope of the building is proposed to be modified beyond any existing legal, non-conforming condition.

**Table 2: All other Units**

	Attached	Detached	JADU
Number of Units Allowed <sup>1</sup>	1		1
Minimum size	150 sf		
Maximum size	900 sf (1,000 sf for two or more bedrooms); no more than 50% of the size of the single-family home	900 sf (1,000 sf for two or more bedrooms)	500 sf
Setbacks	4 feet from side and rear lot lines; underlying zone standard for front setback		

Daylight Plane Initial Height Angle	8 feet at lot line	
	45 degrees	
Maximum Height <sup>3</sup>		
Res. Estate (RE)	30 feet	
Open Space (OS)	25 feet	
All other eligible zones	16 feet <sup>(5)(6)(7)</sup>	
Parking	None	
Square Footage Exemption	Up to 800 sf <sup>(4)</sup>	Up to 500 sf <sup>(4)</sup>

- (1) An attached or detached ADU may be built in conjunction with a JADU on a lot with an existing or proposed single family home. One attached or detached ADU may be built in conjunction with an existing or proposed multifamily building.
  - (2) Lofts where the height from the floor level to the underside of the rafter or finished roof surface is 5' or greater shall count towards the unit's floor area.
  - (3) Units built in a flood zone are not entitled to any height extensions granted to the primary dwelling.
  - (4) Lots with both an ADU and a JADU may exempt a maximum combined total of 800 square feet of the ADU and JADU from FAR, Lot Coverage, and Maximum House Size calculations.
  - (5) A height of 18 feet for a detached ADU on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional two feet in height shall be provided to accommodate a roof pitch on an ADU that is aligned with the roof pitch of the primary dwelling unit.
  - (6) A height of 18 feet for a detached ADU on a lot with an existing or proposed multifamily, multistory dwelling.
  - (7) A height of 25 feet or the height limitation in the underlying zone district that applies to the primary dwelling, whichever is lower, for an ADU that is attached to a primary dwelling. These ADUs shall not exceed two stories in height.
- (c) A single-family dwelling shall exist on the lot or shall be constructed on the lot in conjunction with the construction of an ADU/JADU.
- (d) ADU and/or JADU square footage shall not be included in FAR, Lot Coverage, and Maximum House Size calculations for a lot with an existing or proposed single family home, up to the amounts stated in Table 2. ADU and/or JADU square footage in excess of the exemptions provided in Table 2 shall be included in FAR, Lot Coverage, and Maximum House Size calculations for the lot.

- (e) Attached units shall have independent exterior access from a proposed or existing single-family dwelling. Except for JADUs, attached units shall not have an interior access point to the primary dwelling (e.g. hotel door or other similar feature/appurtenance).
- (f) No protected tree shall be removed for the purpose of establishing an accessory dwelling unit unless the tree is dead, dangerous or constitutes a nuisance under Section 8.04.050. Any protected tree removed pursuant to this subsection shall be replaced in accordance with the standards in the Tree Technical Manual.
- (g) For properties listed in the Palo Alto Historic Inventory, the California Register of Historical Resources, the National Register of Historic Places, or considered a historic resource after completion of a historic resource evaluation, compliance with the appropriate Secretary of Interior's Standards for the Treatment of Historic Properties shall be required.
- (h) Noise-producing equipment such as air conditioners, water heaters, and similar service equipment. All such equipment shall be insulated and housed, except that the ~~planning director~~ Director may permit installation without housing and insulation, provided that a combination of technical noise specifications, location of equipment, and/or other screening or buffering will assure compliance with the city's Noise Ordinance at the nearest property line. All service equipment must meet the city's Noise Ordinance in Chapter 9.10 of the Municipal Code.
- (i) Setbacks
  - 1. Detached units shall maintain a minimum three-foot distance from the primary unit, measured from the exterior walls of structures.
  - 2. No basement or other subterranean portion of an ADU/JADU shall encroach into a setback required for the primary dwelling.
  - 3. Projections, including but not limited to windows, doors, mechanical equipment, venting or exhaust systems, are not permitted to encroach into the required setbacks, with the exception of a roof eave of up to 2 feet.
- (j) Design
  - 1. Except on corner lots, the unit shall not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit unless the entranceway to the accessory unit is located in the rear half of the lot. Exterior staircases to second floor units shall be located toward the interior side or rear yard of the property.

