



**ITEMS FOR
DISCUSSION/ ACTION
Agenda Item # 2**

AGENDA REPORT SUMMARY

Meeting Date: May 7, 2020

Subject: Repeal and Replace Chapter 14.14 of the Los Altos Municipal Code (Accessory and Junior Dwelling Units) by adopting Zoning Text Amendment 20-0001

Prepared by: Guido F. Persicone, Planning Services Manager, AICP

Reviewed by: Jon Biggs, Community Development Director

Attachment(s):

- A. Draft ADU Ordinance
- B. Voluntary Daylight Plane Provisions

Initiated by:

City staff

Previous Council Consideration:

2018

Fiscal Impact:

No direct fiscal impact is anticipated

Environmental Review:

Adoption of an accessory dwelling unit ordinance is subject to a statutory exemption from environmental review (Public Resource Code Section 15282(h)). In addition, the action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Projects that are subject to the ADU regulations will be evaluated pursuant to CEQA on an individual basis. However, ADUs are generally exempt from CEQA review under CEQA Guidelines Section 15301 (Existing Facilities) and/or Section 15303 (New Construction or Conversion of Small Structures).

Policy Question(s) for Council Consideration:

- Do the proposed code amendments ensure the Los Altos Municipal Code is consistent with recent changes to state law?



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Second Planning Commission Meeting

Summary:

- The ordinance repeals and replaces Chapter 14.14, Accessory Dwelling Units, to ensure consistency with State law.

Staff Recommendation:

Staff suggests that the Planning Commission recommend adoption of the proposed ordinance to the City Council.

Purpose

The purpose of the proposed amendments is to ensure compliance with new state laws affecting the development of accessory dwelling unit and junior accessory dwelling units in the residential zone districts of the City.

Background

On April 16, 2020 the Planning Commission reviewed the draft accessory dwelling unit ordinance (ADU). At the conclusion of the meeting, the Commission requested that the ordinance be revised and be reviewed by the legislative body at the May 7, 2020 meeting.

In addition to the Commission's edits, on the day of the hearing the State Housing and Community Development Department (State HCD) reached out to City staff to provide some direction on edits that would be necessary to receive State support for the draft ordinance. This was extremely helpful as State approval within sixty (60) days of adoption is a legal requirement from the most recent legislation. In order for the Commission and members of the public to easily follow the revisions, the edits will be documented within this report and provided section by section

Section 14.14.020 Definitions

State HCD wanted it to be clear that the JADU is not for multi-family buildings.

“Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size, includes an efficiency kitchen consistent with building code standards, is contained entirely within the walls of a single-family residence or ~~multi-family building~~, and may include separate sanitation facilities or may share sanitation facilities with the existing structure or unit.

The Planning Commission requested that verbiage be added to the definitions for “living area” and “passageway”.



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Living area, including basements and attics means interior habitable area as defined by the California Building Code, was added to the definitions section.

Passageway-the definition of passageway was added to the definitions.

14.14.025 (New Section)

The Planning Commission requested that a chart be added to the ordinance, so property owners were given clear direction regarding the square footage calculations from the draft ordinance. This chart has been added to section 14.14.025 of the draft ordinance.

Square Footage	Implications
500 sq. ft.	500 sq. ft. is the maximum size of a Junior Accessory Dwelling Unit (JADU).
750 sq. ft.	No impact fees shall be charged on an accessory dwelling unit that is 750 square feet or less. If an accessory dwelling unit is 751 or more impact fees can be charged but it must be proportionate to the size of the main house.
800 sq. ft.	The total floor area for a detached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet, including basement areas, and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this requirement the ADU has to be at least 800 square feet.
850 sq. ft.	A minimum size for a detached accessory dwelling unit shall be 850 square feet
1,200 sq. ft.	The total floor area for an attached or detached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet, including basement areas, and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence.

Section 14.14.030(a)

This section was modified by State HCD to make it clear that ADUs are allowed in in all zoning districts for multi-family or single-family dwellings.



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(a) accessory dwelling units may be permitted in the following zones: on lots zoned for multi-family or single-family dwelling.

Section 14.14.040(b)

State HCD requested that the words “Junior Accessory Dwelling Unit” were removed from 14.14.040(b) to make it clear that JADUs cannot be sold separately.

(b) Except ~~Junior~~ accessory dwelling unit as allowed by State law, an accessory dwelling shall not be sold or have its title transferred separately from the primary residential structure.

Section 14.14.040(i)

The word served was added to 14.14.040 General Requirements

The accessory dwelling must contain water, sewer and gas and/or electric utility connections that are in working condition upon its occupancy. The accessory dwelling may be served by the primary residence or may have separate utility meters. The accessory dwelling will not be considered a new residential use for the purpose of calculating connection fees or capacity charges for these utilities.

Section 14.14.040(m)

The word “tolled” was replaced with the word “suspended” in 14.14.040(m)

(m) If the applicant requests a delay in processing, the 60-day time period shall be suspended for the period of the delay.

Section 14.14.040(n)-

During the preparation for the second Commission meeting, City staff discussed the draft ordinance with the City of San Jose staff, who have added the following language to their ordinance:

14.14.040 (i) General Requirements. Minimum sill height of 5’ (60) inches for windows on the second story within 15’ of the property line that face out to the neighbors to try to mitigate privacy concerns shall be required.

Since the new ordinance allows structures to be 16 feet tall, someone could potentially build a loft that has a second story window. Adding this language will help reduce privacy impacts to abutting property owners. The Commission can choose to accept this friendly staff amendment or remove it



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from the recommendation to the City Council.

14.14.050(b)

State HCD wanted the ordinance to be clear that 1 JADU is allowed within the confines of the house.

- (b) Number. Only one (1) detached single-family residential accessory dwelling unit may be permitted on a parcel that contains not more than one existing or proposed single-family residence. Additionally, one Junior Accessory Dwelling Unit JADU maybe allowed within the confines of the existing house.

14.14.050(d)(1)

State HCD wanted it to be clear that 850 was the minimum size of an attached or detached ADU.

- (1) A studio or one (1) bedroom, attached or detached single-family residential accessory dwelling unit shall be permitted, and limited to eight hundred fifty (850) square feet in floor area, garage areas excluded.

14.14.050(d)(2)(i-ii)

State HCD wanted it to be clear that the 50% rule within the ordinance was valid, but a property owner could still get an 800 square foot ADU:

- (1-2) i-ii. The total floor area for an attached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet, excluding the basement areas, and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this requirement, the ADU can be up to 800 square feet.

14.14.050(d)(3)

State HCD removed this section stating it was not compliant with State law:

- ~~(3) Notwithstanding the size restrictions provided above, the total floor area of an attached single-family residential accessory dwelling unit, including internal conversions of existing primary living space, shall not exceed fifty (50) percent of the existing or proposed primary dwelling gross floor area, not including the garage. For internal conversions, the accessory dwelling unit floor area shall not exceed fifty (50) percent of the primary residential living space, after conversion.~~



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14.14.050(e)(2) (Height)

This section needs to be removed because it was a typographical error by staff during the preparation of the ordinance.

