

### 30-5A - Accessory Dwelling Units.

a. *Purpose.* This Section provides for the creation of accessory dwelling units and junior accessory dwelling units on lots zoned to allow residential use consistent with Government Code Sections ~~65852.2, 65852.22, and 65852.26~~ 66310 et seq. 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~~ provide supplemental income. 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 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 by the City for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

b. *Definitions.*

As used in this section:

Attached Accessory Dwelling Unit (ADU) means a newly created (constructed) dwelling structure that structurally abuts (and connects to) an existing or proposed primary dwelling or accessory structure. This can be constructed on top of or below the primary dwelling. An attached ADU shall not exceed 50 percent of the existing primary dwelling's floor area size.

Converted ADU means Converted ADUs are dwelling units that are created from existing space within proposed or existing primary dwelling units or existing accessory structures. For single family residences, the converted ADU is created from the proposed or existing space of the single-family residence or the existing space of an accessory structure. For multifamily dwelling structures, the converted ADUs are created from portions of the multifamily dwelling structures that are not used as livable space (i.e., storage rooms, passageways, etc.).

Detached ADU means newly constructed dwelling units that are created on a lot with an existing or proposed single-family or multifamily dwelling structure but are detached from the primary dwelling.

Junior Accessory Dwelling Unit or JADU means a unit that is no more than 500 square feet of interior livable space in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.

State-Mandated ADU means ADUs and JADUs that are created pursuant to Government Code section 66323.

c. *Applicability.* The provisions of this section authorize an accessory dwelling unit to be located on a lot in any zoning district where residential use is permitted or conditionally-permitted that includes a proposed or existing primary dwelling. Accessory dwelling units shall not be considered primary units and shall be exempt from any residential density standard established by the subject zoning district.

d. State-Mandated ADUs. Notwithstanding the development standards of subsection e, the accessory dwelling units described in this subsection shall only be subject to the standards provided in this subsection. Any accessory dwelling unit(s) that exceeds that standards provided in this subsection shall comply with the development standards of subsection e.

1. For single-family lots, each of the following:

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(a) One (1) accessory dwelling unit wholly within the area of an existing or proposed single-family primary dwelling, or within the area of an existing accessory structure (i.e. conversion without a substantial addition), provided that the space has or will have separate exterior access from the primary unit. An existing accessory structure may be physically expanded as provided in subsection e.

(b) One (1) detached, new-construction accessory dwelling unit on a lot with a proposed or existing single family dwelling, provided it does not exceed 800 square feet, four-foot side and rear setbacks, or the maximum height described in subparagraph (A), (B), or (C) of Government Code Section 6631(4)(B), as applicable.

(c) One (1) junior accessory dwelling unit that complies with the requirements of subsection f.

(d) For clarity, the maximum number of ADU/JADUs on a single family lot shall be: one attached ADU, one JADU, and one detached new-construction ADU of up to 800 square feet.

2. For multi-family lots:

(a) *Converted ADUs.* Within the non-livable space of an existing multi-family structure (such as storage rooms, boiler rooms attics, and garages).

(b) For lots with a proposed multi-family structure, up to two (2) detached accessory dwelling units.

(c) For lots with an existing multi-family structure, up to eight (8) detached accessory dwelling units, but in no case more than the number of existing primary dwelling units.

(d) For clarity, ADUs created under Section 2(a) can be combined with ADUs created under either 2(b) or 2(c).

(e) ADUs set forth in subsection (b) and (c) shall have four-foot side and rear setbacks and a maximum height described in subparagraph (A), (B), or (C) of Government Code Section 66310(4)(B), as applicable. If the existing multifamily dwelling has a rear or side setback of less than four feet, no additional setback shall be required.

(f) The development standards for units governed by this section are summarized in Table 1.

Insert table 1 in Final Ordinance.

e. *Development Standards applicable to Non-State-Mandated ADUs.* An accessory dwelling unit may be attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure, or detached from the proposed or existing primary dwelling(s) and located on the same lot as the proposed or existing primary dwelling(s).

