ORDINANCE NO. ____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
REDWOOD CITY AMENDING ARTICLE 33 (NONCONFORMING LOTS,
USES, STRUCTURES AND PARKING), ARTICLE 36 (EXTERIOR SITE
IMPROVEMENTS), ARTICLE 37 (ACCESSORY DWELLING UNITS), AND
ARTICLE 45 (ARCHITECTURAL PERMITS) OF THE ZONING ORDINANCE
REGARDING ACCESSORY DWELLING UNIT REQUIREMENTS

WHEREAS, the City Council of the City of Redwood City is empowered to amend
Zoning Ordinance Article 37 (Accessory Dwelling Units) to align with state policy and increase
affordable housing production. In response to a desire to address the affordable housing
shortage, on October 26, 2015, the City Council amended local Accessory Dwelling Unit
(ADU) regulations, easing the restrictions and encouraging the creation of more units. The
City Council authorized additional revisions to the ADU regulations on March 27, 2017 to
respond to new state law mandates; and

WHEREAS, these prior modifications to Article 37 resulted in significantly more ADU
applications, increasing from an average of about three per year before 2015 to 22 in 2016,
47 in 2017, and 36 in 2018. The number of applications for ADUs above detached garages
increased as well from zero prior to 2017 to three in 2017, nine in 2018, and seven through
May of 2019; and

WHEREAS, the modifications to Article 37 have increased the availability of a variety
of housing types for all income groups, supporting affordable housing and multi-generational
living, but experience has proven that they have also produced unintended consequences
which have had an injurious impact on the neighborhood; and

WHEREAS, the Planning Commission held a duly noticed public hearing on May 21,
2019, which was continued to June 18, 2019, to in accordance with all applicable
requirements of the Redwood City Zoning Ordinance, to consider amendments to Zoning
Ordinance Articles 33 (Nonconforming Lots, Uses, Structures, and Parking), 36 (Exterior Site
Improvements), 37 (Accessory Dwelling Units), and 45 (Architectural Permits) (collectively,
the “Zoning Ordinance Amendments”). At those meetings, the Commission received public
testimony that allowing ADUs above detached garages posed height, massing, and privacy
concerns to residential neighborhoods which have historically not allowed second story
development within rear yards; and

WHEREAS, on July 12, 2019, a public hearing notice was published in the San Mateo
Daily Journal; and

WHEREAS, at the July 22, 2019 City Council held a public hearing on the Zoning
Ordinance Amendments and considered the whole of the record including the Planning
Commission recommendation and materials, staff report and presentation, public
correspondence, and public comments received. The record included facts and evidence that
continuing to issue second story ADUs under Article 37 without amendment poses an
immediate threat to public peace, health and safety because where such units have been
approved, their size, scale and massing has been injurious to the equal rights of the
neighboring property owners. Specifically, these approvals were incompatible with
neighborhood character, compromised privacy, affected light and air, impacted property
values, and posed security concerns; and
WHEREAS, the City Council, pursuant to its police powers, has broad authority to maintain public health and safety by protecting the wholesome condition of the community at large and preserving the quality of urban life, including through the adoption of regulations that advance aesthetic interests; and

WHEREAS, state law limits local discretion to deny ADU applications and the Redwood City Zoning Code requires approval of an Architectural Permit for second story ADUs provided certain aesthetic findings are made; and

WHEREAS, an urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety because at least one application for Architectural Permits for second story ADUs has been submitted and would be deemed complete and/or issued between now and the time a traditional ordinance would be adopted (following a second reading on August 26, 2019 and becoming effective on September 25, 2019); and

WHEREAS, Government Code section 36937(b) authorizes the adoption of an urgency ordinance to protect the public peace, health or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by four-fifths of the Council; and

WHEREAS, failure to adopt this urgency ordinance could result in development that is inconsistent with the City Council’s objectives to protect adjacent and nearby property owners as well as the broader community from ADU construction that is too tall, too large, and inconsistent with neighborhood character; and

WHEREAS, the City Council further finds that this urgency ordinance is a matter of local and City-wide importance and is not directed towards any particular person or entity that currently seeks approvals to construct ADUs in Redwood City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF REDWOOD CITY, AS FOLLOWS:

SECTION 1. Findings. The above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this urgency Ordinance.

SECTION 2. Authority. This Ordinance is adopted pursuant to the provisions set forth in Government Code section 36937(b) and pursuant to other applicable law.

SECTION 3. Imposition of Urgency Ordinance. In accordance with the authority granted the City under its police powers and Government Code section 36937(b), and pursuant to the evidence in the record referenced herein, the City Council hereby finds as follows:

(1) There exists a current and immediate threat to the public peace, health, and safety, requiring this urgency Ordinance because there is evidence in the record to show that the size, scale, and massing of second story ADU units have been or have the potential to be injurious to the equal rights of the neighboring property owners, causing incompatibilities with neighborhood character, compromising privacy,
affecting light and air, impacting property values, and posing security concerns; and

(2) Action must be taken immediately to preserve the public peace, health, and safety because but for the Zoning Ordinance Amendments becoming effective immediately, at least one architectural permit for second story ADUs will be deemed complete and/or issued by the time a traditional ordinance would go into effect.

