

## **ORDINANCE NO.**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING ZONING TEXT AMENDMENT #ZTA 18-02 AS RELATED TO PAVING STANDARDS IN RESIDENTIAL ZONES WITH THE CREATION OF A NEW SECTION 30.750 AND AMENDING SECTION 5.700 AND SECTION 60.200 OF THE HERCULES ZONING ORDINANCE.**

**WHEREAS**, the City Council of the City of Hercules recognizes the potentially adverse impacts to the environment, public safety, and neighborhood character caused by excessive paving of residential properties for parking and other secondary purposes; and

**WHEREAS**, there is a need to adopt regulations to avoid adverse impacts of excessive paving, including affecting property values, creating problems with run-off and storm water, and visual blight and safety hazards, and to ensure minimum landscaping standards in single-family residential neighborhoods; and

**WHEREAS**, Zoning Text Amendment #ZTA 18-02 (also known as the “Project”) would amend sections of the Hercules Zoning Ordinance, in substantially the same form as attached herewith; and

**WHEREAS**, it can be seen with certainty that there is no possibility that the Project may have a significant effect on the environment and is thus categorically exempt from the California Environmental Quality Act (“CEQA”) [State CEQA Guidelines Section 15061(b)(3)]; and

**WHEREAS**, the City Council at its regular meetings on January 23, 2018 directed staff to prepare and present for Planning Commission consideration and recommendation a set of zoning regulations to address Council’s concerns related to residential paving and parking; and

**WHEREAS**, the Planning Commission did hold properly noticed public hearings on February 20, 2018 and April 16, 2018 to consider staff’s suggested Zone Text Amendment, and did hear and use its independent judgment to consider all said reports, recommendations, and testimony hereinabove set forth;

**WHEREAS**, the Planning Commission on its April 16, 2018 meeting passed Resolution #18-08 recommending City Council to adopt an ordinance modifying the Hercules Zoning Ordinance as proposed in Zoning Text Amendment #ZTA 18-02 in regards to Paving in order to preserve, protect, provide for, and foster the health, safety, and welfare of the City; and

**WHEREAS**, the City Council held a properly noticed public hearing on May 8, 2018, and did hear and use its independent judgment to consider all said reports, recommendations, and testimony hereinabove set forth.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:**

After due study and deliberation, and after convening the public hearings for the proposed Zoning Text Amendment #ZTA 18-02 in accordance with Section 52.400 of the Zoning Ordinance of the Hercules Municipal Code, the City Council finds that #ZTA 18-02 is consistent with the General Plan; would not be detrimental to the health, safety, welfare, and public interest of the City; and that it is internally consistent and does not conflict with the purposes, regulations and required findings of the Zoning Ordinance.

**SECTION 1. Compliance with California Environmental Quality Act (“CEQA”):** The City Council determines that the Zoning Text Amendment is categorically exempt from CEQA pursuant to section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the Zoning Text Amendment will not have a significant effect on the environment.

**SECTION 2.** Title 10 of the Hercules Municipal Code Zoning Ordinance shall include the creation of a new Section 30.750 – Paving Within Residential Front, Rear, and Side Yard Areas as follows:

### **30.750 Paving Within Residential Front, Rear, and Side Yard Areas**

The requirements specified in this Section are intended to preserve the residential character of streetscapes in the city’s neighborhoods and minimize excess storm water runoff. The unregulated expansion of paved parking areas in front, rear, and side yards interferes with the pattern of building and open areas within neighborhoods, and can increase vehicle clutter by creating small parking lots in yard areas which are intended to remain as open areas.

Excessive paving of yard areas can negatively impact the character and appearance of residential areas. Paving yard areas to add additional parking can result in the proliferation of curb cuts that can have the effect of reducing the number of on-street parking spaces available.

1. The paving requirements in this section shall apply to all residential properties and lots.
2. New paving and hardscape areas (e.g., walkways, patios, etc.) that exceed 120 square feet in total area shall require a Paving Permit issued in compliance with Chapter 5.700 (Zoning Clearance Procedure).
3. The Planning Director shall hear and decide requests for reasonable accommodation as well as unique circumstances of flag lots, cul de sacs, or corner lots which make strict compliance with the requirements of this section impractical.
4. Within six months of final passage of this ordinance, staff shall promulgate administrative guidelines and regulations further defining what types of surfaces and materials are permissible for landscaping, paving, driveways, and walkways consistent with this Article.

