

CITY OF ALAMEDA ORDINANCE No. \_\_\_\_\_

New Series

AMENDING ALAMEDA MUNICIPAL CODE TO ADD SECTION 30-18  
UNIVERSAL RESIDENTIAL DESIGN

BE IT ORDAINED by the City Council of the City of Alameda:

Findings.

In enacting this Section, the City Council finds as follows:

**1. The amendment maintains the integrity of the General Plan.**

The proposed zoning text amendment is necessary to implement the City of Alameda General Plan Housing Element policies that require that the City “Provide housing that meets the City’s diverse housing needs, specifically including affordable housing, special needs housing, and senior housing.”; and “Encourage and support residential opportunities for senior citizens, including senior housing projects, multifamily housing projects with accessible and small housing units, assisted living projects, and in-law projects”, and “Consider amendments to the Zoning Ordinance to require universal design elements in all new housing projects of five or more units.

**2. The amendment will support the general welfare of the community.**

The proposed zoning amendment supports the general welfare and housing needs of people within the community with mobility issues. Whether due to disability or age, individuals with mobility difficulties or other functional limitations or access needs often require special accommodations to their homes to allow for continued independent living. Research shows that over the lifespan of a new, typical housing unit, that 25-60% of those units will house a disabled person. Additionally, 53-91% will have a disabled visitor over the course of the unit’s lifetime.<sup>1</sup> Those numbers do not include people with temporary disabilities, such as a broken leg or healing from surgery, which would greatly increase the numbers.

Approximately nineteen percent (19%) of the population of the United States had a disability in 2010, according to a broad definition of disability, with more than half of respondents reporting the disability was severe.<sup>-2</sup> Approximately 12.6 percent of Americans aged 15 years and older have limitations associated with ambulatory activities of the lower body including difficulty walking, climbing stairs, or using a wheelchair, cane, crutches, or walker. Approximately 22.3 million Americans (9.2 percent) had difficulty climbing a flight of stairs, including 7.7 million who were unable to perform this activity. Among individuals aged 65 and older, about 15.2

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<sup>1</sup> Smith et. al, 2008. <http://www.tandfonline.com/doi/pdf/10.1080/01944360802197132>. p. 300. Journal of the American Planning Association, Summer 2008, Vol. 74, No. 3.

<sup>2</sup> U.S. Census Bureau July 2012 report *Americans with Disabilities: 2010*.

million people (39.4 percent) had difficulty with ambulatory activities, of which 11.2 million had severe difficulty;<sup>3</sup> About 3.6 million Americans (1.5 percent) used a wheelchair and 11.6 million (4.8 percent) used a cane, crutches, or walker to assist with mobility. Among those aged 65 and older, roughly 2 million people used a wheelchair and 7 million used a cane, crutches, or walker;<sup>4</sup> People 80 and older are about eight times more likely to have a disability as those in the youngest group — younger than 15 (71 percent compared with 8 percent). The probability of having a severe disability is one in four (25%) for those 65 to 69. Roughly 30.6 million had difficulty walking or climbing stairs, or used a wheelchair, cane, crutches or walker.<sup>5</sup>

Seventeen percent (17%) of Alameda's present population are seniors, and 11.4 percent are persons with disabilities. These numbers are higher than the national averages for either population.<sup>6</sup> Sixteen percent of respondents to the City of Alameda's Social Service and Human Relations Board's 2012 Community Needs Assessment identified themselves or a family member as a person with a disability, and thirty-two (32) percent of respondents believe that services for people with disabilities are the highest need.<sup>7</sup> Furthermore, the number of respondents to this survey represents a statistically significant percentage of the City's total population.

The population of seniors is growing locally as well as nationally, and is expected to double within Alameda County between 1990 and 2020. Persons over sixty five (65) comprise eleven (11) percent of the County's population and represent its fastest growing segment.<sup>8</sup>

According to a 2000 AARP survey, more than ninety (90) percent of persons age sixty-five (65) and older would prefer to stay in their current residence as long as possible. One key method to promote continuing independence in the home is to build and incorporate a number of architecturally friendly design features into new homes as they are built.

Research consistently shows that mandatory requirements are most likely to have an impact and the desired outcome. For example, as of 2008, there were an estimated 33 mandatory and 24 voluntary programs that have been established in the US. To date, 30,000 visitable homes have been built with mandatory programs vs. less than 1,300 visitable homes with voluntary programs.<sup>9</sup>

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<sup>3</sup> U.S. Census Bureau July 2012 report *Americans with Disabilities: 2010*.

