

September 20, 2016

**Draft**

**SECTION 30-18 UNIVERSAL DESIGN ORDINANCE**

**18.1 - Purpose:**

- a. The purpose of the design standards established by this ordinance is to 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 & abilities, in all new residential development projects within the City of Alameda.
- b. To facilitate the development of residential dwelling units that are usable and safe for occupancy by persons with disabilities and that support aging in place;
- c. To incorporate universal design principles into residential dwelling units that would enhance residents' ability to remain in their homes during periods of temporary, developing, or permanent disabilities or frailties; and
- d. To accommodate a wide range of individual preferences and functional abilities while not significantly impacting housing costs and affordability.
- e. To promote and preserve the public health, safety, and general welfare of the people of the City of Alameda and the property situated therein by the adoption of a universal design standard for dwellings in order to adequately safeguard life, health, property, and general welfare.
- f. 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."

- g. The purpose of this ordinance is not to create or otherwise establish or designate any particular class or groups of persons who will or should be especially protected or benefited by the terms of this ordinance.

**18.2 - Findings:**

- a. Research consistently shows that mandatory requirements are the 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>1</sup>
- b. 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 them reporting the disability was severe;<sup>2</sup>

---

<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*.

- c. 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 (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 million people (39.4 percent) had difficulty with ambulatory activities, of which 11.2 million had severe difficulty;<sup>3</sup>
- d. 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 2.0 million people used a wheelchair and 7.0 million used a cane, crutches, or walker;<sup>4</sup>
- e. 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 one in four 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>
- f. Seventeen percent 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>
- g. 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.

- h. 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>
- i. 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.
- j. 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>9</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.
- k. The Pew Research Center reports a 10.5% increase in multi-generation households from 2007 to 2009, and the national homebuilder Pulte Group's 2012 survey found that 32% of adult children expect to eventually share their home with a parent.<sup>10</sup>

<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.

<sup>10</sup> "Three Generations Under One Family," *AARP Bulletin*, April 2013, p.18.

- l. 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.
- m. Pursuant to Health and Safety Code Section 17959, the City Council of the City of Alameda hereby finds that the provisions of this ordinance are in accord with the State's model universal design local ordinance adopted by the California Department of Housing and Community Development.

### **18.3 - 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 or 11B of the California Building Code, Chapters 11A & 11B.

*"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 or 11B of the California Building Code, Chapters 11A & 11B.

*"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 or 11B of the California Building Code, Chapters 11A & 11B..

*"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 or 11B of the California Building Code, Chapters 11A & 11B..

*"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 or 11B of the California Building Code, Chapters 11A & 11B..

*"Accessible Primary entry"* means the principal entrance used to enter a building or residential unit, as designated by the Building Official for purposes of compliance with this ordinance that meets or exceeds the minimum requirements of Chapter 11A or 11B of the California Building Code, Chapters 11A & 11B..

*"Adaptable Internal Stairs"* means internal stairways and stairs with a minimum width of 36 inches wide and include suitable and appropriate outlets at the bottom and top of any stairs to facilitate the use of a chair lift.

*"Accessible Exterior Access"* means an exterior accessible route from the public right of way to the accessible primary entry that is consistent with the requirements of CBC Chapter 11A.

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

*"ANSI A117.1"* means the most current version of the "Standard on Accessible and Usable Buildings and Facilities," commonly known as "ICC/ANSI A117.1," published by the International Code Council and the American National Standards Institute, Inc.

*"Constructing or construction"* means all new, residential construction for which a building permit is required per local ordinance. New

construction does not include additions, alterations, or remodels to existing residential buildings.

*“Dwelling unit”* means a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation for not more than one family, or as defined by the California Building Code. A single dwelling unit shall not have more than one kitchen.

*Dwelling unit, Single Family Detached”* means a detached building with one dwelling unit with a private primary entrance providing direct access to the exterior of the building on the ground floor and the adjacent public right of way.

*Dwelling Unit, Attached Townhome* means a dwelling unit, with a private primary entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement.

*Dwelling Unit, Multifamily* means a dwelling unit in a building with more than one unit; a common primary entrance from the public right for all or most residents and visitors that provides access to internal or external corridors which provide access to the primary entrance for each unit; and in which dwelling units are attached horizontally and vertically within the building.