1. *Number and Type Allowed:*

(a) *Single-family lots.* On lots with an existing or proposed single-family dwelling, one (1) accessory dwelling unit (attached or detached) and one (1) junior accessory dwelling unit are permitted.

(b) *Multi-family lots, existing.* On lots with existing multifamily dwellings (i.e. two (2) or more units on the same parcel, regardless of whether they are attached to one another), any number of accessory dwelling units are permitted within portions of an existing building, as long as each unit complies with state building standards for dwellings. In addition to the attached units allowed by subsection (1), within portions of an existing building, two (2) accessory dwelling units up to eight (8) accessory dwelling units not to exceed the number of existing units on site, detached from the primary dwelling(s), are permitted on a multi-family lot. The two (2) detached accessory dwelling units may be constructed to be attached to each other.

(c) *Multi-family lots, proposed.* On lots with proposed multi-family dwellings (i.e. two (2) or more units), two (2) detached accessory dwelling units are permitted. The two (2) detached accessory dwelling units may be constructed to be attached to each other.

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2. *Maximum Size:* The size of an accessory dwelling unit shall not exceed one thousand two hundred (1,200) square feet. ~~Nothing in this section shall be interpreted to prohibit at least an eight hundred (800) square foot accessory dwelling unit that is sixteen (16') feet in height with four (4') 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 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) on the lot shall not exceed sixty (60) percent.~~
4. ~~*Detached Accessory Dwelling Units:* An accessory dwelling unit may be constructed as a new detached structure or created through the conversion of an existing accessory structure and shall comply with the following requirements:~~
- ~~(a) 3. *Maximum Height: Eighteen (18') feet. An additional two (2) feet in height shall be permitted, raising the maximum height limit to twenty (20) feet, when the roof pitch on the accessory dwelling unit matches the roof pitch of the primary dwelling unit.*~~
- ~~(1) *On lots located within the special flood hazard area, as defined by FEMA's Flood Insurance Rate Maps (FIRM), the height of a detached accessory dwelling unit may exceed eighteen (18') feet by the minimum amount necessary, as determined by the Building Official and City Engineer, to allow:*~~
- ~~i. *A finished floor of the habitable space at one (1') foot above the Base Flood Elevation shown on the FIRM; and*~~
- ~~ii. *Up to eight (8') feet in vertical clearance from the finished floor to ceiling within the habitable space; and*~~
- ~~iii. *A roof pitch that matches the roof pitch of the primary dwelling unit.*~~
- ~~(a) *Attached Accessory Dwelling Units:* To conform to the maximum height standards for primary residential structures permitted by the subject property's zoning district.~~
- ~~(b) *Detached Accessory Dwelling Units:* Eighteen (18') feet. An additional two (2) feet in height shall be permitted, raising the maximum height limit to twenty (20) feet, when the roof pitch on the accessory dwelling unit matches the roof pitch of the primary dwelling unit.~~
- ~~(c) *On lots located within the special flood hazard area, as defined by FEMA's Flood Insurance Rate Maps (FIRM), the maximum height of a detached accessory dwelling unit shall be eighteen (18') feet above one (1') foot above the Base Flood Elevation shown on the FIRM with a roof pitch that matches the roof pitch of the primary dwelling unit.*~~
- ~~(b) 4. *Required Setbacks from Side and Rear Property Lines:*~~
- ~~(1) (a) No setbacks shall be required for an existing accessory structure or a new structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit. For the purposes of this subsection, dimensions shall mean the exterior width, length, and height of the existing accessory structure up to eighteen (18') feet.~~
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~~(2)~~ (b) A setback of four (4') feet 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.

~~(3)~~ (c) A setback of twenty (20') feet from the front lot line shall be required for an accessory dwelling unit, or as adjusted by section 30-5.6, unless the accessory dwelling unit is converted from an existing structure or is a new structure constructed in the same location and to the same dimensions as an existing structure, or unless such setback prohibits a Gov. Code Sec. 66323 unit.

