

## **ORDINANCE NO. 2017 - 1118**

### **AN ORDINANCE OF THE CITY OF BELMONT AMENDING REGULATIONS FOR ACCESSORY DWELLING UNITS IN THE BELMONT ZONING ORDINANCE (ORDINANCE NO. 360)**

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THE CITY COUNCIL OF THE CITY OF BELMONT DOES ORDAIN AS FOLLOWS:

#### **SECTION 1. BZO SECTION 2.2 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 2.2 is amended to read:

- 2.2 ACCESSORY BUILDING - A building which is subordinate to, and the use of which is incidental to that of the main building or use on the same lot; including detached accessory dwelling units.

#### **SECTION 2. BZO SECTION 2.25 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 2.25 is amended to read:

- 2.25 BUILDING, PRINCIPAL – A building in which the principal use of the lot upon which it is situated is conducted. Every dwelling in any R District is a principal building. A detached accessory dwelling unit, as defined herein, is not a principal building.

#### **SECTION 3. BZO SECTION 2.34 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 2.34 is amended to read:

- 2.34 CARPORT - A structure to house or protect motor vehicles which are owned or operated by the occupants of the lot.

#### **SECTION 4. BZO SECTION 2.104.3 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 2.104.3 is amended to read:

- 2.104.3 SECONDARY DWELLING UNIT - A secondary dwelling unit is an accessory dwelling unit as defined in Section 24.

#### **SECTION 5. BZO SECTION 4.2.1 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.2.1 is amended to read:

- 4.2.1 PERMITTED USES
- (a) [Text unchanged]

- (b) Accessory dwelling units in compliance with development standards in Section 24, Accessory Dwelling Unit.

(c) – (i) [Text Unchanged]

#### SECTION 6. BZO SECTION 4.2.2 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.2.2 is amended to read:

4.2.2 **CONDITIONAL USES** - The following uses shall be permitted only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

(a) – (n) [Text Unchanged]

#### SECTION 7. BZO SECTION 4.2.3 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.2.3 is amended to read:

4.2.3 **SITE AREA, DIMENSION AND DENSITY LIMITATIONS.**

(a) – (c) [Text and Tables Unchanged]

(d) **ALLOWABLE GROSS FLOOR AREA.** Except as provided in Section 24, the maximum allowable Gross Floor Area (GFA) without approval of a floor area exception is the lesser of the permissible GFA in Table 4 – Slope/Intensity and Table 5 – Lot Size/Intensity.

(d)(1) – (d)(2) [Text and Tables Unchanged]

(e) **HEIGHT (Single-Family Districts)** - The maximum height of a primary structure is 28 feet. Except as provided in Section 24, the maximum height of an accessory structure is 15 feet.

(f) **NUMBER** - Not more than one building designed or used as a single family dwelling, and not more than one accessory dwelling unit, as defined herein, shall occupy a lot.

(g) [Text and table unchanged]

#### SECTION 8. BZO SECTION 4.2.5 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.2.5 is amended to read:

4.2.5 **SIDE YARD**

(a) – (b) [Text unchanged]

(c) Except as provided in Section 24, no accessory building on a reversed corner lot shall project beyond the inner line of the front yard required on the adjacent lot to the rear, nor be located less than five feet from the side lot line of such adjacent

lot.

- (d) Except as provided in Section 24, a detached accessory building on an interior lot must be located at least five feet from the side lot line.
- (e) Except as provided in Section 24, a detached accessory building on a corner lot must be located at least fifteen feet from side lot line having frontage on a street, and five feet from the interior side lot line.

#### SECTION 9. BZO SECTION 4.2.6 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.2.6 is amended to read:

- 4.2.6 REAR YARD - The minimum depth of any rear yard is 30 feet in the R-1E and R-1H Districts, 20 feet in the R-1A Districts, and 15 feet in the R-1B and the R-1C Districts; Accessory buildings (i.e.garages, accessory dwelling units and storage sheds) may be built to within five feet of any rear lot line in all Single Family Residential (R-1) Districts.