## 2. Privacy

- A. Second story doors and decks shall not face a neighboring dwelling unit. Second story decks and balconies shall utilize screening barriers to prevent views into adjacent properties. These barriers shall provide a minimum five-foot, six-inch, screen wall from the floor level of the deck or balcony and shall not include perforations that would allow visibility between properties.
- B. Second story windows, excluding those required for egress, shall have a five-foot sill height as measured from the second-floor level, or utilize obscured glazing on the entirety of the window when facing adjacent properties. Second story egress windows shall utilize obscured glazing on the entirety of the windows which face adjacent properties.
- C. Second story windows shall be offset from neighbor's windows to maximize privacy.

## (k) Parking

- 1. Replacement parking is not required when a garage, carport, or covered parking structure is converted to, or demolished in conjunction with the construction of, an ADU.
- 2. Replacement parking is required when an existing attached garage is converted to a JADU. These replacement spaces may be provided as uncovered spaces in any configuration on the lot including within the front or street side yard setback for the property.
  - A. The Director shall have the authority to modify required replacement parking spaces by up to one foot in width and length upon finding that the reduction is necessary to accommodate parking in a location otherwise allowed under this code and is not detrimental to public health, safety or the general welfare.
  - B. Existing front and street side yard driveways may be enlarged to the minimum extent necessary to comply with the replacement parking requirement above. Existing curb cuts shall not be altered except when necessary to promote public health, safety or the general welfare.
- 3. When parking is provided, the unit shall have street access from a driveway in common with the main residence in order to prevent new curb cuts,

excessive paving, and elimination of street trees, unless separate driveway access will result in fewer environmental impacts such as paving, grading or tree removal.

4. If covered parking for a unit is provided in any district, the maximum size of the covered parking area for the accessory dwelling unit is 220 square feet. This space shall count towards the total floor area for the site but does not contribute to the maximum size of the unit unless attached to the unit.

(I) Miscellaneous requirements

1. Street addresses shall be assigned to all units prior to building permit final to assist in emergency response.
2. The unit shall not be sold separately from the primary residence.
3. Rental of any unit created pursuant to this section shall be for a term of 30 days or more.
4. The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. Nothing in this section shall preclude the Fire Marshal from accepting fire sprinklers as an alternative means of compliance with generally applicable fire protection requirements.

**18.09.050 Additional Requirements for JADUs**

- (a) A junior accessory dwelling unit shall be created within the walls of an existing or proposed primary dwelling.
- (b) The junior accessory dwelling unit shall include an efficiency kitchen, requiring the following components: A cooking facility with appliances, and; food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
  - i. A cooking facility with appliances shall mean, at minimum a one burner installed range, an oven or convection microwave, a 10 cubic foot refrigerator and freezer combination unit, and a sink that facilitates hot and cold water.
  - ii. A food preparation counter and storage cabinets shall be of reasonable size in relation to a JADU if they provide counter space equal to a minimum 24-inch depth and 36-inch length.

- (c) For the purposes of any fire or life protection ordinance or regulation or for the purposes of providing service for water, sewer, or power, a junior accessory dwelling unit shall not be considered a separate or new unit.
- (d) The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a primary residence either the primary dwelling or the junior accessory dwelling. Owner-occupancy is not required if the owner is a governmental agency, land trust, or housing organization.
- (e) Prior to the issuance of a building permit for a junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the city that includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, requires owner-occupancy consistent with subsection (d) above, does not permit short-term rentals, and restricts the size and attributes of the junior dwelling unit to those that conform with this section.