(4) (d) Notwithstanding subsection (2b) above, the side and rear yard setbacks for detached ADUs may be reduced to zero (0') feet if all of the following conditions are met:

- i. The ~~detached~~ ADU is located seventy-five (75') feet or more from the front property line and, if applicable, five (5') feet from the street side of a corner lot;
- ii. ~~The portion of the neighboring lot(s) that adjoin the detached~~ The ADU is not within seventy-five (75') feet of the neighboring lots' front property line(s);
- iii. All construction within three (3') feet 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;
- iv. Notwithstanding subsection (a), the ~~detached~~ ADU is not more than sixteen (16') feet in height; and
- v. The ~~detached~~ ADU will not cover more than sixty (60%) percent of the minimum required rear yard as prescribed by the subject zoning district, with a minimum allowed coverage area of six hundred (600) square feet. 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.

~~(c) — 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.~~

~~(d) — Lot Coverage: The aggregate lot coverage of all building footprint(s) on the lot shall not exceed sixty (60%) percent. 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 eight hundred (800) square foot accessory dwelling unit that is up to eighteen (18') feet in height with four (4') foot side and rear yard setbacks to be constructed in compliance with all other development standards.~~

(e) *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 fifty (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 and shall conform with the setback requirements of this section.

5. — *Design Standards:*

~~(a) — Attached Unit: The design of an attached accessory dwelling unit shall match the same materials, colors and style as the exterior of the primary dwelling, including roof form, materials and pitch,~~

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eaves, trim, and windows. Creation of the accessory dwelling unit shall not involve any changes to existing street-facing facades or raise the height of existing floor(s) and roof elevations. Entrances to the accessory dwelling unit shall not be located on a street-facing façade. The construction of the accessory dwelling unit shall not obscure, damage, destroy or remove any original architectural details or materials of an existing main building, except as necessary to construct and integrate the accessory dwelling unit.

~~(b) *Detached Unit:* The design of a detached accessory dwelling unit located within fifty (50') feet of an adjacent street frontage shall incorporate the exterior features of the primary dwelling, including siding, roof form, eaves, and window type, trim and orientation. 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) *Converted Accessory Buildings and Garages:* Existing accessory buildings such as detached garages that are converted to accessory dwelling units shall replace garage doors with the same exterior wall material, building color, and window trim as the existing building or the primary dwelling structure if the accessory dwelling unit is being created in a garage attached to the primary dwelling.~~

5. *Recommended Design Considerations:* Consistent with General Plan goals to preserve Alameda's unique and historical architectural buildings, the following design considerations are recommended, but shall not be required, for accessory dwelling units.

(a) *Attached Unit:* The design of an attached accessory dwelling unit should match the same materials, colors and style as the exterior of the primary dwelling, including roof form, materials and pitch, eaves, trim, and windows. Creation of the accessory dwelling unit should not involve any changes to existing street-facing facades or raise the height of existing floor(s) and roof elevations. Entrances to the accessory dwelling unit should not be located on a street-facing façade. The construction of the accessory dwelling unit should not obscure, damage, destroy or remove any original architectural details or materials of an existing main building, except as necessary to construct and integrate the accessory dwelling unit.

(b) *Detached Unit:* The design of a detached accessory dwelling unit located within fifty (50') feet of an adjacent street frontage should incorporate the exterior features of the primary dwelling, including siding, roof form, eaves, and window type, trim and orientation.

(c) *Converted Accessory Buildings and Garages:* Existing accessory buildings such as detached garages that are converted to accessory dwelling units should replace garage doors with the same exterior wall material, building color, and window trim as the existing building or the primary dwelling structure if the accessory dwelling unit is being created in a garage attached to the primary dwelling.

f.6. *Junior Accessory Dwelling Units:* One (1) 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 standards:

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

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

3. ~~(c)~~ The unit may maintain an interior connection to the primary dwelling and shall provide an exterior entrance separate from the main dwelling entrance.

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

5. ~~(e)~~ The unit shall include an efficiency kitchen that shall include the following components:

~~(1)~~(a) A cooking facility with appliances; and

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

~~6. (f) Notwithstanding subsection d. below,~~ No additional parking shall be required for a junior accessory dwelling unit.

~~7. (g)~~ 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.