#### SECTION 10. BZO SECTION 4.2.7 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.2.7 is amended to read:

- 4.2.7 OFF-STREET AUTOMOBILE PARKING - Off-street automobile parking space must be provided in accordance with Section 8 and 24, as applicable.

#### SECTION 11. BZO SECTION 4.3.1 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.3.1 is amended to read:

- 4.3.1 PERMITTED USES
  - (a) [Text unchanged]
  - (b) Accessory dwelling units in compliance with Section 24.
  - (c) – (h) [Text unchanged]

#### SECTION 12. BZO SECTION 4.3.3 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.3.3 is amended to read:

- 4.3.3 SITE AREA, DIMENSION AND DENSITY LIMITATIONS
  - (a) – (d) [Text Unchanged]
  - (e) HEIGHT (Single-Family Districts) - The height of the principal building may not exceed two stories or 35 feet. Except as provided in Section 24, the height of other structures may not exceed 15 feet.

- (f) NUMBER - Not more than one building designed or used as a two family dwelling (duplex), or a single family dwelling and an accessory dwelling unit, as defined herein, shall occupy a lot.

**SECTION 13. BZO SECTION 4.3.4 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.3.4 is amended to read:

- 4.3.4 YARD REQUIREMENTS - Except as provided in Section 24, the yard requirements set forth in Sections 4.2.4, 4.2.5 and 4.2.6 for R-1C district apply to R-2 districts.

**SECTION 14. BZO SECTION 4.3.5 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.3.5 is amended to read:

- 4.3.5 OFF-STREET AUTOMOBILE PARKING - Off-street automobile parking space shall be provided in accordance with the provisions of Section 8 and 24, as applicable.

**SECTION 15. BZO SECTION 4.4.4 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.4.4 is amended to read:

- 4.4.4 YARD AREAS - No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement, except as provided for in Section 24 and in the Downtown Specific Plan Area as identified in the Downtown Plan Zoning Policy Map Figure 5.1.

(a) – (c) [Text Unchanged]

**SECTION 16. BZO SECTION 4.4.7 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.4.7 is amended to read:

- 4.4.7 OFF-STREET PARKING - Off-street automobile parking space shall be provided in accordance with the provisions of Section 8 and 24, as applicable.

**SECTION 17. BZO SECTION 4.5.7 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.5.7 is amended to read:

- 4.5.7 OFF-STREET PARKING - Off-street automobile parking space shall be provided in accordance with the provisions of Section 8 and 24, as applicable.

**SECTION 18. BZO SECTION 4.6.7 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.6.7 is amended to read:

- 4.6.7 OFF-STREET PARKING - Off-street automobile parking space shall be provided in accordance with the provisions of Section 8 and 24, as applicable.

**SECTION 19. BZO SECTION 4.7.2 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.7.2 is amended to read:

- 4.7.2 PERMITTED USES - The following uses shall be permitted in the HRO-1, HRO-2 and HRO-3 Districts:

(a) – (b) [Text unchanged]

(c) Accessory structures and uses located on the same site as a one-family residence for which the use is clearly related to single-family dwelling, including the following:

(1) – (7) [Text unchanged].

(8) Accessory Dwelling Units

**SECTION 20. BZO SECTION 4.7.3 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.7.3 is amended to read:

- 4.7.3 CONDITIONAL USES - The following uses are permitted in the HRO-1, HRO-2, and HRO-3 Districts, except as otherwise specified, only when authorized by a Conditional Use Permit issued in accordance with the provisions of Section 11 herein:

(a) – (n) [Text unchanged]

**SECTION 21. BZO SECTION 4.7.5 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.7.5 is amended to read:

- 4.7.5 YARD AREA REQUIREMENTS FOR HRO-1, HRO-2, AND HRO-3 ZONES:

(a) [Text Unchanged]

(b) Except as provided in Section 24, the minimum yard areas for accessory structures shall be as follows:

(1) Front yard 18 feet.

