

CITY OF ALAMEDA ORDINANCE NO. _____

AMENDING ALAMEDA MUNICIPAL CODE CHAPTER XXX (DEVELOPMENT REGULATIONS) TO REVISE SECTION 30-2 (DEFINITIONS), SECTION 30-5 (GENERAL PROVISIONS AND EXCEPTIONS), SECTION 30-5.6 (BUILDING SITE, AREAS AND EASEMENTS), SECTION 30-5.14 (BARRIERS AND FENCES), SECTION 30-5.17 (REASONABLE ACCOMMODATION), SECTION 30-20 (NONCONFORMING BUILDINGS AND USES), TO IMPLEMENT THE CITY OF ALAMEDA GENERAL PLAN AND HOUSING ELEMENT AND MAKE OTHER TECHNICAL AMENDMENTS, AS RECOMMENDED BY THE PLANNING BOARD

WHEREAS, on November 30, 2021, the City Council adopted the City of Alameda 2040 General Plan, which includes policies and action items to increase housing production across income categories, encourage reinvestment in existing buildings, discourage permanent fencing in public sidewalk areas for private businesses, and encourage reinvestment in non-conforming neighborhood commercial uses that predate the zoning code while preserving the architectural character of the community; and

WHEREAS, on November 15, 2022, the City Council adopted the City of Alameda Housing Element, which includes quantified objectives for housing production based on policies and programs, including affirmatively furthering fair housing, zoning amendments, and process improvements that will provide an ample supply of housing to meet the existing and projected housing needs of the community; and

WHEREAS, the Housing Element specifically identified a need to amend the zoning code related to reasonable accommodation to remove barriers to the development and improvement of housing, particularly affordable and accessible housing; and

WHEREAS, other technical amendments to the zoning code were identified by staff and considered by the Planning Board to address other housing-related issues including non-conformities and fences; and

WHEREAS, the Planning Board held a duly noticed public hearing on September 11, 2023 to consider a draft set of amendments and on January 22, 2024 to consider revised amendments and made a recommendation to the City Council that it adopt the draft amendments; and

WHEREAS, this Ordinance was considered at a regular, duly noticed public hearing of the City Council on _____, 2024, 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 City Council of the City of Alameda that:

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

1. **The amendments maintain the integrity of the General Plan.** The proposed amendments are consistent with the City of Alameda's housing goals, policies and programs, which identified the need to amend the subdivision ordinance, reasonable accommodation and related provisions to remove governmental constraints on housing production and preservation and the protection of existing residents.
2. **The amendments will support the general welfare of the community.** The proposed amendments provide a streamlined process for approving reasonable accommodation requests, and improve clarity in the regulations and maintain consistency with other applicable laws and regulations.
3. **The amendments are equitable.** The proposed amendments are equitable in that they will apply broadly to the entire community, provide streamlined approval of accessibility improvements, and clarify the regulation of non-conforming buildings and uses so that existing property improvements are more likely to be retained and improved, thereby potentially reducing costs. Other amendments included in the ordinance clarify existing regulations, which reduces the possibility of misinterpretation or misapplication.
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 15061(b)(3), which exempts an action where it can be seen with certainty that the proposed project will not have a significant effect on the environment. Amending the zoning code for the purpose of greater clarity, internal consistency, and conformance to the adopted General Plan, Housing Element, and state law will not result in any identifiable physical impacts. Furthermore, most of the zoning amendments were contemplated in the General Plan and Housing Element, which were subject to independent CEQA review. None of the identified potential impacts and adopted mitigation measures are applicable to this action.

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

[insert alphabetically]

Nonconforming building shall mean a building or structure or portion thereof which was lawfully erected or structurally altered in accordance with prior requirements of these regulations and which does not conform to the current development regulations of the district in which it is located.

Nonconforming use shall mean a use of a building or structure or portion thereof or of open land which was lawfully established in accordance with prior requirements of these regulations and which does not conform to the current use regulations of the district in which it is located.

Section 3. Section 30-5.6 of the Alameda Municipal Code is hereby amended to read as follows:

SECTION 30-5.6 - Building Site, Areas and Easements.

a. Exceptions for Non-Conforming Lots.

1. Any residentially zoned or residentially developed lot which does not conform to current lot area, width, depth, and/or frontage requirements is subject to the following minimum required yards, unless a lesser yard is required by the current regulations.
2. Interior Lots.