~~8. (h)~~ Before issuing a building permit for a 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:

~~(a)(1)~~ The junior accessory dwelling unit shall not be sold or otherwise conveyed separately from the primary dwelling, and rental of a junior accessory dwelling unit shall be for a period longer than thirty (30) days.

~~(2) — 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.~~

~~(b)(3)~~ A restriction on the junior accessory dwelling unit size and attributes exists as required by ~~subsection c.6, above this ordinance.~~

g. ~~Parking: Off-street parking provided shall comply with Section 30-7. 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) shall not be required. The driveway and curb cut may remain for off-street parking provided the length of such driveway is at least eighteen (18') feet, measured from the property line, in order to accommodate a parked vehicle without any portion of the vehicle encroaching into the public right-of-way. Remaining driveways that do not meet the minimum eighteen (18') foot length shall be abandoned per Section 22-18.3 as part of the construction of the accessory dwelling unit. No off-street parking is required for any accessory dwelling unit, and no replacement parking shall be required for any parking removed in conjunction with the construction of an accessory dwelling unit.~~

~~1. When off-street parking is provided, such parking shall comply with Section 30-7. When an existing off-street parking space is demolished in conjunction with the construction of an ADU, an existing driveway and curb cut may remain for off-street parking provided the length of such driveway is at least eighteen (18') feet, measured from the property line, in order to accommodate a parked vehicle without any portion of the vehicle encroaching into the public right-of-way. Remaining driveways that do not meet the minimum eighteen (18') foot length shall be abandoned per Section 22-18.3 as part of the construction of the Accessory Dwelling Unit.~~

h. ~~Rental and Sale Limitations.~~ The accessory dwelling unit shall not be sold or otherwise conveyed separately from the primary dwelling except as allowed pursuant to Government Code Section ~~65852.26 66341 or 66342~~ and ~~section 30-5B Accessory Dwelling Unit Condominium of this Code,~~ and rental of an accessory dwelling unit shall be for a period longer than thirty (30) days, ~~unless otherwise authorized by this Code.~~

i. ~~Application and Review Process.~~

1. ~~Ministerial Review.~~ Except as provided below, application for an accessory dwelling unit shall be reviewed ministerially within 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.

2. ~~Design Review for Exterior Improvements. Combination Permits.~~ ~~Notwithstanding Section 30.37.2,~~ for applications that combine a new accessory dwelling unit with improvements other than for the accessory dwelling unit, ~~such as a second story deck or raising an existing building,~~ the non-accessory

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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. Nothing herein, is intended to prevent the ministerial approval of the ADU itself.

3. *Vacant Lots.* An accessory dwelling unit must be located on 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.
- j. *Compliance with Building and Health and Safety Codes.* 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.~~
  1. *Fire Sprinklers Not Required:* Fire sprinklers or fire attenuation shall not be required for an accessory dwelling unit if not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in an existing primary dwelling.
  2. *Independent Access:* For attached units, exterior access shall be provided independently from the primary dwelling.
  3. *Fire-Rated Separation:* Attached units and units that are within the primary dwelling may maintain an interior connection to the primary dwelling provided there is a fire-rated door separating the units that is lockable on both sides.
  4. *Minimum Separation from Other Structures:* As required by the California Building Code.
  5. An application for a permit to create an accessory dwelling unit shall not be denied due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit, as determined by the Building Official.
- k. 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.
- l. 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, except that no public notice or discretionary review shall be required for the demolition of a detached garage or accessory structure that is to be replaced with an accessory dwelling unit, unless the property is located within a historic district.
- m. *Development Impact Fees and Taxes.* Accessory dwelling units shall be exempt from the Improvement Tax provisions in AMC Section 3-62, Improvement Tax. No City Development Impact Fees shall be imposed on an accessory dwelling unit less than 750 square feet, as required by State law.
- n. *Measurement.* ADU and JADU square footage measurements shall be based on “interior livable space”.
- o. *Conflicts.* In the event of a conflict between this chapter and Government Code section 66310 et seq, the Government Code shall prevail.

