

# Attachment 1

ORDINANCE NO. \_\_\_\_

## AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO

**ADOPTING DEVELOPMENT CODE TEXT AMENDMENT (ZTA23-001) AMENDING TITLE 18 (DEVELOPMENT CODE) OF THE EAST PALO ALTO MUNICIPAL CODE SPECIFICALLY TO AMEND TITLE 18 OF THE EAST PALO ALTO MUNICIPAL CODE TO 1) REPEAL AND REPLACE CHAPTER 18.96 REGULATING ACCESSORY DWELLING UNITS IN CONFORMANCE WITH GOVERNMENT CODE 65852.2 AND 65852.22 AND ADD PROVISIONS FOR SECOND DRIVEWAYS ON CORNER LOTS AND REDUCE THE USEABLE OPEN SPACE REQUIREMENT FROM 750 SQUARE FEET TO 500 SQUARE FEET OR 50% OF THE REMAINING REAR YARD, WHICHEVER IS LESS RESTRICTIVE FOR ACCESSORY DWELLING UNITS (ADUs) IN SINGLE FAMILY RESIDENTIAL ZONES; 2) AMEND SECTION 18.08.010 DEFINITIONS TO UPDATE THE DEFINITION OF ACCESSORY DWELLING UNIT AND ADD DEFINITIONS FOR MAJOR TRANSIT STOP AND HIGH QUALITY TRANSIT CORRIDOR; 3) AMEND SECTION 18.10.030 TABLE 2-2 TO REDUCE THE MINIMUM USEABLE OPEN SPACE REQUIREMENT FROM 750 SQUARE FEET TO 700 SQUARE FEET IN THE R-LD ZONING DISTRICT; 4) ADD SECTION 18.80.025 STREAMLINED MINISTERIAL REVIEW ACTIONS; 5) AMEND SECTION 18.82.020 AUTHORITY FOR LAND USE AND ZONING DECISIONS TO ADD PRELIMINARY MINISTERIAL REVIEW (PMR) CLEARANCE TO TABLE 7-1 REVIEW AUTHORITY; AND 6) ADD CHAPTER 18.85 PRELIMINARY MINISTERIAL REVIEW. (EXHIBITS A, B, AND C).**

**WHEREAS**, to encourage the construction of additional dwelling units and to provide more housing for California residents, the State of California enacted California Government Code Sections 65852.2 and 65852.22 (“ADU Statutes”) which require and authorize the City of East Palo Alto (“City”) to permit accessory dwelling units and junior accessory dwelling units in compliance with state law provisions; and

**WHEREAS**, the State of California has subsequently amended the ADU Statutes to implement various changes; and

**WHEREAS**, the City proposes to amend its ordinance to come into conformance with those changes made to the ADU Statutes; and

**WHEREAS**, Chapter 18.114 of the City of East Palo Alto Development Code allows for amendments to the Development Code and provides procedures for processing such amendments; and

**WHEREAS**, the Planning Commission of the City has reviewed the proposed amendments to the City of East Palo Alto’s Development Code at a duly and properly

noticed public hearing on November 13, 2023 and considered all evidence, including but not limited to public testimony and the evaluations and recommendations of staff, and has found that the proposed amendments are consistent with the goals and policies of the City's General Plan, and recommends adoption of the proposed amendments by the City Council of the City of East Palo Alto ("City Council"); and

**WHEREAS**, the City Council conducted duly and properly noticed public hearings on **December 5, 2023 and December 14, 2023** to consider the proposed amendments to the Development Code and considered all evidence, including but not limited to public testimony and the evaluations and recommendations of staff, and finds and determines that the proposed amendments to the City of East Palo Alto Development Code are adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO DOES ORDAIN AS FOLLOWS:**

**SECTION 1. CHAPTER 18.08 AMENDED**

Section 18.08.010 is hereby amended to repeal and replace the definition of "Accessory Dwelling Unit" and add the definition of "Major Transit Stop", as follows:

**Accessory Dwelling Unit (ADU).** **Accessory Dwelling Unit (ADU).** Accessory Dwelling Unit or ADU means an attached or detached residential dwelling unit providing complete independent living facilities for one or more persons containing permanent provisions for living, sleeping, eating, cooking, and sanitation facilities which are defined as a full bathroom (tub/shower, sink, and a toilet). An ADU also includes an efficiency unit, as defined in Health and Safety Code Section 17958.1 and a manufactured home, as defined in Health and Safety Code Section 18007.

