

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

New Series

AMENDING CHAPTER XXX OF THE ALAMEDA MUNICIPAL CODE  
REGARDING THE SECOND UNIT ORDINANCE AND ACCESSORY  
BUILDING REGULATIONS.

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 amendments maintain the integrity of the General Plan. The proposed amendments to the Zoning Ordinance related to second units are consistent with the City of Alameda's housing goals, policies and programs. The amendments would help Alameda meet its housing needs objectives as specified in the General Plan Housing Element by reducing barriers for new second units and encouraging new second units through the conversion of accessory buildings where possible.
2. The amendments will support the general welfare of the community. The proposed amendments would ease the eligibility requirements for second units in Alameda. The second units provide an important source of affordable housing. By promoting the development of second-units, Alameda may ease a rental housing deficit, maximize limited land resources and existing infrastructure and assist low and moderate-income homeowners with supplemental income. Second units can contribute to the local affordable housing stock and increase the City's property tax base, all of which will enhance the general welfare for the Alameda community.
3. The amendments are equitable. The proposed amendments are equitable in that they increase the opportunity for Alameda homeowners to add a second unit to their property. These amendments clarify and streamline regulations pertaining to second units, and they expand the number of properties in Alameda eligible to attain a second unit to all residential zoning districts.
4. California Environmental Quality Act. The proposed amendments are Statutorily Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15282(h) of the CEQA Guidelines which exempts the adoption of ordinance revisions to comply with Government Code Section 65852.2 (AB 1866 – Second Unit Law). The proposed amendments are also categorically exempt under CEQA Guidelines Section 15305 – Minor Amendments to Land Use Limitations.

Section 1. Section 30-2.b Definitions shall be amended as follows:

*"Accessory building shall mean a detached subordinate building, ~~any part of which is within a required minimum yard of the subject Zoning District, and the use of which is incidental to that of the main building(s) on the same lot, or to the primary use of the land. For properties within a Residential zone, or with a Residential use, the use of such accessory buildings is restricted to garages, carports, storage sheds, and similar buildings which are found by the Building Official to conform to the "U" (utility) occupancy classification.~~"*

Section 2. Section 30-4.1.b Uses Permitted shall be amended as follows:

*"9. ~~Second Units on a single parcel containing one single-family dwelling, when in compliance with the following standards:~~*

*(a) The subject lot contains one existing single-family dwelling, and the second unit will be the only additional dwelling on the lot. All building coverage, yard areas, and setback requirements of the R-1 District shall be met for new structures and additions to existing dwellings intended for second units, unless the requirements for exceptions provided for in Chapter 30 of the Alameda Municipal Code are met. Second units are not accessory structures.*

*(b) Aggregate lot coverage of building footprint(s) and nonpermeable surfaces shall not exceed sixty (60%) percent.*

*(c) ~~The minimum lot size on which a Second Unit shall be allowed is seven thousand five hundred (7,500)~~ four thousand (4,000) square feet.*

*(d) A second unit may be attached to or detached from the primary living unit.*

*(e1) When detached from the primary dwelling, second units shall conform to the requirements in Section 30-5.7.f Accessory Buildings. The design of the all detached second units shall be consistent with that of the primary residence, incorporating the same materials, colors and style as the exterior of the primary dwelling, including roof materials and pitch, eaves, windows, accents, distinctive features, and character defining elements.*

*(f2) When attached to the primary dwelling, the design of the second unit shall appear as an integral part of the primary dwelling and incorporate the same materials, colors and style as the exterior of the primary dwelling, including roof materials and pitch, eaves, windows, accents, distinctive features, and character defining elements. Creation of the second unit shall not involve any changes to existing street-facing walls nor to existing floor and roof elevations.*

*(ge) An attached second unit shall have no more than one (1) bedroom and contain no more than ~~six hundred (600)~~ seven hundred (700) square feet of habitable space, including the stairwell contained entirely within the second unit, if any, or be no more than fifty (50%) percent of the primary living unit, whichever is less. In no case shall the attached second unit be less than three hundred ~~fifty (350)~~ twenty (320) square feet.*

~~(hf)~~ A detached second unit shall have no more than one (1) bedroom and be no more than ~~six hundred (600)~~ seven hundred (700) square feet of habitable space and no less than ~~three hundred fifty (350)~~ twenty (320) square feet of habitable space, ~~including the stairwell contained entirely within the second unit, if any. Detached second units may not exceed one (1) story when the primary dwelling has more than one (1) story; otherwise, the detached second unit may not exceed sixteen (16) feet in height, unless additional height is required to match the roof pitch of the primary dwelling.~~ The Second Unit shall maintain the scale of and be visually compatible with adjoining residences and the residences in the immediate vicinity.

~~(ig)~~ Utilities extended to a detached second unit shall be underground.

~~(jh)~~ No protected tree(s) shall be removed to accommodate a second unit.

~~(k)~~ Property owner shall record a deed restriction prohibiting the separate sale of the second unit.

~~(li)~~ The lot on which the second unit is located shall have a minimum of two one permanently surfaced off-street parking spaces, one of which shall be assigned to the second unit. The parking spaces shall be located in accordance with Section 30-7.8, Location of Parking Spaces and Prohibited Parking Areas. ~~except that~~

~~(m)~~ The parking space for the second unit shall function independently of other parking spaces on the site. A tandem parking space shall not may count as meeting the required parking for the second unit.

~~(ni)~~ Building permits for second units shall may be issued when all the above standards are met. No discretionary action is required.