(2) Side and rear yards 7 feet.

(3) No accessory building on a reversed corner lot shall project beyond the inner line of the front yard required on the adjacent lot to the rear, nor be located less than seven feet from the side lot line of such adjacent lot.

(4) A detached accessory building on a corner lot must be located at least

fifteen feet from side lot line having frontage on a street, and seven feet from the interior side lot line.

- (c) Except as provided in Section 24, the total of all accessory structures shall not occupy more than 30% of any required yard area.
- (d) [Text Unchanged]

#### SECTION 22. BZO SECTION 4.7.6 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.7.6 is amended to read:

- 4.7.6 BUILDING HEIGHT - The maximum height for primary structures shall be 28 feet. Except as provided in Section 24, the maximum height for accessory structures shall be 15 feet.

#### SECTION 23. BZO SECTION 4.7.7 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.7.7 is amended to read:

- 4.7.7 OFF-STREET PARKING - Off-street automobile parking spaces shall be provided in accordance with the provisions of Section 8 and 24, as applicable.

#### SECTION 24. BZO SECTION 4.7.11 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.7.11 is amended to read:

##### 4.7.11 HRO-2 ZONING DISTRICT STANDARDS

- (a) [Text unchanged]
- (b) FLOOR AREA RATIO - Except as provided in Section 24, the permitted floor area on lots 40,000 sq. ft. or larger in area shall be 3,500 sq. ft. The permitted floor areas on lots less than 40,000 sq. ft. are based on lot slope and shall be determined using the applicable floor area ratio in Table 2. The floor area on each lot shall not total more than 3,500 sq. ft. and is allowed to be at least 900 sq. ft.
- (c) – (g) [Text unchanged]

#### SECTION 25. BZO SECTION 4.7.12 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 4.7.12 is amended to read:

##### 4.7.12 HRO-3 ZONING DISTRICT STANDARDS

- (a) [Text unchanged]
- (b) FLOOR AREA - Except as provided in Section 24, the maximum allowable floor

area for single-family homes shall be 3,500 sq. ft. and 3,750 for single-family homes with three-car garages, 2,500 sq. ft. average unit size for townhouse developments, and 2,500 sq. ft. for single-family homes on substandard lots and on lots over 45% average slope.

(c) [Text unchanged]

#### SECTION 26. BZO SECTION 8.1.2 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 8.1.2 is amended to read:

8.1.2 Except as provided in Section 24, when the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use.

#### SECTION 27. BZO SECTION 8.1.4 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 8.1.4 is amended to read:

8.1.4 Except as provided in Section 24, all new buildings and new dwelling units within existing buildings must have the vehicle parking spaces required by Section 8.4.

#### SECTION 28. BZO SECTION 8.2.1 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 8.2.1 is amended to read:

8.2.1 EXISTING PARKING AND LOADING FACILITIES - Except as provided in Section 24, accessory off-street parking or loading facilities which are located on the same site as the building or use served, and which were in existence on the effective date of this Ordinance, or were provided voluntarily after such effective date, shall not hereafter be reduced below, or if already less than, shall not further be reduced below the requirements of this Ordinance for such building or use.

#### SECTION 29. BZO SECTION 8.2.6 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 8.2.6 is amended to read:

8.2.6 LOCATION OF REQUIRED PARKING FACILITIES - The location of off-street parking and garage spaces in relation to the use served shall be as follows. All distances specified shall be walking distances between such parking spaces and a main entrance to the use served.

(a) For Uses in a Single (R-1) or Duplex Residential (R-2) District the following standards apply.

(1) – (2) [Text unchanged]

(3) Except as provided in Section 24, no parking or paving outside of the required paved driveway and parking surface area shall be permitted between the front of the dwelling and the front property line.

