

**ORDINANCE NO. 1006**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AMENDING CHAPTER 16.68 [BUILDINGS], CHAPTER 16.04 [DEFINITIONS], CHAPTER 16.10 [R-E RESIDENTIAL ESTATE DISTRICT], CHAPTER 16.12 [R-E-S RESIDENTIAL ESTATE SUBURBAN DISTRICT], CHAPTER 16.14 [R-1-S SINGLE FAMILY SUBURBAN RESIDENTIAL DISTRICT], CHAPTER 16.15 [R-1-S (FG) SINGLE FAMILY SUBURBAN RESIDENTIAL DISTRICT (FELTON GABLES)], CHAPTER 16.16 [R-1-U SINGLE FAMILY URBAN RESIDENTIAL DISTRICT], CHAPTER 16.17 [R-1-U (LM) SINGLE FAMILY URBAN RESIDENTIAL (LORELEI MANOR)], CHAPTER 16.18 [R-2 LOW DENSITY RESIDENTIAL DISTRICT], CHAPTER 16.20 [R-3 APARTMENT DISTRICT], CHAPTER 16.22 [R-4 HIGH DENSITY RESIDENTIAL DISTRICT], CHAPTER 16.23 [R-4-S HIGH DENSITY RESIDENTIAL, SPECIAL DISTRICT], CHAPTER 16.24 [R-3-A GARDEN APARTMENT DISTRICT], CHAPTER 16.26 [R-3-C APARTMENT-OFFICE DISTRICT], CHAPTER 16.28 [R-L-U RETIREMENT LIVING UNIT DISTRICT], CHAPTER 16.48 [OSC OPEN SPACE AND CONSERVATION DISTRICT], CHAPTER 16.50 [FP FLOOD PLAIN DISTRICT], CHAPTER 16.67 DAYLIGHT PLANES, AND CHAPTER 16.72 [OFF-STREET PARKING] OF TITLE 16 [ZONING] OF THE MENLO PARK MUNICIPAL CODE**

The City Council of the City of Menlo Park does ordain as follows:

**SECTION 1:** The City Council of the City of Menlo Park hereby finds and declares as follows:

- a. The City desires to amend Section 16.68.030 [Accessory buildings and/or structures] of Chapter 16.68 [Buildings] of Title 16 [Zoning] to more clearly differentiate accessory buildings from secondary dwelling units and accessory buildings from accessory structures, and amend related sections pertaining to daylight planes and off-street parking.
- b. The Planning Commission held duly a noticed public hearing on March 10, 2014 to review and consider the proposed amendments to Chapter 16.68 [Buildings], 16.04 [Definitions], Chapter 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], Chapter

16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor)], Chapter 16.18 [R-2 Low Density Residential District], Chapter 16.20 [R-3 Apartment District], Chapter 16.22 [R-4 High Density Residential District], Chapter 16.23 [R-4-S High Density Residential, Special District], Chapter 16.24 [R-3-A Garden Apartment District], Chapter 16.26 [R-3-C Apartment-Office District], Chapter 16.28 [R-L-U Retirement Living Unit District], Chapter 16.48 [OSC Open Space and Conservation District], Chapter 16.50 [FP Flood Plain District], Chapter 16.67 Daylight Planes, and Chapter 16.72 [Off-Street Parking] of Title 16 [Zoning], at which all interested persons had the opportunity to appear and comment.

- c. The City Council held a duly noticed public hearings on April 1, 2014 and April 29, 2014 to review and consider the proposed amendments to Chapter 16.68 [Buildings], 16.04 [Definitions], Chapter 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor)], Chapter 16.18 [R-2 Low Density Residential District], Chapter 16.20 [R-3 Apartment District], Chapter 16.22 [R-4 High Density Residential District], Chapter 16.23 [R-4-S High Density Residential, Special District], Chapter 16.24 [R-3-A Garden Apartment District], Chapter 16.26 [R-3-C Apartment-Office District], Chapter 16.28 [R-L-U Retirement Living Unit District], Chapter 16.48 [OSC Open Space and Conservation District], Chapter 16.50 [FP Flood Plain District], Chapter 16.67 Daylight Planes, and Chapter 16.72 [Off-Street Parking] of Title 16 [Zoning], at which all interested persons had the opportunity to appear and comment.
- d. After due consideration of the proposed amendments to Chapter 16.68 [Buildings], 16.04 [Definitions], Chapter 16.10 [R-E Residential Estate District], Chapter 16.12 [R-E-S Residential Estate Suburban District], Chapter 16.14 [R-1-S Single Family Suburban Residential District], Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)], Chapter 16.16 [R-1-U Single Family Urban Residential District], Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor)], Chapter 16.18 [R-2 Low Density Residential District], Chapter 16.20 [R-3 Apartment District], Chapter 16.22 [R-4 High Density Residential District], Chapter 16.23 [R-4-S High Density Residential, Special District], Chapter 16.24 [R-3-A Garden Apartment District], Chapter 16.26 [R-3-C Apartment-Office District], Chapter 16.28 [R-L-U Retirement Living Unit District], Chapter 16.48 [OSC Open Space and Conservation District], Chapter 16.50 [FP Flood Plain District], Chapter 16.67 Daylight Planes, and Chapter 16.72 [Off-Street Parking] of Title 16 [Zoning], public testimony, staff reports, and the Planning Commission recommendation, the City Council finds that the proposed ordinance is appropriate.