~~(2) The maximum height of a single family residential accessory dwelling unit that is proposed to be constructed above a detached garage shall be twenty-four (24) feet.~~

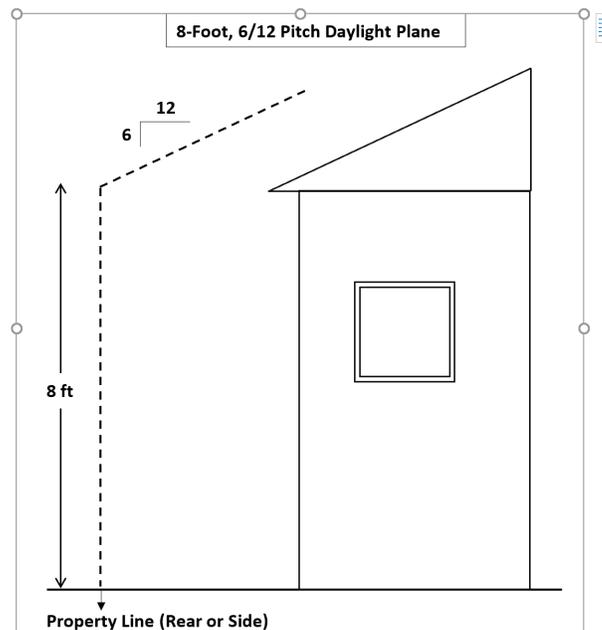
14.14.050(f)(3)

State HCD requested the twelve-foot setback be removed as this was not compliant with state law.

~~(3) The side yard setback shall be no less than 12 feet for an attached or detached accessory dwelling unit that is abutting a city street or alleyway.~~

14.14.050(g)(1-2) Daylight Plane Provisions

By far the most discussion at the April Planning Commission meeting was around the daylight plane provisions. After a lengthy discussion, the Planning Commission requested that the daylight plane provisions be modified to start at a height of eight (8) feet with a 6/12 roof pitch.





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14.14.050(i)

The Planning Commission requested that the parking space for a new detached ADU be an uncovered standard parking space of 9X18

- (i) Parking. One (1) additional uncovered parking space of nine feet by eighteen feet (9X18) shall be required for a newly constructed single-family residential accessory dwelling unit, which may be located within the front setback, in tandem and in an existing driveway including within an interior side yard setback area, unless a specific finding is made that such parking is not feasible due to specific site, topographical or fire and life safety. Notwithstanding the above, a parking stall will not be required for a residential accessory dwelling unit that meets any of the following criteria:

14.14.050(i)(2)

The new ADU legislation states that conversion of a garage does not require replacement parking for the ADU. However, this could create a nonconforming situation for future additions to the house. The Planning Commission is requesting that before proceeding that the property owner submit a notarized letter to the City stating they understand the creation of this nonconforming situation. The word 'notarized' was added to the ordinance:

- (2) An existing garage, carport or parking structure is converted or demolished to accommodate a single-family residential accessory dwelling unit in the same location. If the required parking for the main single-family residence is removed the property owner must submit a notarized letter to the City acknowledging removal of said parking could create a nonconformity for future expansions of the single-family dwelling.

14.14.050(j) Zoning Clearance Letter

State law allows for streamlined review of accessory dwelling units that are 850 square feet or less as this is allowed by right by the new legislation. However, the Commission inquired about what the design review process would be for ADUs greater than 850. The intent of the ADU legislation dating back to 2014 is to continue to streamline the development review process and to limit the discretion of planning departments to deny said permits. The section of the ordinance was sent to State HCD, they requested that the last sentence, underlined below make it clear that the ADU is not a discretionary review. Below is sample language for these type of projects:



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(1) Notwithstanding any other provision of this code, a zoning clearance letter shall be issued for accessory dwelling units shall be reviewed by the director of community development or his/her designee for compliance with objective design standards as identified within Chapter 14.06(Single Family Zoning Districts or Chapters 14.16-14.24 (Multi Family Zoning Districts). The permit shall be considered ministerial without discretionary review within the time frames required by Section 65852.2 of the Government Code; when the application is in compliance with the relevant standards, the permit shall be issued. In those instances where an applicant seeks permission to deviate from the standards, a variance shall be filed in accordance with 14.76.070. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay

As written the Planning Division would still review the project for objective zoning standards but a design review permit would not be required, thus limiting the discretion of City which is in conformance with the intent of recent legislation.

14.14.050 (k)(1)

As stated earlier State HCD requested that the City remove the requirement for having a twelve (12) foot setback for corner lots.

14.14.060 Junior accessory dwelling unit standards.

Junior Accessory Dwelling Unit-The state law is clear that an expansion of 150 square feet can be done for ingress/egress purposes for a JADU. Some cities are strictly following this while others are allowing remodels/additions to a house to include a JADU. Los Altos City staff would like direction from the Planning Commission as to what recommendation should be made to the City Council regarding this item.

14.14.060(a)

The Commission wanted it to be clear that the JADU or the property has to be in conformance with state law which mandates owner occupancy either in the main house or the JADU.

- (a) Owner-occupancy of the property shall be required for junior accessory dwelling units or the main dwelling unit. The owner may reside in the primary residence, junior accessory



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dwelling unit or separate residential accessory dwelling unit constructed on the property in compliance with this Article

14.14.060I

State HCD wanted it to be clear that a JADU has to be within a house not an accessory structure.

I The unit must be constructed within the existing walls of a single-family dwelling ~~or accessory structure~~, except that an expansion of 150 square feet beyond the existing physical dimensions of the accessory structure may be permitted to accommodate required ingress and egress.

14.14.060(i)

State HCD made the edit that the JADU may have an interior connection to the main house.

(i) A separate entrance from the unit to the exterior of the residence, and an interior connection to the main living area ~~shall~~ may be provided. A second interior doorway for sound attenuation may also be permitted.

14.14.060(g)(1)

State HCD made the edit stating that even a hot place or counter top cooking appliance would meet the requirements of state law that a JADU has to have a cooking facility.

(1) A cooking facility with appliances. Appliances can include hot plate, or counter-top cooking. A property owner does not have to a wall installed oven or stove to qualify for a cooking appliance.

Additional Information/Discussion Items

Approved Accessory Dwelling Units-Commissioner Phoebe Bressack asked how many ADUs were approved. In 2019 the Planning Division approved twenty-four (24) ADUs.

Additional Concessions/Incentives

The Commission requested City staff identify more relaxed daylight plane provisions for property owners who voluntarily increased the setbacks of the ADUs. Please see Attachment B (Voluntary Daylight Plane Provisions) for additional details.



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Additionally, after additional research the City Attorney has determined reduction of fees could be warranted, but only if it was universally applied. The City Council can:

- Set the ADU permit fees at zero. This would not trigger prevailing wage.
- Reduce the ADU permit fees in the fee schedule so that it is not an ad hoc waiver or reduction. This would not trigger prevailing wage.
- There is a prevailing wage exemption for private residential projects on private property that are not built according to an agreement with a state agency, redevelopment agency or local public housing authority.

Discussion/Analysis

Due to the wide breadth of changes required by state law, including provisions of Junior ADUs(JADUs) and the fact that the current ordinance does not actually provide setback or daylight plane provisions for ADUs but rather relies on the Accessory Structure Ordinance, City staff are recommending that the entire ordinance be repealed and replaced.

Los Altos General Plan Conformance

General Plan Land Use Goal 2: Review and amend (as needed) the Zoning Ordinance to provide consistency with new state legislation and court decisions. Consider Zoning Ordinance amendments that implement the use and development of goals, policies and plan objectives for the identified planning areas (Downtown, El Camino Real Corridor, and Foothill Plaza).

Housing Element Policy 4.2: The City will encourage the development of affordable second dwelling units that conform to zoning regulations.

Program 4.2.1 – Facilitate new construction of second dwelling units.

Program 4.2.2-Study the feasibility of reducing minimum lot sizes for second living units.

Options

- 1) Recommend approval of Zoning Text Amendment 20-0001 to the City Council.

Advantages: Ensure compliance with new state laws.

Disadvantages: Results in less control over accessory dwelling units in Los Altos.

- 2) Recommend denial of the draft ordinance to the City Council



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Advantages: There is no advantage to denying this ordinance as noncompliance with State law is not a viable position for a municipal agency to be in.

Recommendation

The staff recommends Option 1.