(4) – (8) [Text unchanged]

(b) [Text unchanged]

**SECTION 30. BZO SECTION 8.4.1 AMENDED**

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 8.4.1 is amended to read:

**8.4.1 RESIDENTIAL USES.**

(a) Single Family Dwellings. The following standards apply to single family dwellings.

(1) New single family dwellings must have a total of 4 parking spaces, 2 of which must be in a garage.

(2) Existing single family dwellings.

(A) Existing single family dwellings with an addition that expands the bedroom count of the principal unit, must have the parking spaces specified in Table 8.4.1(a)(2).

(B) Except as provided in Section 24 of this Ordinance, existing single family dwellings with one or more garage spaces may not reduce the number of garage spaces to fewer than 2.

(C) Existing single family dwellings without a covered space may use a carport for required covered parking.

(D) Accessory Dwelling Units. Parking shall be provided as required by Section 24.

Table 8.4.1(a)(2) – Parking Space Requirements for Additions

Home with addition	Required Parking # = total required spaces (#) = required covered spaces
Six Bedrooms or more	4(2)
Five Bedrooms	3(1)
Four Bedrooms	3(1)
Three Bedrooms	2(1)

(b)– (e) [Text unchanged]

**SECTION 31. BZO SECTION 9.5.5 AMENDED**



City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 9.5.4 is amended to read:

9.5.4 ACCESSORY BUILDINGS

- (a) Accessory buildings as regulated herein are permitted in any district, if constructed either at the same time as the main building on the lot, or subsequently.
- (b) In any R District, nonhabitable one story detached accessory buildings (i.e. garages and storage sheds) may occupy part, but not more than 40 percent, of the required yard areas; provided however, that no detached accessory building shall be located in front of the main building.
- (c) Detached accessory dwelling units may occupy required yard areas, as provided in Section 24.

SECTION 32. BZO SECTION 9.7.1 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 9.7.1 is amended to read:

9.7.1 PERMITTED IN ANY YARD

- (a) – (g) [Text unchanged]
- (h) Uncovered parking spaces required in conjunction with the creation of an Accessory Dwelling Unit under Section 24.

SECTION 33. BZO SECTION 9.7.3 AMENDED

City of Belmont Ordinance No. 360 (“Belmont Zoning Ordinance”) Section 9.7.3 is amended to read:

9.7.3 YARD REQUIREMENTS - ACCESSORY USES

- (a) In any R District, garden structures (e.g., pergola, arbor, trellis, etc.) that do not require a building permit and otherwise meet building standards may occupy any yard area.
- (b) Accessory buildings (i.e. garages, accessory dwelling units, and storage sheds) may occupy part of the yard area subject to the limitations contained in Sections 4, 9, and 24, and shall be included in the calculation of floor area ratio (FAR), when the floor to ceiling distance of such buildings is greater than or equal to six feet and six inches in height.
- (c) – (d) [Text unchanged]

SECTION 34. BZO SECTION 24 REPEALED.

BZO Section 24 (Secondary Dwelling Unit) is repealed in its entirety.

SECTION 35. NEW BZO SECTION 24 ENACTED.

BZO Section 24 (Accessory Dwelling Units) is enacted as follows:

SECTION 24 – ACCESSORY DWELLING UNITS

- 24.1 Authority and Purpose. This section regulates the establishment of accessory dwelling units in all residential zoning districts in accordance with Government Code Section 65852.2, and as required by Government Code Section 65852.150 is intended to have the effect of providing for the creation of accessory dwelling units.
- 24.2 Definitions.
- (a) *Accessory dwelling unit (ADU).* Accessory dwelling unit means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation, and is located on the same parcel as a single-family dwelling. An accessory dwelling unit may consist of an efficiency unit, as defined in Section 17958.1 of Health and Safety Code; or a manufactured home, as defined in Section 18007 of the Health and Safety Code.
  - (b) *Accessory Dwelling Unit, Interior.* An interior accessory dwelling unit means an ADU in a Single Family Zone, which includes (Single-family Residential), HRO (Hillside Residential and Open Space) or residential PD (Planned Development) zones, and is located entirely within the existing and legally created space of a single-family home or accessory structure.
  - (c) *Accessory Dwelling Unit, Attached.* An attached accessory dwelling unit means an ADU which is constructed as a vertical or horizontal addition to a single family home (primary dwelling unit).
  - (d) *Accessory Dwelling Unit, Detached.* A detached accessory dwelling unit means an ADU which is constructed as an independent structure, surrounded by open space and on the same lot as the primary dwelling unit, except that it can be attached to an accessory structure (e.g., garage).
  - (e) *Attached Building.* An attached building means a building that is connected by substantial construction to another building; substantial construction includes extension of common building walls and/or roof lines. Buildings attached via a breezeway must include substantial construction and both of the following:
    - (1) Framing and other connections.
    - (2) Shelter and a walkable surface above grade between the two buildings located on the same site.
  - (f) *Cooking Facility.* A cooking facility means an area containing a refrigeration appliance; and, a kitchen sink and cooking appliance, each having a clear working space of not less than 30 inches. “Cooking appliance” includes any appliance capable of cooking food, including a range, stove, oven, microwave, or hot plate, but not including a toaster or electric kettle.
  - (g) *Living Area.* The term Living Area has the meaning defined in Government Code Section 65852.2, which states: “The interior habitable area of a dwelling unit including basements and attics and does not include a garage or any accessory

structure.”

- (h) *Owner Occupied.* Owner occupied means the owner currently resides on the property.
- (i) *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.”
- (j) *Sanitation Facilities.* Sanitation facilities means a toilet, sink, and bathtub or shower.
- (k) *Sleeping Facilities.* Sleeping facilities means an area dedicated to sleeping that meets building code requirements for habitability.
- (l) *Short-term Rentals.* Short-term rentals means rentals for less than 30 days.

#### 24.3 Development Standards.

- (a) *General Provisions.* The following provisions apply to all Accessory Dwelling Units:
  - (1) The lot must contain an existing single-family home and no other dwelling units. No more than one accessory dwelling unit may be constructed on any lot.
  - (2) The project site must be zoned for residential use (Single or Multi-family), including R-1, R-2, R-3, R-4, R-5, Hillside Residential and Open Space (HRO), and residential Planned Developments (PD) Districts.
  - (3) At the time of application, the property owner must acknowledge in writing the restrictions in subsections (4) through (6) regarding sale, owner occupancy, and short term rentals of Accessory Dwelling Units.
  - (4) The accessory dwelling unit may not be sold separately from the existing single-family home.
  - (5) Either the single-family home or the accessory dwelling unit must be owner-occupied if the home and accessory dwelling unit are occupied by different families.
  - (6) Neither the accessory dwelling unit nor the single-family home may be used for short-term residential rentals.
  - (7) Before issuance of a building permit for the accessory dwelling unit, the owner must record a covenant in a form approved by the City Attorney to notify future owners of the restrictions in subsections (4) through (6) regarding sale, owner occupancy, and short term rentals of Accessory Dwelling Units.
  - (8) The accessory dwelling unit shall conform to all applicable state and local building code requirements. Fire sprinklers may not be required for the accessory dwelling unit unless they are required for the existing single-

family home.