*“New construction”* means the construction of a new building. New construction does not include additions, alterations, or remodels to existing buildings.

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

*“Residential development”* means a development project that contains one or more residential dwellings.

*Universal design”* means the specialized design of the built space, products and environments to

be usable by the greatest number of people with the widest reasonable range of abilities or disabilities, to the greatest extent feasible, without the need for concurrent modification and, in housing, incorporating the use of building products or features that have been placed differently, selected carefully, or omitted to accomplish these ends.

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

#### **18.4 - Scope and application:**

- a. Unit Coverage. This ordinance shall apply to all new residential development for which an application for a new construction building permit is submitted to the Community Development Department after the effective date of this ordinance.
- b. Existing Residential Dwelling Units Exempt. The provisions of this ordinance do not apply to rehabilitation or expansion of existing residential units.
- c. New Residential Dwelling Units in existing Buildings Exempt. New residential units created through the rehabilitation of an existing building or addition of a unit within an existing residential building are exempt from this Ordinance.
- d. Discretionary Permit Conditions of Approval. Any tentative map, design review, conditional use permit, site development review or master plan subject to this ordinance shall contain conditions sufficient to ensure compliance with the provisions herein.
- e. Building Permit Construction Plans. 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 section of this ordinance.

### **18.5 Visitability New Construction Requirements:**

All new residential dwellings units subject to the provisions of this ordinance shall include the following features to enhance the ability of a residential dwelling unit to meet the basic needs of all residents and guests to enter and use critical portions of the home, to the greatest extent possible: 1) an accessible exterior access, 2) an accessible primary entry, 3) an accessible internal access from the primary entrance to an accessible bathroom and an accessible common use area or bedroom, and 4) adaptable internal stairwells.

### **18.6 – Universal Design New Construction Requirements:**

- a. Thirty percent (30%) of all new single family detached dwelling units, 30% of all multifamily dwelling units, and ten percent (10%) of all attached townhome dwelling units in a residential development of five (5) or more single family detached residential units or stacked flat residential units shall include the following additional universal design features in addition to the features required by Section 18.5: An accessible interior access from the primary entrance to an accessible kitchen, accessible bedroom, accessible common use area, and laundry facilities.
- b. 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 on the nearest whole number

### **18.7 Obligation to Offer and Install Universal Design Features:**

The developer or builder of a 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 any of the features listed in Section 5.B of this

ordinance. The seller of the residential dwelling units shall prepare a brochure or checklist of the additional universal design features and pricing for the features listed in Section 5.B that may be purchased by the buyer and installed by the seller during construction of the specific unit to be constructed by the seller to be sold to the buyer.

### **18.8 Exemptions and Annual Reporting:**

- a. The Planning Board may consider granting an exemption to any of the provisions of this ordinance if it is able to make one or more of the following findings:
  - i. The requested exemption is necessary to enable a design solution for the proposed residential unit or units that is necessary to be able to make the findings for Design Review approval.
  - ii. The requested exemption is necessary due to the fact that provisions of this ordinance would create an undue hardship and equivalent facilitation is not available.
  - iii. The requested exemption due to an undue hardship due to topographical conditions of the site; and/or the size of the site; and/or other site constraints; and/or legal constraints; and that no equivalent facilitation is available, an exemption to that portion of the regulation shall be granted.
- b. The City of Alameda Community Development Department shall report annually to the City of Alameda Planning Board on implementation of this section to the City of Alameda Planning Board as part of the Housing Element Annual Report. The Annual Report shall provide an opportunity for the Planning Board and the State Department of Housing and Community Development to recommend changes or revisions to this ordinance to the City of Alameda City Council.

### **18.8 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.*; injunctive relief or civil penalties; and requiring compliance prior to issuance of a final inspection report or certificate of occupancy.
- b. Remedies under this paragraph/section are in addition to and do not supersede or limit any and all other remedies, civil, criminal, or administrative. The remedies provided herein shall be cumulative and not exclusive.
- c. Whenever the Building Official or designee re-inspects or otherwise takes any enforcement action against a residential dwelling unit, which is governed by this chapter to determine compliance with this chapter, the Building Official may assess fees against the owner to recover the costs to the City according to a fee schedule established by the City. The assessment and collection of these fees shall not preclude the imposition of any administrative or judicial penalty or fine for violations of this chapter or applicable state laws or regulations.