ORDINANCE NO. 2020-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
REPEALING AND REPLACING THE ACCESSORY DWELLING UNIT
ORDINANCE AND MAKING FINDINGS OF CEQA EXEMPTION

GREEN EDITS-FROM THE COMMISSION
YELLOW EDITS-FROM STATE HCD
BLUE EDITS-EDITS FROM STAFF

WHEREAS, the State Legislature has found that accessory dwelling units are a necessary and valuable form of housing in California; and

WHEREAS, accessory dwelling units help diversify the City’s housing stock and help provide rental units that are affordable; and

WHEREAS, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting neighborhood character; and

WHEREAS, accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others within existing neighborhoods; and

WHEREAS, it is the intent of this ordinance to allow and promote the development of accessory dwelling units; and

WHEREAS, this Ordinance implements Program 4.2.1 and Program 4.2.2 of the City’s 2015-2023 Housing Element by facilitating the development of new accessory dwelling units; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061 and Section 15301 of the California Environmental Quality Act Guidelines, as amended.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: Chapter 14.14 of Title 14 of the Los Altos Municipal Code is hereby repealed in its entirety and replaced with the new standards and shall read as follows:

Section 14.14.010 Purpose and Intent.

The intent of this chapter is to provide for accessory dwelling units and junior accessory dwelling units, collectively known as an accessory dwelling, on lots zoned to allow single-family or multifamily dwelling residential use that include a proposed or existing dwelling. Accessory dwelling units contribute needed housing to the City of Los Altos housing stock

and enhance housing opportunities. An accessory dwelling unit is considered a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit is not included in calculation of residential density for the purposes of determining general plan conformance.

14.14.020 Definitions.

As used in this section, the following terms mean:

“Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities ~~one or more persons~~ and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

“Attached accessory dwelling unit” means a residential dwelling unit that is created as a result of internal conversion, addition, or combination thereof made to the primary residential dwelling unit.

“Multi-family housing” means a dwelling unit or group of dwelling units on one site that contains separate living units for two or more families that may have joined services or facilities or both.

“Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size, includes an efficiency kitchen consistent with building code standards, is contained entirely within the walls of a single-family residence ~~multi-family building~~, and may include separate sanitation facilities or may share sanitation facilities with the existing structure or unit.

“Living area” means the interior habitable area of a dwelling unit, including basements and attics, ~~if defined as habitable by the California Building Code (CBC)~~ but does not include a garage or any accessory structure.

“Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

~~“Passageway”~~ The term passageway has the meaning defined by Government Code Section 65852.2, which states: A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

“Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

“Tandem parking” means that two or more automobiles are parked in any location on a lot and lined up behind one another.

14.14.025 Square Footage Chart

For clarity the following chart provides the square footage thresholds for the various forms of accessory dwelling units

Square Footage	Limitations
500 sq. ft.	500 sq. ft. is the maximum size of a Junior Accessory Dwelling Unit (JADU).
750 sq. ft.	No impact fees shall be charged on an accessory dwelling unit that is 750 square feet or less. If an accessory dwelling unit is 751 or more impact fees can be charged but it must be proportionate to the size of the main house.
800 sq. ft.	The total floor area for a detached (should this be for an attached unit?) accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet, including basement areas, and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this , the ADU has to be at least 800 square feet.
850 sq. ft.	A minimum size for a detached accessory dwelling unit shall be 850 square feet
1,200 sq. ft.	The total floor area for an attached or detached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet, including basement areas, and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence.

Section 14.14.030 Location Permitted

A. Accessory dwelling units may be permitted in the following zones: on lots zoned for multi family or single family dwellings.

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.

14.14.040 General Requirements.

Notwithstanding any local ordinance regulating the issuance of variances or special use permits, or regulations adopted herein to the contrary, an application for a building permit to construct an accessory dwelling unit, or junior accessory dwelling unit, or efficiency unit (“accessory dwelling”) shall be approved or denied ministerial without discretionary review or hearing within sixty (60) days from the date the city receives a completed application if there

is an existing single-family or multifamily structure on the lot. The following requirements apply to all accessory dwellings:

- (a) An accessory dwelling shall not be rented for periods less than thirty (30) days. Short term rentals are prohibited.
- (b) Except **Junior Accessory dwelling unit** as allowed by State law, an accessory dwelling shall not be sold or have its title transferred separately from the primary residential **structure**.
- (c) Deed Restriction. Prior to the issuance of the building permit for the accessory dwelling unit, the owner must record a deed restriction stating that the accessory dwelling unit may not be rented for periods less than thirty (30) days, that it may not be transferred or sold separate from the primary residential structure,
- (d) The installation of fire sprinklers shall not be required for an accessory dwelling if sprinklers are not required for the primary residence.
- (e) Accessory dwellings are subject to the design standards and other zoning requirements of the zoning district in which the existing single-family dwelling is located and must be built in accordance with the building code set forth in Chapter 6 of the Los Altos Municipal Code, except for those design, zoning, and building standards inconsistent with state requirements under California Government Code Section 65852.2.
- (f) An accessory dwelling is not subject to residential accessory structure regulations.
- (g) An accessory dwelling will not be subject to any charges and fees other than building permit fees generally applicable to residential construction in the zone in which the property is located, except as otherwise provided herein.
- (h) Any connection fees and capacity charges that may be required must be assessed in compliance with the provisions of State Government Code Section 65852.2 and 65852.22, and as the sections may be amended over time by the State.
- (i) The accessory dwelling must contain water, sewer and gas and/or electric utility connections that are in working condition upon its occupancy. The accessory dwelling may be **served** by the primary residence or may have separate utility meters. The accessory dwelling will not be considered a new residential use for the purpose of calculating connection fees or capacity charges for these utilities.
- (j) An accessory dwelling unit must have an independent electrical sub-panel, water heating and space heating equipment within the unit or be readily accessible to the occupant on the exterior of the unit.
- (k) Ministerial approval of a permit for creation of an accessory dwelling shall not be conditioned on the correction of pre-existing nonconforming zoning conditions.
- (l) A certificate of occupancy for any accessory dwelling shall not be issued before the local agency issues a certificate of occupancy for the primary dwelling.

(m) If the applicant requests a delay in processing, the 60-day time period shall be **suspended** for the period of the delay.

(n) **Minimum sill height of 5' (60) inches for windows on the second story within 15' of the property line that face out to the neighbors to try to mitigate privacy concerns shall be required.**

14.14.050 Single-Family Residential Accessory Dwelling Unit Standards

Notwithstanding any other provisions of this chapter to the contrary, a single-family residential accessory dwelling unit shall be a permitted as a single-family residential use that shall comply with the following:

(a) Zoning. A single-family residential accessory dwelling unit shall be located in a residential or mixed-use zone district that permits single-family residential development of the lot.

(b) Number. Only one (1) detached single-family residential accessory dwelling unit may be permitted on a parcel that contains not more than one existing or proposed single-family residence. **Additionally, one Junior Accessory Dwelling Unit JADU maybe allowed within the confines of the existing house.**

(c) Relationship to Primary Dwelling. A single-family residential accessory dwelling unit may be within, attached to, or detached from, the proposed or existing primary dwelling, provided that:

(1) A single-family residential accessory dwelling unit contained within or attached to an existing primary dwelling unit shall have independent exterior access from the existing residence; and

(2) A detached single-family residential accessory dwelling unit must be located at least five (5) feet from the proposed primary dwelling.

(d) Size.

(1) A studio or one (1) bedroom, attached or detached single-family residential accessory dwelling unit shall be permitted, and limited to eight hundred fifty (850) square feet in floor area, garage areas excluded.