The following regulations apply to non-conforming interior lots.

(a) Front Yard.

The front yard of a lot less than one hundred (100') feet deep shall be equal to the average of the setback of the adjoining properties having the same frontage. In computing the average, any adjoining setback greater than twenty (20') feet shall be considered as twenty (20') feet; provided, further, that in the absence of a building on an adjoining property, such property shall be assumed to have a setback of twenty (20') feet.

(b) Rear Yard.

The rear yard of a lot less than one hundred (100') feet deep shall be twenty (20%) percent of the average lot depth of the subject lot, but in no case less than twelve (12') feet.

3. Corner Lots.

The following regulations apply to non-conforming corner lots.

(a) Front Yard.

As regulated in paragraph a.1.A. except that on the side street side the setback shall be assumed to be twenty (20') feet.

(b) Rear Yard.

As regulated in paragraph a.1.B.

b. Adjustments to Minimum Rear Yard Requirements for Certain Waterfront Parcels.

1. The following adjustments to the minimum required rear yards apply to parcels which are either immediately adjacent to, or adjacent to interceding public tidal lands (i.e. "public trust lands") which are immediately adjacent to, the Tidal Canal, San Leandro Bay or San Francisco Bay.

2. Additional setback requirements for parcels immediately adjacent to water.

For parcels where the rear property line is either: a) at the same elevation as the higher high water line, or b) is at a lower elevation than the higher high water line (i.e. the rear property line is submerged), the minimum required rear setback shall be measured from the higher high water line as if it were the rear property line.

3. Special adjustments to setback requirements for parcels adjacent to those interceding public lands which do not have public access.

For parcels with interceding public lands between the parcel's rear property line and the higher high water line (such as public tidal lands owned and/or managed by federal, state or local agencies which do not have public access, but portions of which may be leased to owners of adjacent parcels for public use), the minimum required rear setback shall be measured from the higher high water line (which falls within the interceding property) as if it were the rear property line of the subject parcel, thereby reducing the minimum required rear setback from that prescribed by the subject zoning district. However, in no case shall the subject parcel have a rear

setback from the actual rear property line of less than three (3') feet. The above adjustment to minimum rear setback requirements does not apply to parcels adjacent to public or private waterfront lands which have been improved as parklands, trail easements, or similar amenities.

4. Exceptions to setback requirements for waterfront lots may be granted.

Notwithstanding the minimum rear yard requirements of the subject zoning district, exceptions to the rear setback requirements prescribed for waterfronts regulated by this subsection (paragraphs 1 and 2 above), may be approved subject to the notification and approval process for improvements requiring Major Design Review, as outlined in Section 30-27, Design Review Requirements. Exceptions to reduce the minimum required rear setback, but not to less than three (3') feet from the actual rear property line, may be granted with Major Design Review approval, with the additional and specific finding that the proposed encroachment into the setback otherwise required by this subsection will not substantially impair the adjoining neighbors' views of the water and hillsides beyond.

5. Exemptions for Piers and Floating Docks.

Notwithstanding the minimum rear yard requirements of the subject zoning district and the specific setback requirements of this subsection, piers and floating docks are exempt from such minimum yard and setback requirements, and may be built up to and across the property line of adjacent public tidal lands, provided all permit requirements of the A.B.C., A.M.C., and applicable governmental agencies (e.g. B.C.D.C.) are met.

Section 4. Section 30-5.7 of the Alameda Municipal Code is hereby amended to read as follows:

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

a. Minimum Required Front Yards, and Street Side Yards On Corner Lots, Shall be Landscaped.

[no edits to this subsection]

b. Architectural Features.

[no edits to this subsection]

c. Decks

[no edits to this subsection]

d. Windows and Roof Projections.

[no edits to this subsection]

e. Stairs and Landings.

[no edits to this subsection]

f. Accessory Buildings.

1. Height Limits.

[no edits to this subsection]

2. Maximum Rear Yard Coverage.

[no edits to this subsection]

3. Minimum Setbacks from Side Property Lines.

[no edits to this subsection]

4. Minimum Setback from Rear Property Line.

[no edits to this subsection]

5. Minimum Separation from Neighboring Structures.

[no edits to this subsection]

6. Reconstruction of Legally Nonconforming Accessory Buildings.
Notwithstanding the limitations prescribed by Section 30-20, Nonconforming Buildings and Uses, a legally nonconforming accessory building with a conforming residential use in a residential zoning district may be reconstructed with an equal or lesser nonconformity to the size and location requirements of this subsection (i.e., paragraphs 2 through 5 by right, including modifications to the height and/or roof configuration,

provided that the building does not exceed the height limitation prescribed by paragraph 1 of this subsection. Such reconstruction includes any duly permitted project to repair, remodel or replace the existing nonconforming accessory building.

