

CITY OF ALAMEDA ORDINANCE NO. _____

New Series

AMENDING ALAMEDA MUNICIPAL CODE CHAPTER 30 (ZONING ORDINANCE) TO STREAMLINE DESIGN REVIEW FOR SMALL RESIDENTIAL ADDITIONS, WINDOW REPLACEMENTS, AND GREEN ROOFS, UPDATE WORK/LIVE ORDINANCE REQUIREMENTS, UPDATE LOT LINE ADJUSTMENT PROCEDURES, AND MAKE OTHER MISCELLANEOUS ADMINISTRATIVE, TECHNICAL, AND CLARIFYING AMENDMENTS, AS RECOMMENDED BY THE PLANNING BOARD

WHEREAS, the City seeks to update its Zoning Regulations to streamline Design Review for small residential additions, window replacements, and green roofs, update Work/Live ordinance requirements, update lot line adjustment procedures, and make other miscellaneous administrative, technical, and clarifying amendments; and

WHEREAS, this Ordinance will serve the public health, safety and welfare for the reasons set forth in the accompanying Staff Report dated October 15, 2019, 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, the proposed amendments to the Zoning Regulations were considered at regular, duly noticed public hearings of the Planning Board on July 8 and September 9, 2019, and the Planning Board recommended that the City Council adopt the proposed amendments; and

WHEREAS, this Ordinance was considered at a regular, duly noticed public hearing of the City Council on October 15, 2019, and all interested parties were provided an ample opportunity to participate in said hearing and express their views.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Alameda:

Section 1. FINDINGS. The City Council hereby makes the following findings:

- 1. The amendments maintain the integrity of the General Plan.** The amendments are necessary to ensure that minor improvements to existing residential homes, including single-story additions and windows, can be efficiently processed while maintaining the ability to attain General Plan Design

Element goals to protect the character of Alameda's established neighborhoods. The proposed amendments will also simplify and improve existing residential properties and provide relief for Alameda homeowners undertaking small, routine improvements. The amendments to the work/live ordinance are consistent with General Plan Policy 2.5A to broaden business services and opportunity in Alameda. The amendments pertaining to lot line adjustments also further overarching General Plan objectives to keep local regulations current and in keeping with state law.

2. The amendments will support the general welfare of the community.

The proposed zoning text amendments expand the list of residential property improvements exempt from Design Review, provided the work conforms to the established criteria. These new exemptions expand opportunities for Alameda homeowners to build small additions, upgrade/replace older, less energy-efficient windows, and install sustainable green roofs. The proposed design review exemptions and amendments to Lot Line Adjustment procedures to reduce cost and streamline the time needed to obtain required permits. The proposed amendments to the Work/Live ordinance will broaden small business opportunity in Alameda, while ensure these work studios remain compatible with existing neighborhoods.

3. The amendments are equitable. The proposed zoning text amendments are equitable in that they further clarify and streamline processes and procedures for the review of minor residential property improvements, work/live studios, and lot line adjustments in Alameda.

Section 2. Section 30-2 of the Alameda Municipal Code is hereby amended as follows:

30-2 DEFINITIONS

b. As used in this chapter:

Yard, front shall mean a yard extending across the full width of the lot measured between the front property line (or the lot line connected to a street by legal access) and the nearest point of the wall of a building or enclosed or covered porch on such lot. The front yard of a corner lot is the yard adjacent to the shorter street frontage of such lots.

Yard, minimum required shall mean the minimum depth, as prescribed for a particular zoning district, of the area of land between a main building and the property's perimeter, and which must remain free of structures and unobstructed from the ground to sky except for such exceptions and encroachments as may be permitted by this article which include, but are not limited to, allowances to permit accessory buildings, patio structures and roof eaves.

Yard, rear shall mean a yard extending across the full width of the lot measured between the rear line of the lot and the rear line of the main building or enclosed or covered porch nearest the rear line of the lot.

Yards shall mean land surrounding a building site unoccupied or unobstructed, except for such encroachments as may be permitted by this article.

Yard, side shall mean a yard on either side of the lot extending from the front line of the main building or enclosed or covered porch to the rear line of the main building or enclosed or covered porch, the width of each yard being measured between the side line of the lot and the nearest part of the main building or enclosed or covered porch.

Yard, street side shall mean a yard extending along the street side of a corner lot from the front lot line to the rear lot line, and to a depth measured inward from the street side lot line to the nearest side line of the main building.

Section 3. Section 30-37.2 of the Alameda Municipal Code is hereby amended as follows:

30-37.2 Improvements subject to Design Review and Exemptions.

- a. All improvements require Design Review approval unless specifically exempt pursuant to 30-37.2.b.
- b. Exempt Improvements:
 1. Interior Improvements;
 2. Replacement-in-kind provided that any structure being replaced is less than ~~two hundred twenty (220)~~ twelve hundred (1,200) square feet in size and not a main structure;
 3. Any improvement that does not require a building permit pursuant to the Building Code;
 4. Fences,
 5. Restoration of an original architectural element consistent with architectural style of structure at the time of construction or in cases where the entire architectural style of a building has been completely renovated into a new style, the new element shall be consistent with the new architectural style as set forth in the Design Review Manual.
 6. Reroofing, when no structural alteration will take place;
 7. Any addition or improvement that meets all of the following criteria:
 - A. The gross floor area of the improvement is less than ~~two hundred twenty (220)~~ twelve hundred (1,200) square feet, and;

- B. The improvement is a one-story accessory structure or the improvement is located on the first story as defined by the Building Code, and;
 - C. The improvement is located in the side yard or rear yard area, not the front yard or street side yard areas, and the improvement is in compliance with all applicable lot coverage, open space, and setback requirements of the applicable zoning district, and;
 - D. The improvement includes exterior materials, architectural detailing, roof pitch and design, windows, and doors that are a visual match to the existing, or if the structure or element has been previously modified, original design of the structure at the time of construction.
- 8. Foundation work;
 - 9. New or refaced signs, regulated under Section 30-6 with approved sign permits and signs that meet the requirements of an approved sign program.
 - 10. ~~Reserved.~~ Green roofs and similar vegetated roof features that do not involve modifications to the roof form or roof pitch, or existing tile or slate roofs, or a historic structure.
 - 11. New awnings that meet all of the following criteria:
 - A. Is covered in an opaque, non-glossy fade and fire resistant fabric material; and
 - B. Matches the alignment and shape of any existing awning on the same level of the building; if consistent with other criteria; and
 - C. Does do not cover transom windows or extend more than six inches (6") beyond the perimeter of a window, door or other opening; and
 - D. Is not placed over pilasters, columns or other prominent vertical elements; and
 - E. Provides a minimum of eight feet (8') of vertical clearance for framed portions and seven feet (7') for any unframed valances; and
 - F. Exhibits a slanted or, if over arched windows or individual upper floor windows, a domed shape; and
 - G. Is not internally illuminated; and
 - H. Has all required encroachment permits.
 - 12. Awnings with approval by the City of Alameda Facade Improvement Program.
 - 13. Docks which comply with the standards of the Alameda Municipal Code.
 - 14. Changes to an existing parking lot provided that the lot is not visible from the public right-of-way and the number of parking spaces or the area of landscaping are not being reduced.
 - 15. New solar collection systems or skylights.

16. Accessory dwelling units and junior accessory dwelling units consistent with development regulations and review processes of Section 30-5.18.
17. Alterations to chimneys for seismic safety purposes, as determined by a licensed contractor or engineer, provided none of chimney is visible as part of an exterior wall and the chimney is not a character-defining feature on properties listed as a historic resource.
18. Window and 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.~~
 - AB. Does not alter any original or other architecturally significant character-defining features, such as stained glass, decorative arches and other special treatment.
 - BC. Is made of materials that outwardly have the same dimensions, proportions, details, and textures of the original architectural style of the structure and that outwardly appear unchanged from the original architectural style. If the original design of a structure and/or element is removed or altered or if the original design elements are not known, the improvement shall be consistent with the treatment of substantially altered buildings as set forth in the City of Alameda Design Review Manual.

Section 4. Section 30-4.8 of the Alameda Municipal Code is hereby amended as follows:

30-4.8 C-1, Neighborhood Business District.

- c. *Uses Requiring Use Permits.* It is the intent of 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, adequate light and air for dwelling uses, and similar considerations.
 1. Any dwelling use permitted in the R Districts; provided that the residential use will not conflict with or inhibit attainment of General Plan land use designations or the operation of legitimate business uses within the commercial district; that new residential use shall not occupy ground floor space considered suitable for business use; and that new structures devoted solely to residential use shall not be permitted; and that there shall be not less than two thousand (2,000) square feet of lot area for each dwelling unit.
 2. Uses permitted in the A-P District, and other office uses not associated with permitted retail sales use of the site, which are not otherwise permitted in paragraph b.2.(r).

3. Gasoline service stations, exclusive of body, chassis and painting work, provided that all operations except the service with gasoline, oil, air and water shall be conducted within a building; subject further to the provisions of subsection 30-5.7, of this article.
4. The following and similar retail business, or service uses:
 - (a) Public buildings intended to directly serve the public,
 - (b) Self-operated laundries,
 - (c) Taverns without live entertainment,
 - (d) Restaurants, snack bars, lunch counters, but excluding drive-ins,
 - (e) Convenience food stores,
 - (f) Grocery stores,
 - (g) Liquor stores,
 - (h) Plant nurseries,
 - (i) Those portions of grocery stores devoted to the sale of alcoholic beverages,
 - (j) Small upholstery shops, exclusive of refinishing and other furniture repair or manufacturing,
 - (k) Commercial recreation.
5. Any permitted use listed in paragraph b. that does business between the hours of 10:00 p.m. and 7:00 a.m.
6. Any permitted use listed in paragraph b. which is not principally conducted within an enclosed structure.
7. Theaters with live performances that are in combination with other permitted uses.
8. Pet shops and animal grooming facilities. Such uses may be allowed only upon a finding that sufficient air conditioning and soundproofing will be provided to effectively confine odors and noise so as not to interfere with the public health, safety and welfare of adjoining properties. No outside pens or runs shall be permitted.
9. Boutique theater.
10. Large format retail including conversion of existing multiple retail tenant spaces to a single tenant space larger than thirty thousand (30,000) square feet (if part of a planned development, no use permit is required). Super stores, as defined in Section 30-2, are prohibited.
11. Shared living, provided the facility is located above the ground floor.
12. Work/live studios subject to the requirements of Section 30-15.

Section 5. Section 30-4.9 of the Alameda Municipal Code is hereby amended as follows:

30-4.9 C-2, Central Business District.

- c. *Uses Requiring Use Permits.* It is the intent of 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. Automobile sales and services, used car lots, provided, however, that the restrictions of paragraph b.3. related to number of employees allowed, shall not apply to these uses.
 2. Drive-in restaurants and other drive-in establishments, but excluding drive-in movie theaters.
 3. Any dwelling use as regulated by subsection 30-4.8c.1 of this article.
 4. Veterinary clinics and/or veterinary hospitals. Such uses may be allowed only upon a finding by the Planning Board that sufficient air conditioning and soundproofing will be provided to effectively confine odors and noise so as not to interfere with the public health, safety and welfare. No outside pens or runs shall be permitted.
 5. Gasoline service stations, exclusive of body, chassis and painting work, provided that all operations except the service with gasoline, oil, air and water shall be conducted within a building. See also yard requirements for gasoline stations, paragraph g. of this subsection and driveway requirements subsection 30-5.7i.
 6. Uses permitted in the A-P District, and other office uses not associated with permitted retail sales use of the site, which are not otherwise permitted in paragraph b.2(j) above.
 7. The following and similar retail, business, or service uses:
 - (a) Commercial parking lots and structures,
 - (b) Health studios or massage parlors,
 - (c) Convenience food stores,
 - (d) Combination liquor and convenience stores,
 - (e) Small upholstery shops, exclusive of refinishing and other furniture repair or manufacturing.
 8. Any permitted use listed in paragraph b. that does business between the hours of 10:00 p.m. and 7:00 a.m. and is adjacent to a residential zone or on a street abutting a residential zone.
 9. Ice dispensing stations (automatic).

10. Taxi stands.
11. Liquor stores.
12. Commercial recreation.
13. Any uses permitted in C-1 and C-2 districts which are not conducted within an enclosed structure.
14. Car washing establishments.
15. Commercial marinas subject to the following standards:
 - (a) Sheet flow of storm runoff into the bay and estuary shall not be permitted. Drainage facilities shall be reviewed on a project by project basis.
 - (b) Appropriate shoreline stabilization shall be required.
 - (c) Any refueling facilities shall be equipped with appropriate containment trays to prevent petroleum products from spilling onto the ground or into the water. These trays shall be regularly cleaned.
 - (d) Adequate facilities shall be provided to accommodate disposal of sewage and engine oil residues without per use cost. In addition, marinas shall sell to lessees, at cost, during all regular marina hours, absorbent materials designed to remove oil from bilge water, as well as provide, without cost, adequate disposal facilities for petroleum saturated absorbent materials. Signs shall be prominently posted at each dock access point indicating the availability of such absorbent materials and disposal facilities, the fine for illegally dumping petroleum products into the water, and the toll free number for reporting violations of clean water regulation.
 - (e) Conditions for rental and lease agreements shall include provisions requiring the termination of such agreements if boat owners are cited for having, or are known by marina operators to have, deliberately discharged petroleum products, contaminated bilge water, trash or sanitary wastes into marina water. They shall also require boat owners to remove boats from the water before scraping or painting hulls in a manner which discharges toxic residues into the surrounding waters.
 - (f) Marinas shall be engineered to avoid potential impacts related to seismic hazards.
 - (g) New marina proposals shall be reviewed for noise generated by nearby uses.
 - (h) Projects shall be reviewed for glare, and down-cutoff lighting shall be required.
 - (i) Specific projects shall be reviewed for auto traffic impacts.
 - (j) Commercial marinas shall generally conform to the guidelines of the State Department of Boating and Waterways.

- (k) All personnel involved in construction will be informed of the possibility of encountering archaeological or historical remains. If such remains are encountered, work in the vicinity will cease until a qualified archaeologist or historian can be consulted in conformance with 36 CFR 800.7 procedures as discussed in the Memorandum of Understanding dated October 1980, signed by FHWA, SHPO and the Department of the Interior.
 - (l) Live aboards are permitted in commercial marinas occupying up to a maximum of ten (10%) percent of the total berths.
 - (m) Houseboats are permitted only in existing houseboat marinas.
16. Large format retail including conversion of existing multiple retail tenant spaces to a single tenant space larger than thirty thousand (30,000) square feet (if part of a planned development, no use permit is required). Super stores, as defined in Section 30-2, are prohibited.
17. Shared living, provided the facility is located above the ground floor.
18. Work/live studios subject to the requirements of Section 30-15.

Section 6. Section 30-4.9A of the Alameda Municipal Code is hereby amended as follows:

30-4.9A C-C, Community Commercial Zone.

c. Uses Requiring Use Permits.

1. The following retail sales and services require approval of a use permit in the C-C District by the Planning Board as regulated by subsection 30-21.3. In addition to the findings included in subsection 30-21.3 approval of a use permit is subject to finding the use consistent with the policies of the General Plan and the purpose of the C-C Zoning District.
- (a) Any use in this district that does business between the hours of 10:00 p.m. and 7:00 a.m.,
 - (b) Any permitted or conditional use which is not conducted within an enclosed structure,
 - (c) Athletic club and health facilities, including massage as an accessory use,
 - (d) Auditoriums,
 - (e) Automobile detail shop. In the Park Street C-C District this use shall not front on nor have access to Park Street. In the Webster Street C-C District this use shall not front on nor have access to Webster Street and shall be further limited to the area north of the centerline of Pacific Avenue and the area at the southwest corner of Webster Street and Pacific Avenue bounded by lines

eighty-five (85') feet south of the Pacific Avenue right-of-way and one hundred eighteen (118') feet west of the Webster Street right-of-way,

- (f) Automobile parts store, wholesale and retail,
- (g) Automobile rental, subject to the location restrictions specified in subsection 30-4.9.Ac.1.(e),
- (h) Automobile repair shop, subject to the location restrictions specified in subsection 30-4.9Ac.1.(e),
- (i) Automobile showroom/sales, provided it is within a completely enclosed building and excluding businesses with sales devoted primarily to use vehicles,
- (j) Bars,
- (k) Beauty college,
- (l) Bed and breakfast facility, upon compliance with standards set forth in the definition for bed and breakfast in Section 30-2,
- (m) Business college,
- (n) Catering business,
- (o) Commercial parking lot or structure,
- (p) Commercial recreation,
- (q) Convenience store,
- (~~r~~) Grocery stores,
- (~~s~~) Drive-through restaurant and other drive-through establishments, but excluding drive-in movie theater subject to the location restrictions specified in subsection 30-4.9Ac.1.(e),
- (~~t~~) Dwelling units, provided they are located on the second or third floor only when the units do not comply with the off-street parking requirements,
- (~~u~~) Gasoline service stations, exclusive of body, chassis and painting work, provided that all operations except the service with gasoline, oil, air and water shall be conducted within a building. See also yard requirements for gasoline stations, paragraph (g) of this subsection and driveway requirements subsection 30-5.7i,
- (~~v~~) Gun and firearms sales when accessory to a sporting goods store provided the gun and firearms sales are limited to no more than five (5%) percent of the retail area,
- (~~w~~) Hairstyling and beauty salons, including, but not limited to, body care services such as manicures, pedicures, make up, facials, waxing, electrolysis, tanning within the Webster Street C-C District only,
- (~~x~~) Hotel and motel, provided floor area devoted to a retail service use allowed within this district is included on the ground floor,
- (~~y~~) Liquor store,

- (zy) Lodge hall and social club,
- (aaz) Martial arts, dance, jazzercise and similar uses,
- (bbaa) Massage businesses located on the ground floor,
- (ccb~~b~~) Medical facility,
- (dde~~e~~) Music studios,
- (eedd) Office uses not associated with a permitted or conditional use in this district and/or occupying the front fifty (50%) percent of the ground floor space directly fronting a public street, alley or sidewalk,
- (ffe~~e~~) Plant nursery,
- (ggff) Public park, public and private school, church and religious institution, library, nursery and day care center, playground, fire station and other public buildings and uses included in the General Plan,
- (hhgg) Public and private utilities, including above ground and underground facilities primarily for local service such as substations, gas regulators, manned or unmanned communications equipment buildings, and similar uses,
- (jih~~h~~) Self-operated laundry and cleaning establishments,
- (jji~~i~~) Large format retail including conversion of existing multiple retail tenant spaces to a single tenant space larger than thirty thousand (30,000) square feet (if part of a planned development, no use permit is required). Super stores, as defined in Section 30-2, are prohibited,
- (kkjj) Shared living, provided the facility is located above the ground floor,
- (llkk) Small upholstery shops, exclusive of refinishing and other furniture repair or manufacturing,
- (mm~~ll~~) Stores devoting commercial area, gross sales, or inventory, to the sale of second quality, irregular or discontinued merchandise or to the liquidation of merchant's or manufacturer's stock,
- (nn~~mm~~) Taverns,
- (oo~~nn~~) Theater, including movie and live,
- (pp~~oo~~) Those portions of grocery stores devoted to the sale of alcoholic beverages,
- (qq~~pp~~) Upholstery shop, exclusive of refinishing and other furniture repair or manufacturing,
- (rr~~qq~~) Used household articles and clothing stores,
- (ss~~rr~~) Veterinary clinic and/or veterinary hospital, provided the Planning Board finds the use has sufficient air conditioning and soundproofing to effectively confine odors and noise so as not to interfere with the public health, safety and welfare. No outside pens or runs shall be permitted,
- (tt) Work/live studios subject to the requirements of Section 30-15,

(uuss) Yoga Studios located on the ground floor,

(vvtt) Commercial recreation.

2. Other uses which the Planning Director finds similar to the above list and consistent with the purpose of the C-C Zoning District subject to use permit approval by the Planning Board, provided the following uses are expressly prohibited: check cashing business, gun and firearms sales when more than five (5%) percent of the floor area is devoted to this use, massage establishments except massage is allowed as a home occupation and accessory to health care uses and hairstyling, pawn shop, tobacco and tobacco products stores except the sale of tobacco and tobacco products is allowed as accessory to other permitted or conditionally permitted uses in the C-C District. The determination of similar use by the Planning Director shall be included on the agenda for the next available Planning Board meeting and confirmed by the Planning Board. Determinations of similar use are also subject to appeal pursuant to Section 30-25.

Section 7. Section 30-15 of the Alameda Municipal Code is hereby amended as follows:

30-15 WORK/LIVE STUDIOS

30-15.1 Purpose.

The intent of this section is to set forth regulations and standards for establishing and operating work/live studios as a primary commercial/industrial use, in which the proprietor would be allowed to reside as a secondary land use activity. The purposes of these provisions for work/live studios are:

- a. To provide for and make feasible the reuse of existing commercial or industrial buildings and related sites in the Northern Waterfront and other specified commercial, manufacturing, and industrial zoning districts as proposed in the Alameda General Plan;
- b. To provide cost-efficient alternative work space that will provide an incentive for entrepreneurs, business owners, artists, artisans, and other individuals to continue to work in Alameda and contribute to the City's economy;
- c. To reduce traffic and associated adverse impacts on air quality, energy resources, and the quality of life in the City by reducing the number and length of work-related trips by employed Alameda residents;
- d. To promote the preservation and reuse of commercial or industrial buildings that contribute to the historic character of the community in a manner that is consistent with other community goals and policies;

- e. To allow activities that are compatible with and will not compromise or interfere with existing and potential industrial or commercial uses in the districts where such work/live studios are established;
- f. To ensure that work/live studios will function predominantly as work spaces with incidental residential accommodations that meet basic habitability requirements in compliance with applicable regulations. No portion of any work/live studio shall be considered a “dwelling” as that term is defined in Sections 30-2 and 30-51.1;
- g. To ensure that the exterior design of structures converted to work/live use reflects the predominant industrial or commercial character of such buildings and will be compatible with adjacent commercial or industrial uses;
- h. To ensure that, where there is adjacent residentially zoned land, changes to the exterior of structures converted to work/live are designed to make the commercial or industrial building being converted more compatible with the adjacent residential area.

30-15.2 Applicability.

Work/live studios are only allowed ~~in existing buildings that have been converted~~ subject to the approval of a use permit in the C-M (Commercial-Manufacturing), M-1 (Intermediate Industrial [Manufacturing]), C-C (Community Commercial), C-1 (Neighborhood Business), C-2 (Central Business), M-X (Mixed Use Planned Development), and M-2 (General Industrial [Manufacturing]) Zoning Districts, and within certain subareas as regulated under the Alameda Point (Section 30-4.24) and North Park Street District (Section 30-4.25) regulations ~~within the area bounded as follows: On the west: Sherman Street as projected northerly to the Estuary; on the north: the Estuary; on the east: Tilden Way; on the south: Buena Vista Avenue.~~

30-15.3 Definitions.

The following definitions shall be applicable in this Article:

- a. *Living space* shall mean that portion of a work/live studio that is used for residential purposes including, but not limited to, a sleeping area, a food preparation area with reasonable work space, and a full bathroom including bathing and sanitary facilities which satisfy the provisions of applicable codes.
- b. *Work/live studio* shall mean a commercial or industrial unit with incidental residential accommodations occupying one (1) or more rooms or floors in a building primarily designed and used for industrial or commercial occupancy and providing:
 - 1. Adequate working space reserved for commercial or industrial use and regularly used for such purpose by one (1) or more persons residing in the studio;

2. Living space as defined in subsection 30-15.3(a) and in accordance with the provisions of this section.
- c. *Adjacent* shall mean that properties share a common property boundary or are directly across a street right-of-way.

30-15.4 Development Standards.

- a. *Minimum Floor Area*. Each work/live studio shall include at least ~~one thousand (1,000)~~ five hundred (500) square feet of gross floor area.
- b. *Maximum Permitted Floor-Living Space Area*. Not more than thirty (30%) percent or four hundred (400) square feet, whichever is ~~less~~ greater, of the work/live studio shall be reserved for living space as defined in Section 30-15.3. The rest of the gross floor area of each work/live studio shall be reserved and regularly used for working space.
- c. *Separation Required*. Each work/live studio shall be separated from other work/live studios or other uses in the building. Access to each work/live studio shall be provided from common access areas, common halls or corridors, or directly from the exterior of the building.
- d. *Parking*. Each work/live studio shall have a maximum of at least one and one-half (1 1/2) parking spaces ~~for up to one thousand (1,000) square feet of floor area plus one-half (1/2) additional space for every additional five hundred (500) square feet of floor area above the first one thousand (1,000) square feet~~ subject to compliance with all other applicable requirements. ~~The provided parking shall comply with the requirements of Section 30-7. This parking requirement may be waived or modified if the following findings can be made in addition to any other findings required by the ordinance codified in this Section 30-15:~~
 1. ~~That the proposed parking will be adequate to meet the demand created by the project given the character of the proposed uses; and~~
 2. ~~That a waiver or modification of parking requirements will not, under the circumstances of the particular project, either conflict with nor adversely affect commercial or industrial uses or adjacent residentially-zoned uses in the area where the project is proposed.~~
- e. ~~There shall not be less than two thousand (2,000) square feet of lot area for each _____ work/live _____ studio.~~

30-15.5 Additional Requirements.

- a. *Use Permit Required*. Each building that contains work/live studios shall be subject to a use permit, which shall include conditions of approval as required to assure adequate standards of health, safety, and welfare and consistency with the purposes for work/live studios set forth in this Chapter. Each work/live studio shall be subject to all conditions of approval for the building in which it exists unless the use permit states otherwise.

- b. *Work/Live Permit Required.* Each tenant or owner of an individual work/live studio must obtain a work/live permit prior to occupancy. Such permit shall be issued by the Planning Director based on a determination that the proposed occupancy is consistent with the approved use permit and all applicable requirements of this section. Application for a work/live permit shall be made to the Planning Department in writing on a form approved by the Department and shall be accompanied by a fee as set by resolution of the City Council.
- c. *Design of Work/Live Studios.* Subject to all applicable building and fire code requirements:
 - 1. Work/live studios shall be designed to accommodate commercial or industrial uses conforming to the Group B occupancy classification under the California Building Standards Code and as evidenced by the provision of ventilation, interior storage, flooring, and other physical improvements of the type commonly found in exclusively commercial or industrial facilities used for the same work activity; and
 - 2. Areas within a work/live studio that are designated as living space shall be an integral part of the work/live studio and not separated from the work space, except that mezzanines and lofts may be used as living space subject to compliance with other provisions of this Article. Examples of ways to integrate the work space and living space in compliance with this section include, but are not limited to, the following:
 - (a) Doors or solid walls between the work space and areas used for living space do not extend all the way to the ceiling, except for sanitary facilities and rooms used primarily for sleeping,
 - (b) There is a single entrance to the work/live studio,
 - (c) There are no walls separating the food preparation area from the work space,
 - (d) Only the sanitary facilities and rooms designated for sleeping are enclosed and all other portions of the living area are not separated from the work space.
- d. *Permitted Work Activity.* The work activity in a building where work/live units are allowed shall be any use permitted by right or use permit in the zoning district, except that, in order to protect the health and safety of persons who reside in a work/live studio or in a building which contains one (1) or more work/live studios, no work activity shall be permitted nor shall any work/live studio be established on any site that contains those uses which the Planning Director when considering a work/live permit or the Planning Board when considering a use permit, finds would, by virtue of size, intensity, number of employees or the nature of the operation, have the potential to create significant impacts by reason of dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration or other impacts, or would be hazardous by way of materials, process, product or wastes including, but not limited to: auto service/repair, vehicle sales or leasing, car washes, service stations,

bars/lounges/night clubs, adult businesses, marine engine repair/refueling facilities, animal kennels/grooming/pet shops, liquor stores, veterinary offices/hospitals, funeral parlors/mortuaries, outdoor storage as a primary use, crematories/columbaria, dismantling facilities/scrap yards, public utility structures and facilities, tire sales/service, truck stops/repair.

Uses allowed under the foregoing paragraph that may, depending on how they are operated, also have the potential to generate impacts or would constitute a change in occupancy under the building code shall not be approved unless the Planning Director finds that as proposed to be conducted, or as modified by conditions of use permit, they would not conflict with or adversely affect existing work uses in the building and in the area where the work/live studio is located. No use shall be approved where, given the design or proposed design of the work/live studio, there would be the potential for adverse health impacts from the proposed use on the people residing in the studio. An example of a potential health impact is the potential for food contamination from uses which generate airborne particulates in a studio with an unenclosed kitchen.

- e. ~~No Separate Sale or Rental of Portions of Unit. No portion of a work/live studio may be separately rented or sold as a commercial space for a person or persons not living in the premises or as a residential space for a person or persons not working in the same studio.~~ Rental and Sale Limitations.

1. No work/live studio, or any portion thereof, shall be sold as an individual unit.
2. No portion of a work/live studio may be separately rented or sold as a commercial space for a person or persons not living in the premises or as a residential space for a person or persons not working in the same studio.
3. 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. Lease Agreements. The property owner or manager of the property shall ensure that all work/live studio leases include provisions requiring maintenance of a valid Work/Live Permit and valid business license.

- g. Business License Required. At least one (1) occupant of each work/live studio shall maintain a current City of Alameda business license for a business located in that studio.

- h. Mixed Occupancies. If a building contains mixed occupancies of work/live studios and other nonresidential uses, occupancies other than work/live shall meet all applicable requirements for those uses, and proper occupancy separations shall be provided between the work/live studios and other occupancies, as determined by the Building Official.

- i. Notice to Occupants Required. The owner or developer of any building containing work/live studios shall provide written notice to all work/live occupants and users that the surrounding area may be subject to levels of noise, dust, fumes, or other effects associated with commercial and industrial

uses at higher levels than would be expected in residential areas. State and Federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the district where the project is located. For purposes of noise control, work/live studios shall be classified as commercial property under Table II in Section 4-10.4 of the Alameda Municipal Code.

- ji. *Change of Use From Work/Live Studio.* No work/live studio shall be changed to exclusively residential use in any building where residential use is not permitted, ~~where two (2) or more residential units already exist, or where the conversion would produce more than two (2) attached dwellings.~~ The conversion of an existing work/live studio to exclusively nonresidential use is permitted when the conversion meets all other applicable zoning and building code requirements for the proposed use. Such a change shall be subject to all applicable requirements for the district where the proposed dwelling unit is located.
- kj. *Increase in Residential Use.* No work/live studio shall be changed to increase the floor area devoted to residential use without review and approval of the Planning Director. In no case shall the floor area devoted to residential use be increased to more than four hundred (400) square feet or thirty (30%) percent of the gross floor area of the unit, ~~whichever is more~~less.
- lk. *Additions to Building Envelope.* ~~No modifications shall be made to the exterior of a building proposed for or in current use as a work/live occupancy that would result in a substantial increase in the building envelope resulting in an increase in the existing gross floor area of more than ten (10%) percent in any five (5) year period outside the exterior walls or the outer surface of the roof of the building as it existed at the time of conversion to work/live studios. All changes to the exterior of work/live structures shall comply with the purposes set out in subsections 30-15.1g. and h. and with the required finding set out in subsection 30-15.6d. New floors or mezzanines that are established within the original building envelope shall be permitted and shall be considered as part of the existing floor area for purposes of this section.~~
- ml. *Deed Restriction Required.* ~~The owner of each work/live studio or each building containing work/live rental studios shall record a notice on the property specifying the limitations of use and operation included in the use permit.~~ Prior to the City issuing a building permit for any work/live studio, the property owner shall file with the county recorder a declaration of restrictions, which has been approved by the City Attorney as to its form and content, specifying the limitations of use and operation included in the use permit and all Additional Requirements specified in this Section 30-15.5.
- m. ~~On-premises Sales.~~ ~~On-premises sales of goods is limited to those produced within the work/live studio. Retail sales of goods produced within the work/live studio shall be incidental to the primary work use in any building used exclusively for work/live occupancy. These provisions shall permit participation in occasional open studio programs and gallery shon.~~ ~~Nonresident~~

~~Employees. Up to two (2) persons who do not reside in the work/live studio may work in the studio unless such employment is expressly prohibited or limited by the use permit because of potential detrimental effects on persons living or working in the building or on commercial or industrial uses or residentially-zoned areas in the vicinity of the subject property. The employment of three (3) or more persons who do not reside in the work/live studio may be permitted subject to a use permit based on additional findings that such employment will not adversely affect traffic and parking conditions in the area where the work/live studio is located. The employment of any persons who do not reside in the work/live studio shall be subject to all applicable Building Code requirements.~~

~~o. Client and Customer Visits. Client and customer visits to work/live studios are permitted subject to any conditions that may be imposed by the use permit in order to ensure compatibility with adjacent commercial or industrial uses or adjacent residentially-zoned areas.~~

~~np. Landscaping. Where a building to be converted to with work/live use is adjacent to residentially-zoned land, screening landscaping shall be provided and maintained as a buffer between the work/live building and adjacent residentially-zoned land where feasible in light of building setbacks, existing and required parking and whether there is land available along the property boundary.~~

~~oq. Hazardous/Toxic Materials. A Phase I Environmental Assessment for a site proposed for work/live occupancy, including but not limited to an expanded site investigation to determine whether lead based paint and asbestos hazards exist, is required to be submitted as part of the application for a use permit. The purpose of this requirement is to assess whether there are any hazardous or toxic materials on the site that could pose a health risk. Where the Phase I shows that there are potential health risks, a Phase 2 Environmental Assessment shall be prepared and submitted to determine if remediation may be required.~~

30-15.6 Findings Required.

In addition to any other findings required by Section 30-21.3, the approval of any use permit required under this Chapter shall require a finding that the proposed use is consistent with the purposes for work/live studios set forth in Section 30-15.1 with respect to the circumstances and conditions of the subject property. The following additional findings must also be made:

- a. The proposed or existing use of each work/live studio is a bona fide commercial or industrial activity consistent with Section 30-15.5d.;
- b. The establishment of work/live studios will not under the circumstances conflict with nor inhibit industrial or commercial uses in the area where the project is proposed;
- c. Any building containing work/live studios and each work/live studio within the building has been designed to ensure that they will function

predominantly as work spaces with incidental residential accommodations meeting basic habitability requirements in compliance with applicable regulations;

- d. Any changes proposed to the exterior appearance of the building will be compatible with adjacent commercial or industrial uses where all adjacent land is zoned for commercial or industrial uses. If there is adjacent residentially-zoned land, then the proposed changes to the building shall make the commercial or industrial building being converted more compatible with the adjacent residential area.

Section 8. Section 30-82 of the Alameda Municipal Code is hereby amended as follows:

30-82 LOT LINE ADJUSTMENT MAP.

- a. A lot line adjustment between ~~two (2)~~ four (4) or more ~~fewer~~ adjacent ~~adjoining~~ parcels, where land taken from one (1) parcel is added to an ~~adjacent~~ adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, may be approved by ~~resolution of the Advisory Agency~~ both the City Engineer and Planning Director.
 1. The ~~property division~~ adjustment is for the creation of a new property line and/or to facilitate the transfer of land from one (1) lot to adjoining lots, including the merger of two (2) or more lots into one (1) lot.
 2. The portion of the lot remaining after the creation of the new parcel shall meet all the requirements for a lot (area, width, etc.) as set forth in the City zoning regulations.
 3. No street improvements or other subdivision improvements are required.
 4. ~~_____ The proposed property division and the use of a lot adjustment map meet with the approval of both the City Engineer and the City Planning Director.~~
- b. ~~The lot adjustment map shall be filed on a sheet, the outside dimensions of which shall be eleven by seventeen (11" x 17") inches, the quality of which shall be an acceptable tracing paper, polyester base film, or cloth and the format and information shown thereon shall be as required by the City Engineer. The lot~~ line adjustment application shall include the following:
 1. Legal Descriptions and a Plat Map of the parcels prior to and after the adjustment.
 2. An exhibit showing all existing structures and easements in relation to the existing and proposed lot lines.
 3. Title report(s), and
 4. Any additional information necessary to review the application, as determined by the City Engineer or Planning Director.

- c. ~~The City Engineer may require the map to be prepared by a registered civil engineer or licensed land surveyor, or he may require the map to be submitted by an established real estate title company.~~ Legal Description and Plat Map shall be prepared by a licensed land surveyor.
- d. The original drawings or reproducible copies of deed record drawings ~~will~~ shall be kept in the City Engineer's files.
- e. The deed describing the transfer shall be recorded with the County Recorder.
- f. A fee shall be paid at the time of ~~presentation~~ application of a lot line adjustment map. The fee shall be set by City Council Resolution.

Section 9. CEQA Determination. Adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) (common sense exemption: where it can be seen with certainty that the proposal does not have the potential to have a significant effect on the environment) and 15183 (projects consistent with a community plan, general plan, or zoning).

Section 10. Severability. If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 11. Implied Repeal. Any provision of the Alameda Municipal Code inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

Section 12. Effective Date. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Section 13. Authority. This Ordinance is enacted pursuant to the City of Alameda's general police powers and Article XI of the California Constitution.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

* * * * *

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 _____, 2019, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSECTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2019.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Yibin Shen, City Attorney
City of Alameda