**High Quality Transit Corridor.** A high quality transit corridor is a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

**Major Transit Stop.** A major transit stop means a site containing any of the following: (a) an existing rail or bus rapid transit station, (b) a ferry terminal served by either a bus or rail transit service, or (c) the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

**Section 2. SECTION 18.10.030 DEVELOPMENT STANDARDS AMENDED**

Table 2-2 Development Standards for Residential Zones is hereby amended as shown in Exhibit "A", attached hereto and incorporated herein by reference.

**SECTION 3. SECTION 18.80.025 STREAMLINED MINISTERIAL REVIEW ACTIONS ADDED**

Section 18.80.025 is hereby added to read as follows:

**18.80.025 Streamlined Ministerial Review Clearances**

A. **Preliminary Ministerial Review Clearance.** Actions are generally limited to review of land uses for conformance with objective development, design and subdivision standards of the EPAMC. Review under this section would include ADUs, the HOME Act (SB 9) projects, and the Streamlined Ministerial Approval process (SB 35).

**SECTION 4. SECTION 18.82.020 AUTHORITY FOR LAND USE AND ZONING DECISIONS AMENDED**

Section 18.82.020 is hereby amended to add Preliminary Ministerial Review (PMR) Clearance to Table 7-1 Review Authority as shown in Exhibit "B" attached hereto and incorporated herein by reference.

**SECTION 5. CHAPTER 18.85 PRELIMINARY MINISTERIAL REVIEW ADDED**

Chapter 18.85 is hereby added to read as follows:

**18.85.010 Purpose and Intent**

The Preliminary Ministerial Review (PMR) is the procedure used by the City to verify if a proposed land use or structure complies with the uses allowed in the applicable zone and the development standards applicable to the use or structure.

**18.85.020 Applicability/Permit Requirement**

A. A PMR is required when any provision of the Development Code indicates a PMR is a prerequisite to establishing a land use or structure, including before the City issues a new or modified building permit, grading permit, or other construction-related permit required for the alteration, construction, modification, moving, or reconstruction of any structure; whenever a use is proposed to be changed from a use for which a PMR has been issued; and any conditions of approval imposed through a discretionary permit authorizing the use. A PMR is required prior to the submittal of building permits for development projects that are subject only to a streamlined ministerial permitting process, including Accessory Dwelling Units, the HOME Act (SB 9) and Streamline Ministerial Approval process (SB 35).

B. A PMR shall be obtained before the City issues a new or modified business license in compliance with Municipal Code Chapter 5.04, if applicable.

**18.85.030 Review Authority**

The Director may issue a PMR only after confirming that the proposed land use and/or structure is in full compliance with all of the applicable provisions of the

Development Code.

#### **18.85.040 Review Procedures**

PMR approval may be in the form of a stamp, signature, or other official notation on approved plans, a letter to the applicant, or other certification, at the discretion of the Director.

#### **SECTION 6. CHAPTER 18.96 ACCESSORY DWELLING UNITS REPEAL AND REPLACE**

Chapter 18.96 is hereby repealed and replaced in its entirety to read as shown in Exhibit "C" attached hereto and incorporated herein by reference.

#### **SECTION 7. CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

This Ordinance is statutorily exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 21080.17 of the Public Resources Code, which provides that CEQA does not apply to adoption of an ordinance to implement the provisions of Sections 65852.2 and 65852.22 of the Government Code. This Ordinance is additionally categorically exempt under the common-sense exemption of CEQA Guidelines section 15061(b)(3) which provides that CEQA does not apply where it can be seen with certainty that the project will not cause any impacts to the environment because regardless of whether the City adopts this Ordinance, accessory dwelling units and junior accessory dwelling units must be allowed in accordance with standards set forth in ADU Statutes and other provisions of this ordinance address processing of permit applications and approval authority for activities already allowed in the City's Development Code.

#### **SECTION 8. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

#### **SECTION 9. EFFECTIVE DATE.**

This Ordinance shall take effect and be in full force thirty (30) days after the date of its adoption.

#### **SECTION 10. PUBLICATION.**

The City Clerk is hereby directed to cause publication of this Ordinance as required by Government Code Section 36933.