A. Front Yards.

- 1) Driveways. The amount of allowable paving for driveways shall not exceed 35 percent of the total front yard area. "Front yard" is defined as the yard area forward of the primary structure as illustrated in Figure 35.751 (Limits on Paving and Hardscaping for Residential Front, Rear, and Side Yards).
- 2) Walkways and other Hardscape. The amount of paved walkways and hardscape shall not exceed 25 percent of the front yard area. See Figure 35.751 (Limits on Paving and Hardscaping for Residential Front, Rear, and Side Yards).
- 3) Landscaping minimums. For all residential properties, a minimum of 40 percent of the front yard area shall consist of a permeable landscaped area, excluding pavers, bricks, and other hard surfaces, even if permeable.

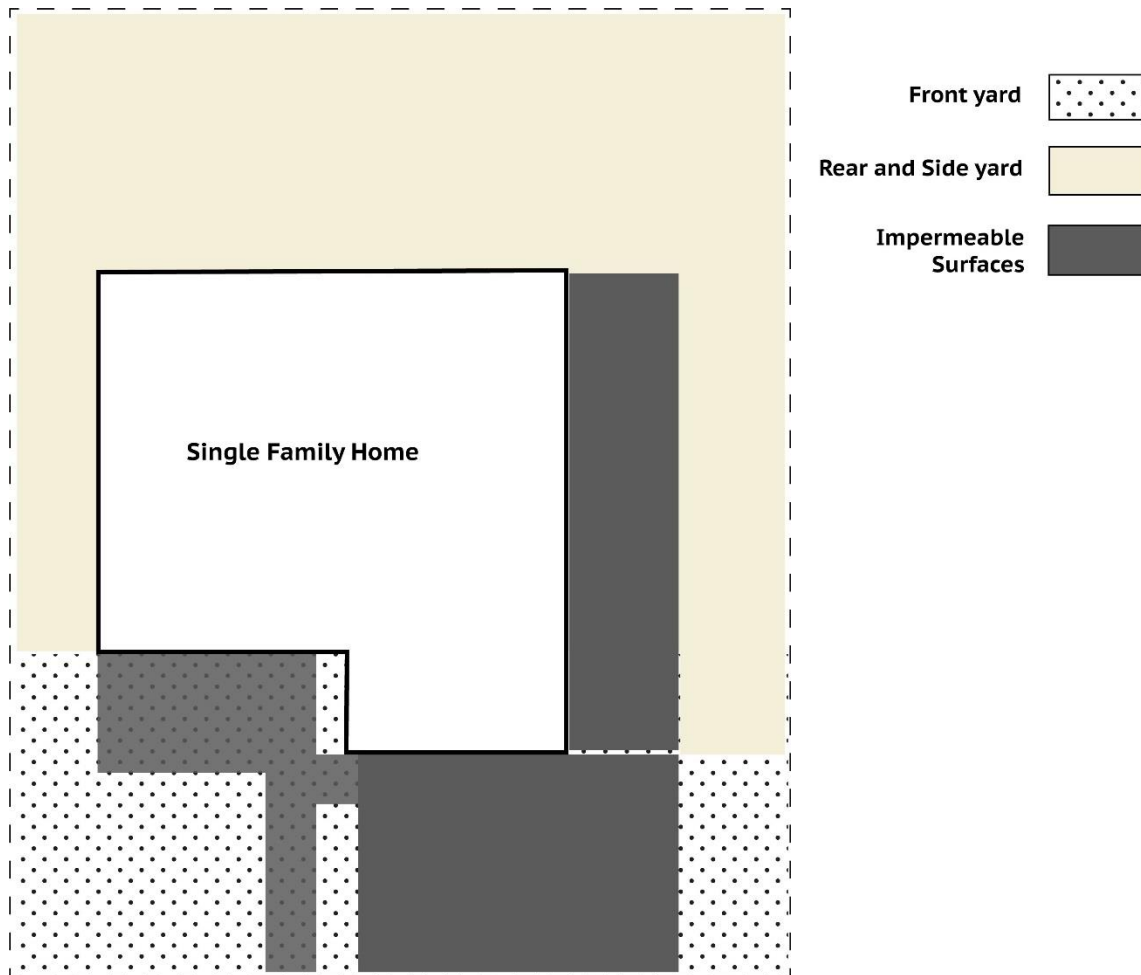
B. Rear and Side Yards.