~~(ok)~~ If applications for building permits for second units are rejected because the application fails to meet the standards listed herein, any appeal of that action shall be considered by the ~~Planning and Building~~ Community Development Director, who shall take action on the appeal based solely upon the Second Unit approval standards listed in subsection 30-4.1b.9(a) through (s), of the Alameda Municipal Code.

~~(pl)~~ Second units which conform to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which they are located and deemed a residential use consistent with the General Plan and zoning designation of the lot.

~~(qm)~~ Second units that do not conform to the standards e. through i. of this section may be established with use permit and design review approval.

~~(rn)~~ Before obtaining a second unit building permit, the property owner shall file with the ~~County~~ Recorder a declaration or an agreement of restrictions, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

(1) The second unit shall not be sold separately. or be used as a short-term rental.

(2) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

*(so) Nothing in this section supersedes requirements for obtaining development permits pursuant to this chapter or for properties subject to the preservation of historical and cultural resources set forth in Section 13-21 of Chapter XIII of the Alameda Municipal Code.”*

Section 3. AMC Section 30-5.7.f Accessory Buildings shall be amended as follows:

*“f. Accessory Buildings. Accessory buildings may be located within minimum required side and rear yards, and shall conform to the following:*

*1. Height limits. Accessory buildings ~~located in a required side or rear yard~~ shall not exceed one (1) story, and shall not exceed a height of ten (10') feet at the top of a parapet or at the point where the side elevation intersects with the roof, with the following exceptions:*

*(a) The height at the ridge of the roof may exceed the above height limitation, up to a maximum height of fifteen (15') feet.*

*(b) The front and rear elevations may exceed the ten (10') foot height limit up to the fifteen (15') foot height at the ridge of the roof; however, in no case shall the fifteen (15') foot ridge height be extended along the entire front or rear elevation.*

*(c) The height at the top of the front or rear elevation's parapet may exceed the above height limitation, up to a maximum height of twelve (12') feet.*

*2. Maximum rear yard coveragesizes permitted. Accessory buildings shall not ~~exceed cover more than~~ four hundred (400) square feet ~~in size, or 40% of the minimum required rear yard as prescribed by the subject Zoning District, whichever is greater. As an exception to the four hundred (400) square foot limit, lots that have a minimum required rear yard of over one thousand (1,000) square foot may have accessory structures that exceed four hundred (400) square feet in size, but may not occupy more than forty (40%) percent of the minimum required rear yard as prescribed by the subject Zoning District.~~ That portion of an accessory building which is outside the minimum required rear yard is subject to maximum main building coverage limitations of the subject zone.*

*3. Minimum setbacks from side property lines. If located less than seventy-five (75') feet from the front property line, the accessory building shall observe a five (5') foot side yard setback. If the accessory building is to be located seventy-five (75') feet, or more, from the front property line, it may be built up to the interior side property line(s), provided that all construction within three (3') feet of the property line (including eaves and similar architectural features) is one hour fire resistive as required by the A.B.C., as approved by the Building Official.*

*4. Minimum setback from rear property line. If located within that portion of the minimum required rear yard that adjoins the neighbors' required minimum rear yard(s), the accessory building may be built up to the rear property line, provided that all construction within three (3') feet of the property line (including eaves and similar architectural features) is one hour fire resistive as required by the A.B.C., as approved*

*by the Building Official. If the proposed accessory building is to be located within that portion of the minimum required rear yard that does adjoin the neighbors' required minimum rear yard(s) (i.e., adjacent to that part of the neighbor's side property line not within his/her minimum required rear yard), a minimum five (5') foot setback from the rear property line shall be maintained.*

*5. Minimum separation from neighboring structures. There shall be a minimum of six (6') feet separating all construction (including eaves and similar architectural features) of the accessory building(s) from the main building(s) or other accessory building(s). The separation requirements of this paragraph may be reduced by the ~~Planning and Building~~ Community Development Director and Building Official if one hour fire resistive construction is utilized and/or occupancy classification of the subject buildings allow for a lesser separation, as specified by the A.B.C.*

*6. Reconstruction of legally nonconforming buildings. Notwithstanding the limitations prescribed by Section 30-20, Nonconforming Buildings and Uses, legally nonconforming accessory building(s) with conforming residential uses in residential zoning districts may be reconstructed, with an equal or lesser nonconformity to the size, and location requirements of this subsection (i.e., paragraphs 2. through 4.), subject to the approval process for improvements, as outlined in Section 30-37, Design Review Regulations, and allowing for modifications to the height and/or roof configuration, provided that the resulting design does not exceed the height limitation prescribed by paragraph 1. of this subsection. Such reconstruction may occur as part of any duly permitted project to repair, remodel or replace the existing nonconforming structure.*

*7. Accessory buildings used for off-street parking may be converted to other incidental uses of the subject zoning district provided an equal number of parking spaces is provided on the same lot in accordance with Section 30-7.3.*

*8. Accessory buildings may be used as habitable space, including but not limited to a den, study, library, art studio, workshop, home office, sewing room, or recreation room. Accessory buildings shall not include a kitchen unless the accessory building is converted to a Second Unit per Section 30-4.1.b.9 or the kitchen is approved with a use permit as part of a home occupation per Section 30-2. The Community Development Director may require deed restrictions on lots with accessory buildings used as habitable space."*

Section 4. 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 5. 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  
City of Alameda

\* \* \* \* \*

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 \_\_\_\_\_, 20\_\_, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

APPROVED AS TO FORM:

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Janet C. Kern, City Attorney  
City of Alameda