

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

RECOMMENDING THAT THE ALAMEDA CITY COUNCIL ADOPT AMENDMENTS TO ALAMEDA MUNICIPAL CODE CHAPTER 30 (ZONING ORDINANCE) TO IMPLEMENT SENATE BILL 9 REGARDING TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS IN SINGLE-FAMILY RESIDENTIAL ZONES; AMEND RESIDENTIAL LAND USE DEFINITIONS; AND MAKE OTHER MISCELLANEOUS ADMINISTRATIVE, TECHNICAL, AND CLARIFYING AMENDMENTS

WHEREAS, on September 16, 2021, the Governor approved Senate Bill 9 (SB 9), which amended Section 66452.6 of the Government Code and added Government Code Sections 65852.21 and 66411.7, changing the requirements for additional housing units on properties within a single-family zone and for parcel map approval of an urban lot split; and

WHEREAS, SB 9 becomes effective on January 1, 2022; and

WHEREAS, SB 9 provides that a local agency may adopt an ordinance that requires ministerial approval for: (1) a proposed housing development containing no more than two residential units on a lot within a single-family residential zone, and (2) a parcel map for an urban lot split, both subject to certain conditions; and

WHEREAS, SB 9 also provides that a local agency may require these applications to meet objective zoning standards, objective subdivision standards, and objective design standards; and

WHEREAS, the proposed amendments to the Alameda Municipal Code implement the provisions of SB 9 and add local policies that are within the scope of SB 9; and

WHEREAS, the Housing Element of the Alameda General Plan is being updated to accommodate Alameda's Regional Housing Needs Allocation (RHNA) of 5,353 units for the eight-year period 2023 to 2031; and

WHEREAS, a portion of the RHNA can be met through small-scale projects on underutilized residentially zoned properties in existing neighborhoods; and

WHEREAS, the proposed amendments will ease restrictions that currently limit the development of additional units on properties in the R-1 District; and

WHEREAS, on December 13, 2021, the Planning Board held a duly-noticed public hearing and considered relevant exhibits, heard recommendations of the City staff, received testimony from the public, and recommended adoption of the proposed

amendments to the Alameda Municipal Code; and

WHEREAS, this Ordinance will protect the public health, safety and general welfare for the reasons set forth in the accompanying Staff Report, and incorporates such reasons herein by reference; and

WHEREAS, adoption of this Ordinance is in compliance with the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("CEQA"); and

WHEREAS, pursuant to Government Code sections 65852.21(j) and 66411.7(n), adoption of an ordinance to implement SB 9 is not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code; and

WHEREAS, the proposed amendments to the Zoning Ordinance were considered at a regular, duly noticed public hearing of the Planning Board on December 13, 2021, and the Planning Board recommended that the City Council adopt the proposed amendments; and

WHEREAS, the Planning Board makes the following findings:

1. **The amendments maintain the integrity of the General Plan.** The amendments are consistent with General Plan Policy LU-2 (Complete Neighborhoods) to create complete neighborhoods with a variety of rental and ownership housing opportunities and Policy LU-15 (Housing Needs) to provide opportunities to accommodate the RHNA and optimize the number of housing units allowed on each acre of residentially zoned land.
2. **The amendments will support the general welfare of the community.** The proposed zoning text amendments will increase housing opportunities and opportunities for smaller, more affordable housing in Alameda's high resource neighborhoods.
3. **The amendments are equitable.** The proposed zoning text amendments are equitable in that they further clarify and streamlined processes and procedures for the development of small-scale residential projects in Alameda. The amendments increase the range of housing types permitted in the R-1 District. They minimize distinctions between residential use types based on the incomes or needs of occupants and shift the focus toward urban form.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board recommends that the City Council amend Section 30-4.1 of the Alameda Municipal Code as follows:

30-4.1 R-1, One-Family and Two-Family Residence District.

a. *General.* The following specific regulations, and the general rules set forth in Section 30-5, shall apply in all R-1 Districts as delineated and described in the zoning maps. It is intended that this district classification be applied in areas subdivided and used or designed to be used for one-family and two-family residential development, and that the regulations established will promote and protect a proper residential character in such districts.

