

DRAFT
CITY OF ALAMEDA ORDINANCE No. _____
New Series

AMENDING CHAPTER XXX OF THE ALAMEDA MUNICIPAL CODE (ZONING ORDINANCE) TO MODIFY REGULATIONS PERTAINING TO ACCESSORY DWELLING UNITS AND RELATED RULES.

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 accessory dwelling 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 accessory dwellings and encouraging new accessory units through the conversion of accessory buildings where possible. The proposed amendment will also facilitate housing opportunities for households in a range of income groups, and for smaller households including seniors. Furthermore, the proposed amendment will assist with homeownership by enabling rental income to offset the costs of buying a home.
2. **The amendments will support the general welfare of the community.** Accessory dwelling units provide an important source of affordable housing. By promoting the development of accessory dwellings, Alameda may ease a rental housing deficit, maximize limited land resources and existing infrastructure and assist low and moderate-income homeowners with supplemental income. Accessory dwelling units 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. In addition, accessory dwellings offer a means of adding housing units with minimal impacts on existing residential neighborhoods.
3. **The amendments are equitable.** The proposed amendments are equitable in that they increase the opportunity for Alameda homeowners to add an accessory dwelling unit to their property. These amendments clarify and streamline regulations pertaining to accessory dwelling units, and they expand the number of properties in Alameda eligible to attain an accessory dwelling unit.
4. **The amendments are exempt from the California Environmental Quality Act.** The proposed amendments are 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.

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

~~*"Accessory building shall mean a detached subordinate building, 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.*~~

"Accessory dwelling unit shall mean an attached or detached residential dwelling which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as one primary single-family dwelling."

"Accessory dwelling unit - Junior, shall mean a dwelling unit, as defined in Government Code Section 65852.22, that is no more than 500 square feet in size and contained entirely within an existing single-family structure, and may include separate sanitation facilities, or may share sanitation facilities with the existing dwelling."

Section 2. 30-4.1 - R-1, One-Family Residence District shall be amended as follows:

b. *Uses Permitted.*

9. Second *Accessory dwelling* units on a single parcel containing one (1) single-family dwelling, when in compliance with the following standards: *requirements set forth in Section 30-5.18.*
 - ~~(a) 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) square feet.~~
 - ~~(d) A second unit may be attached to or detached from the primary living unit.~~
 - ~~(e) When detached from the primary dwelling, the design of the second unit 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.~~

- ~~(f) 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.~~
- ~~(g) An attached second unit shall have no more than one (1) bedroom and contain no more than six hundred (600) 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) square feet.~~
- ~~(h) A detached second unit shall have no more than one (1) bedroom and be no more than six hundred (600) square feet of habitable space and no less than three hundred fifty (350) square feet of habitable space, including the stairwell contained entirely within the second unit, if any. Detached second units may 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.~~
- ~~(i) Utilities extended to a detached second unit shall be underground.~~
- ~~(j) 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.~~
- ~~(l) The second unit shall have one permanently surfaced parking space. The parking space shall be located in accordance with Section 30-7.8, Location of Parking Spaces and Prohibited Parking Areas.~~
- ~~(m) 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.~~
- ~~(n) Building permits for second units shall be issued when all the above standards are met. No discretionary action is required.~~
- ~~(o) 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 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.~~

- ~~(p) 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.~~
- ~~(q) Second units that do not conform to the standards of this section may be established with use permit and design review approval.~~
- ~~(r) 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.~~
 - ~~(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.~~~~
- ~~(s) 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.~~

c. *Uses requiring use permits.*

Insert:

- 6. Accessory dwelling units on a single parcel containing one (1) single-family dwelling, when not in compliance with the requirements set forth in Section 30-5.18, as specified by subsection 30-5.18.f.4.

Section 3. 30-4.2 - R-2, Two-Family Residence District shall be amended as follows:

b. *Uses Permitted*

Insert:

- 9. Accessory dwelling units on a single parcel containing one (1) single-family dwelling, when in compliance with the requirements set forth in Section 30-5.18.

c. *Uses Requiring Use Permits.*

Insert:

7. Accessory dwelling units on a single parcel containing one (1) single-family dwelling, when not in compliance with the requirements set forth in Section 30-5.18, as specified by subsection 30-5.18.f.4.

Section 4. Section 30-4.3 - R-3, Garden Residential District.

b. Uses Permitted

Insert:

7. Accessory dwelling units on a single parcel containing one (1) single-family dwelling, when in compliance with the requirements set forth in Section 30-5.18.

c. Uses Requiring Use Permits.

Insert:

5. Accessory dwelling units on a single parcel containing one (1) single-family dwelling, when not in compliance with the requirements set forth in Section 30-5.18, as specified by subsection 30-5.18.f.4.

Section 5. Section 30-4.4 - R-4, Neighborhood Residential District.

c. Uses Requiring Use Permits.

Insert:

7. Accessory dwelling units on a single parcel containing one (1) single-family dwelling, when not in compliance with the requirements set forth in Section 30-5.18, as specified by subsection 30-5.18.f.4.

Section 6. Section 30-4.5 – R-5, General Residential District.

c. Uses Requiring Use Permits.

Insert:

7. Accessory dwelling units on a single parcel containing one (1) single-family dwelling, when not in compliance with the requirements set forth in Section 30-5.18, as specified by subsection 30-5.18.f.4.

Section 7. Section 30-4.6 – R-6, Hotel Residential District.

c. *Uses Requiring Use Permits.*

Insert:

4. Accessory dwelling units on a single parcel containing one (1) single-family dwelling, when not in compliance with the requirements set forth in Section 30-5.18, as specified by subsection 30-5.18.f.4.

Section 8. Section 30-5.7 – Projections from Buildings and Roof Planes, Permitted Encroachments and Treatments of Minimum Required Yards.

Amend subsection (f) *Accessory Buildings* as follows:

Insert:

7. Accessory buildings shall not include a kitchen unless the accessory building is an accessory dwelling unit per the requirements of Section 30-5.18, or the kitchen is approved with a use permit for a home occupation on a residential lot.

Section 9. 30-5.18 – Accessory Dwelling Units. A new section shall be added as follows:

30-5.18 – Accessory Dwelling Units.

- a. Purpose. This Section provides for accessory dwelling units on lots developed or proposed to be developed with one single-family dwelling per lot as required under Government Code Sections 65852.150 and 65852.2. Such accessory dwelling units contribute needed housing to the community while maintaining neighborhood character, support affordable housing and multigenerational living, and enhance housing opportunity near transit. An accessory dwelling unit that conforms to this section shall:
 1. Be deemed an accessory use and not be considered to exceed the allowable density for the lot upon which it is located;
 2. Be deemed a residential use that is consistent with the allowable density for the lot upon which it is located;
 3. Not be considered in the application of any ordinance, policy, or program to limit residential growth; and
 4. Not be considered a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.
- b. Applicability.

1. The provisions of this Section apply to all legal lots in any residential zoning district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of the accessory dwelling unit.
- c. *Development Standards:* An accessory dwelling unit may be constructed within the existing building envelope of a dwelling or accessory structure, added to the existing dwelling or accessory structure, or constructed as a detached structure.
 1. *Number Allowed:* Only one accessory dwelling unit is permitted per lot that contains or is proposed to contain one primary dwelling.
 2. *Maximum Size:* The size of the accessory dwelling unit shall not exceed 1,200 square feet or more than 50 percent of the floor area of the primary dwelling, whichever is less.
 3. *Attached Accessory Dwelling Units:* An accessory dwelling unit that is attached to or created within an existing primary dwelling shall comply with all height, building coverage, yard areas, and setback requirements for the primary dwelling.
 - a. *Independent Access:* Exterior access shall be provided independently from the primary dwelling.
 - b. *Unit Separation:* Attached units and units that are within the primary dwelling may maintain an interior connection to the primary dwelling provided there is a fire-rated door separating the units that is lockable on both sides.
 4. *Detached Accessory Dwelling Units:* An accessory dwelling unit that is constructed as a detached structure or created through the conversion of an existing accessory structure shall comply with the requirements in Section 30-5.7(f) Accessory Buildings. Notwithstanding Section 30-5.7(f), no setback shall be required for an existing garage that is converted to an accessory dwelling unit, and aggregate lot coverage of building footprint(s) and nonpermeable surfaces shall not exceed sixty (60%) percent. Utilities extended to a detached accessory dwelling unit shall be underground.
 5. *Design:*
 - a) *Attached Unit:* The design of an attached accessory dwelling 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.
 - b) *Detached Unit:* The design of a detached accessory dwelling unit shall be subordinate to the primary dwelling in terms of massing, height and building footprint. The detached building shall exhibit residential character and complement the primary dwelling in terms of proportions, roof form, and basic architectural features. Where there is a clearly recognizable architectural style present in its immediate

surroundings, the detached building shall have the same architectural style and level of interest as the surrounding buildings. Where the immediate context is eclectic and no particular style of architecture is dominant, a greater degree of architectural variety may be established with the detached building.

- c) Detached Unit in the Front Yard or Adjacent to a Street Side Yard of a Corner Lot. The design shall 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.

- 6. Junior Accessory Dwelling Units. One junior accessory dwelling unit shall be permitted ministerially if complying with the standards of subsection c.1 above, and the following:

- a) The junior accessory dwelling unit shall be fully located within an existing primary dwelling in the R-1 District.
- b) The unit shall be created from the conversion of an existing bedroom in the primary dwelling.
- c) The unit shall be no larger than 500 square feet in floor area.
- d) The unit shall maintain an interior connection to the primary dwelling.
- e) The unit may contain separate sanitation facilities or may share with the primary dwelling.
- f) The unit shall include a kitchen that is limited to the following components:
 - a. Sink with a maximum waste line diameter of 1.5 inches;
 - b. Cooking appliances that do not require electrical service greater than 120 volts, or natural or propane gas; and
 - c. A food preparation counter and storage cabinets.

- d. Parking: The parking requirement for an accessory dwelling unit shall be one off-street parking space per unit. This space shall comply with all requirements set forth in Section 30-7 Off-Street Parking and Loading Space Regulations. Notwithstanding Section 30-7, this space may be provided as tandem parking, including on an existing driveway or in a side or rear yard area, unless specific findings are made by the Community Development Director that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions.

- 1. Exceptions. Notwithstanding the parking requirement in this Section, no off-street parking shall be required for an accessory dwelling unit in any of the following instances:

- a) The accessory dwelling unit is within an existing primary dwelling or an existing accessory structure.
- b) The accessory dwelling unit is located within one-half mile of a public transit stop or station.
- c) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- d) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

- e) When there is a car share vehicle located within one block of the accessory dwelling unit.
- 2. Replacement parking: When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement of the parking space(s) meeting the requirements of Section 30-7 Off-Street Parking and Loading Space Regulations shall be required. Notwithstanding Section 30-7, such replacement parking may be located in any configuration on the same lot, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, including on an existing driveway or in a side or rear yard area, unless specific findings are made by the Community Development Director that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions.
- e. Rental and Sale Limitations: Before issuing a building permit for an accessory dwelling unit, 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 accessory dwelling unit shall not be sold separately from the primary dwelling or rented for a period of less than thirty (30) days.
 - 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.
- f. Application and Review Process.
 - 1. Ministerial Review. Except as provided below, application for an accessory dwelling unit shall be permitted ministerially within 120 days without discretionary review or public hearing when in compliance with the development standards of this Section. Prior to issuance of a building permit for an accessory dwelling unit, the Community Development Director shall issue a zoning clearance which establishes that all applicable development standards of this Section are met.
 - 2. Occupancy. The applicant for an accessory dwelling unit shall be a current owner-occupant of the property.
 - 3. Exceptions to Ministerial Review. Discretionary design review as provided by Section 30-36 shall be required for accessory dwelling units that involve any of the following:
 - a) An addition to the primary dwelling involving a second story or above;
 - b) A change in floor level in the primary dwelling, such as when the building is lifted to create a new lower floor. This does not include basement excavation where the exterior building proportions remain the same;
 - c) Accessory dwelling units that do not meet the design standards provided in subsection (c) above.

4. Exceptions to Development Standards. Accessory dwelling units that do not conform to the following development standards, as provided by subsection (c) above, may be approved with a use permit and design review:
 - a) Maximum unit size;
 - b) Setbacks and lot coverage;
 - c) Parking requirements.
 5. Combination permits. For applications that combine a new accessory dwelling unit with improvements other than for the accessory dwelling unit, the application shall be subject to design review if said improvement is not exempt from design review as provided by Section 30-37.2.
 6. Vacant lots. A single-family dwelling must exist on the lot. If the lot is undeveloped, then the applicant will be subject to discretionary review for construction of the primary dwelling.
- g. The accessory dwelling unit shall meet the requirements of the building and housing code, as adopted and amended by the Alameda Building Code, that apply to detached dwellings, as appropriate. Except that fire sprinklers or fire attenuation shall not be required for an accessory dwelling unit if not required for the primary residence.
 - h. No protected tree(s) shall be removed to accommodate an accessory dwelling unit except with the recommendation of a certified arborist and approval procedures set forth in section 13-21 of Chapter XIII of the Alameda Municipal Code.
 - i. 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 10. 30-7.2 Accessory Parking Spaces Required.

Amend subsection *f. Dwelling Unit Additions* as follows:

f. Dwelling Unit Additions. Notwithstanding the requirements of subsection 30-20.4(a), when a dwelling unit is enlarged on a property that is not in compliance with the minimum required parking, an additional parking space shall be added for each seven hundred fifty (750) square feet of added floor area until compliance is achieved. This requirement shall not apply to single-family dwellings unless the single-family dwelling is enlarged to contain 3,000 square feet of floor area or greater. An existing driveway may be considered as up to three (3) parking spaces in tandem serving a single dwelling unit or a primary dwelling and an accessory dwelling ~~second~~ unit if the proposed space(s) conform to the requirements of subsections 30-7.8, and 30-7.9. Conformance with subsection 30-7.10.a is not required.

Section 11. 30-7.6 Schedule of Required Minimum and Maximum Off-Street Parking Spaces.

Insert two new rows, as follows:

Use	Measurement	Min.	Max.
Residential			
Dwelling units 3,000 sq. ft. or less	Per unit	2	-
Dwelling units more than 3,000 sq. ft. in size	Per unit	3	-
<u>Accessory dwelling units</u>	<u>See Section 30-5.18</u>		
<u>Junior accessory dwelling units</u>	<u>Per unit</u>	<u>-</u>	<u>-</u>
Dwelling units located above ground-floor commercial or retail uses within the Community Commercial district	Per unit	1	2

Section 12. 30-7.9 – Parking Dimensions and Access

Amend subsection *d. Tandem Parking* as follows:

- d. *Tandem Parking.* Tandem parking is only permitted to satisfy parking requirements for residential uses in which the tandem spaces serve the same unit, except as allowed for accessory dwelling units as provided in Section 30-5.18.

Section 13. 30-37.2 – Improvements subject to Design Review Exceptions.

Amend subsection *b. Exempt Improvements* as follows:

b. Exempt Improvements.

16. ~~Second units~~ Accessory dwelling units and junior accessory dwelling units consistent with development regulations and review processes of ~~Section 30-4.1~~ 30-5.18.
18. Window and patio door improvements, including new installation, removal, relocation, or resizing of existing openings, provided the improvement:
 - A. Is not located on a front or street side elevation.
 - ~~B. Is not associated with the creation of new floor area.~~
 - CB. Does not alter any original or other architecturally significant character-defining features, such as stained glass, decorative arches and other special treatment.

Section 15. 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 16. 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