**SECTION 2:** Section 16.68.030 [Accessory buildings and/or structures] of Chapter 16.68 [Buildings] of Title 16 [Zoning] is hereby amended to read as follows:

**16.68.030 Accessory buildings and accessory structures.**

- (1) **Purpose.** The purpose of this section is to set forth regulations to control the development of accessory buildings and accessory structures to ensure their orderly development and compatibility of such uses with surrounding uses and properties, and to minimize impacts associated with such buildings and structures, which are purely ancillary and/or ornamental to the main building or use of the site.
- (2) **Requirements generally.** Unless otherwise provided for in a specific zoning district, requirements for accessory buildings and accessory structures in all zoning districts shall be stated in this section; except in non-residential zoning districts, accessory structures not meeting the development regulations may be permitted through approval of a use permit, architectural control, or other discretionary process as part of the project development, or through the approval of the Community Development Director provided the proposed accessory structure is consistent with the use of the site, is compatible with the site and surrounding land uses, and does not add gross floor area.
- (3) **Development Regulations.** Development regulations for accessory buildings (living and non-living space) and accessory structures are as follows:

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Accessory Buildings and Accessory Structures

<b>Size</b>	<b>Building</b>	The combined square footage of all levels of all accessory buildings and accessory structures shall not exceed 25 percent of the square footage of all levels of the main building or 700 square feet, whichever is greater. The size may be increased subject to a use permit and recordation of a condition and covenant relative to the use of the building.
	<b>Structure</b>	
<b>Minimum Yard (Front)</b>	<b>Building</b>	An accessory building shall be located on the rear half of the lot, except in the R-4-S zoning district where the minimum front setback is 50 feet. A use permit may be requested to modify the front setback requirement, so long as the minimum setback established for the main building as established by the zoning district in which the building is located is maintained.
	<b>Structure</b>	Minimum setback established for the main building as established by the zoning district in which it is located.
<b>Minimum Yard (Side, Interior)</b>	<b>Building; Non-Living Space</b>	Minimum 3 feet; 5 feet if abutting an alley
	<b>Building; Living Space</b>	Minimum setback established for the main building as established by the zoning district in which it is located. The minimum setback may be decreased subject to a use permit and recordation of a condition and covenant relative to the use of the building.
	<b>Structure</b>	Front half of lot: Minimum setback established for the main building as established by the zoning district in which it is located. Rear half of lot: Minimum 3 feet; 5 feet if abutting an alley
<b>Minimum Yard (Side, Corner)</b>	<b>Building</b>	Setback of adjacent lot
	<b>Structure</b>	Setback of adjacent lot
<b>Minimum Yard (Rear)</b>	<b>Building; Non-Living Space</b>	Minimum 3 feet; 5 feet if abutting an alley
	<b>Building; Living Space</b>	Minimum 10 feet; 5 feet if abutting an alley. The minimum setback may be decreased subject to a use permit and recordation of a condition and covenant relative to the use of the building.
	<b>Structure</b>	Minimum 3 feet, 5 feet if abutting an alley
<b>Separation Between Buildings</b>	<b>Building</b>	Minimum 10 feet from any dwelling on lot or adjacent lot, unless attached to a secondary dwelling unit
	<b>Structure</b>	None
<b>Height</b>	<b>Building</b>	Overall height – 14 feet See also Daylight Plane
	<b>Structure</b>	
<b>Daylight Plane</b>	<b>Building</b>	A daylight plane shall begin at a horizontal line 9 feet, 6 inches above the average natural grade at a line three feet from the side property lines and shall slope inwards at a 45 degree angle. There are no permitted intrusions into the daylight plane. Average natural grade means the average of the highest and lowest points of the natural grade of the portion of the lot directly below a line three feet from the side property lines.
	<b>Structure</b>	