b. *Uses Permitted.*

1. ~~One-family dwellings, including private garages, accessory buildings and uses; reconstruction of destroyed two-family dwellings, provided that all zoning requirements other than density shall be met and that any requirement that would reduce the number or size of the units shall not apply; private, noncommercial swimming pools, boat landings, docks, piers and similar structures; and home occupations in compliance with the standards as set forth in Section 30-2 of this Code to the satisfaction of the Planning and Building Director. Upon the approval of the Planning and Building Director, a Registration of Home Occupation form shall be completed and filed with the Planning and Building Department. Any property owner aggrieved by the approval or non-approval of the Planning and Building Director shall have the right to appeal such action to the City Planning Board in the manner and within the time limits set forth in Section 30-25 of this Code. Nothing contained herein shall be deemed to deny the right of appeal under Section 30-25 following the determination of the City Planning Board.~~

2. Two-family dwellings or two one-family dwellings on the same lot, provided that:

- (a) Any new unit added to a property with an existing single family home or any new unit added to a lot created pursuant to the provision of Lot Splits subsection d.2 below shall not exceed 1,200 square feet in size.
- (b) The proposed housing development shall not require or result in the demolition of an existing dwelling unit that (1) is subject to a recorded covenant, deed restriction, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes; (2) is subject to subsection 6-58.60 (Establishment of Base Rent, Annual General Adjustment) of the City Rent Control Ordinance (Article XV of Chapter VI of the AMC); or (3) has been occupied by a tenant within the last three (3) years; and (4) the proposed housing development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site designated as a City Historic Monument, historic property, or historic district pursuant to a City ordinance. Notwithstanding the above, any demolition that is subject to the demolition controls of AMC Section 13-21 shall require approval of a Certificate of Approval prior to issuance of a demolition permit.
- (c) The subject property is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code ("Ellis Act") to withdraw

accommodations from rent or lease within the last 15 years before the date of application for the proposed housing development.

(d) The development is not within a special flood hazard area subject to inundation by the one-percent annual chance flood (100-year flood), as determined by the Federal Emergency Management Agency.

(e) No unit in the proposed housing development shall be rented for a period of less than 30 days.

3. Private, noncommercial garages, swimming pools, boat landings, docks, piers and similar structures, and other accessory structures and uses.

4. Home occupations

5. 2. Agriculture, horticulture, home gardening, excluding retail sales of nursery products or the raising of rabbits, dogs, fowl or other animals for commercial purposes.

6. 3. Underground and above-ground utility installations for local service, except that substations, generating plants, gas holders, and transmission lines must be approved by the Planning Board prior to construction.

7. 4. Public parks, schools, playgrounds, libraries, fire stations and other public buildings and uses included in the General Plan.

5. Signs: As provided in Section 30-6 of these regulations.

6. Multiple houses.

8. 7. Family day care homes, large and family day care homes, small as licensed by the State of California.

9. 8. Residential care facilities, small providing care for no more than six (6) persons.

10. 9. Accessory dwelling units, and junior accessory dwelling units, and efficiency units.

11. 10. Supportive housing and transitional housing.

12. Shared living.

13. Incidental shelters.

14. Domestic violence shelters

c. *Uses requiring use permits.* It is the intent in this paragraph that the following uses shall be reviewed by the Planning Board for their appropriateness in a specific location, or for such other factors as safety, congestion, noise, and similar considerations:

1. Public parks, schools, day care centers, places of worship, and other assembly uses.
~~playgrounds, libraries, fire stations and other public buildings and uses not included in the General Plan.~~

2. Residential care, large and residential care, senior (assisted living) Private and religious
~~schools, day care centers and churches.~~