Now, therefore, the City Council hereby declares and imposes an urgency Ordinance for the immediate preservation of the public peace, health, and safety as set forth below:

A. The City Council of the City of Redwood City hereby adopts the Zoning Ordinance Amendments as provided in Exhibit A, attached hereto and incorporated by reference, by adding text shown in underline (example) and deleting the text shown in strikeout (example). Wording in brackets ([example]) is informational only and is not to be included in the published ordinance.

SECTION 4. Effective Date and Duration. Pursuant to Government Code section 36937(b), this Ordinance shall take effect immediately.

SECTION 5. Compliance with CEQA. The proposed Zoning Ordinance Amendments have been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.). Adoption of an ordinance regarding accessory dwelling units in a single-family or multifamily residential zone to implement the provisions of Government Code is an action that is exempt from the provisions of CEQA under Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h). The remaining amendments have been evaluated and found to not have an impact on the environment under CEQA Guidelines Section 15061(b)(3) as it can be seen with certainty that they will not have an impact on the environment, as described in the staff report.

SECTION 6. Severability. The City Council hereby declares every section, paragraph, sentence, cause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 7. Applicability. This Ordinance shall not apply to applications deemed complete prior to the Ordinance’s effective date.

SECTION 8. Publication. The City Clerk is directed to cause this ordinance to be published in the manner required by law.

THE FOREGOING URGENCY ORDINANCE was introduced and adopted, effective immediately, at a regular meeting of the City Council of the City of Redwood City held on July 22, 2019, by the following vote:

* * *
EXHIBIT A

ZONING ORDINANCE AMENDMENTS

[Article 37 is amended as follows]

Article 37 - ACCESSORY DWELLING UNITS

37.1 - Purpose. The purpose of this section is to:
   A. Allow accessory dwelling units on single-family residential properties while respecting the character of the residential neighborhood.
   B. Increase the availability of a variety of housing types that is accessible for all income groups.
   C. Support affordable housing and multi-generational living.
   D. Encourage housing construction or alteration to meet the needs of residents with special needs including residents with disabilities.
   E. Create flexibility in the design and location of accessory dwelling units.
   F. Maintain adequate setback requirements and height limitations.

37.2 - Definition. An accessory dwelling unit, commonly known as a second unit or in-law unit, is an attached or detached dwelling unit that is located on the same lot as a single-family dwelling and provides complete living, sleeping, eating, cooking, and sanitation facilities separate and independent of the main dwelling. A second unit also includes an efficiency unit, as defined in Section 17958.1 of Health and Safety Code and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

37.3 - Development Standards. An accessory dwelling unit may be constructed on the same lot as an existing or proposed single-family dwelling in the RH, R-1, R-2, R-3, R-4, and R-5 zoning districts, subject to the following development standards:
   A. Number and Location.
      1. No more than one (1) accessory dwelling unit may be located on the same lot that has an existing or proposed single-family dwelling. Accessory dwelling units are not required to meet the density requirements of the General Plan or zoning ordinance and do not count toward the permissible number of units per acre (or required lot area per dwelling).
      2. Accessory dwelling units may be attached to, detached from, or located within the living area of the existing dwelling.
   B. Lot Coverage. The maximum allowable lot coverage for all structures on a single-family lot, including an accessory dwelling unit and accessory buildings, shall be limited to the maximum allowable lot coverage of the underlying zoning district.
   C. Building Height and Setbacks.
      1. Attached Accessory Dwelling Unit. The height and setbacks of an attached accessory dwelling unit are subject to the requirements of the underlying zoning district and the setback requirements in Section 32.3 (Supplemental Setback Requirements) and shall have independent exterior access.
      2. Detached Accessory Dwelling Unit. The height and setbacks of a detached accessory dwelling unit shall be subject to the requirements of Section 36.5 (Accessory Buildings) with the following exceptions.
a. **Rear Yard Setback.** A detached accessory dwelling unit shall be set back six (6) ten (10) feet from the rear property line.

b. **Conversion of Accessory Building.** A legal accessory building may be converted into an accessory dwelling unit provided the side and rear setbacks are sufficient for fire safety. Any expansion of the building shall meet current requirements for an accessory dwelling unit.

c. **Replacement of Detached Garages.** A detached garage may be replaced by an Accessory Dwelling Unit provided it complies with required setbacks.

d. **Second Story.** If an accessory dwelling unit is constructed above a garage, the minimum second-story setback is five (5) feet from the rear and side property lines and the maximum height is twenty (20) twenty-eight (28) feet. [State Law and City Zoning Standards]

1. No more than 280 square feet of the accessory dwelling unit shall be constructed over a detached garage. The remaining allowable square footage may be constructed on the first floor.