(Ord. No. 3184 N.S., § 9, 7-5-2017; Ord. No. 3278 N.S., § 2, 5-5-2020; Ord. No. 3309 N.S., § 4, 11-16-2021; Ord. No. 3333 N.S., § 5, 12-6-2022)

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### **30-5B - Accessory Dwelling Unit Condominium Regulations.**

- a. Purpose. The purpose of this Section is to implement Government Code Section 66342, which authorizes local agencies to allow accessory dwelling units (ADUs) to be conveyed separately as condominiums. In doing so, the City of Alameda seeks to expand homeownership opportunities while maintaining compliance with the Davis-Stirling Common Interest Development Act, the Subdivision Map Act, and other applicable State laws and ensuring the livability of the ADU prior to sale.
- b. Authorization. Pursuant to Government Code Section 66342, the City hereby authorizes an ADU located on a parcel with an existing or proposed primary dwelling to be conveyed separately as a condominium unit if all applicable requirements of the Government Code are met., The City includes in this authorization those units created in conformance with Section 30-4.1 and Government Code Section 66411.7, otherwise known as Senate Bill 9 (SB 9) of 2021, for up to four condominium units including the ADUs and primary dwellings on an urban lot split in a single-family zone. The City also recognizes rights of sale granted by Government Code Section 66341 for properties built or developed by a qualified nonprofit corporation.
- c. Ministerial Approval. No condominium conversion shall be permitted without obtaining approval of a subdivision map pursuant to the Article VI. Subdivision Regulations of this Chapter. The conversion and conveyance of an ADU and the primary dwelling unit as a condominium shall be considered a ministerial action and shall not be subject to discretionary review, public notice, or public hearing.
- d. Compliance with State and Local Laws. Accessory dwelling units built in accordance with Section 30-5A may be converted to condominiums through a subdivision map. Such conversion shall be in compliance with the Davis-Stirling Common Interest Development Act (Civil Code Division 4, Section 4000 et seq.), the Subdivision Map Act (Government Code Division 2, Section 66410 et seq.), Article VI. Subdivision Regulations, and all other applicable objective requirements of this Section.
- e. Compliance with Building Codes and Zoning Regulations. All structures and buildings included as part of a condominium project shall conform to the California Building Code and local amendments and applicable zoning regulations. Approval of individual condominium units shall not be deemed to reduce or eliminate any of the building and zoning requirements applicable to any such structures and buildings as they apply to ADUs and to primary dwelling units.
- f. Application Requirements. An application for condominium conversion of an ADU and primary dwelling shall include the following:
  - 1. Condominium Plan. A condominium plan prepared pursuant to the Davis-Stirling Common Interest Development Act (Civil Code Section 4000 et seq.).
  - 2. Subdivision Map. A subdivision map prepared in compliance with the Subdivision Map Act (Government Code Section 66410 et seq.) and the Alameda Subdivision Regulations.
  - 3. Lienholder Consent. Neither a subdivision map nor a condominium plan shall be recorded with the County Recorder absent the consent of each lienholder of record. Such consent may be withheld at the sole discretion of the lienholder, or granted upon the condition that any terms or requirements imposed by the lienholder are fully satisfied.
    - (a) Prior to recordation of the initial or any subsequent modifications to the condominium plan, the lienholder's written consent shall be provided along with a signed statement from each lienholder that states as follows:

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“(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have.”

(b) The lienholder’s consent shall be included on the condominium plan, or a separate form attached to the condominium plan that includes the following information:

1. The lienholder’s signature.
2. The name of the record owner or ground lessee.
3. The legal description of the real property.
4. The identities of all parties with an interest in the real property as reflected in the real property records.
5. The lienholder’s consent shall be recorded in the Alameda County Recorder’s Office.

4. Notice to Consumers. The following notice shall be included as a standard condition of any accessory dwelling unit building permit or condominium plan approval:

“NOTICE: If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder’s consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any. In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

- (a) Paying off your current lender. You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.
- (b) Securing your lender’s approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.
- (c) Securing your lender’s consent to the details of any construction loan or ground lease. This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the above consent is true and correct.