- ~~3. Community care facilities not listed under uses permitted.~~
 - ~~4. Temporary tract sales offices, advertising signs, construction offices, equipment storage yards or structures therefore, which are incidental to the development during the construction and/or sales period.~~
 - ~~5. Automobile parking lots and ancillary facilities for ferry terminals serving the general public, provided that:~~
 - ~~(a) Parking lots and ancillary facilities adjoin a commercial planned development zoned area or an industrially zoned area in which terminals are permitted;~~
 - ~~(b) There is an entrance to the automobile parking lots and ancillary facilities for ferry terminals adjacent to nonresidential areas; and~~
 - ~~(c) Any additional parking lot entrances adjacent to residentially zoned areas shall be allowed only if conditions are imposed to minimize the nonlocal automobile traffic to the terminal through the residential areas.~~
- d. *Minimum Height, Bulk and Space Requirements.*
1. Minimum Lot Area: Five thousand (5,000) square feet per dwelling unit. Lot area may be reduced through a lot split subject to Subsection d.2.
 2. Lot Splits: Pursuant to Government Code Section 66411.7, the division of an existing lot into two lots is permitted in an R-1 Zoning District, provided that all of the following requirements are met:
 - (a) The area of each lot is at least one thousand two hundred (1,200) square feet and at least forty (40%) percent of the area of the original lot prior to the lot split.
 - (b) Each lot provides frontage on a public street or a pedestrian or vehicular access easement to a public street.
 - (c) The land division will not require or result in the demolition of an existing dwelling unit that: (i) is subject to a recorded covenant, deed restriction, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes; (ii) is subject to subsection 6-58.60 (Establishment of Base Rent, Annual General Adjustment) of the City Rent Control Ordinance (Article XV of Chapter VI of the AMC); or (iii) has been occupied by a tenant within the last three (3) years; and (iv) the existing lot is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site designated as a City Historic Monument, historic property, or historic district pursuant to a City ordinance. Notwithstanding the above, any demolition that is subject to the demolition controls of AMC Section 13-21 shall require approval of a Certificate of Approval prior to issuance of a demolition permit.
 - (d) The existing lot has not been subject to the exercising of the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code ("Ellis Act") to withdraw accommodations from rent or lease within 15 years before the date of application for the land division.

- (e) The existing lot is not within a special flood hazard area subject to inundation by the one-percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency.
 - (f) The existing lot has not previously been divided through exercise of this regulation and neither the owner of the existing lot nor any person acting in concert with the owner previously subdivided an adjacent parcel using an urban lot split through exercise of this regulation.
 - (g) The number of units shall be limited to two dwelling units or one dwelling unit and one accessory dwelling unit on each lot for a maximum of four (4) total dwelling units on the two lots created by the lot split.
 - (h) Each lot shall be subject to a deed restriction specifying that: (i) no housing unit on the property may be rented for a term shorter than 30 days; (ii) the uses allowed on a lot created by this section shall be limited to residential uses; and (iii) the lots resulting from the land division may not be further subdivided using the provisions of this subsection.
 - (i) The applicant has provided a signed affidavit on a form provided by the City Attorney stating that the applicant intends to occupy a dwelling unit on one of the resulting lots as their principal residence for a minimum of three (3) years from the date of the approval of the land division. This requirement shall not apply to an applicant that is a "community land trust" or a "qualified nonprofit corporation" as defined the Revenue and Taxation Code.
3. Minimum Lot Width: Fifty (50') feet. Lot width may be reduced if the project meets the requirements of subsection d.2, Lot Splits.
 4. Maximum Main Building Coverage: Forty (40%) percent of lot area; provided, however, that where the garage is attached to the main building the permitted lot coverage may be increased to forty-eight (48%) percent.
 5. Maximum Building Height Limit: Not to exceed thirty (30') feet.
 6. Minimum Front Yard: Twenty (20') feet. In any full block frontage of lots in a new residential development the Planning Board may approve front yards which vary from fifteen (15') [feet] to thirty (30') feet, provided that the average of all front yards in the block shall not be less than twenty (20') feet.
 7. Minimum Side Yard: Five (5') feet for one-family dwellings; four (4') feet for dwellings constructed pursuant Government Code Section 65852.21. Side yards shall total not less than twenty (20%) percent of the lot width (as defined in Section 30-2—Definitions), and no side yard may either be less than five (5') feet or be required to be more than ten (10') feet. The side yard on the street side of a corner lot shall not be less than ten (10') feet.
 8. Minimum Rear Yard: Twenty (20') feet. Not more than forty (40%) percent of the rear yard, as defined in Section 30-2 may be occupied by accessory buildings or structures (swimming pools excepted).
 9. Yards for Corner Lot Adjacent to Key Lot: The side-yard setback on the street side of the corner lot, within twenty feet (20') of the side property line of the key lot, shall be equal to

the front-yard of the key lot, as defined in Section 30-2, "yard, front," and no structure, excluding barriers, may be permitted within five (5') feet of the rear property line on the corner lot.

10. ~~Off Street Parking Space: As regulated in Section 30-7 of this Code.~~ Government Code Section 65852.21 and 66411.7 Exemptions.