- (9) An accessory dwelling unit conforming to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which the unit is located and shall be deemed to be a residential use consistent with the existing general plan and zoning designations for the lot.
- (10) An accessory dwelling unit must include no less than the minimum floor area identified for an efficiency unit, as defined in Health and Safety Code Section 17958.1.
- (11) Additional parking for the accessory dwelling unit is not required. However, if the accessory dwelling unit replaces an existing garage, carport, or covered parking structure, replacement spaces must be provided equal to the number of spaces removed. Replacement spaces may be provided as covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts.
- (12) Conversion to Primary Dwelling Unit.
  - (A) An accessory dwelling unit shall become the primary dwelling unit on a site if the original primary dwelling unit is demolished or determined to be uninhabitable, and is not replaced or made habitable within one year of its demolition or the determination that it is uninhabitable.
  - (B) If an accessory dwelling unit becomes the primary dwelling unit, it shall remain so, and be considered a nonconforming but lawful structure if it fails to comply with any zoning standards applicable to a primary dwelling unit in the zoning district where it is located, until such time as a new structure compliant with all zoning standards applicable to a primary dwelling unit in the zoning district where it is located, is lawfully constructed or otherwise created on the site.
- (13) Vacant Lots.
  - (A) A building permit applicant for a vacant site may propose construction of both a single-family dwelling unit and an accessory dwelling unit concurrently. However, the primary dwelling unit must pass final inspection prior to final inspection of the associated accessory dwelling unit. Nothing in this section shall be construed to supersede or in any way alter or lessen the effect of any other zoning provision requiring issuance of a discretionary permit for construction of the primary dwelling unit prior to issuance of a building permit.
  - (B) The discretionary review of the primary dwelling unit must not include consideration of the accessory dwelling unit use.
- (14) A passageway may not be required in conjunction with the construction of an accessory dwelling unit.
- (15) An accessory dwelling unit may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional

requirements of the underlying zoning district, provided the accessory dwelling unit is constructed in compliance with all other standards of this section. Approval of a site development permit or any other discretionary permit, is not required.

- (16) An accessory dwelling unit may be constructed on a site containing a primary dwelling unit or accessory structure that does not comply with all zoning standards, including without limitation off-street parking standards, provided the accessory dwelling unit complies with all standards contained in this section. The existing nonconformities of the primary dwelling unit or accessory structure shall not be considered when evaluating the application.
- (17) An accessory dwelling unit conforming to the provisions of this section shall be approved ministerially.

(b) Interior Accessory Dwelling Units. The following provisions also apply to interior accessory dwelling units:

- (1) The accessory dwelling unit must be constructed entirely within the existing and legally created space of a single-family home or accessory structure in an R-1, Hillside Residential and Open Space (HRO), or residential Planned Developments (PD) District.
- (2) The zoning standards of the underlying zoning district (e.g., setbacks, height, floor area ratio, etc.) do not apply to interior accessory dwelling units.
- (3) An interior ADU must have exterior access independent from the existing single-family home.
- (4) Side and rear setbacks of the structure in which the interior ADU is located must be sufficient for fire safety, as determined by the Fire Marshal.
- (5) New or separate utility connection directly between the accessory dwelling unit and the utility may not be required.

(c) Attached Accessory Dwelling Units. The following provisions shall also apply to all attached accessory dwelling units:

- (1) Except as modified by this section, an ADU attached to the primary dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions, including height, setback, floor area ratio, and historic preservation requirements.
- (2) The increased floor area of an ADU attached to the existing single-family home shall not exceed the lesser of fifty percent of the living area (as defined in Section 65852.2) of the existing single-family home or 800 square feet.
- (3) Separate utility connections between the accessory dwelling unit and all utilities, and connection fees/capacity charges may be required, consistent

with Government Code Sections 66000 and 66012.

