

ORDINANCE NO. 2018-448

AN ORDINANCE OF THE CITY OF LOS ALTOS AMENDING AND RESTATING CHAPTER 14.14 ('SECOND LIVING UNITS IN R-1 DISTRICTS') AND MAKING CONFORMING CHANGES TO TITLE 14 OF THE LOS ALTOS MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNIT REGULATIONS

The Council of the City of Los Altos does ordain as follows:

SECTION 1. FINDINGS. The City Council of the City of Los Altos hereby finds that:

A. The City of Los Altos, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. The Planning and Zoning Law authorizes cities to provide by ordinance for the creation of accessory dwelling units.

C. To address California's shortage of housing supply, the California Legislature approved, and the Governor signed into law, Assembly Bill 2299 (Bloom, Chapter 735, Stats. 2016), Senate Bill 1069 (Wieckowski, Chapter 720, Stats. 2016) which imposed new limitations on local authority to regulate second units, which are now referred to as "accessory dwelling units" or "ADUs."

D. Assembly Bill 494 (Bloom, Chapter 602, Stats. 2017) and Senate Bill 229 (Wieckowski, Chapter 594, Stats. 2017), which become effective January 1, 2018, further amended Government Code Section 65852.2 and imposed new restrictions on local authority to regulate accessory dwelling units; and

E. The City desires to amend the local regulatory scheme for the construction of accessory dwelling units that fully complies with Government Code Section 65852.2 to provide reasonable regulations for the development of accessory dwelling units on lots developed or proposed to be developed with single-family residential dwellings. Such accessory dwelling units promote the goals and policies of the City's General Plan, contribute needed housing to the community's housing stock, and promote housing opportunities for the persons wishing to reside in the City of Los Altos.

SECTION 2. AMENDMENT. Section 14.02.070 of the Los Altos Municipal Code shall be amended to add the definition of "accessory dwelling unit" and revise the definition of "second living unit" as follows (changes shown in underline/strikeout):

"Accessory dwelling unit" means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a single-family dwelling is situated. An accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code section 17958.1, and a manufactured home, as defined in California Health and Safety Code section 18007. Formerly referred to as "second living unit."

“Second living unit” means a second dwelling on a single-family residential lot; refer to the definition of “accessory dwelling unit.”

SECTION 3. AMENDMENT. Revising the Permitted Uses sections of the single-family zoning districts in the Los Altos Municipal Code as follows (changes shown in underline/strikeout):

14.06.020 – Permitted uses (R1-10)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.08.020 – Permitted uses (R1-H)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.10.020 – Permitted uses (R1-20)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

14.12.020 – Permitted uses (R1-40)

B. Accessory dwelling ~~Second living~~ units as provided in Chapter 14.14 of this title;

SECTION 4. AMENDMENT. Chapter 14.14 of the Los Altos Municipal Code is hereby amended and restated in full as set forth on Exhibit “A” attached hereto and incorporated herein by reference.

SECTION 5. AMENDMENT. Section 14.74.010, subdivision (A) of the Los Altos Municipal Code is hereby amended and restated as follows:

- A. Not less than two parking spaces, one of which shall be covered, shall be required for each living unit, ~~including second living~~ except accessory dwelling units developed which shall provide parking as required under the provisions of Chapter 14.14 of this title.

SECTION 6. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 7. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDING. The City Council finds the adoption of this ordinance to be statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code because it is an ordinance regarding second units in single-family and multifamily residential zones to implement the provisions of Government Code Section 65852.2.

SECTION 8. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 9. PUBLICATION. The City Clerk shall certify to the adoption of this ordinance. Not later than fifteen (15) days following the passage of this ordinance, the ordinance, or a summary thereof in accordance with Government Code Section 36933, along with the names of the City Council members

voting for and against the ordinance, shall be published in a newspaper of general circulation in the City of Los Altos.

SECTION 10. FILING. The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within 60 days after adoption.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on June 26, 2018 and was thereafter, at a regular meeting held on July 10, 2018 passed and adopted by the following vote:

AYES: MORDO, PEPPER, PROCHNOW
NOES: LEE ENG
ABSENT: BRUINS
ABSTAIN: NONE

Jean Mordo, Mayor

Attest:

Jon Maginot, CMC, City Clerk



STATE OF CALIFORNIA)	
COUNTY OF SANTA CLARA)	CERTIFIED COPY OF ORDINANCE
CITY OF LOS ALTOS)	SECOND READING/ADOPTION

I, Jon Maginot, City Clerk for the City of Los Altos in said County of Santa Clara, and State of California, do hereby certify that the attached is a true and correct copy of Ordinance No. 2018-448, adopted by the Los Altos City Council on July 10, 2018 by the following vote:

AYES: MORDO, PEPPER, PROCHNOW
NOES: LEE ENG
ABSTAIN: NONE
ABSENT: BRUINS

I hereby further certify that a summary of the ordinance was published in accordance with Government Code Section 36933 on the following dates: _____, 2018 and _____, 2018. Said ordinance shall be effective _____, 2018.