**SECTION 3.** Section 18.10.030 (Land Uses) of Chapter 18.10 (Low-Density Residential) of Title 18 (Zoning) of the Palo Alto Municipal Code ("PAMC") is amended to read (additions underlined, deletions ~~struck through~~, and omissions noted with bracketed ellipses):

### **18.10.030 Land Uses**

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

**TABLE 1**  
**PERMITTED AND CONDITIONALLY PERMITTED LOW-DENSITY RESIDENTIAL USES**

[P = Permitted Use -- CUP = Conditional Use Permit Required]

	R-E	R-2	RMD	Subject to Regulations in:
ACCESSORY AND SUPPORT USES				
[...]	[...]	[...]	[...]	[...]
Accessory Dwelling Units	P	p <sup>(2)</sup>	p <sup>(2)</sup>	18.0942.040
Junior Accessory Dwelling Units	P	p <sup>(2)</sup>	p <sup>(2)</sup>	18.0942.040
[...]	[...]	[...]	[...]	[...]
<u>Footnotes:</u> (1) <b>Sale of Agricultural Products:</b> No permanent commercial structures for the sale or processing of agricultural products are permitted. (2) <b>Junior Accessory Dwelling Units in R-2 and RMD Zones:</b> <del>An accessory dwelling unit or a Junior Accessory Dwelling Unit is permitted only in conjunction with a single family residence,</del>				

subject to the provisions of Chapter 18.09, associated with a single family residence on a lot in the R-2 or RMD zones is permitted, subject to the provisions of Section 18.42.040, and such that no more than two units result on the lot.

[. . .]

(4) **Two Unit Development Pursuant to California Government Code Section 65852.21 (SB 9, 2021):** Construction of two units is permitted on an RE-zoned lot, subject to the regulations in Section 18.42.180 .

**SECTION 4.** Section 18.12.030 (Land Uses) of Chapter 18.12 (Single-Family Residential District) of Title 18 (Zoning) of the Palo Alto Municipal Code (“PAMC”) is amended to read (additions underlined, deletions struck through, and omissions noted with bracketed ellipses):

#### **18.12.030 Land Uses**

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

**Table 1**  
**PERMITTED AND CONDITIONAL R-1 RESIDENTIAL USES**

	<b>R-1 and all R-1 Subdistricts</b>	<b>Subject to Regulations for in:</b>
<b>ACCESSORY AND SUPPORT USES</b>		
[. . .]	[. . .]	[. . .]
Accessory Dwelling Units	P <sup>(1)</sup>	18.09 <u>42.040</u>
Junior Accessory Dwelling Units	P <sup>(1)</sup>	18.09 <u>42.040</u>
[. . .]	[. . .]	[. . .]

**Footnotes:**

(1) An Accessory Dwelling Unit or a Junior Accessory Dwelling Unit associated with a single-family residence on a lot is permitted, subject to the provisions of Chapter 18.09~~Section 18.42.040~~, and such that no more than two total units result on the lot.

**SECTION 5.** Section 18.13.030 (Land Uses) of Chapter 18.13 (Multiple-Family Residential Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code (“PAMC”) is amended to read (additions underlined, deletions struck through, and omissions noted with bracketed ellipses):

#### **18.13.030 Land Uses**

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

**Table 1**

**Multiple Family Residential Uses**

[P = Permitted Use • CUP = Conditional Use Permit Required]

	RM-20	RM-30	RM-40	Subject to Regulations in:
ACCESSORY AND SUPPORT USES				
[...]	[...]	[...]	[...]	[...]
Accessory Dwelling Unit when accessory to permitted <del>single-family</del> residence	p <sup>(1)</sup> & (4)	p <sup>(1)</sup> & (4)	p <sup>(2)</sup> & (4)	18.0942.040
[...]	[...]	[...]	[...]	[...]
<b>Footnotes:</b> (1) Permitted use only on lots less than 8,500 square feet in size. [...] (4) <del>An accessory dwelling unit associated with a single-family residence on a lot is permitted if it is contained within the existing space of a single-family residence or an existing accessory structure in accordance with and pursuant to Section 18.42.040(a)(5), subject to the provisions of Section 18.42.040 and such that no more than two total units result on the lot.</del>				

**SECTION 6.** Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**SECTION 7.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 8.** The Council finds that the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305 because it constitutes minor adjustments to the City's zoning ordinance to implement State law requirements related to accessory dwelling units as established in Government Code Section 65852.2, and these changes are also likely to result in few additional dwelling units dispersed throughout the City. As such, it can be seen with certainty that the proposed action will not have the potential for causing a significant effect on the environment.

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**SECTION 9.** This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

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City Clerk

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Mayor

APPROVED AS TO FORM:

APPROVED:

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Assistant City Attorney

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City Manager

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Director of Planning and  
Development Services