**INTRODUCED** at a regular City Council meeting held December 14, 2023, and

**PASSED AND ADOPTED** at a regular City Council meeting held on \_\_\_\_\_, 2024, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

**SIGNED:**

\_\_\_\_\_  
\_\_\_\_\_, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
James Colin, City Clerk

\_\_\_\_\_  
John Lê, City Attorney

**Exhibit A – Table 2-2 Development Standards for Residential Zones**

**Exhibit B – Table 7-1 Review Authority**

**Exhibit C - Ordinance**

# Exhibit A

## 18.10.030 Development Standards

- A. **General.** New land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Tables 2-2 and 2-3. Standards for accessory structures are specified in Chapter 18.30.
- B. **Prohibition on Structures in Front Setback Area.** Portions of any habitable structure and/or accessory structure shall not occupy any portion of a required front setback area, except as provided in Section 18.22.060.C.
- C. **Schools.** New schools must be on sites that are at least 1 acre in size. Additionally, new schools must be 1,000 feet from another school, or day care.
- D. **Substantial Change.** If more than 50 percent of the exterior walls of a residential unit are removed, it is considered to be a new home requiring design review. The Director has the authority to have the Planning Commission review a Substantial Change.
- E. **Second Curb Cuts Prohibited.** Except for projects with parking areas originally designed with more than one curb cut for ingress and egress, second curb cuts are not allowed. Single-family homes are restricted to one curb cut.
- F. **Neighborhood Service Uses.** Appropriately scaled clusters of retail no greater than 2,000 square feet in size oriented to and built close to the street, separated from each other by at least 500 feet. Retail uses within the RHD and RUHD zones may be appropriate in area where a more compact urban development pattern exists or where a neighborhood compatible commercial district exhibiting a pedestrian scale and character is established. Such locations may include the peninsula and arterials and intersections with an existing urban or neighborhood-oriented building pattern. Residential units shall not be displaced by neighborhood service uses.

<b>Table 2-2</b>					
<b>Development Standards for Residential Zones</b>					
Development Feature (minimum unless otherwise indicated)	R-LD	R-MD	R-HD	R-UHD	Additional Requirements
<b>Parcel Dimensions</b> - Minimum dimensions required for each NEWLY CREATED parcel.					
<b>Parcel Area</b>	5,000 sq. ft.	5,000 sq. ft.	12,000 sq. ft.	12,000 sq. ft.	
<b>Parcel Width</b>	50 ft.	50 ft.	50 ft.	50 ft.	
<b>Parcel Depth</b>		100 ft.	240 ft.	240 ft.	
<b>Density/Intensity</b>	0 to 12 du/acre	<b>R-MD-1:</b> 12 to 15 du/acre	22 to 43 du/acre	43 to 86 du/acre	
		<b>R-MD-2:</b> 12 to 22 du/acre			
<b>Setbacks</b> <sup>1 and 2</sup>					
<b>Front Living Area</b>	10 ft.	20 ft.	15 ft.	20 ft.	
<b>Garage Face</b>	23 ft.				

<b>Corner Vision Triangle</b>	12 ft.	12 ft.	12 ft.	12 ft.	
<b>Side/Street Side</b>	5 ft.	10 ft.	10 ft./15 ft.	10 ft./15 ft.	
<b>Rear</b> 1 <sup>st</sup> Story 2 <sup>nd</sup> Story (see footnote 1 for structures above 18 feet)	10 ft. 10 ft.	20 ft. 30 ft.	20 ft.	20 ft.	R-LD zone: The 10-foot rear setback requires a minimum of 750 sq. ft. of usable rear yard area; if not, development is not allowed.
<b>Site Coverage</b>	50%	60%	70%	70%	
<b>Floor Area Ratio</b>	.55	.65	—	—	
<b>Height</b>	<b>Dwelling:</b> 2 stories or 26 ft., whichever is greater	<b>R-MD-1:</b> 2½ stories or 30 ft., whichever is greater	<b>R-HD-3:</b> 3 stories or 36 ft., whichever is greater	7 stories or 75 ft., whichever is greater	
	<b>Accessory Structure:</b> 15 ft.	<b>R-MD-2:</b> 3 stories or 36 ft., whichever is greater	<b>R-HD-5:</b> 5 stories or 60 ft., whichever is greater		
<b>Open Space</b> - Minimum sq. ft. of open space required for each dwelling unit. All open space areas shall be landscaped in compliance with Chapter 18.28					
	700 sq. ft. in rear of property, usable and open, no permanent hardscape.				
Common Open Space  Must be usable and provide amenities.  Setbacks may count toward open space requirement if	N/A	250 sq. ft. (minimum dimension [length/width] shall be 15 feet)	100 sq. ft. (minimum dimension [length/width] shall be six feet)	50 sq. ft. (minimum dimension [length/width] shall be six feet)	Common and Private Open Space may be aggregated on a parcel in R-MD, R-HD and R-UHD zones; (minimum dimension [length/width] shall be 20