<sup>4</sup> U.S. Census Bureau July 2012 report *Americans with Disabilities: 2010*.

<sup>5</sup> U.S. Census Bureau July 2012 report *Americans with Disabilities: 2010*.

<sup>6</sup> Jess Anderson, "Homes for seniors, disabled made safer through city program," *The Alamedan*, 3/5/2013.

<http://thealamedan.org/news/homes-seniors-disabled-made-safer-through-city-program>.

<sup>7</sup> Report from Special Joint Meeting of the City Council and Social Service Human Relations Board, Agenda Item 1.A., 10/2/2012, p. 27.

<sup>8</sup> Report & Presentation from County Supervisor Wilma Chan and Office of the County Administrator, Alameda County Human Impacts Budget Report Hearing, Alameda Boys & Girls Club, 3/21/2012. Note that the city's senior population exceeds the county's average as well.

<sup>9</sup> Smith et. al, 2008. <http://www.tandfonline.com/doi/pdf/10.1080/01944360802197132>. p. 300. Journal of the American Planning Association, Summer 2008, Vol. 74, No. 3.

Pursuant to Health and Safety Code Section 17959, the City Council of the City of Alameda hereby finds that the modifications required by the provisions of this ordinance are:

i. Reasonably necessary in accord with to serve Alameda's population as we as those anticipating a disability by enhancing opportunities for the full life cycle use of housing without regard to the physical abilities or disabilities of a home's occupants or guests, and to accommodate a wide range of individual preferences and functional abilities; and

ii. Substantially the same as the State's model universal design local ordinance adopted by the California Department of Housing and Community Development.

**3. The amendments are equitable.**

The proposed zoning amendment will enhance the full life cycle use of housing, without regard to the functional limitations or disabilities of a home's occupants or guests, in order to accommodate a wide range of individual preferences and abilities, in all new residential development projects within the City of Alameda. The amendment facilitates the development of residential dwelling units that are usable and safe for occupancy by persons with disabilities and that support aging in place. The amendment enhances residents' ability to remain in their homes during periods of temporary, developing, or permanent disabilities or frailties and accommodates a wide range of individual preferences and functional abilities while not significantly impacting housing costs and affordability.

**4. California Environmental Quality Act.** The proposed amendment is categorically exempt under California Environmental Quality Act Section 15305 – Minor Amendments to Land Use Limitations.

**Section 1.** Chapter 30 Development Regulations shall be amended to add new Section 30-18 Universal Residential Design as follows:

**SECTION 30-18 UNIVERSAL RESIDENTIAL DESIGN**

**18.1 - Purpose**

The purpose of this ordinance is to:

- a. Promote and preserve the public health, safety, and general welfare of the people of the City of Alameda with mobility issues or who may develop mobility issues with age by ensuring equal access to housing for people born with mobility issues, people that develop mobility issues as the result of disease, accident, injury, military service, or age without significantly impacting housing costs and affordability.

- b. Ensure that people with mobility issues are able to visit the homes of their friends and family members who may not have mobility issues.
- c. Enhance the full life cycle use of housing, without regard to the functional limitations or disabilities of a home's occupants or guests, in order to accommodate a wide range of individual preferences and abilities, in all new residential development within the City of Alameda.
- d. Incorporate design features into residential dwelling units that enhance residents' ability to remain in their homes during periods of temporary, developing, or permanent disabilities.
- e. Implement the City of Alameda General Plan Housing Element policies to provide housing that meets the City's diverse housing needs.

## **18.2 - Definitions**

For the purpose of this ordinance, the following terms shall have the following definitions:

*"Accessible"* means standards for features or fixtures, designs, or other improvements, which are equal to or exceed the minimum requirements of Chapter 11A of the California Building Code, as may be amended.

*"Accessible Bathroom"* means a room containing a water closet (toilet), lavatory (sink), and either a shower, bathtub, combination bathtub/shower, or both a shower and bathtub that includes features or fixtures, designs, or other improvements, which are equal to or exceed the minimum requirements of Chapter 11A of the California Building Code, as may be amended, and that include blocking within the walls to support future installation of grab bar/hand rails.