- (a) If a proposed housing development is being provided pursuant to Government Section 65852.21 or 66411.7 entirely within the footprint of an existing building or constructed in the same location and to the same dimensions as an existing building, no additional setback is required.
- (b) No objective zoning standards, objective subdivision standards, or objective design standards, including but not limited to minimum lot width, maximum building coverage, minimum setback or other bulk and space requirement, shall apply if that standard would physically preclude a land division resulting in two lots consistent with the requirements of Subsection d.2, Lot Splits, or the development of a two-family dwelling, or two one-family dwellings on the same lot, each unit of which has at least eight hundred (800) square feet of floor area, or a one-family dwelling with at least one thousand two hundred (1,200) square feet of floor area, provided that such dwellings are set back at least four (4') feet from interior side and rear lot lines.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Board recommends that the City Council amend Section 30-2 of the Alameda Municipal Code to include the following new definitions, amended definitions, and deleted definitions:

Efficiency Unit shall mean a dwelling unit for occupancy that has a minimum floor area of 150 square feet and a maximum floor area of 450 square feet and which may also have partial kitchen or bathroom facilities as regulated in Section 17958.1 of the California Health and Safety Code.

~~*Residential care facility* shall mean a community care facility which provides care on a twenty four (24) hour basis~~(per Health and Safety Code Section 1502(a)(1)) shall mean a facility licensed by the State of California that provides living accommodations and 24-hour care for persons requiring personal services, supervision, protection, or assistance with daily tasks. Amenities may include shared living quarters, with or without a private bathroom or kitchen facilities. This classification includes both for and not-for-profit institutions but excludes *Residential Care Facility, Small*.

Residential Care Facility, Small. A facility that is licensed by the State of California to provide care for six or fewer persons 18 years or older.

Residential Care Facility, Large. A facility that is licensed by the State of California to provide care for more than six persons 18 years or older.

Residential Care Facility, Senior (Assisted Living). A housing arrangement chosen voluntarily by the resident or by the resident's guardian, conservator or other responsible person; where residents are 60 years of age or older; and where varying levels of care and supervision are provided as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal. This

classification includes continuing care retirement communities and life care communities licensed for residential care by the State of California.

Emergency shelter shall mean housing with minimal supportive services for ~~homeless unhoused~~ persons that is limited to occupancy of six (6) months or less by an ~~homeless unhoused~~ person that is not an Incidental Shelter, Domestic Violence Shelter, or Low Barrier Navigation Center. ~~No individual or household may be denied emergency shelter because of an inability to pay.~~

Incidental Shelter shall mean an emergency shelter that is accessory to a primary use and is typically operated on an intermittent or seasonal basis.

Domestic Violence Shelter shall mean a facility where victims of domestic violence or sexual abuse are provided temporary housing, food, and other specialized services in compliance with California Welfare and Institutions Code Section 18290 *et seq.*

Low Barrier Navigation Centers shall mean a housing first, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing consistent with Government Code Section 65660.

Shared living means a residential building, or portion thereof, other than a hotel that provides private living quarters without private, independent kitchen facilities. A shared common kitchen and common activity area may be provided. Shared living ~~also includes rooming house, and single room occupancy (SRO) units, which provide housing for very low income persons that typically consist of a single room with access to a shared bath.~~ Shared living may be restricted to seniors or be available to persons of all ages.

Transitional housing ~~and transitional housing development~~ shall mean buildings configured as rental housing developments but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from the beginning of the assistance.

~~Community care facility shall mean any facility, place or building which is maintained and operated to provide nonmedical residential care, including but not limited to family day care homes and residential care facilities.~~

~~Dwelling group shall mean two (2) or more detached one (1), two (2), or multiple family dwellings located upon a building site together with all open spaces as required by this chapter.~~

~~Servants quarters shall mean a secondary dwelling or apartment without separate kitchen facilities designed for and used only by persons or the families of persons regularly employed on the property.~~

~~Senior housing shall mean a residential unit reserved for households where at least one (1) member of the household is over sixty-two (62) years of age. A deed restriction permanently limiting occupancy to such senior households, in a form acceptable to the Planning Director and City Attorney, shall be recorded for the property with the County Recorder's office.~~

Target Population (per Government Code Section 65582) shall mean persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services. It may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

Manufactured Home shall mean a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974. Health & Safety Code Section 18007.

~~Houseboat~~Floating home shall mean a boat that is used for a residential or other nonwater oriented purpose that is not capable of being used for active navigation. ~~(Note: Houseboats are not permitted outside of commercial marinas designated for houseboat berthing. A houseboat is equivalent to a floating home as defined in subsection 13-38.5 of the Alameda Municipal Code, and is subject to the regulations set therein. Houseboats-Floating homes are also subject to the requirements of Article XIV of Chapter XIII of the Alameda Municipal Code.)~~

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