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.

g. *Patio Structures.*

[no edits to this subsection]

h. *Pools, Spas, Mechanical Equipment, and Outdoor Living Elements.*

[no edits to this subsection]

i. *Driveways.*

[no edits to this subsection]

j. *Structures for Disabled Access.*

[no edits to this subsection]

k. *Exceptions to Allow Additions with Less Than the Required Minimum Yards For Legally Established Nonconforming Buildings.*

1. Single-story additions within the required side or rear or street side yard are allowed by right with the same or lesser yards consistent with the existing setbacks.
2. For stories above the ground floor, an addition may be approved with exterior walls in the same plane as the walls of the existing building below or with a setback greater than those existing but still less than the minimum required if the following finding can be made subject to the approval process in Section 30-37, Design Review Regulations: no major adverse effects such as significant shading or significant view blockage will occur on adjoining properties relative to existing conditions and relative to an addition built with a conforming setback.

3. New cantilevered projections above the first story which are to have the same or less horizontal area as an existing first story projection are allowed by right.
- I. *Exceptions to Allow Extension of Roof Ridges and Roof Pitch with Heights Greater Than the Maximum Building Height Limitation.*

If a main building exceeds the maximum building height for the district in which it is located, main building additions may be approved that extend the same roof height, ridge, pitch, and plane as the existing roof structure if the following findings can be made subject to the approval process in Section 30-37, Design Review Regulations:

1. No major adverse effects such as significant shading or significant view blockage will occur on adjoining properties relative to existing conditions and relative to an alternative design with the roof extension built in compliance with the maximum building height;
2. The ridge and/or pitch continuation complies with the City of Alameda Building Code.

Section 5. Section 30-5.14 of the Alameda Municipal Code is hereby amended to read as follows:

30-5.14 – Fences.

Fences may be constructed according to the definitions, standards, and provisions of this subsection.

a. Purpose.

The purposes of this section are:

1. To provide adequate light and air into and between buildings and yards.
2. To preserve the character of Alameda's neighborhoods and promote the objectives of the "Design Review Manual."
3. To encourage pedestrian activity through the maintenance of visually pleasant streetscapes.
4. To protect public health and safety by prohibiting potentially dangerous fencing materials and by limiting fence heights in visibility zones.

b. Definitions.

The definitions included in this subsection are specific to the interpretation of this subsection. Additional definitions are listed in section 30-2.

1. *Arbor* is a decorative latticework structure or trellis made of see-through style materials used as an entrance focal point.
2. *Building Envelope* is the area of land on a parcel suited for a main building as regulated by this chapter.
3. *Chain-Link Fencing* is fencing composed of diagonal grid woven wire fencing material including but not limited to cyclone fencing, chain-link fencing, or diamond shaped plastic-link fencing.
4. *Edge of Vehicular Travel Way* is the curb-line of a public or private roadway or the edge of payment or driveway where no curb-line exists.
5. *Electric Fence* is defined in and shall be installed consistent with Civil Code section 835.
6. *Fence* includes other forms of barriers and is anything used as a boundary or means of protection or confinement including but not limited to open or solid fences, walls, and support elements including posts, foundations and other framework.
7. *Adjacent Grade* is the lowest point of elevation of the finished surface of the ground, paving or sidewalk.
8. *Fence Height* is the distance between the maximum vertical extent of the fence and the adjacent grade at any point within eighteen (18") inches horizontally of that point, except that the fence height over the Bay shall be measured starting at four (4') feet above City of Alameda datum, which is the same as sixteen and one half (16.5') feet above mean lower low tide.
9. *Public or Quasi-Public Land Uses* are those uses including but not limited to public streets, public open space and waterways, commonly owned private open spaces and waterways, schools and their grounds, churches and their surrounding open areas, and other non-residential and institutional uses.
10. *See-Through Style* is a portion of a fence in which the amount of opaque material, excluding supporting posts, is equal to or less than seventy-five (75%) percent of any given square foot in the vertical plane.
11. *Visibility Zones* are:
 - (a) The area on a corner of two (2) intersecting vehicular travel ways the sides of which are twenty (20') feet in length and are coincident with the edge of a vehicular travel way.
 - (b) A triangle, the sides of which are ten (10') feet in length at the intersection of a private driveway serving five (5) or more parking spaces and a public sidewalk.