*"Accessible Bedroom"* means a room containing a bed and can be used for a resident or guest to sleep that includes features or fixtures, designs, or other improvements, which are equal to or exceed the minimum requirements of Chapter 11A of the California Building Code, as may be amended.

*"Accessible Common Use Room"* means a room commonly used by residents or guests to congregate that includes features or fixtures, designs, or other improvements, which are equal to or exceed the minimum requirements of Chapter 11A of the California Building Code, as may be amended.

*"Accessible Entry"* means an entrance that may be used by a visitor to the residential unit that meets or exceeds the minimum requirements of Chapter 11A of the California Building Code, as may be amended.

“*Accessible Exterior Access*” means an exterior accessible route from the public right of way to an accessible entry that is consistent with the requirements of CBC Chapters 11A, as may be amended.

“*Accessible Interior Access*” means an accessible route consistent with the requirements of CBC Chapters 11A from the accessible entry to the living, eating, sleeping, and/or bathroom facilities located on the primary entry level.

“*Adaptable Internal Stairs*” means internal stairways and stairs with a minimum width of 36 inches wide, top and bottom landings that provide a clear floor area that is a minimum of 48 inches in the direction of the stair run, and the full width of the stair for the docking of a chair lift, and includes suitable and appropriate outlets at the bottom and top of the stairs to provide power for a future chair lift. Such outlets shall be located on the side of the stair that would have the lift, or one on each side if the chair lift could be installed on either side.

“*Accessible Kitchen*” shall mean a room or space designed to be use for cooking and the preparation and storage of food and containing a refrigerator, a sink, a stove and oven that includes features or fixtures, designs, or other improvements, which are equal to or exceed the minimum requirements of Chapter 11A of the California Building Code, as may be amended.

“*Accessible Powder Room*” means a room containing a water closet (toilet) and lavatory (sink), but no shower, bathtub, or combination bathtub/shower, that includes features or fixtures, designs, or other improvements, which are equal to or exceed the minimum requirements of Chapter 11A of the California Building Code, as may be amended, and that include blocking within the walls to support future installation of hand rails.

“*Laundry Facilities*” means an area that is designed to accommodate facilities for the washing and/or drying of clothes.

“*Universal Design*” means the specialized design of the built space, products and indoor and outdoor environments to be usable by the greatest number of people with the widest reasonable range of abilities or disabilities, to the greatest extent feasible.

“*Visitability*” means enhancement of the ability of a residential dwelling unit to meet the basic needs of a wide range of guests to enter and use critical portions of the home, to the greatest extent possible, through specific design choices and decisions.

### **18.3 – Scope, Application, and Exemptions**

- a. This ordinance shall apply to any new tentative map, design review, conditional use permit, site development, master plan, or other land use entitlement for the approval of a development that includes one or more new residential dwelling units submitted to the Community Development Department after the effective date of this

ordinance. All such entitlements shall contain conditions sufficient to ensure compliance with the provisions herein.

- b. All plans submitted for a building permit for a residential development subject to this ordinance shall include construction details and plans showing conformance with the applicable sections of this ordinance.
- c. The provisions of this ordinance do not apply to:
  - i. rehabilitation or expansion of an existing residential unit,
  - ii. reconstruction of an existing residential unit destroyed due to fire or natural disaster,
  - iii. accessory dwelling units,
  - iv. addition of five (5) or fewer residential units to or within an existing structure,
  - v. addition of five (5) or fewer new residential units above ground floor commercial space or a parking structure without an elevator, and
  - vi. new residential units located directly above a ground floor unit that meets the requirements of subsection 18.4.b.
- d. Any determinations regarding the application of these provisions by the Community Development Director may be appealed to the Planning Board consistent with the requirements of Section 30-25.

#### **18.4 - New Construction Requirements**

- a. Visitability: To ensure that all new residential dwellings units subject to the provisions of this ordinance meet the basic needs of a wide range of guests to enter and use critical portions of the home, all units subject to this ordinance shall include the following features:
  - i. An Accessible Exterior Access to an Accessible Entry;
  - ii. An Accessible Interior Access from the Accessible Entry to an Accessible Powder Room, Accessible Common Use Room or an Accessible Bedroom, and Adaptable Internal Stairs;
  - iii. Blocking within the walls to support future installation of grab bar/hand rails in all bathrooms; and
  - iv. If ground floor open space is provided, then an accessible path of travel to the open space shall be provided.
- b. Universal Design: To ensure that a share of all new dwelling units are usable by the greatest number of people with the widest reasonable range of abilities or disabilities, to the greatest extent feasible, thirty percent (30%) of all new residential

units in a residential development of five (5) or more units shall include the following features:

- i. An Accessible Exterior Access to an Accessible Entry;
  - ii. An Accessible Interior Access from the Accessible Entry to an Accessible Bathroom, an Accessible Common Use Room, an Accessible Bedroom, Accessible Kitchen, accessible common or private open space; accessible Laundry Facility, and Adaptable Internal Stairs.
  - iii. In determining the number of Universally Designed units required by this subsection, any decimal fraction less than 0.5 shall be rounded down to the nearest whole number, and any decimal fraction of 0.5 or more shall be rounded up to the nearest whole number
- c. Optional Features: Any residential development that includes an on-site sales office in which a buyer may purchase a unit prior to completion of construction of the unit must offer buyers the opportunity to select and purchase additional Universal Design features from a pre-approved list of offered features. The seller of the residential dwelling units shall prepare a brochure or checklist of the additional Universal Design features and pricing for the features that will be offered. The brochure or checklist shall be reviewed and pre-approved by the Planning Board concurrently with the discretionary permits for the development. The office shall have an Accessible Exterior Access to the primary entrance, and be fully accessible per the Americans with Disabilities Act (ADA).

## **18.5 Waivers**

- a. The Planning Board may consider granting a waiver to any of the provisions of this ordinance if it is able to make one or more of the following findings:
  - i. The requested waiver is necessary to make the findings for Design Review approval;
  - ii. The requested waiver is necessary to support the provision of affordable housing units;
  - iii. The requested waiver is necessary to avoid an undue and substantial financial hardship caused by topographical conditions on the site; the size or configuration of the site; and/or other site constraints; and/or legal constraints and equivalent facilitation is not available; or
  - iv. The requested waiver is necessary to avoid a conflict with adopted local, regional, State or Federal regulations.
- b. Requests for waivers shall be transmitted to the Commission on Disability Issues for review and comment prior to the Planning Board consideration of the waiver.
- c. When considering a request for a waiver, the Planning Board and the project applicant may consider incorporating other features into the project to compensate

for the loss of required features or to improve the accessibility of the units. Those features may include-:

- i. A wider front entry door of 42 inches in width.
- ii. Blocking within the walls of all hallways to support future installation of grab bar/hand rails.
- iii. Rocker light switches, electrical receptacles, and environmental controls placed at accessible heights throughout the units.
- iv. Removable base cabinets in all bathrooms and/or kitchens.
- v. Accessible shower stalls or tubs in all bathrooms.
- vi. Accessible medicine cabinet and integral mirror in all bathrooms.
- vii. Accessible countertops with a 30" wide workspace and/or one or more 15" breadboards installed between 28" and 32" in height in all kitchens.
- viii. Any other feature that improves the design of the unit to accommodate visitors or residents with physical or other disabilities in a way that makes it useable by the greatest number of people with the widest reasonable range of abilities or disabilities, to the greatest extent possible.

**18.6. – Enforcement and Annual Reporting and Enforcement:**

- a. It is unlawful for any person or entity to fail to comply with the requirements of this chapter. The City of Alameda may prescribe administrative, civil, or criminal penalties or consequences, or any combination thereof, for violations of this chapter, which are consistent with those applicable for what it deems comparable municipal provisions. These may include, but are not limited to, enforcement provisions of the State Housing Law of the California Health and Safety Code, Sections 17910 *et seq.*, as may be amended; injunctive relief or civil penalties; and requiring compliance prior to issuance of a final inspection report or certificate of occupancy.
- b. The City of Alameda Community Development Department shall report annually to the City of Alameda Planning Board and Commission on Disability Issues on implementation of this section as part of the Housing Element Annual Report. The Annual Report shall provide an opportunity for the Planning Board or Commission on Disability Issues to recommend changes or revisions to this ordinance to the City of Alameda City Council.

**Section 2. Severability Clause.** It is the declared intent of the City Council of Alameda that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provision of this ordinance.



**Section 3.** This ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

\_\_\_\_\_  
Presiding Officer of the City Council

Attest:

\_\_\_\_\_  
Lara Weisiger, City Clerk

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the \_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

APPROVED AS TO FORM:

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Janet C. Kern, City Attorney  
City of Alameda