Dated this ____ day of _____, 2018.

Jon Maginot, CMC
City Clerk

EXHIBIT “A”
CHAPTER 14.14 - ACCESSORY DWELLING UNITS

14.14.010. PURPOSE.

The purpose of this chapter is to provide reasonable regulations for the development of accessory dwelling units in certain areas and on lots developed or proposed to be developed with single-family residential dwellings. Such accessory dwelling units contribute needed housing to the community’s housing stock and promote housing opportunities for the persons wishing to reside in the City of Los Altos. In addition, the regulations in this chapter are intended to promote the goals and policies of the City’s General Plan and comply with requirements codified in the state Planning and Zoning Law related to accessory dwelling units in residential areas, including California Government Code section 65852.2.

14.14.020. DEFINITIONS.

- A. “Accessory dwelling unit” means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a single-family dwelling is situated. An accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code section 17958.1, and a manufactured home, as defined in California Health and Safety Code section 18007. See also, Section 14.02.070, Definitions.
- B. “Living area” is defined as the interior habitable area of a dwelling unit, including basements and attics, but not including a garage or any accessory structure.
- C. “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

14.14.030. EFFECT OF CONFORMING ACCESSORY DWELLING UNIT

An accessory dwelling unit that conforms to this chapter shall:

- A. Be deemed an accessory use and not be considered to exceed the allowable density for the lot upon which it is located;
- B. Be deemed a residential use that is consistent with the general plan and the zoning designations for the lot;
- C. Not be considered in the application of any ordinance, policy, or program to limit residential growth; and
- D. Not be considered a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

14.14.040. LOCATIONS PERMITTED.

- A. Accessory dwelling units may be permitted in the following zones:
 - 1. Single-Family District (R1-10);
 - 2. Single-Family District (R1-H);
 - 3. Single-Family District (R1-20);
 - 4. Single-Family District (R1-40);
 - 5. Multiple-Family District (R3-4.5);
 - 6. Multiple-Family District (R3-5);
 - 7. Multiple-Family District (R3-3);
 - 8. Multiple-Family District (R3.1.8); and
 - 9. Multiple-Family District (R3-1).

- B. Nothing in this chapter shall be construed to authorize construction of new single-family residences in multiple-family districts where such single-family residential use is not otherwise allowed.

14.14.050. PERMIT PROCEDURES.

A. Permits.

1. Additions and New Structures. Except as provided in subparagraph (2) below, approved applications for an accessory dwelling unit will result in an accessory dwelling unit permit. The applicant shall also obtain a building permit as required by the building code.
2. Exception – Conversions of Existing Space. Accessory dwelling units that meet the requirements of subsection (D) shall obtain a building permit as required by the building code.

B. Application Processing.

1. Applications for an accessory dwelling unit must be submitted to the Director of Community Development (the “Director”) on a form and with information and materials, as adopted by the Director.
2. The Director may collect a fee for processing the application, provided such fee is approved by resolution or ordinance of the City Council.
3. Applications for an accessory dwelling unit shall be considered ministerially without any discretionary review or a hearing, and shall be approved or disapproved within 120 days after receiving the complete application.
4. Except as otherwise provided in this chapter, the construction of an accessory dwelling unit shall be subject to any applicable fees adopted pursuant to the requirements of California Government Code, Title 7, Division 1, Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

C. Review.

1. Additions and New Structures. The Director will review and approve complete applications for an accessory dwelling unit permit that comply with the requirements of Sections 14.14.060 (Standards).
2. Conversions of Existing Space. The Director will review and approve that a proposed conversion of existing space of a single-family residence or of an accessory structure to a proposed accessory dwelling unit meets the requirements of subsection (D), below.
3. Upon approval pursuant to subparagraphs (1) or (2) above, the Director shall convey the application to the Building Official for review and approval of the building permit(s) in accordance with Title 12 of the Los Altos Municipal Code.

D. Exception: An accessory dwelling unit is exempt from the requirements of Section 14.14.060 (Standards) if the unit meets all the requirements of subparagraph (1):

1. The accessory dwelling unit:
 - (a) Is one accessory dwelling unit per single-family lot located within one of the zones for single-family residential use: R1-10; R1-H; R1-20; or R1-40;
 - (b) Is contained within the existing space of a single-family residence or of an accessory structure (including, but not limited to, a studio, pool house, or other similar accessory structure);

- (c) Has independent exterior access from the existing residence; and
 - (d) The side and rear setbacks are sufficient for fire safety.
- 2. If the requirements of subparagraph (1) are met, then the applicant:
 - (a) Is required to install fire sprinklers in the accessory dwelling unit if the primary residence is also required to have fire sprinklers.
 - (b) Is not required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, or to be charged a related connection fee or capacity charge.