all provisions are met.					feet). Aggregation of open space shall be done in accordance with Article 5 (Subdivisions) Chapter 18.62
<b>Private Open Space</b>					
Ground Floor Units	N/A	200 sq. ft. (The minimum dimension [length/width] shall be six feet)	50-100 sq. ft. (The minimum dimension [length/width] shall be six feet)	50 sq. ft. (The minimum dimension [length/width] shall be six feet)	
Upper Floor Units	N/A	100 sq. ft. (The minimum dimension [length/width] shall be six feet)	50 sq. ft. (The minimum dimension [length/width] shall be six feet)	50 sq. ft. (The minimum dimension [length/width] shall be six feet)	
<b>Fencing</b>	Chapter 18.26				
<b>Landscaping</b>	Chapter 18.28				
<b>Lighting</b>	Section 18.34.110				
<b>Parking</b>	Chapter 18.30				
<b>Satellite Antennae</b>	Chapter 18.42				
<b>Signs</b>	Chapter 18.32				
<b>Water Efficient Landscape</b>	Municipal Code Chapter 17.06				

**NOTES:**

1. **Front and Side Setback Increase Over 18 Feet in Height For Single-Family Dwellings.** Where a new structure or an addition to an existing single-family structure will exceed 18 feet in height, the required setback from the front and side property lines of the site shall be increased by one foot for each two feet of structure height in excess of 18 feet; the increased setbacks to be imposed only with respect to that portion of the new structure or addition that exceeds 18 feet in height. Up to 50 percent of the proposed structure can utilize the single-story side setback for a structure; provided that the area where the addition will occur will not reduce air, light, and privacy to adjoining properties. The Commission, as part of the Design Review process, may allow more than 50 percent of the proposed structure to utilize the single-story setback if the proposal exhibits exceptional design.

2. **Setbacks for Narrow Parcels.** Side setbacks for existing, legally subdivided parcels which do not meet current minimum standards with respect to parcel width may be reduced to no less than 10 percent of the parcel width or three feet, whichever is greater. This provision applies only to portions of the structure under 18 feet in height. Where a new structure or an addition to an existing structure will exceed 18 feet in height, the required setback from each property line of the site shall be increased by one foot for each two feet of



structure height in excess of 18 feet, the increased setbacks to be imposed only with respect to that portion of the new structure or addition that exceeds 18 feet in height.

## Exhibit B

### 18.82.020 Authority for Land Use and Zoning Decisions

Table 7-1 identifies the Review Authority responsible for reviewing and making decisions on each type of application.