(2) An attached or detached single-family residential accessory dwelling unit with more than one bedroom shall be permitted, and limited to twelve hundred (1,200) square feet in floor area, garage areas excluded. **The additional square footage above the 850 square foot allowed by State law shall only be allowed if the lot meets the lot coverage and floor area ratio requirements for the zone district they are located in.**

i. The total floor area for an attached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet, excluding the basement areas, and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. **Notwithstanding this requirement, the ADU can be up to 800 square feet.**

ii. The total floor area for a detached accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet, including basement areas, and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this requirement, the ADU can be up to 800 square feet.

~~(3) Notwithstanding the size restrictions provided above, the total floor area of an attached single-family residential accessory dwelling unit, including internal conversions of existing primary living space, shall not exceed fifty (50) percent of the existing or proposed primary dwelling gross floor area, not including the garage. For internal conversions, the accessory dwelling unit floor area shall not exceed fifty (50) percent of the primary residential living space, after conversion.~~

(e) Height.

(1) The maximum height for a detached single-family residential accessory dwelling unit shall be one-story and sixteen (16) feet.

~~(2) The maximum height of a single-family residential accessory dwelling unit that is proposed to be constructed above a detached garage shall be twenty-four (24) feet.~~

(3) Attached single-family residential accessory dwelling units shall comply with the height limits established for the primary residential structure.

(f) Setbacks. A single-family residential accessory dwelling unit is subject to the design criteria and zoning requirements of the district in which the existing single-family dwelling is located and as follows:

(1) A single-family residential accessory dwelling unit must not encroach upon the required front or street side yard area.

(2) A setback of four (4) feet from the interior side and rear lot lines shall be required for a newly constructed, detached single-family residential accessory dwelling unit that is not constructed in the same location and to the same dimensions as an existing structure. Proposed structures that are four (4) feet or less from the property line shall be required to provide a record survey to the City for proof of setbacks and existing property lines.

~~(3) The side yard setback shall be no less than 12 feet for an attached or detached accessory dwelling unit that is abutting a city street or alleyway.~~

(4) The separation from the main house and any other accessory structure on the lot shall be at least five (5) feet unless implementation of this requirement would prohibit the construction of an 850 square foot detached accessory dwelling unit, in which case this requirement shall be waived to be no less than three feet (3). If it is 3 feet the ADU must comply with California Building Code (CBC) requirements for separation.

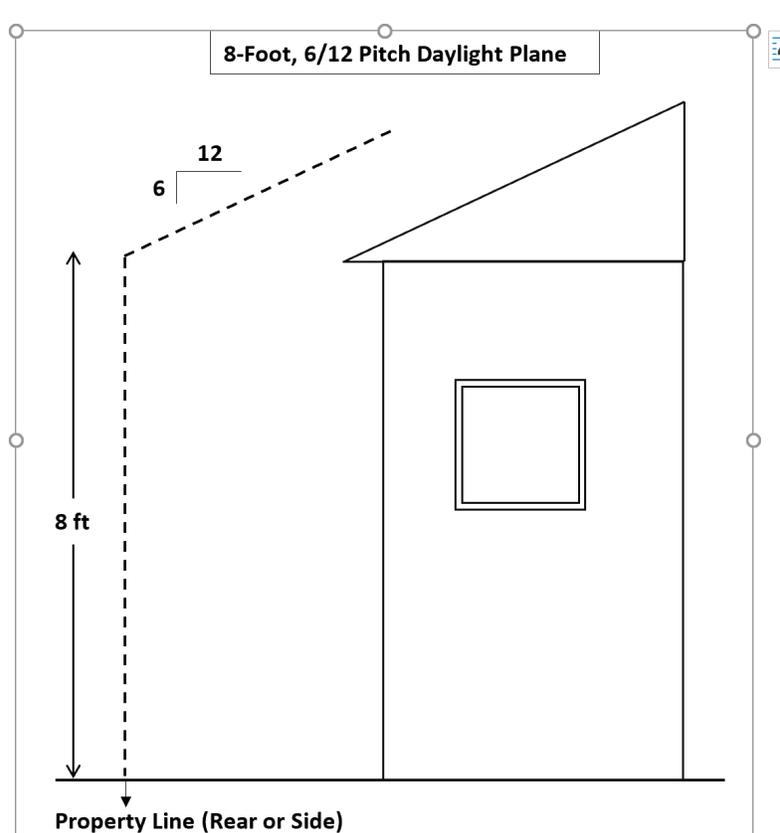
(5) No additional zoning setback is required for conversion of an existing permitted accessory structure, living area, or garage space, or conversion of a structure that is constructed in the same location and to the same dimensions as the existing structure.

(g) Detached Accessory Dwelling Unit Daylight Plane

(1) No portion of an attached or detached accessory dwelling unit shall extend above or beyond a daylight plane as follows:

(2) The daylight plane starts at a height of eight feet at the property line and proceeds inward at a 6:12 slope. All appurtenances, including chimneys, vents and antennas, shall be within the daylight plane. The daylight plane is not applied to a side or rear property line when it abuts a public alley or public street. However, the accessory dwelling unit (ADU) daylight plane shall not be enforced if it prohibits the development of an 850 square foot ADU which is required by state law.

(3) Daylight plane shall not be enforced for an ADU if the structure abuts a city street or alleyway in the rear of the property.



(h) A single-family residential accessory dwelling unit must be built in accordance with the building code set forth in Chapter 14, except that any design, zoning, and building standards inconsistent with state requirements under California Government Code Section 65852.2 shall not apply.

(i) Parking. One (1) additional uncovered parking space of nine feet by eighteen feet (9X18) shall be required for a newly constructed single-family residential accessory dwelling unit, which may be located within the front setback, in tandem and in an existing driveway including within an interior side yard setback area, unless a specific finding is made that such parking is

not feasible due to specific site, topographical or fire and life safety. Notwithstanding the above, a parking stall will not be required for a residential accessory dwelling unit that meets any of the following criteria:

- (1) The single-family residential accessory dwelling unit is created as a result of the conversion of existing area of the single-family residence or existing permitted residential accessory structure.
- (2) An existing garage, carport or parking structure is converted or demolished to accommodate a single-family residential accessory dwelling unit in the same location. If the required parking for the main single-family residence is removed the property owner must submit a **notarized** letter to the City acknowledging removal of said parking could create a nonconformity for future expansions of the single-family dwelling.
- (3) The single-family residential accessory dwelling unit is within one-half (1/2) mile walking distance of a public transit station, such as a bus stop or train station.
- (4) The property is within an architecturally and historically significant historic district.
- (5) On-street parking permits are required in the area but not offered to the occupant of the residential accessory dwelling unit.
- (6) A vehicle share site is located within one (1) block of the single-family residential accessory dwelling unit.
- (j) Design Standards. Architectural review of attached or detached single-family residential accessory dwelling units over **851 square feet** will be limited to the following:

(1) Notwithstanding any other provision of this code, a zoning clearance letter shall be issued for accessory dwelling units and shall be reviewed by the director of community development or their designee for compliance with objective design standards as identified within Chapter 14.06(Single Family Zoning Districts or Chapters 14.16-14.24 (Multi Family Zoning Districts). The permit shall be considered ministerial without discretionary review within the time frames required by Section 65852.2 of the Government Code; when the application is in compliance with the relevant standards, the permit shall be issued. In those instances where an applicant seeks permission to deviate from the standards, a variance shall be filed in accordance with 14.76.070. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay

(2) The architectural features, window styles, roof slopes, exterior materials, colors, appearance, and design of the single-family residential accessory dwelling unit must be compatible with the existing single-family dwelling.

(3) Any window, door or deck of a single-family residential accessory dwelling unit must utilize design techniques to lessen views onto adjacent properties to preserve the privacy of residents. Minimum sill height of 5' (60) inches for windows on the second story within 15' of the property line that face out to the neighbors to try to mitigate privacy concerns shall be required.