- (c) In specific cases where the City Engineer determines that safety considerations require a visibility zone.

c. Residential Fences.

Fences in residentially zoned districts or residentially developed properties are subject to the following limitations, except as more specifically provided elsewhere in this title, e.g. when approved by a development plan, planned development, use permit, or pursuant to another zoning standard.

1. Height Limits

- (a) In front yards fences shall not exceed four (4') feet in height.
- (b) In side and rear yards fences shall not exceed six (6') feet in height.
- (c) In street side yards fences shall not exceed four (4') feet in height.
- (d) Fence heights listed above may be exceeded by up to one (1') foot if at least that portion of the fence is see-through style.
- (e) Arbors may exceed the height limits of this subsection by four (4') feet for a distance of no more than six (6') feet parallel to a property line.

2. Prohibited Fence Materials.

- (a) Barbed wire, razor wire, electric fence and other similar materials are not permitted.
- (b) Chain-link fence material is permitted only up to six (6') feet in height in rear yards and side yards where such yard is not a street side yard nor a rear yard of a corner or double-frontage lot and where such yard is not adjacent to public or quasi-public land uses.

d. Non-Residential Fences.

Fences in non-residential zones or non-residentially developed properties are subject to the following limitations, except as more specifically provided elsewhere in this title.

- 1. Fences shall not exceed eight (8') feet in height, except in visibility zones or on residentially developed lots which are regulated elsewhere in this subsection, in which case they may be further limited in height.
- 2. Barbed wire, razor wire, electric fence and other similar materials are not permitted unless approved with an Administrative Use

Permit upon making the following findings in addition to the findings in Section 30-21.3:

- (a) The fencing material is necessary to protect the health, safety and welfare of the public, or
 - (b) The fencing material is essential to furthering another governmental purpose or regulation.
- 3. Chain link or similar material shall be combined with decorative elements such as varied mesh sizes, vinyl or other colored coating, or alternative post materials, and landscaping or other screening.
 - 4. Temporary fences shall be conditioned to require removal of the fence in six (6) months. Extensions to the six-month term require an administrative use permit.
 - 5. All exterior storage on a property shall be screened from public view extending two (2') feet above the stored goods by a fence up to ten (10') feet in total height.
 - 6. Fences erected for the purpose of delineating outdoor dining, display areas or other outdoor business activity occurring on City sidewalks shall be removed no later than one (1) hour past the conclusion of said outdoor business activity, except as otherwise specified in a Public Works Encroachment Permit.
- e. Maintenance and repair of non-conforming fences is regulated by subsection 30-20.3. Fences legally established and existing prior to June 30, 2024 are considered conforming and are not subject to the limitations in subsection 30-20.3, e.g. replacement in kind is allowed under all circumstances.
 - f. Fences and landscaping located in visibility zones shall not exceed three (3') feet in height.
 - g. Adequate access for safety and emergency personnel shall be provided.

Section 6. Section 30-5.17 of the Alameda Municipal Code is hereby amended to read as follows:

30-5.17 - Reasonable Accommodation.

- a. Purpose.

The purpose of this section is to provide a procedure to request reasonable accommodation to obtain exceptions to zoning and development regulations to allow reasonable modifications to sites and buildings for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the

California Fair Employment and Housing Act (together, the Acts) and the California Code of Regulations (CCR).

b. Principles.

1. A request for reasonable accommodation may be made by any person with a disability, their representative or an entity that is developing or providing housing for one or more persons with a disability, when a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment.
2. A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
3. A reasonable accommodation is approved for the household that needs the accommodation and does not apply to successors in interest to the site unless the Director determines that it is impractical to remove the accommodation / modification or unnecessary / undesirable in order to provide continued fair access to housing.
4. A reasonable accommodation request shall be considered independently of any discretionary permit and is exempt from design review, use permit, variance and similar requirements.
5. Requests for reasonable accommodation shall be made on a form provided by the Planning Director for this purpose and shall contain the information listed in section 30-5.17c.
6. No fee shall be charged to file or process the request.

c. Application Requirements.