- (4) An attached ADU must comply with the following design standards:
  - (A) The ADU must comply with the Residential Design Criteria (RDC) if the new construction includes: i) ground floor plate height exceeds 12 feet or roof height exceeds 18 feet (as measured from finished grade); or ii) creates or expands an upper floor.
  - (B) The ADU must be constructed with compatible/complementary facade materials, generally the same color palette, and similar in texture and appearance to the primary dwelling, including but not limited to roofing, siding, windows, and doors.
  - (C) The ADU roof pitch/form must be compatible with the roof pitch/form of the primary dwelling.
- (d) Detached Accessory Dwelling Units. The following provisions shall also apply to all detached accessory dwelling units:
  - (1) Except as modified by this section, a detached ADU must conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable zoning provisions, including height, setback, floor area ratio, and historic preservation requirements.
    - (2) Setbacks.
      - (A) A detached accessory dwelling unit must be located no less than five feet from the primary dwelling unit on site.
      - (B) The minimum side setbacks for a detached ADU is five feet from interior side lot lines and fifteen from street side lot lines of corner lots.
      - (C) On reverse corner lots, a detached ADU may not project beyond the inner line of the front yard required on the adjacent lot to the rear, nor be located less than five feet from the side lot line of such adjacent lot.
      - (D) The minimum rear yard setback for a detached ADU is five feet.
      - (E) Notwithstanding subsections (A) through (D), the minimum setbacks for an ADU that is constructed above an existing garage is five feet from the rear and side property lines (including street side corner lots and reverse corner lots).
    - (3) Height.
      - (A) A one story detached ADU may be up to 15 feet in height.
      - (B) A detached ADU constructed over a garage or other accessory structure where the ADU would be five feet from the rear or side lot line may be up to 17 feet in height when such unit has a flat roof.
      - (C) A detached ADU constructed over a garage or other accessory structure

where the ADU would be five feet from the rear or side lot line may be up to 20 feet in height when such unit has a pitched roof.

- (D) A detached ADU constructed over a garage or other accessory structure where the ADU would meet the side and rear yard setbacks of the underlying zoning district may be up to 20 feet in height when such unit has a flat roof.
- (E) A detached ADU constructed over a garage or other accessory structure where the ADU would meet the side and rear yard setbacks of the underlying zoning district may be up to 24 feet in height when such unit has a pitched roof.
- (4) The maximum floor area of a detached ADU is 800 square feet.
- (5) Separate utility connections between the ADU and all utilities, and connection fees/capacity charges may be required, consistent with Government Code Sections 66000 and 66012.
- (6) A detached ADU must comply with the following design standards:
  - (A) The ADU must comply with the Residential Design Criteria (RDC) if the new construction includes:
    - (i) ground floor plate height exceeds 12 feet or roof height exceeds 18 feet (as measured from finished grade); or
    - (ii) creates or expands an upper floor.
  - (B) The ADU must be constructed with compatible/complementary facade materials, generally the same color palette, and similar in texture and appearance to the primary dwelling, including but not limited to roofing, siding, windows, and doors.
  - (C) The ADU roof pitch/form must be compatible with the roof pitch/form of the primary dwelling.

#### SECTION 36. FINDINGS:

(a) The amendments to the Belmont Zoning Ordinance adopted herein are required to achieve the objectives of the Zoning Plan and the General Plan for the City, and in particular to implement:

- (1) General Plan Housing Element Program 2.10, Action 1;
- (2) General Plan Housing Element Program 2.6, Action 1; and,
- (3) General Plan Housing Element Program 2.6, Action 3.

(b) The amendments support the protection and promotion of the comfort, convenience, and general welfare of the community, and fulfill the General Community Goals and Policies of the General Plan.

SECTION 37. EFFECTIVE DATE

This Ordinance takes effect 30 days after its adoption.

SECTION 38. PUBLICATION AND POSTING

The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under Government Code Section 36933, subdivision (c), once, in a newspaper of general circulation printed and published in San Mateo County and circulated in the City of Belmont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary of this ordinance to be published again with the names of those City Council members voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

\* \* \*

The City Council of the City of Belmont, California introduced the foregoing ordinance, on May 9, 2017 and adopted the ordinance at a regular meeting held on May 23, 2017 by the following vote:

Ayes: Hurt, Kim, Stone  
Absent: Reed, Lieberman

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney