DRAFT

CITY OF ALAMEDA ORDINANCE NO. _____

New Series

AMENDING CHAPTER 30 OF THE ALAMEDA MUNICIPAL CODE (ZONING REGULATIONS) TO MODIFY ACCESSORY DWELLING UNIT REGULATIONS TO COMPLY WITH STATE LAW AND MAKE OTHER ADMINISTRATIVE, TECHNICAL, AND CLARIFYING AMENDMENTS PERTAINING TO APPEALS AND YOUTH CENTER DEFINITION, AS RECOMMENDED BY THE PLANNING BOARD

WHEREAS, the Legislature has declared accessory dwelling units (ADUs) to be a valuable form of lower cost housing in California. ADUs help address California's affordable housing crisis by increasing rental housing supply in existing residential neighborhoods; and

WHEREAS, on January 1, 2020, several chaptered bills pertaining to ADUs that restrict local jurisdictions' ability to regulate ADUs became operative, including Senate Bill 13, Assembly Bill 68, Assembly Bill 881, and Assembly Bill 587. Collectively, these bills update development standards and permit requirements for ADUs and specify requirements for local ordinances; and

WHEREAS, the City of Alameda seeks to update its ADU regulations to bring the City's ordinance into conformance with state law, and to make other administrative, technical, and clarifying amendments to the Zoning Regulations, including: 1) updating the appeals provisions to clarify that only final decisions may be appealed, and 2) deleting the Youth Centers definition in the cannabis land use regulations, which is not used in the regulations; and

WHEREAS, the proposed amendments to the City's ADU regulations are consistent with state law and the City's housing needs policies, including Policy HE-4 of the General Plan Housing Element; 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 a regular, duly noticed public hearing of the Planning Board on February 10, 2020, 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 _____, 2020, and all interested parties were provided an ample opportunity to participate in said hearing and express their views.

BE IT ORDAINED by the City Council of the City of Alameda:

Section 1. Findings. In enacting this Section, the City Council finds as follows:

1. **The amendments maintain the integrity of the General Plan**. The proposed amendments 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 amendments will also facilitate housing opportunities for households in a range of income groups, and for smaller households including seniors. Furthermore, the proposed amendments will assist with homeownership by enabling rental income to offset the costs of buying a home. The proposed amendments also clarify existing appeals procedures and requirements, and ensure consistency within the City's zoning regulations in support of the General Plan.
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. Other amendments included in the ordinance support the general welfare of the community by providing clarity in the regulations and maintaining consistency with other applicable laws and regulations.
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 create an accessory dwelling unit, consistent with state law. Other amendments included in the ordinance clarify existing regulations, which reduces the potential for misinterpretation.
4. **The amendments are exempt from the California Environmental Quality Act.** The proposed amendments are exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15282(h) and Public Resources Code Section 21080.17, which exempt ordinances implementing Accessory Dwelling Unit Law (Government Code Section 65852.2), and CEQA Guidelines Sections 15061(b)(3), where it can be seen with certainty that the proposed zoning text amendments will not have a

significant effect on the environment, and 15183, projects consistent with a community plan, general plan, or zoning.

Section 2. Section 30-5.18 of the Alameda Municipal Code is hereby amended as follows:

30-5.18 - Accessory Dwelling Units.

a. *Purpose.* This Section provides for the creation of accessory dwelling units and junior accessory dwelling units on lots ~~developed or proposed~~zoned to ~~be developed~~allow residential use consistent with ~~one single-family dwelling per lot under~~ Government Code Sections 65852.~~150 and~~2, 65852.~~2~~22, and 65852.26. 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 the development and design standards in this section shall:

   1. Be deemed an accessory use or an accessory building 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~~existing General Plan and zoning designation 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~~authorize an accessory dwelling unit to be located on a lot in any residential or mixed-use zoning district ~~where a primary single-family dwelling has been previously established or is~~that includes a proposed ~~to be established in conjunction with construction of the accessory dwelling unit~~or existing primary dwelling.

c. *Development Standards.* An accessory dwelling unit may be ~~constructed~~attached to, or located within, the proposed or existing ~~building envelope of a~~primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure, ~~added to~~or detached from the proposed or existing primary dwelling ~~or accessory structure, or constructed~~ and located on the same lot as ~~a detached structure.~~the proposed or existing primary dwelling.

   1. *Number Allowed:* ~~Only~~

      (a) *Single-family lots*. On lots with an existing or proposed single-family dwelling, one (1) accessory dwelling unit ~~is~~and one (1) junior accessory dwelling unit may be permitted ~~per lot that contains or is proposed to contain one (1) primary dwelling.~~.

(b) *Multi-family lots.* On lots with existing multiple-family dwellings, a minimum of one (1) and up to a maximum of 25% of the existing multiple-family dwelling units may be permitted. Attached accessory dwelling units may be permitted within portions of the multiple-family dwelling that are not used as habitable space, if each unit complies with state building standards for dwellings. No more than two (2) detached accessory dwelling units may be permitted on a multi-family lot.

2. *Maximum Size:* The size of the accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet ~~or more than fifty (50) percent of the floor area of the primary dwelling, whichever is less.~~ . Nothing in this Section shall be interpreted to prohibit at least an 800 square foot accessory dwelling unit that is 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other development standards.

3. *Attached Accessory Dwelling Units:* An accessory dwelling unit that is attached to or created within ~~an~~a proposed or 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.

   (c) *Aggregate Lot Coverage:* The aggregate lot coverage of all building footprint(s) ~~and nonpermeable surfaces~~ on the lot shall not exceed sixty (60%) percent.

4. *Detached Accessory Dwelling Units:* An accessory dwelling unit ~~that is~~may be constructed as a new detached structure or created through the conversion of an existing accessory structure and 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. The aggregate lot coverage of all building footprint(s) and nonpermeable surfaces on the lot shall not exceed sixty (60%) percent. Utilities extended to a detached accessory dwelling unit shall be underground.~~following requirements:

   (a) *Maximum Height*: The maximum height for a detached accessory dwelling unit shall be sixteen feet (16') measured from grade to the peak of the roof. On lots located within the Special Flood Hazard Area, as defined by FEMA's Flood Insurance Rate Maps (FIRM), the maximum height shall be increased by the minimum amount necessary, as determined by the Building Official and City Engineer, to allow:

(1) A finished floor of the habitable space at one foot (1') above the Base Flood Elevation shown on the FIRM; and

(2) Up to eight feet (8') in vertical clearance from the finished floor to ceiling within the habitable space; and

(3) A roof form or pitch that conforms to the Design Standards in subsection 5.

(b) *Required Setbacks from Side and Rear Property Lines*: No setbacks shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit. A setback of four feet (4') from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or new structure constructed in the same location and to the same dimensions as an existing structure, except the side and rear yard setbacks may be reduced to zero feet (0') if all of the following conditions are met:

(1) The detached ADU is located seventy-five feet (75'), or more, from the front property line;

(2) The portion of the neighboring lot(s) that adjoin the detached ADU is also the required rear yard;

(3) All construction within three feet (3') of the property line, including eaves and similar architectural features, is one (1) hour fire resistive as required by the Alameda Building Code or as approved by the Building Official; and

(4) The detached ADU is not more than 16 feet in height.

(c) *Maximum Rear Yard Coverage*: Detached ADUs shall not cover more than four hundred (400) square feet or forty (40%) percent of the minimum required rear yard as prescribed by the subject Zoning District, whichever is greater. That portion of an accessory building which is outside the minimum required rear yard is subject to maximum main building coverage limitations of the subject zone. This requirement shall not apply to an accessory dwelling unit constructed in the same location and to the same dimensions as an existing accessory structure that is converted to an accessory dwelling unit. This requirement also shall not be interpreted to prohibit at least an 800 square foot accessory dwelling unit that is sixteen feet (16') in height with four-foot (4') side and rear yard setbacks to be constructed in compliance with all other development standards.

(d) *Minimum Separation from Other Structures*: There shall be a minimum of six (6') feet separating all construction (including eaves and similar architectural features) of the detached ADU from the main building(s) or other accessory building(s) on the same lot. The separation requirements of this paragraph

may be reduced by the Building Official if one (1) hour fire resistive construction is utilized.

(e) *Lot Coverage*: The aggregate lot coverage of all building footprint(s) on the lot shall not exceed sixty percent (60%). This requirement shall not apply to an accessory dwelling unit constructed in the same location and to the same dimensions as an existing accessory structure that is converted to an accessory dwelling unit. This requirement shall also not be interpreted to prohibit at least an 800 square foot accessory dwelling unit that is sixteen feet (16') in height with four-foot (4') side and rear yard setbacks to be constructed in compliance with all other development standards.

(f) *Utilities*: ~~U~~Water and sewer utilities extended to a detached accessory dwelling unit shall be underground.

(g) *Expanding an Existing Accessory Structure*: An accessory dwelling unit created within an existing accessory structure may include an expansion of not more than one hundred (150) square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical limitations of the existing accessory structure shall be limited to accommodating ingress and egress.

5. *Design Standards:*

(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 accessory dwelling 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 immediately surrounding buildings. Where the immediate surroundings is eclectic and no particular style of architecture is dominant, a greater degree of architectural variety may be established with the detached accessory dwelling unit. This subsection shall not be interpreted to prohibit a prefabricated structure or manufactured home, as defined in Section 18007 of the California Health and Safety Code.

(c) *Detached Unit in the Front Yard or Adjacent to a Street Side Yard of a Corner Lot:* The design of a detached accessory dwelling unit shall be

subordinate to the primary dwelling in terms of massing, height and building footprint. 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. This subsection shall not be interpreted to prohibit a prefabricated structure or manufactured home, as defined in Section 18007 of the California Health and Safety Code.

6. Junior Accessory Dwelling Units: One junior accessory dwelling unit shall be permitted ministerially if complying with the standards of subsection c.1., c.3(a), and c.3(b) above, and the following:

(a) The junior accessory dwelling unit shall be fully located within an existing or proposed primary single-family dwelling ~~in the R-1 District.~~, except an addition of up to one hundred and fifty (150) square feet may be permitted as part of an application for a junior accessory dwelling unit.

(b) The unit shall ~~be created from~~include the conversion of an existing bedroom in the primary dwelling.

(c) The unit shall be no larger than five hundred (500) square feet in floor area.

(d) The unit ~~shall~~ may maintain an interior connection to the primary dwelling~~.~~ and shall provide an exterior entrance separate from the main dwelling entrance. The exterior entrance for the junior accessory dwelling unit shall not be located on the front elevation of the building.

(e) The unit may contain separate sanitation facilities or may share with the primary dwelling.

(f) The unit shall include an efficiency kitchen that shall include the following components:

~~(~~1) ~~Sink~~A cooking facility with ~~a maximum waste line diameter of one and one-half (1.5") inches;~~

~~(2) Cooking~~ appliances ~~that do not require electrical service greater than one hundred twenty (120) volts, or natural or propane gas; and~~ ; and

(~~3~~2) A food preparation counter and storage cabinets.

(g) Nothwithstanding subsection d. below, no additional parking shall be required for a junior accessory dwelling unit.

(h) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

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~~Planning 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~~ part of the proposed or existing primary dwelling or an ~~existing~~ accessory structure.

   (b) ~~—~~ The accessory dwelling unit is located within one-half (½) mile walking distance 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 rental service pick-up/drop-off location within one (1) 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~~not be required.

e. *Rental and Sale Limitations.* Before issuing a building permit for an accessory dwelling unit or junior 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 or junior accessory dwelling unit shall not be sold or otherwise conveyed separately from the primary dwelling ~~or rented~~, and rental of an accessory dwelling unit or junior accessory dwelling unit shall be for a period ~~of less~~longer 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.

3. For junior accessory dwelling units, the applicant shall be an owner-occupant of either the remaining portion of the primary dwelling or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

4. For junior accessory dwelling units, a restriction on size and attributes exists as required by subsection c.6, above.

f. *Application and Review Process.*

1. *Ministerial Review.* Except as provided below, application for an accessory dwelling unit shall be ~~permitted~~reviewed ministerially within ~~one hundred twenty (120~~sixty (60) days from receipt of a completed application 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 up to one thousand two hundred (1,200) square feet;~~

~~(b) Setbacks and lot coverage;~~

~~(c~~b~~) Parking requirements.~~

~~5~~2. *Combination permits.* For applications that combine a new accessory dwelling unit with improvements other than for the accessory dwelling unit, the non-accessory dwelling unit portion of 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~~3. *Vacant Lots.* ~~A single-family~~An accessory dwelling unit must ~~exist~~be located on ~~the~~a lot~~.~~ with a proposed or existing primary dwelling. 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.

j. The sale limitations of subsection e. above shall not apply to an accessory dwelling unit constructed on a property developed by a qualified non-profit corporation and there is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code. Accessory dwelling units meeting these requirements may be sold or conveyed separately from the primary residence to a qualified buyer in conformance with Government Code Section 65852.26.

Section 3. Section 30-4 District Uses and Regulations of the Alameda Municipal Code, including subsections 30-4.1 through 30-4.9A, shall be amended to reflect the changes in Section 1 above.

Section 4. Section 30-25 of the Alameda Municipal Code is hereby amended as follows:

30-25 - APPEALS OR CALLS FOR REVIEW.

30-25.1 - Purpose and Authorization for Appeals and Calls for Review.

a. *Appeals.* To avoid results inconsistent with the purposes of this chapter as stated in subsection 30-1.2, final decisions of the Community Development Director or Zoning Administrator may be appealed to the Planning Board and final decisions of the Planning Board, Public Art Commission, or Historical Advisory Board may be appealed to the City Council by any person aggrieved or by any officer, agency or department of the City affected by any decision, determination or requirement.

b. *Calls for Review.* As an additional safeguard to avoid results inconsistent with the purposes of this chapter as stated in subsection 30-1.2, final decisions of the Community Development Director or Zoning Administrator may be called up for review by a member of the Planning Board or by a member of the City Council for review by the Planning Board and final decisions of the Planning Board, Public Art

Commission, or Historical Advisory Board may be called up for review by members of the City Council for review by the City Council.

30-25.2 - Final Decisions and Time Limits for Appeals and Calls for Review.

a. *Final Decision of the Community Development Director or Zoning Administrator.* Any final decision of the Community Development Director or Zoning Administrator shall be ~~final~~ effective on the date of the decision, unless any person aggrieved by or any officer, agency, or department of the City affected by any decision of the Community Development Director or Zoning Administrator, files a Notice of Appeal with the Community Development Department no later than ten (10) days following the decision or at least one (1) City councilmember or at least one (1) Planning Board member files a call for review with the Community Development Department no later than ten (10) days following the decision. Decisions that are appealed or called for review shall not become effective until the appeal or call for review is resolved by the Planning Board. Decisions by the Planning Board to uphold, overturn, or modify a decision of the Community Development Director or Zoning Administrator are appealable to the City Council.

b. *Final Decision of the Planning Board, Public Art Commission, or Historical Advisory Board.* Any final decision of the Planning Board, Public Art Commission, or Historical Advisory Board shall be ~~final~~ effective on the date of the decision, unless any person aggrieved by or any officer, agency, or department of the City affected by any decision of the Planning Board, Public Art Commission, or Historical Advisory Board, files a Notice of Appeal with the Community Development Department no later than ten (10) days following the decision or at least two (2) City Councilmembers files a call for review with the Community Development Department no later than ten (10) days following the decision. It shall not be necessary for the two (2) Councilmembers requesting the call for review to state the same reason for the need for the call for review. Decisions that are appealed or called for review shall not become effective until the appeal or call for review is resolved by the City Council.

c. *Final Decision of the City Council.* A decision by the City Council regarding an appeal or call for review shall become final on the date of the decision subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5. Any petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6 after the date of the City Council's decision.

d. *End of Appeal or Call for Review Period.* When the end of an appeal or call for review period falls on a weekend or a statutory holiday, the period shall continue until the first working day thereafter.

30-25.3 - Reserved.

30-25.4 - Initiation of Appeals and Calls for Review.

a. *Appeals of Actions of the Community Development Director or Zoning Administrator.* An appeal to the Planning Board concerning final actions of a Community Development Director or the Zoning Administrator shall be filed in writing with the

Community Development Department and shall be accompanied by the required fees. In filing an appeal, the appellant shall specifically state the reasons or justification for an appeal.

b. *Appeals of Actions of the Planning Board, Public Art Commission, or Historical Advisory Board.* An appeal to the City Council concerning final actions of the Planning Board Public Art Commission, or Historical Advisory Board decision shall be filed in writing with the Community Development Department and shall be accompanied by the required fees. In filing an appeal, the applicant shall specifically state the reasons or justification for an appeal.

c. *Calls for Review.* A call for review shall be filed in writing with the Community Development Department and shall state the reasons or justification for the call for review. All City of Alameda costs associated with the call for review, including staff time, technical assistance, and noticing the public hearing shall be funded by the General Fund and shall not be charged to the project applicant.

30-25.5 - Procedures for Appeals and Calls for Review.

a. *Hearing Date.*

[No amendments to this section.]

b. *Notice and Public Hearing.*

[No amendments to this section.]

c. *Evidence.*

[No amendments to this section.]

d. *Hearing.*

[No amendments to this section.]

e. *Decision and Notice.*

[No amendments to this section.]

Section 5. Section 30-36 of the Alameda Municipal Code is hereby amended as follows:

30-36 - DESIGN REVIEW PROCEDURE.

30-36.1 - Design Review Staff.

[No amendments to this section.]

30-36.2 - Notice.
[No amendments to this section.]

30-36.3 - Notice of Decision.

[No amendments to this section.]

30-36.4 - Appeals and Calls for Review.

Any person dissatisfied with a final decision of the Planning Director may file an appeal to the Planning Board within ten (10) calendar days from the date the Notice of Decision~~,~~ pursuant to ~~subsection 30-36.3~~Section 30-25~~, is mailed~~. ~~The appeal shall be made in writing and filed with the Planning Department~~ Failure to file a timely appeal shall result in a waiver of the right to appeal. The appeal shall state in detail the factual basis for the appeal. Appeals shall be heard pursuant to Section 30-25. The decision of the Planning Director may be called for review pursuant to Section 30-25.

Section 6. Section 30-10 of the Alameda Municipal Code is hereby amended as follows:

30-10 - CANNABIS

30-10.1 - Commercial Cannabis Uses.

a. *Findings.* This section establishes regulations governing the commercial cultivation, manufacture, distribution, delivery, testing, and sale of cannabis and cannabis products. The purpose of these regulations is to provide requirements and criteria to approve of cannabis businesses engaged in such uses. The City of Alameda finds it necessary to establish such requirements and criteria in the interest of the public health, safety and welfare to regulate all cannabis-related uses.

b. *Definitions.* The applicable definitions in the Alameda Municipal Code are incorporated by this reference, unless otherwise defined herein.

   1. *Cannabis* means any and all parts of the plant cannabis sativa linnaeus, cannabis indica, or cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable

of germination. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

2. *Cannabis business* means a business or enterprise engaged in commercial cannabis activity.

3. *Cannabis product* means cannabis that has undergone a process whereby the cannabis has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible, topical, or other cannabis-containing product.

4. *Chief of Police* shall mean the Chief of Police of the City of Alameda Police Department or the Chief's designee.

5. *Commercial cannabis activity* means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, sale, delivery, or provision of cannabis or cannabis products for commercial purposes, whether for profit or not.

6. *Community Development Department* shall mean the Director of Community Development Department of the City of Alameda (or successor department), or his or her designee.

7. *Concentrated cannabis* means the separated resin, whether crude or purified, obtained from cannabis.

8. *Day care center* means any licensed child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.

9. *Delivery* means the commercial transfer of cannabis or cannabis products, for profit or not, to a customer by any means. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products. Delivery, however, shall not include commercial transfer of cannabis or cannabis products, for profit or not, by means of a self-service display, which is strictly prohibited.

10. *Distribution* means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medicinal and Adult-Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation or regulation regarding the same.

11. *Edible cannabis product* means a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

12. *Medicinal cannabis* or *medicinal cannabis product* means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate

Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation or other authorization permitted by State law.

13. *Permit* refers to any one (1) of the regulatory permits described in subsection c of Section 6-59.4 of Article XVI that affords the permittee the privilege of conducting the activity allowed under the regulatory permit.

14. *Person* shall mean and include a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, limited liability company, business, estate, trust, business trust, receiver, syndicate, organization, or any other group or combination acting as a unit, or the manager, lessee, agent, servant, officer or employee of any of them.

~~15. *Youth centers* means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities. Youth centers shall also mean any facility determined by the Alameda Recreation and Parks Department to be a recreation center in a City park.~~

c. *Permitted Uses.*

[No amendments to this section.]

d. *Applicability.*

[No amendments to this section.]

e. *Home Occupations.*

[No amendments to this section.]

f. *Use Permit.*

[No amendments to this section.]

g. *Permitted Locations.*

[No amendments to this section.]

h. *Off-Street Parking.*

[No amendments to this section.]

i. *Lighting.*

[No amendments to this section.]

j. *Business Conducted Within Building.*

[No amendments to this section.]

k. *Conditions of Approval.*

[No amendments to this section.]

l. *Vesting of Use Permit.*

[No amendments to this section.]

m. *Revocation or Modification.*

[No amendments to this section.]

Section 7. 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), and CEQA Guidelines Section 15282(h) and Public Resources Code section 21080.17 (adoption of ordinance to implement Government Code Section 65852.2 exempt from CEQA), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

Section 8. 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 9. 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 10. 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 11. Authority. This Ordinance is enacted pursuant to Government Code Section 65852.2, the City of Alameda's general police powers and Article XI of the California Constitution.

Section 12. State Review. The City Clerk shall submit a copy of this Ordinance to the Department of Housing and Community Development within 60 days after adoption.

_____
Presiding Officer of the City Council

Attest:

_____
Lara Weisiger, City Clerk

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