**SECTION 3:** Section 16.04.110 [Building and/or structure, accessory] of Chapter 16.04 [Definitions] of Title 16 [Zoning] is hereby amended as follows:

**16.04.110 Building, accessory.** "Accessory building" means a subordinate detached building, the use of which is incidental to that of the main building or buildings and/or the use of the land on the same lot or building site, and shall not include any building providing an area for cooking or permanent sleeping quarters. An accessory building may be attached to a secondary dwelling unit. For the purpose of an accessory building, an area containing four (4) or more plumbing fixtures, regardless of the intended use of the space, shall be defined and regulated as "living space" in the accessory building. Water supplied to washing machines and water heaters is not considered a plumbing fixture for the purposes of this section. In no case shall the "living space", as defined by this section for the purpose of minimum yard requirements, be used as a dwelling unit. An accessory building that was legally permitted and constructed with four (4) or more plumbing fixtures prior to June 13, 2014 shall not be subject to the limitations set forth in Section 16.68.030 pertaining to minimum yard requirements. The addition of plumbing fixtures would be subject to the minimum yard requirements.

**SECTION 4:** Section 16.04.665 [Structure, accessory] is hereby added to Chapter 16.04 [Definitions] of Title 16 [Zoning] as follows:

**16.04.665 Structure, accessory.**

"Accessory structure" means a separate and subordinate structure, which is open in nature and the use of which is incidental to that of the main building or buildings and/or use of the land on the same lot or building site. Examples of such structures include, but are not limited to arbors, trellises, play structures, built-in barbeques, outdoor fireplaces, and water features. Unenclosed ground mounted mechanical equipment and fences/walls are not considered accessory structures.

**SECTION 5:** Section 16.10.010 [Permitted uses] of Chapter 16.10 [R-E Residential Estate District] of Title 16 [Zoning] is hereby amended as follows:

**16.10.010 Permitted uses.** The following uses are permitted in the R-E district:

- (1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

**SECTION 6:** Section 16.12.010 [Permitted uses] of Chapter 16.12 [R-E-S Residential Estate Suburban District] of Title 16 [Zoning] is hereby amended as follows:

**16.12.010 Permitted uses.** The following uses are permitted in the R-E district:

- (1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

**SECTION 7:** Section 16.14.010 [Permitted uses] of Chapter 16.14 [R-1-S Single Family Suburban Residential District] of Title 16 [Zoning] is hereby amended] as follows:

**16.14.010 Permitted uses.** The following uses are permitted in the R-1-S district:

- (1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

**SECTION 8:** Section 16.15.010 [Permitted uses] of Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential District (Felton Gables)] of Title 16 [Zoning] is hereby amended as follows:

**16.15.010 Permitted uses.** The following uses are permitted in the R-1-S (FG) district:

- 1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

**SECTION 9:** Section 16.16.010 [Permitted uses] of Chapter 16.16 [R-1-U Single Family Urban Residential District] of Title 16 [Zoning] is hereby amended as follows:

**16.16.010 Permitted uses.** The following uses are permitted in the R-1-U district:

- 1) Single family dwellings;
- (2) Secondary dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

**SECTION 10:** Section 16.17.010 [Permitted uses] of Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor) District] of Title 16 [Zoning] is hereby amended as follows:

**16.17.010 Permitted uses.** The following uses are permitted in the R-1-U (LM) district:

- 1) Single family dwellings;
- (2) Secondary dwelling units;

- (3) Accessory buildings;
- (4) Accessory structures.

**SECTION 11:** Section 16.18.010 [Permitted uses] of Chapter 16.18 [R-2 Low Density Apartment District] of Title 16 [Zoning] is hereby amended as follows:

**16.18.010 Permitted uses.** The following uses are permitted in the R-2 district:

- (1) Single-family dwellings;
- (2) Duplexes and projects of three or more dwelling units;
- (3) Accessory buildings;
- (4) Accessory structures.

**SECTION 12:** Section 16.20.010 [Permitted uses] of Chapter 16.20 [R-3 Apartment District] of Title 16 [Zoning] is hereby amended as follows:

**16.20.010 Permitted uses.**

The following uses are permitted in the R-3 (Apartment) district:

- (1) Single-family dwellings;
- (2) Duplexes;
- (3) Three or more units on lots 10,000 square feet or more;
- (4) Accessory buildings;
- (5) Accessory structures.

