

CITY OF ALAMEDA ORDINANCE No. _____

New Series

AMENDING CHAPTER XXX OF THE ALAMEDA MUNICIPAL CODE
(ZONING ORDINANCE) TO REMOVE BARRIERS AND ADD
INCENTIVES FOR SECOND UNITS.

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 to the Second Unit Ordinance 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. The amendments are exempt from the California Environmental Quality Act. The proposed amendments specifically related to Second Units are also Statutorily Exempt from the requirements of CEQA 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).

Section 1. Section 30-4.1.b Uses Permitted shall be amended as follows:

“9. Second Units, when in compliance with the following standards:

(a) *Eligibility*. Lots eligible for a second unit shall be a residentially-zoned lot that is not within a planned development. The subject lot shall contain one single-family dwelling, and the second unit will be the only additional dwelling on the lot.

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

(c) *Minimum lot size*. The minimum lot size on which a Second Unit shall be allowed is seven thousand five hundred (7,500) square feet except as provided under subsection (j) below.

(d) *Design*. A second unit may be attached to, or detached from the primary living unit. Attached second units include those that are constructed within or added to the building envelope:

(1) 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 detached second unit shall be subordinate but 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. The second unit shall be visually compatible with adjoining residences and the residences in the immediate vicinity.

(2) 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.

(e) *Size Requirements*.

(1) An attached second unit shall contain no more than six hundred (600) square feet of floor area, including any stairwell contained entirely within the second unit, or be no more than fifty (50%) percent of the primary living unit, whichever is less.

(2) A detached second unit shall have no more than six hundred (600) square feet of floor area.

(f) *Utilities*. Utilities extended to a detached second unit shall be underground.

(g) *Protected Trees*. No protected tree(s) shall be removed to accommodate a second unit.

(h) *Separate Sale and Short-Term Rental Prohibited*. Property owner shall record a deed restriction prohibiting the separate sale of the second unit and use of the second

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unit as a short-term rental. *Short-term Rental* shall mean any second unit, or any portion thereof, which is occupied or intended for occupancy for dwelling, lodging or sleeping purposes for a period of thirty-one (31) consecutive calendar days or less, counting portions of calendar days as full days, unless there is an agreement in writing between the property owner and the occupant providing for a longer period of occupancy.

(i) *Required parking.* The second unit shall have one permanently surfaced parking space, except as provided under subsection (j) below. The parking space shall be located in accordance with Section 30-7.8, Location of Parking Spaces and Prohibited Parking Areas. The parking space for the second unit shall function independently of other parking spaces on the site. A tandem parking space shall not count as meeting the required parking for the second unit.

(j) *Exceptions for Rent Restricted Units and Transit-Oriented Units.*

(1) *Rent Restricted Units* shall mean second units that are deed-restricted per subsection (o) below to Affordable Rent for Low-Income Households, as defined in Section 30-16.3.

(2) *Transit-Oriented Units* shall mean second units that are located on lots within a ¼ mile distance of a major transit corridor with minimum weekday peak hour service every 20-minutes and any weekend service. Such units shall be deed-restricted per subsection (o) below and are required to provide a monthly transit pass to occupants of the second unit or to occupants of the main dwelling if the second unit is not being rented.

(3) Second units meeting the definition of Rent-Restricted Units may apply the following exceptions:

Minimum lot size: Five thousand (5,000) square feet.

Required Parking: One tandem space.

(4) Second units meeting the definition of Transit-Oriented Units may apply the following exceptions:

Minimum lot size: Five thousand (5,000) square feet.

Required Parking: None.

(5) Second units must meet both the definition of a Rent Restricted Unit and Transit-Oriented Unit to apply the following exceptions:

Minimum lot size: Four thousand (4,000) square feet.

Required Parking: None.

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

(l) 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 Zoning Administrator per the requirements in Section 30-21.4, who

shall take action on the appeal based solely upon the Second Unit approval standards listed in subsection 30-4.1b.9(a) through (q), of the Alameda Municipal Code.

(m) 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.

(n) Second units that do not conform to the standards of subsection 30-4.1b.9 (b) through (j) of this section may be established with use permit and, if applicable, design review approval.

(o) *Deed Restriction*. 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.

(3) *Rent-Restricted Unit Option*: Second units approved under this option shall be subject to rent restrictions. Prior to building permit final for a rent-restricted second unit, the rent-restriction shall be recorded in the County Recorder's Office, as a declaration of rent restrictions (in a form provided by the City), and shall remain in effect for the life of the second unit unless a release of the deed restriction is approved with a use permit per subsection (n) above.

(4) *Transit-Oriented Unit Option*: Second units approved under this option shall require provision of a monthly transit pass to occupants of the second unit or to occupants of the main dwelling if the second unit is not being rented, and which shall remain in effect for the life of the second unit unless a release of the deed restriction is approved with a use permit per subsection (n) above.

(p) *Annual Certification for Rent Restricted Units*. An owner who has constructed a Rent Restricted second unit and executed a declaration of rent restrictions under subsection 30-4.1b.9(o) shall submit to the Community Development Department a second unit affordable rent certification: (i) on an annual basis by each December 31; and (ii) upon any change in occupancy of the second unit. The second unit affordable rent certification shall be on a form provided by the City and shall specify whether or not the second unit is being occupied; the rent charged; the utilities that are included in the cost of rent; the household size of the second unit; the names and ages of the second unit occupants; the gross household income of the second unit household; and other information as determined appropriate by the City. The City may levy administrative charges on the property owner for failure to comply with this requirement.

(q) 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 2. AMC 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 30-5.7(f) Accessory Buildings shall be amended to add:

7. Accessory buildings on residential lots may be used as a den, study, library, art studio, workshop, home office, sewing room, recreation room, and any other use which the Director finds consistent with the purpose of the underlying zoning district. Accessory buildings shall not include a kitchen or a toilet unless the accessory building is converted to a Second Unit per the requirements of Section 30-4.1.b.9 or the kitchen is approved with a use permit for a home occupation. The Zoning Administrator may require a deed restriction stipulating the use of such accessory building to ensure consistency with purpose of the underlying zoning district.”

8. Existing detached garages may be converted to other uses described in subsection (7) above provided an equal number of parking spaces is provided on the same lot in accordance with the requirements in Section 30-7.3.

Section 3. 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 4. 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

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