1. *Application.* A request for reasonable accommodation / modification shall be submitted on an application form provided the Planning Department, or in the form of a letter, to the Planning Director and shall contain the following information:
 - (a) The applicant's name, address, and telephone number;
 - (b) The address of the property for which the request is being made;
 - (c) The current and proposed use and development of the property;
 - (d) The form of disability to be accommodated and supporting evidence of disability consistent with CCR 12178;
 - (e) The zoning ordinance or development review standard, provision, regulation, or policy for which reasonable accommodation is being requested; and
 - (f) How the reasonable accommodation / modification is necessary to accommodate the functional daily need of the disabled individual or disabled persons in general in order to provide equal opportunity to use or enjoy a housing opportunity.
2. *Confidentiality Regarding Reasonable Accommodations and Modifications.* All information concerning an individual's disability, request for an accommodation or modification, or medical verification or information must be kept confidential and must not be shared with other persons who are not directly involved in the interactive process or decision making about the requested accommodation or modification unless disclosure is:
 - (a) Required to make or assess the decision to grant or deny the request for accommodation or modification;
 - (b) Required to administer or implement the requested accommodation or modification;
 - (c) Authorized by the individual with the disability in writing; or

(d) Required by law.

d. Review Authority.

A request for reasonable accommodation shall be reviewed by the Planning Director or their designee.

e. Review Procedure.

The Director or their designee shall make a written determination no later than thirty (30) days after receiving a complete application and either approve, approve with modifications, or deny the request for reasonable accommodation in accordance with Section 30-5.17 Findings and Decision.

f. Findings and Decision.

1. *Findings.* The written decision to approve or deny a request for reasonable accommodation shall be approved unless adverse findings are made supported by substantial evidence based on consideration of the following factors:
 - (a) Whether the housing that is the subject of the request will be used by an individual with a disability as defined under the Acts.
 - (b) Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
 - (c) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.
 - (d) Whether an alternative accommodation would be equally effective in meeting the needs of the person(s) with disability. Equally effective means that the alternative accommodation or modification will allow the person with the disability to use and enjoy a dwelling or housing opportunity as well as the requested accommodation or modification

would have. The alternative must be acceptable to the applicant.

- (e) Whether the requested accommodation would constitute a direct threat to the health or safety of others (i.e. a significant risk of bodily harm) or would cause substantial physical damage to the property of others, or such risks can be sufficiently mitigated or eliminated by another reasonable accommodation pursuant to CCR 12179.

- 2. *Conditions of Approval.* In granting a request for reasonable accommodation, the Director may impose conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by subsection 1 above and other code requirements of the Building Official and of the Fire and Public Works Departments. The conditions shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site, if practical. The conditions may also state whether the approval shall lapse if not implemented within a specified period of time.

- g. Appeal of Determination.

A determination by the reviewing authority to approve or deny a request for reasonable accommodation may be appealed by the applicant to the Planning Board in compliance with Section 30-25, Appeals or Calls for Review.

Section 7. Section 30-20 of the Alameda Municipal Code is hereby amended to read as follows:

SECTION 30-20 – NONCONFORMING BUILDINGS AND USES

30-20.1 General.

- a. This chapter provides regulations for nonconforming uses, structures, and buildings that were lawful before the adoption or amendment of the development code, but which would be prohibited, regulated, or restricted differently under the present terms of this title.

- b. It is the intent of the city to discourage the long-term continuance of nonconformities, providing for their eventual elimination, while allowing them to continue to exist under the conditions identified in this chapter.
- c. Nonconforming signs are subject to the requirements in AMC Chapter 30-6.
- d. Any use or structure which was established or constructed in violation of the applicable zoning regulations in effect at the time of establishment or construction and which does not conform to the applicable regulations of this development code is not a nonconforming use or structure, and the use or structure is in violation of this code.
- e. Any nonconforming building or structure or any nonconforming use being conducted within a building or structure or upon open land may be continued as provided in this section except as provided in this section.

30-20.2 Use Permit For Change of Non-Conforming Use.