(2) For accessory dwelling units that are 851 square feet or greater, the

(3) A new single-family residential accessory dwelling unit located within a historic site or neighborhood combining district will be subject to ministerial review for compliance with the design review criteria set forth in section Chapter 12.44 of the Los Altos Municipal Code and must be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties.

(4) Outside stairways serving a second story single-family residential accessory dwelling unit shall not be constructed on any building elevation facing a public street.

(5) No passageway will be required in conjunction with the construction of any single-family residential accessory dwelling unit.

(k) Streamlined Approval of Accessory Dwelling Units. Notwithstanding the restrictions above, a building permit application for a detached, single-family residential accessory dwelling unit within a residential or mixed-use zone must be a ministerial approved if it is:

(1) Setback four (4) feet from the interior side and rear lot lines; except for properties on a corner lot in which case the street side setback shall be at least twelve (12) feet.

(2) eight hundred (850) square feet in floor area; and

(3) sixteen (16) feet in height.

14.14.060 Junior accessory dwelling unit standards.

Notwithstanding any other provisions in this Article or of this chapter to the contrary, a junior accessory dwelling unit shall be permitted and comply with the following:

150 square feet can be added to a property if doing so will allow ingress/egress for a JADU

(a) Owner-occupancy of the property shall be required for junior accessory dwelling units or the main dwelling unit. The owner may reside in the primary residence, junior accessory dwelling unit or separate residential accessory dwelling unit constructed on the property in compliance with this Article.

(b) One (1) junior accessory dwelling unit may be permitted per residential lot zoned for a single-family residential use, provided that the lot has not more than one (1) existing or proposed single-family residence, and not more than one (1) attached or detached, residential accessory dwelling unit.

(c) The unit must be constructed within the existing walls of a single-family dwelling ~~or accessory structure~~, except that an expansion of 150 square feet beyond the existing physical dimensions of the accessory structure may be permitted to accommodate required ingress and egress.

(d) The square footage of the unit shall be at least the minimum size (150 square feet) required for an efficiency unit, up to a maximum size of five hundred (500) square feet in floor area, and must include one bedroom or studio sleeping area.

~~(e) The unit shall provide side and rear setbacks sufficient for fire and safety.~~

(f) A separate entrance from the unit to the exterior of the residence, and an interior connection to the main living area shall ~~shall~~ **may** be provided. A second interior doorway for sound attenuation may also be permitted.

(g) At least an efficiency kitchen must be provided in the unit which shall include all of the following:

(1) A cooking facility with appliances. Appliances can include hot plate, or counter top cooking. A property owner does not have to a wall installed oven or stove to qualify for a cooking appliances.

(2) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(h) The unit may include separate bathroom facilities or may share bathroom facilities contained within the primary residence.

(i) No separate utility connection, connection fee or capacity charge, or parking space shall be required for a junior accessory dwelling unit.

(j) a deed restriction shall be required for junior accessory dwelling units and must include the following stipulations:

(1) prohibition on the sale of the JADU separate from the sale of the single family residence

(2) if a JADU is rented, the unit shall not be rented for a period of less than thirty (30) consecutive days

(3) owner occupancy is required for the JADU **or the main house**, unless the owner is another government agency, land trust or housing organization as allowed by State Law.

14.14.070 Multi-family accessory dwelling unit standards.

Notwithstanding any other provisions of this chapter to the contrary, multi-family accessory dwelling units shall be permitted and comply with the following:

(a) Portions of existing multi-family dwelling structures that are not used as livable space (including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages), but excluding any residential amenities required to be provided for the facility by the zoning ordinance, or as a condition of project approval, may be converted for use as accessory dwelling units provided that total number of units must not exceed twenty-five (25) percent of the existing multi-family dwelling units or one (1) unit, whichever is greater.

(b) An owner may also construct up to a maximum of two detached accessory dwelling units on a lot that has an existing multifamily dwelling, subject to a height limit of sixteen (16) feet and four (4) foot rear yard and side setbacks.

(c) Accessory dwelling units in multi-family zone districts shall comply with all the standards of the zone district they are located in except for the standards provided in this Chapter.

14.14.080 Voluntary Additional Setback

For a detached accessory dwelling units, the minimum setbacks shall be five feet (5) from the house, and four feet (4) from the interior side and rear yard setbacks. However, so as to reduce the privacy impacts to neighbors if an applicant voluntarily increases the setbacks to be ten (10) feet from the rear yard and eight feet (8) from the interior side yard then the City will grant a reduced daylight plane of: Options 7 or 8 feet 5/12 6/12 1/1 8/12-provide graphics for the Commission on May 6th

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. CEQA. 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 4. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933. Within 15 days of the passage of this ordinance, the City Clerk shall cause the full text of the ordinance, with the names of those City Council members voting for and against the ordinance, to be published in an adjudicated newspaper. In lieu of publishing the full text of the ordinance, the City Clerk, if so directed by the City Attorney and within 15 days, shall cause a summary of the ordinance, prepared by the City Attorney and with the names of the City Council members voting for and against the ordinance, to be published in an adjudicated newspaper, and shall post in the office of the City Clerk a certified copy of the full text of the ordinance, along with the names of those City Council members voting for and against the ordinance. The publication of a summary of the ordinance in lieu of the full text of the ordinance is authorized only where the requirements of Government Code Section 36933(c)(1) are met.

SECTION 5. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

SECTION 6. TRANSMISSION TO HCD. The City Clerk shall send a certified copy of this ordinance to the Department of Housing and Community Development (HCD) within sixty (60) days after adoption, as required by state law.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____, 2020 and was thereafter, at a regular meeting held on _____, 2020 passed and adopted by the following vote:

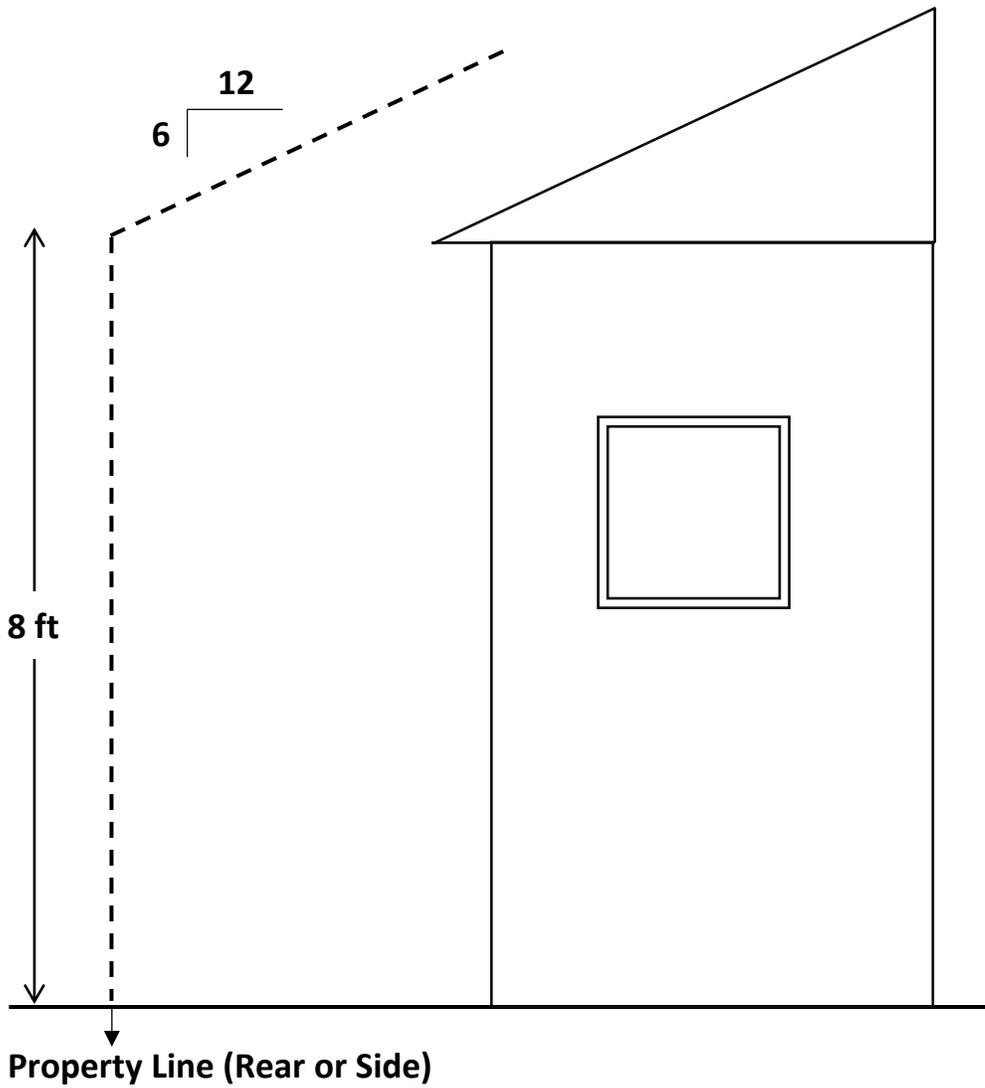
AYES:
NOES:
ABSENT:
ABSTAIN:

Janis C. Pepper, MAYOR

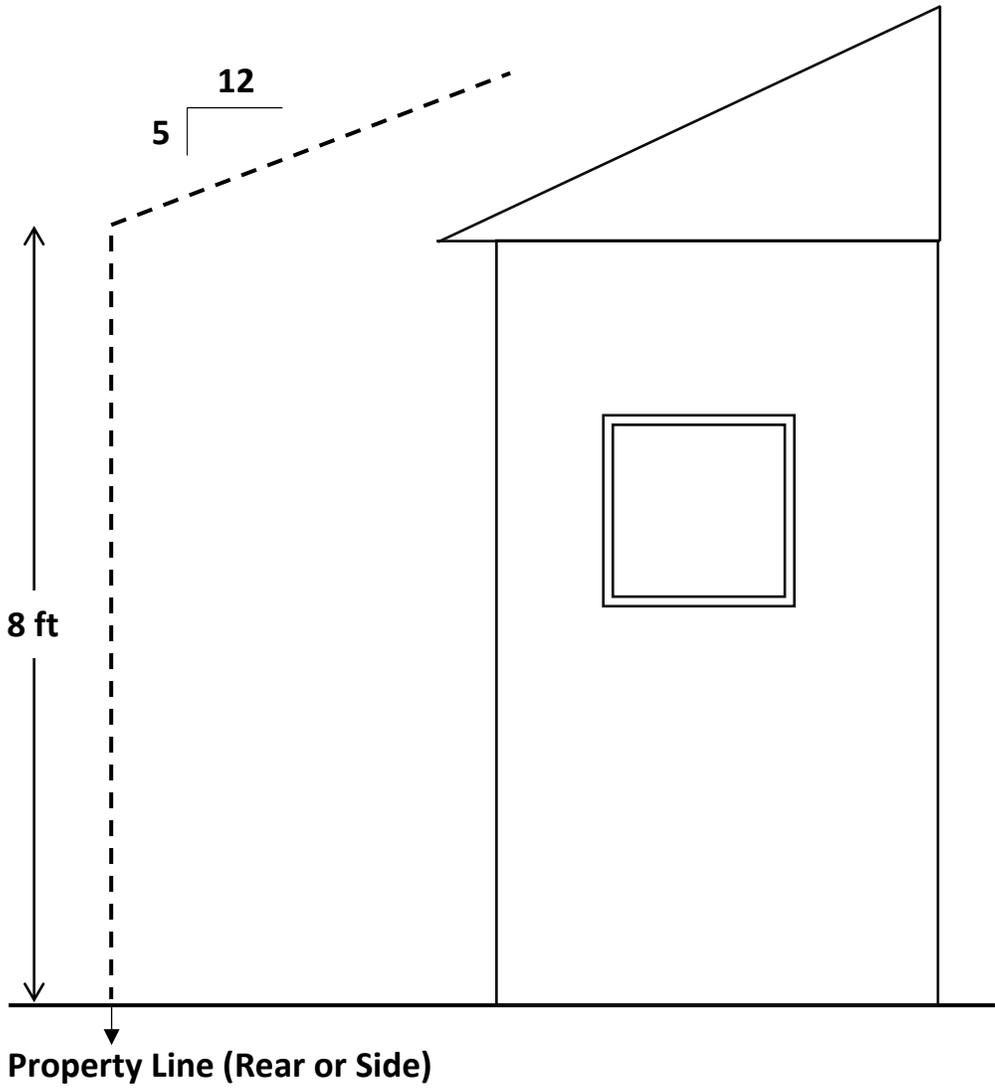
Attest:

Jon Maginot, CMC, CITY CLERK

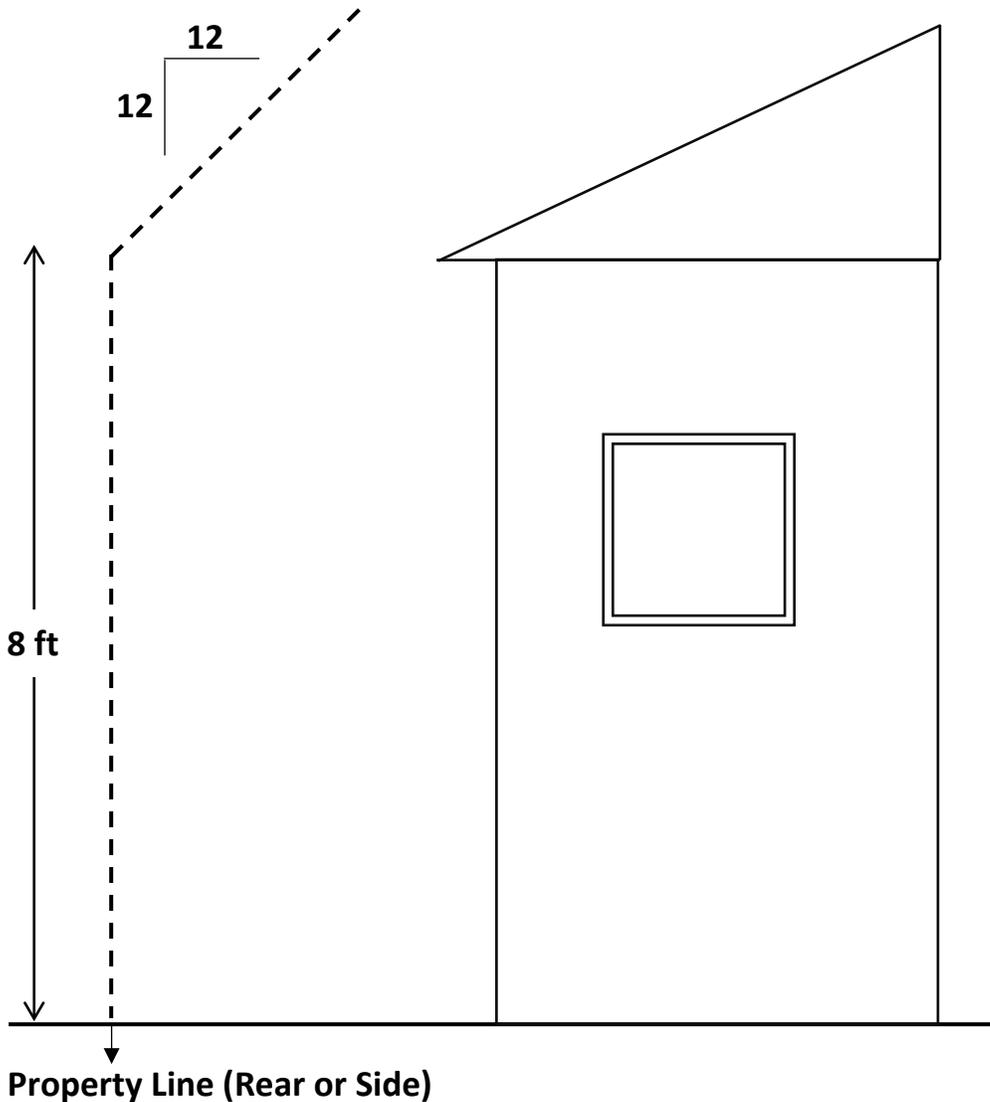
8-Foot, 6/12 Pitch Daylight Plane



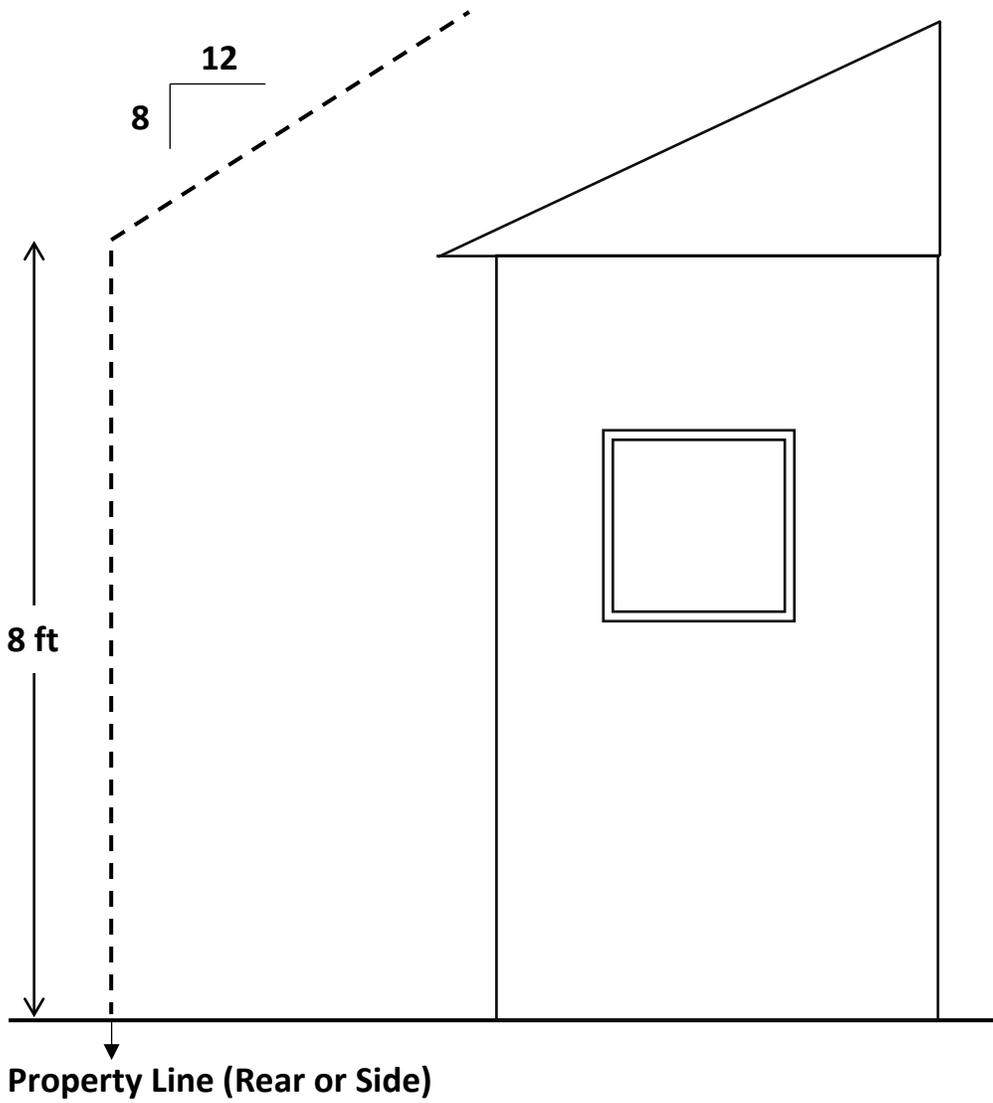
8-Foot, 5/12 Pitch Daylight Plane



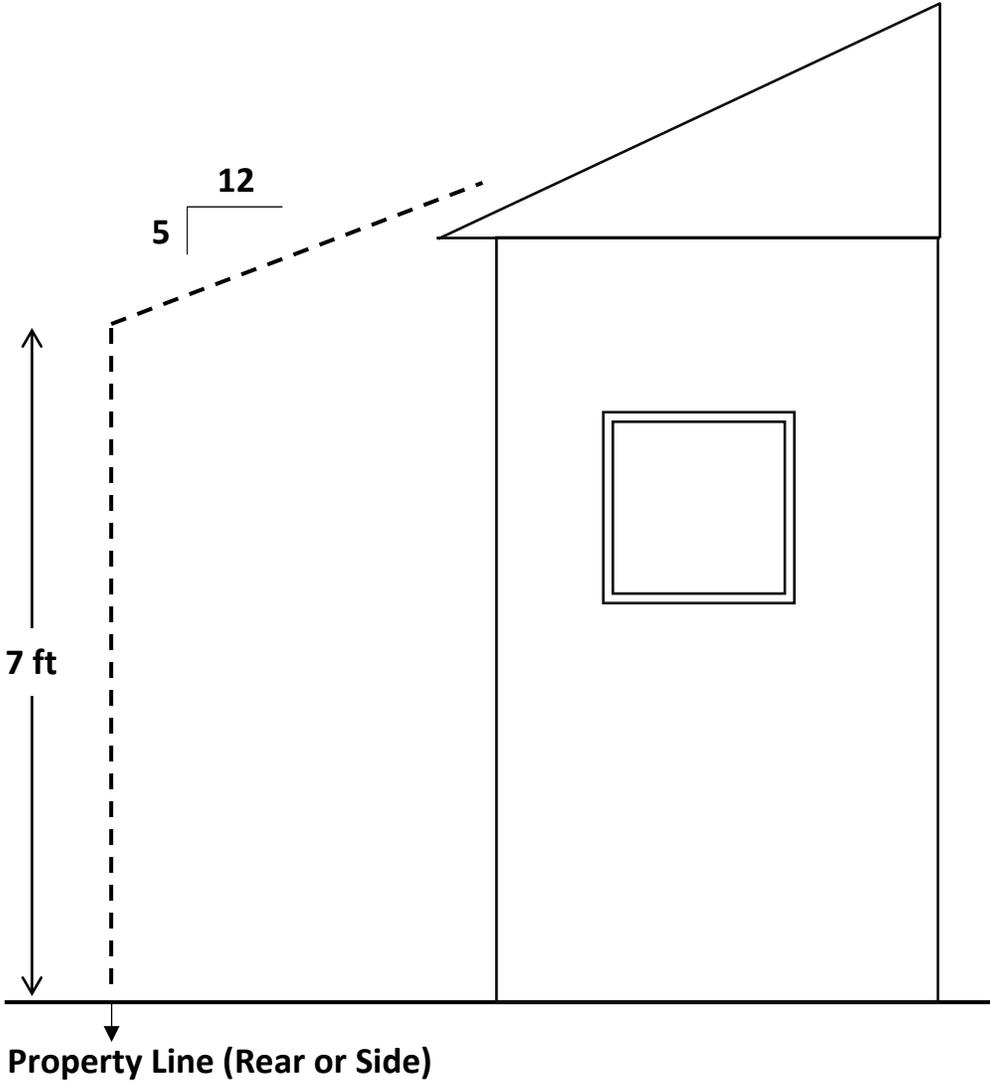
8-Foot, 12/12 Pitch Daylight Plane