- 1) The total amount of paved surface in the rear and side yard for driveways, walkways, and hardscape combined shall not exceed 60 percent of the total rear yard area. "Rear and Side yard" are defined as the yard area behind the front portion of the primary structure as illustrated in Figure 35.751 (Limits on Paving and Hardscaping for Residential Front, Rear, and Side Yards).
- 2) Landscaping minimums. For all residential properties and lots, a minimum of 40 percent of the required rear and side yard combined area shall consist of a permeable landscaped area, excluding pavers, bricks, and other hard surfaces, even if permeable.

4) Storm Water Runoff Limitations.

Impermeable surfacing may not exceed the storm water runoff design for the parcel or lot, and must not cause runoff to affect adjacent property. Applicants in the RS-L Residential Zone shall be required to submit to the City Engineer calculations by a registered civil engineer demonstrating consistency with this policy as a condition of approval when the impermeable surfacing, including all structures, would be greater than 47% of the entire lot. For all other residential zones, the City Engineer shall require applicants to submit calculations by a registered civil engineer demonstrating consistency with this policy as a condition of approval based on administrative regulations promulgated by staff to address storm water runoff in zones other than RS-L. The administrative regulations required to be promulgated pursuant to this subsection shall be established within one year of final passage of this ordinance and updated thereafter as circumstances require.

Figure 35.751 (Limits on Paving and Hardscaping for Residential Front, Rear, and Side Yards)



**SECTION 3.** Title 10 of the Hercules Municipal Code Zoning Ordinance Section 5.700 – Zoning Clearance Procedure is hereby amended with the following text:

### **5.700 Zoning Clearance Procedure**

Zoning clearance shall be implemented through use permit application, development plan and design review. The primary goal of the administrative use permit is to provide a review and record keeping mechanism for development and uses within the City in addition to setting forth time periods and minor conditions of approval. Where a particular kind of development does not require a use permit of any kind such as limited accessory structures in some districts, zoning clearance will be met through review of any required building or paving permits. All building permits will be reviewed by the Community Development Director or Chief Building Official to verify that appropriate property regulations, performance standards and conditions of approval are met. A certificate of occupancy is not to be issued until such verification is recorded following the final building permit site inspection.

**SECTION 4.** Title 10 of the Hercules Municipal Code Zoning Ordinance Section 60.200 – Definitions portion of Chapter 60 of the Hercules Zoning Ordinance shall add the following definitions:

**60.200 Definitions.**

Front yard area: The yard area forward of the primary structure. See Figure 35.751.

Rear and Side yard areas: The yard area behind the front portion of the primary structure. See Figure 35.751.

Landscaped area: A permeable area that is permanently devoted to and maintained for the growing of shrubbery, grass, trees, and other plant material or by the use of such material as bark, crushed stone, lava rock, or similar materials to present an attractive, well-kept appearance (with permeable weed barrier); does not include hard surfaces such as brick, pavers, concrete, asphalt, or similar materials, regardless of permeability.

Hardscape Area: Includes semi-permeable and permeable surfaces such as pavers or concrete, but does not allow for asphalt paving (single family residential lots have maximum standards in Section 30.750).

**SECTION 5. SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be deleted.

**SECTION 6. Publication and Effective Date.** The City Clerk shall certify to the adoption of this Ordinance and shall publish a summary of the Ordinance in the West County Times and post a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance

This Ordinance shall be effective thirty days from date of final adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the 8th day of May, 2018, and was passed and adopted at a regular meeting of the Hercules City Council on the \_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Chris Kelley, Mayor

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Lori Martin, Administrative Services Director &  
City Clerk