14.14.060. STANDARDS.

Accessory dwelling units shall meet the following standards:

- A. Development on the lot.
 - 1. A single-family dwelling must exist on the lot or is proposed to be constructed in conjunction with the accessory dwelling unit.
 - 2. The accessory dwelling unit must be:
 - (a) Detached from the existing or proposed primary dwelling, but located on the same lot as the existing or proposed dwelling; or
 - (b) Attached to the existing or proposed primary dwelling; or
 - (c) Located within the living area of the existing or proposed primary dwelling.
 - 3. Only one accessory dwelling unit shall be allowed per lot.
 - 4. The accessory dwelling unit is not intended for sale separate from the primary residence.
- B. Occupancy.
 - 1. The accessory dwelling unit may be rented.
 - 2. The accessory dwelling unit shall be rented for terms longer than 30 days.
- C. Building and Construction.
 - 1. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation.
 - 2. An accessory dwelling unit is required to have fire sprinklers, only if the primary residence is also required to have fire sprinklers.
 - 3. An accessory dwelling unit must receive the approval by the County Health Officer where a private sewage disposal system is being used.
 - 4. An accessory dwelling unit shall meet the requirements of the building code, as adopted and amended by Title 12 of the Los Altos Municipal Code, that apply to detached dwellings, as appropriate.
 - 5. Separate utility connection(s) may be permitted directly between the accessory dwelling unit and the utility. The connection shall be subject to a connection fee or capacity charge, or both, proportionate to the burden of the proposed unit, based on either its size or the number of its plumbing fixtures, upon the water or sewer system.
 - 6. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. "Passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
- D. Parking.
 - 1. Except as provided in subparagraph (2):

- (a) An accessory dwelling unit shall provide one parking space per unit or per bedroom, whichever is less.
 - (b) The required parking spaces may be located on setback areas approved by the Director or tandem parking on an existing driveway, unless specific findings are made by the Director that such parking arrangements are not feasible based upon specific site or regional topographical or fire or life safety conditions.
 - (c) When a garage, carport, or covered parking structure is demolished **for the purpose of** construction of an accessory dwelling unit or converted to an accessory dwelling unit, the replacement spaces for the primary dwelling may be in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts.
- 2. Parking standards shall not be imposed on an accessory dwelling unit in any of the following circumstances:
 - (a) The accessory dwelling unit is located within one-half mile of a public transit stop or station.
 - (b) The accessory dwelling unit is located within an architecturally and historically significant historic district as approved by the city pursuant to Section 12.44.080 of the Los Altos Municipal Code.
 - (c) The accessory dwelling unit is part of the proposed or existing primary residence or an existing accessory structure.
 - (d) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (e) When there is a car share vehicle located within one block of the accessory dwelling unit.
- E. Height.
The accessory dwelling unit must meet the height standards of the applicable zoning district.
- F. Setbacks.
 - 1. Except as provided in subparagraphs (2) and (3), an accessory dwelling unit must meet the setback standards of the applicable zoning district.
 - 2. No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.
 - 3. A minimum setback of five (5) feet shall be required from the side and rear lot lines for an accessory dwelling unit constructed above an existing garage.
- G. Unit Size.
 - 1. The total floor area for an attached accessory dwelling unit shall not exceed **1,200 square feet, exclusive** of basement areas, and shall not be more than 50 percent of the floor area of the existing or proposed principal residence.
 - 2. The total floor area for a detached accessory dwelling unit shall not exceed **1,200** square feet, inclusive of basement areas, and shall not be more than 50 percent of the floor area of the existing or proposed principal residence.
 - 3. The accessory dwelling unit shall contain no less than the 150 square feet area minimum required for an efficiency dwelling unit as defined in Section 17958.1 of the Health & Safety Code.
- H. Lot Coverage.

- The accessory dwelling unit must meet the lot coverage standards of the applicable zoning district.
- I. Floor Area
The accessory dwelling unit must meet the floor area standards of the applicable zoning district.
- J. Landscape.
The accessory dwelling unit must meet the landscaping standards of the applicable zoning district.
- K. Design.
 1. The design of the accessory dwelling unit shall relate to the design of the primary residence by use of the similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch.
 2. The entrance to the accessory dwelling unit shall not face the street.
 3. Accessory dwelling units shall be allowed in manufactured homes, but shall not be allowed in mobile housing units, including, but not limited to, mobile homes, trailers, and motor homes.
- L. Impacts to Historic Places.
To prevent adverse impacts to any real property that is listed in the California Register of Historic Places, an accessory dwelling unit that is proposed to be located on the site of a historic resource or within a historic district, and visible from the exterior of the primary residence, the accessory dwelling unit shall be reviewed for historic appropriateness by the Director in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (per CFR 68.3, as amended from time to time), or other standards as may be adopted by City Council Resolution.