- a. A nonconforming use shall not be enlarged or expanded in size or capacity, or extended to occupy a greater area of land or building floor area than it legally occupied before it became nonconforming, unless a Use Permit is granted.
- b. A nonconforming use shall not be intensified so that the hours of operation are extended, the number of employees is increased, the occupancy capacity is increased, the volume of traffic or noise generated by the use is increased, or a different amount of parking is required unless a Use Permit is granted.
- c. If no structural alterations are made, a nonconforming use may be changed to another nonconforming use of the same or more restricted use classification if a Use Permit is granted.

30-20.3 Nonconforming Buildings with Conforming Residential Uses.

Nonconforming buildings with conforming residential uses in residential zoning districts may be reconstructed with an equal or lesser nonconformity to the development standards of this chapter subject to the approval process for improvements as outlined in Section 30-37: Design Review Requirements. Such reconstruction may occur to repair damage as defined by subsection 30-20.4 of this chapter or as part of a duly permitted project to repair, remodel or replace an existing non-conforming building. For reconstruction of nonconforming buildings

with residential uses in residential zoning districts, the value limitations prescribed by subsection 30-20.4 do not apply.

30-20.4 Changes to and Restoration of Nonconforming Buildings.

For property that does not qualify for the provisions in subsection 30-20.3 to allow reconstruction of nonconforming buildings with residential uses in residential zoning districts, the following regulations apply to nonconforming buildings:

- a. *Changes Permitted.* No nonconforming building may be enlarged, extended, reconstructed or structurally altered unless it is changed to conform to the regulations specified by this chapter, except that routine maintenance and repairs are allowed in an aggregate amount during a five (5) year period of not to exceed one hundred (100%) percent of the total appraised valuation as determined by the Building Official, who may require verification by a certified appraiser selected by the City and conducted at the property owner's expense.
- b. *Restoration of Damaged Buildings.* A nonconforming building that is involuntarily damaged or destroyed to the extent of more than seventy (70%) percent of the value thereof shall thereafter be subject to all the regulations of the district in which such building is located. For the purposes of this section, the value of any building shall be the estimated cost of the replacement of the building in kind, as determined by the Building Official, who may require verification by a certified appraiser selected by the City and conducted at the property owner's expense. Where any nonconforming building is destroyed less than seventy (70%) percent, as specified above, a building permit for its restoration shall be diligently pursued not later than one (1) year from the date of such destruction and the restoration shall be completed within one (1) year from the date of issuance of the building permit or the exception under this section shall lapse and the property shall be subject to enforcement for violation of the blight prevention ordinance.

30-20.5 Restoration of Destroyed Residential Buildings.

Subsection 30-20.4 notwithstanding, any damaged or destroyed building containing three (3) or more dwelling units may be rebuilt to its existing density as provided by subsection 30-53.3.

30-20.6 Completion of Approved Building or Establishment of Approved Use.

- a. A use, structure or physical improvements for which a planning or building permit was approved and issued, but not yet established or construction completed before the effective date of a new ordinance codified in this title, may be completed, provided substantial work has been performed and substantial liabilities have been incurred or business commenced under valid permits.
- b. If upon establishment or completion a use, building, structure or physical improvements or parts thereof are not in compliance with this code, they shall be deemed to be nonconforming and shall thereafter be subject to the provisions of this chapter.

30-20.7 Loss of Nonconforming Use Status

A nonconforming use shall not be reestablished in the following cases.

- a. Discontinuance.
 1. If the nonconforming use of a building or structure or upon open land is discontinued for a continuous period of 365 calendar days or more, the City may initiate the lapse procedure as set forth in subsection 30-21.13.
 2. The City shall base a determination of discontinuance on evidence including the removal of equipment, furniture, machinery, structures, or other components of the nonconformity, disconnected or discontinued utilities, no business receipts or records to document continued operation, and other substantial evidence.
- b. Destruction.
 1. Nonconforming use status shall terminate if the structure in which it occurred is involuntarily damaged or destroyed except as provided in subsection 30-20.4.b.
 2. Nonconforming use status shall terminate if the structure in which it occurred is voluntarily demolished.

30-20.8 - Large Format Retail.

Existing large format retail uses, constructed and in use prior to March, 2008, that are located in commercial, manufacturing, Planned Development or M-X zoning districts where large format retail is allowed and that comply with the development standards of the zoning district shall not be classified as nonconforming.

Section 8. 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.

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the ____ day of _____, 2024, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2024.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Yibin Shen, City Attorney
City of Alameda