**SECTION 13:** Section 16.22.010 [Permitted uses] of Chapter 16.22 [R-4 High Density Residential District] of Title 16 [Zoning] is hereby amended as follows:

**16.22.020 Permitted Uses.** The following uses are permitted in the R-4 District:

- (1) Single-family dwellings;
- (2) Duplexes;
- (3) Accessory buildings;
- (4) Accessory structures.

**SECTION 14:** Section 16.23.020 [Permitted uses] of Chapter 16.23 [R-4-S High Density Residential, Special District] of Title 16 [Zoning] is hereby amended as follows:

**16.10.010 Permitted uses.** The following uses are permitted in the R-4-S district:

- (1) Multiple dwellings;
- (2) Accessory Buildings;
- (3) Accessory Structures.

**SECTION 15:** Section 16.28.010 [Permitted uses] of Chapter 16.28 [R-L-U Retirement Living Units District] of Title 16 [Zoning] is hereby amended as follows:

**16.28.010 Permitted uses.** The only permitted use in the R-L-U zoning district is accessory structures.

**SECTION 16:** Section 16.48.030 [Permitted uses] of Chapter 16.48 [OSC Open Space and Conservation District] of Title 16 [Zoning] is hereby amended as follows:

**16.48.030 Permitted uses.** The only permitted use in the OSC zoning district is accessory structures.

**SECTION 17:** Section 16.50.030 [Permitted uses] of Chapter 16.50 [FP Flood Plain District] of Title 16 [Zoning] is hereby amended as follows:

**16.50.010 Permitted uses.** The following uses are permitted in the FP district:

- (1) Agricultural uses;
- (2) Accessory buildings;
- (3) Accessory structures;
- (4) Extraction of chemicals from sea water;
- (5) Dredging.

**SECTION 18:** Sections 16.67.010 [Daylight planes in R-E, R-E-S and R-2 zoning districts] and 16.67.020 [Daylight planes in R-1-A and R-1-U zoning districts] of Chapter 16.67 [Daylight Planes] of Title 16 [Zoning] are hereby amended as follows:

**16.67.010 Daylight planes in R-E, R-E-S and R-2 zoning districts.** Daylight planes for the main dwelling unit are established for each lot as follows:

(A) Daylight plane: A daylight plane shall begin at a horizontal line at a certain distance directly above each side setback line of each lot and shall slope inwards at a 45 degree angle. The distance between the side setback line and the horizontal line directly above it shall be 19 feet, 6 inches above the grade of the side setback line. For an addition to an existing structure, such distance shall be the higher of:

- (1) 19 feet, 6 inches above the grade of the side setback line; or
- (2) 18 feet above the underside of the actual first floor, measured at the side wall, or 20 feet, 6 inches above the grade of the sidewall, whichever is lower.

**16.67.020 Daylight planes in R-1-S and R-1-U zoning districts.** Daylight planes for the main dwelling unit are established for each lot as follows:

(A) Daylight plane: A daylight plane shall begin at a horizontal line at a certain distance directly above each side setback line of each lot and shall slope inwards at a 45 degree angle. The distance between the side setback line and the horizontal line directly above it shall be as follows:

- (1) Single-story development: 12 feet, 6 inches above the grade of the side setback line;
- (2) Development of two or more stories: 19 feet, 6 inches above the grade of the side setback line. For an addition to an existing structure, such distance shall be the higher of:
  - (a) 19 feet, 6 inches above the grade of the side setback line; or



- (b) 18 feet above the underside of the actual first floor, measured at the side wall, or 20 feet, 6 inches above the grade of the side wall, whichever is lower.

**SECTION 19:** Section 16.15.020 [Development regulations] of Chapter 16.15 [R-1-S (FG) Single Family Suburban Residential (Felton Gables) District] of Title 16 [Zoning] is hereby amended as follows:

**16.15.020 Development regulations.** Development regulations in the R-1-S (FG) district shall be the same as those in the R-1-S district except for the following:

- (1) **Daylight plane:** A daylight plane for the main dwelling unit shall begin at each side property line, shall extend directly upwards above the natural grade of each side property line for a distance of 20 feet minus the width of the adjacent required yard, and shall then slope inwards towards the interior of the lot at a 34-degree angle. As used in this section, the natural grade of a side property line is the average grade of the highest and lowest points of the natural grade of the lot at the side property line. No portion of the structure shall intrude beyond the daylight plane except for dormers and gables as provided below and chimneys, vents, antennae, flues, and solar collectors.