2. Balconies and second story decks shall be prohibited.

3. Open stairways shall be located interior to the site and not facing the immediately adjacent side or rear yards.

4. Second story plate height shall be limited to eight (8) feet.

5. Windows facing immediately adjacent side and rear neighbors shall be made opaque or clerestory.

e. **Rear Yard Lot Coverage:** A detached one-story accessory dwelling unit shall be exempt from the rear yard coverage limitation in Sections 5.5 and 36.5(G).

3. [Reserved.]

4. [Reserved.]

5. **Square Footage.** The maximum allowable floor area for an accessory dwelling unit shall not exceed the area specified below, provided that in no instance may the size of an attached accessory dwelling unit exceed fifty (50) percent of the existing living area.

a. **Standard Units.** Accessory dwelling units shall not exceed seven hundred (700) square feet, except as specified in subsections (b), (c), and (d) below.

b. **Accessible Units.** Units meeting the California Building Code requirements for disabled access are permitted to have up to one thousand (1,000) eight hundred (800) square feet of floor area.

c. **RH and R-1 Lots Greater Than or Equal to ten thousand (10,000) Square Feet.** For lot sizes greater than or equal to ten thousand (10,000) square feet in the RH and R-1 zoning districts, the maximum allowable floor area for an accessory dwelling unit is nine hundred (900) square feet.

6. **Definition of Floor Area.** For the purposes of this article, floor area for an accessory dwelling unit shall not include garages, carports, and covered porches.

D. **Parking.** No additional parking spaces are required for the accessory dwelling unit. If a garage or carport is converted or demolished in conjunction with the construction of an accessory dwelling unit, the required replacement spaces may be uncovered. Replacement spaces shall be located on any paved area on the lot, including within any setback. Tandem configuration is permitted.

E. **Pervious Area in Front Yard.** The front yard shall be subject to the minimum pervious area and stormwater requirements of the underlying zoning district.

F. **Architectural Standards.** An accessory dwelling unit shall be generally architecturally compatible with the architectural style and exterior paint and materials of the single-family dwelling on the same lot.

G. **Stormwater Treatment.** Accessory dwelling units are subject to the requirements of Section 32.12 (Stormwater Treatment), including creek protection and setbacks.
H. **Passageway.** A passageway is not required in conjunction with the construction of an accessory dwelling unit, unless mandated by the Americans with Disabilities Act or other state or federal safety code or standard. A passageway is a pathway that is unobstructed and clear to the sky that extends from the street to the door of the accessory dwelling unit.

I. **Historic Preservation.** Any accessory dwelling unit located in a historic district or on a site with a historic landmark shall be subject to the requirements of Chapter 40 (Historic Preservation) of the City Code.

37.4 - **Application.**
An accessory dwelling unit that includes a second-story element shall require approval of an Architectural Permit in accordance with Article 45.

37.5 - **Rental Only.**
The accessory dwelling unit shall not be intended or offered for sale, nor sold, but may be rented.

37.6 - **Homeowner Occupancy.**
A. **Occupancy.** The property owner shall live on-site in either the main unit or the accessory dwelling unit.

B. **Exception.** The homeowner may live off-site and rent out both the main house and the ADU if the homeowner has a medical condition that requires residency elsewhere or accepts a job offer outside of the San Francisco Bay Area.

1. **Process for Review.** Applications for Exception to the Homeowner Occupancy Requirement shall be filed with the Community Development Department by owner of the property affected and shall be reviewed by the Planning Manager or his/her designee. The application shall include pertinent information as may be required by the Planning Manager or his/her designee that demonstrates conformance with the exception criteria described in this subsection B.

2. **Action.** The Planning Manager may take the following actions within 45-days of application submittal:
   a. Request additional information.
   b. Approve or deny the application.
   c. A written decision will be provided to the applicant.

[Article 45, Section 45.2 is amended as follows]

**Article 45 – ARCHITECTURAL PERMITS**

45.2 - **Applicability.**
The following projects require an Architectural Permit:
[Subsections A-C are unchanged]

D. **Additions on Sloping Lots.** One-story new construction, additions, new two-story accessory dwelling units or exterior modifications when the lot has a slope of fifteen (15) percent or greater and the total gross floor area is three thousand (3,000) square feet or more. If the lot slope is thirty (30) percent or greater, an Architectural Permit is required for changes of any size. These provisions apply to any single-family, duplex or two-story accessory dwelling unit.

[Article 33, Section 33.11 is amended as follows]
Article 33 – NONCONFORMING LOTS, USES, STRUCTURES, AND PARKING

33.11 - Repair of Nonconforming Structures.
Notwithstanding the provisions of Section 33.10, any nonconforming structure may be repaired and/or altered, provided that:

[Subsections A-C are unchanged]

D. Existing nonconforming accessory structures may be repaired, reconstructed, or converted into accessory dwelling units, provided that there is no increase in the nonconformity caused or created by such structure.
[Article 36, Section 36.5 is amended as follows]

Article 36 - EXTERIOR SITE IMPROVEMENTS

36.5 - Accessory Buildings.
The requirements of this section apply to all accessory buildings in any zoning district.

[Subsections A-G are unchanged]

H. Provisions for roof decks. Roof decks shall be prohibited on top of accessory structures.