5. Homeowners Association Requirements. An Accessory Dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this Section.

(a) Prior to approval of a subdivision map, a home or property owners’ association or similar entity shall be formed. The association shall, at a minimum, provide for the administration, management and maintenance of all common areas including landscaping, drive aisles and parking areas, maintenance of the exterior of all buildings, pool or common roof, the collection of dues, payment of public utilities not billed separately to each unit, and enforcement of standards within the project.

(b) The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan

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- to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.
- (c) For purposes of this subparagraph, written authorization by the existing association means approval by the board at a duly noticed association board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.
6. *Covenants, Conditions and Restrictions.* The applicant shall prepare a declaration of covenants, conditions and restrictions (CC&Rs) which shall be recorded and apply to each owner of a condominium unit within the ADU condominium project. The CC&Rs shall be recorded at, or prior to, the time of parcel map approval, and shall include all applicable conditions of approval and requirements of the City, as determined by the Planning Director. The CC&Rs shall, at a minimum, provide:
- (a) That any amendment to the CC&Rs related to the conditions of approval or other requirements of this Chapter may not be approved without prior consent of the City.
- (b) That there shall be a property or homeowners' association, or similar entity, which shall be financially responsible for and shall provide for the effective establishment, operation, management, use, repair and maintenance of all common areas and facilities.
- (c) A provision containing information regarding the conveyance of units and any assignment of parking, an estimate of any initial assessment fees anticipated for maintenance of common areas and facilities, and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.
- (d) A provision addressing the payment of utilities including water, sewer, gas and electricity by the homeowner or through the association.
- (e) A provision requiring that any owner who rents the ADU condominium unit shall conform to the homeowners' association which is responsible for management of the common areas and enforcement of the CC&Rs.
7. *Organization Documents.* In addition to such covenants, conditions, and restrictions that may be required by the Department of Real Estate of the State of California pursuant to Title 6 (Condominiums) of the Civil Code or other State laws or policies, the organization documents shall provide for the following:
- (a) Conveyance of units.
- (b) Management of common areas within the project where common areas exist.
- (c) A proposed annual operating budget containing a reserve fund to pay major anticipated maintenance, repair, or replacement expenses where shared common area infrastructure exists; and indicating the association fees needed for the operating budget and reserve fund.
- (d) FHA regulatory agreement, if any.
8. *Notification to Utilities.* Prior to recordation of the condominium plan, the applicant shall notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance. Proof of notification shall be provided to the City.
9. *Safety Inspection Required.* The ADU shall comply with all applicable technical codes including the California Building and Fire Codes. Prior to approval of the subdivision map, a safety inspection of the ADU shall be conducted as evidenced either through a certificate of occupancy by the Building Official or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.
10. *Other application materials.* In addition to other application submittal requirements, the following shall be provided:
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- (a) A statement regarding current ownership of all improvements and underlying land.
  - (b) A site plan and boundary map showing the location of all existing easements, structures, mature and/or scenic trees, and other improvements upon the property.
  - (c) Dimensions and location of each building or unit and the location of all fences and walls.
  - (d) The location, size, and design for all common areas, including all facilities and amenities provided within the common areas for use by unit owners.
  - (e) Location and condition for all paved areas, including pedestrian walkways.
  - (f) Maintenance plan of all buildings and common areas and facilities.
  - (g) A statement regarding the tenancy of the existing units and description of compliance with the City of Alameda Fair Housing and Tenant Protection Ordinance and the City of Alameda Rent Control, Limitations On Evictions And Relocation Payments To Certain Displaced Tenants Ordinance.
  - (h) Applicable ADU Condominium application processing fees shall be paid at the time of application as set forth in the Master Fee Resolution.
  - (i) Development Impact Fees and Inclusionary Housing In-Lieu Fees for any accessory dwelling unit 750 square feet or larger in floor area shall be paid prior to recordation of the condominium plan and subdivision map. No City Development Impact Fees shall be imposed on an accessory dwelling unit less than 750 square feet, as required by State law.
- f. Administration. The Planning Director, or their designee, shall have the authority to adopt administrative procedures, forms, and guidelines necessary to implement this Section, provided such procedures remain consistent with State law and the ministerial intent of this section.