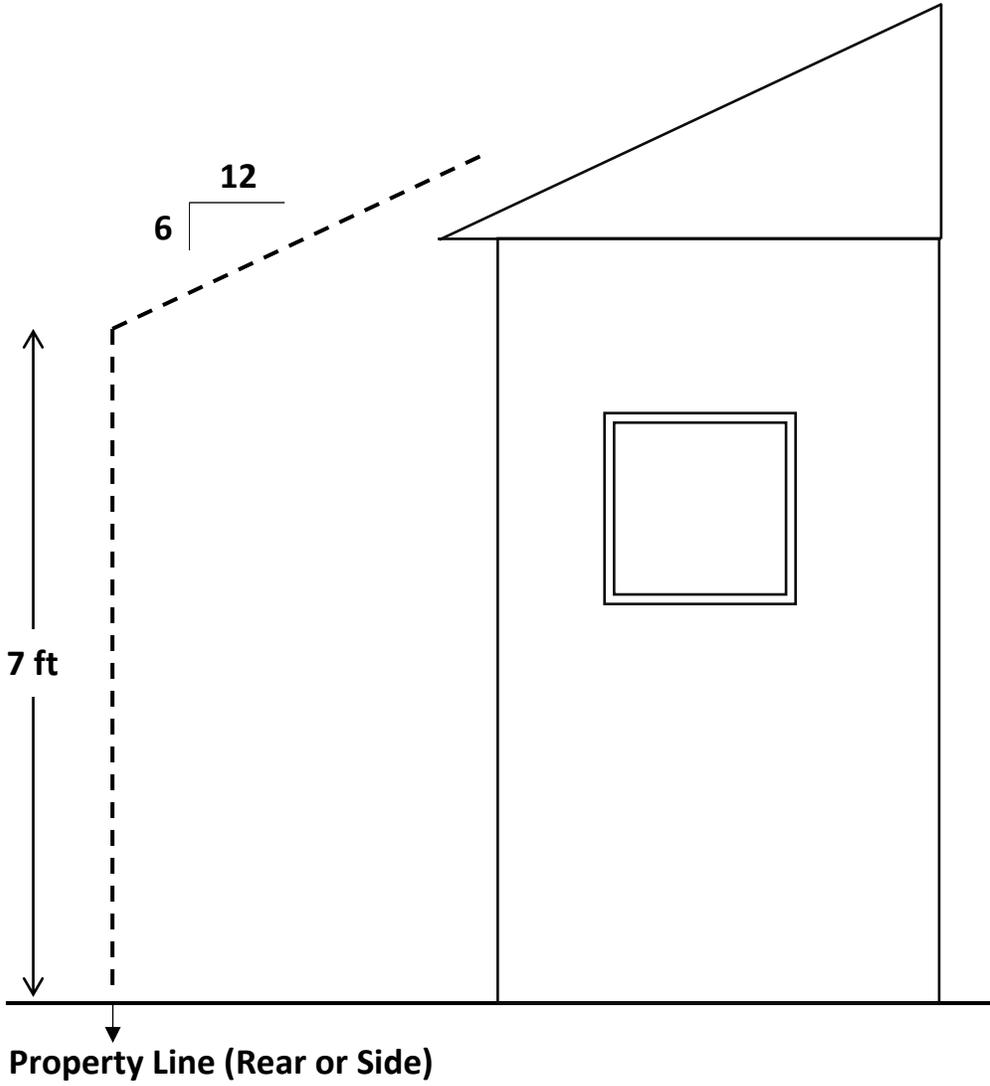
8-Foot, 8/12 Pitch Daylight Plane



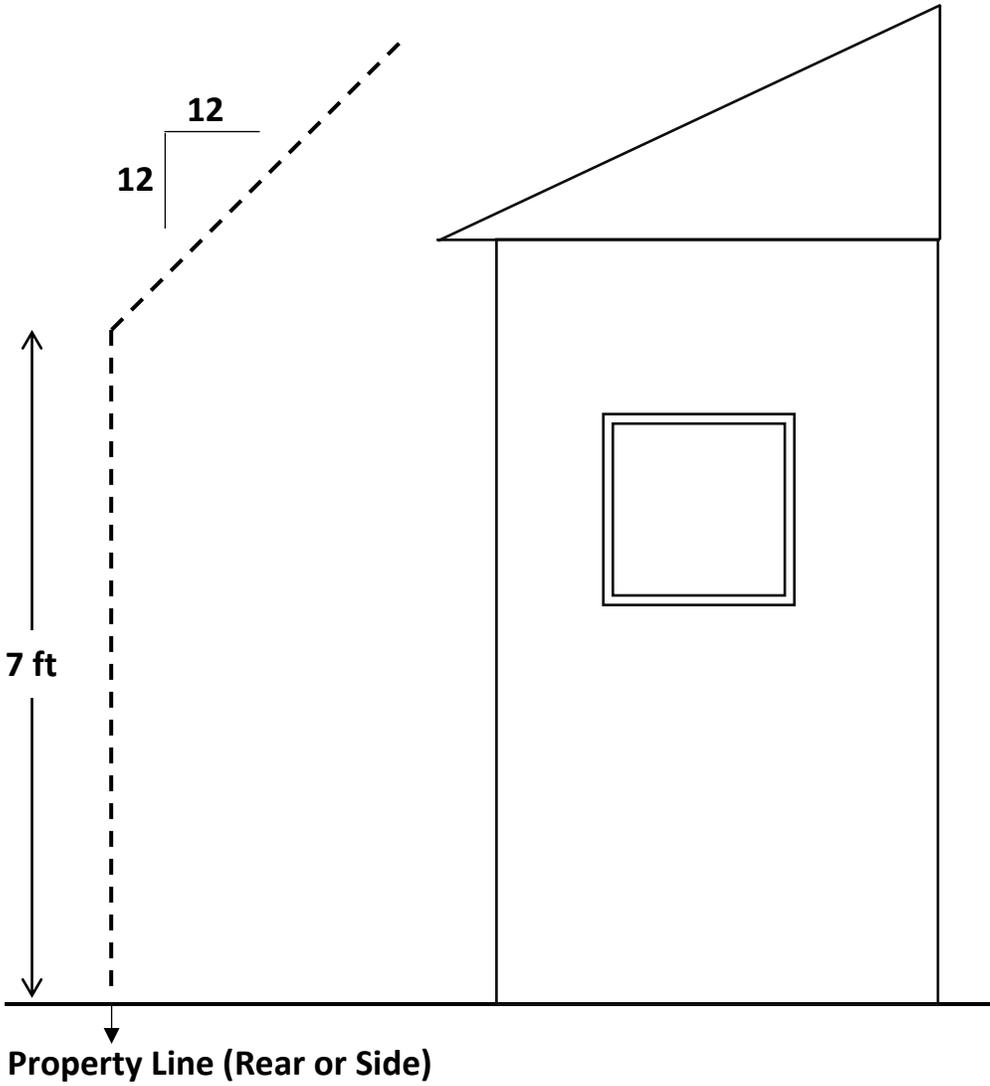
7-Foot, 5/12 Pitch Daylight Plane



7-Foot, 6/12 Pitch Daylight Plane



7-Foot, 12/12 Pitch Daylight Plane



7-Foot, 8/12 Pitch Daylight Plane