Gables and dormers may intrude into the daylight plane of a lot that is 10,000 square feet or less. The permitted intrusion shall decrease on an even gradient from 10 feet in the case of a 5 foot required side setback to no permitted intrusion in the case of an 8 foot required side setback. Thus the permitted intrusion will be 6 feet, 8 inches in the case of a 6 foot required side setback, 5 feet in the case of a 6.5 foot required side setback, and 3 feet, 4 inches in the case of a 7 foot required side setback. Calculations of the permitted intrusion shall include fractional computations when necessary to maintain the even gradient. Gables and dormers may intrude into the daylight plane on one side of a lot only. The gable or dormer must not extend beyond a triangle described as follows:

- (a) The base of the triangle is the line formed by the intersection of the building wall with the daylight plane;
- (b) The aggregate length of the bases of all triangles intruding into a daylight plane shall not exceed 30 feet; and
- (c) The triangle must be entirely within the maximum building height.

**SECTION 20:** Section 16.17.030 [Development regulations] of Chapter 16.17 [R-1-U (LM) Single Family Urban Residential (Lorelei Manor) District] of Title 16 [Zoning] is hereby amended as follows:

**16.17.030 Development regulations.** Development regulations in the R-1-U (LM) district are as follows:

- (11) **Daylight Plane:** A daylight plane for the main dwelling unit shall begin a minimum of 5 feet from the side property line and extend directly upwards from the grade of the property for a distance of 15 feet, 6 inches (vertical plane), and then slope inwards towards the interior of the lot at a 45-degree angle. The vertical plane may be extended to a maximum height of 19 feet, 6 inches above grade subject to written approval of the owner(s) of contiguous property abutting the extended vertical plane or a use permit in accordance with Chapter 16.82. No portion of the structure shall intrude beyond the daylight plane except for dormers and gables as provided below and chimneys, vents, flues and eave overhangs. Solar collectors and antennae may intrude subject to written approval of the owner(s) of contiguous property abutting the intrusion or a use permit in accordance with Chapter 16.82;

Gables and dormers may intrude into the daylight plane. The permitted intrusion shall decrease on an even gradient from 10 feet in the case of a 5 foot required above ground side yard to no permitted intrusion at an 8 foot required above ground side yard. Calculation of the permitted intrusion shall include fractional computation when necessary to maintain the even gradient. The intrusion shall be measured along the uppermost horizontal roofline of the gable or dormer. The gable or dormer intrusion must not extend beyond a triangle in the plane of the building face described as follows:

- (a) The base of the triangle is the line formed by the intersection of the building wall with the daylight plane;
- (b) The aggregate length of the bases of all triangles intruding into the daylight planes must not exceed 30 feet, of which no more than 12 feet may occur at an interior side yard;
- (c) The triangle is limited to a maximum peak height of 24 feet above grade;

**SECTION 21:** Section 16.72.020[ R district uses] of Chapter 16.72 [Off-street Parking] of Title 16 [Zoning] is hereby amended as follows:

**Section 16.72.020 R district uses.** R district parking uses are as follows:

- (1) **Dwellings:** Two spaces per unit, not in any required front or side yard, at least one of which shall be in a garage or carport, unless otherwise specified. However, when required parking is provided in a detached garage or carport, the parking space may be located in the interior side yard, but not closer than three feet from the property line. Any garage or carport entrance fronting on any lot line, except an alley, shall be a minimum of 20 feet from such line. For alleys, the minimum setback for an entrance facing an alley is five feet.

**SECTION 22:** A Negative Declaration was prepared that considered the environmental impacts of the adoption of the proposed modifications to the accessory building and/or structure ordinance and associated consistency amendments for the identified area. The Negative Declaration determined that any potential environmental impacts were less than significant.

**SECTION 23:** If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 24:** This Ordinance shall become effective 30 days after the date of its adoption, and is applicable to any building permit application received after the date of adoption of this Ordinance. Within 15 days of its adoption, the Ordinance shall be posted in three public places within the City of Menlo Park, and the Ordinance, or a summary of the Ordinance prepared by the City Attorney shall be published in the local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the 29th day of April, 2014.

PASSED AND ADOPTED as an Ordinance of the City of Menlo Park at a regular meeting of the City Council of the City of Menlo Park on the 13th day of May, 2014, by the following vote:

AYES: Carlton, Cline, Keith, Ohtaki

NOES: Mueller

ABSENT: None

ABSTAIN: None

  
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Ray Mueller  
Mayor

ATTEST:

  
\_\_\_\_\_  
Pamela Aguilar  
City Clerk