<b>Table 7-1 Review Authority</b>				
<b>Type of Action</b>	<b>Applicable Code Citation</b>	<b>Role of Review Authority<sup>(1)(2)</sup></b>		
		<b>Director</b>	<b>Commission</b>	<b>Council</b>
<b>A. Administrative Permits and Actions</b>				
Administrative Use Permits	Ch. 18.86	Decision	Appeal	Appeal
Development Code Interpretations	Ch. 18.12	Decision	Appeal	Appeal
Joint/Off-Site Parking Plans	Ch. 18.36	Decision	Appeal	Appeal
Minor Variances	Ch. 18.90	Decision	Appeal	Appeal
Reasonable Accommodations	Ch. 18.94	Decision	Appeal	Appeal
Sign Permits/Comprehensive Sign Programs	Ch. 18.38	See Table 7-2 (Site Plan and Design Review Authorities) <sup>(3)</sup>		
Site Plan and Design Reviews	Ch. 18.86	See Table 7-2 (Site Plan and Design Review Authorities) <sup>(3)</sup>		
Temporary Use Permits	Ch. 18.94	Decision	Appeal	Appeal
Tree Removal Permits	Ch. 18.28	Decision	Appeal	N/A
Zoning Clearances	Ch. 18.84	Issuance	Appeal	Appeal
Preliminary Ministerial Review Clearance	Ch. 18.85	Decision	N/A	N/A
<b>B. Quasi-Judicial Permits and Actions</b>				
Conditional Use Permits	Ch. 18.86		Decision	Appeal
Planned Development Permits	Ch. 18.92		Recommend	Decision
Variances	Ch. 18.90		Decision	Appeal
Density Bonus for Affordable Housing	Ch. 18.42		Recommend	Decision
<b>C. Legislative Actions</b>				
Development Agreements and Amendments	Ch. 18.116		Recommend	Decision
Development Code Text/Zoning Map Amendments	Ch. 18.108		Recommend	Decision
General Plan Text/Map Amendments	Ch. 18.108		Recommend	Decision
<b>D. Subdivision Maps and Other Approvals</b>				
Tentative Maps, Final and Parcel Maps	See Table 5-1			
Lot Line Adjustments, Mergers, and Approvals	See Table 5-1			

**Notes:**

1. "Decision" means the Review Authority makes the final decision on the matter; "Appeal" means the Review Authority may consider and decide upon appeals of the decision of a lower decision-making body; "Issuance"

means the Review Authority may consider and grant the request; "Recommend" means the Review Authority should provide preliminary review and forward input to the decision-making Review Authority for consideration.

2. Any Review Authority may defer action and refer the request to the next higher Review Authority level for consideration and final action. In cases where the Council is specified as the Review Authority, the Council is the final level of review.
3. Responsibility for Site Plan and Design Review, as well as the review of Sign Permits and Comprehensive Sign Programs is shared by the Department staff, the Director, and the Commission. The specific Review Authority for these actions is further specified in Table 7-2.

(Ord. No. 02-2022, § 6(Att. C), 5-3-2022)

## Exhibit C – ADU Ordinance

### Chapter 18.96 - Accessory Dwelling Unit

#### 18.96.010 - Definitions

**Accessory Dwelling Unit (ADU).** ADU means an attached or detached residential dwelling unit providing complete independent living facilities for one or more persons containing permanent provisions for living, sleeping, eating, cooking, and sanitation facilities which are defined as a full bathroom (tub/shower, sink, and a toilet). An ADU also includes an efficiency unit, as defined in Health and Safety Code Section 17958.1 and a manufactured home, as defined in Health and Safety Code Section 18007.

**Junior Accessory Dwelling Unit (JADU).** A residential dwelling unit that is no more than 500 square feet in size, includes an efficiency kitchen including a cooking facility with appliances, food preparation counter and storage cabinets of reasonable size in relation to the size of the JADU and consistent with building code standards, is contained entirely within a single-family residence, including an attached garage, and may include separate sanitation facilities or may share sanitation facilities with the existing structure.

**Primary Dwelling Unit.** The single-family dwelling or multiple-family dwelling but does not include an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU). An attached garage is considered part of the primary dwelling unit.

**Public Transit.** Public transit means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

#### 18.96.020 - Purpose and Intent

The purpose and intent of this chapter is:

- A. To increase the supply of affordable housing by allowing accessory dwelling units (ADUs, also known as second units) in conformance with Government Code Section 65852.150 et seq. and consistent with the City's General Plan, and to ensure sound standards of public health and safety;
- B. To establish standards for the development and occupancy of accessory dwelling

units in accordance with the provisions of California Government Code Sections 65852.2 and 65852.22, and ensure they are compatible with neighboring uses and structures, adequately equipped with public utility services, do not result in negative traffic or public safety impacts, and are safe for human occupancy; and

- C. To restrict accessory dwelling units which create unreasonable traffic, safety, privacy or other adverse impacts, and to prevent adverse impacts on any real property listed in the California Register of Historic Places.

### 18.96.030 – General Provisions

Except as otherwise provided in this chapter, an Accessory Dwelling Unit (ADU) or a Junior Accessory Dwelling Unit (JADU) that meets all of the following specified development standards shall be approved by the City:

- A. Zoning. ADUs are allowed on parcels zoned to allow single-family dwellings or multiple-family dwellings, including mixed-use zones. JADUs are allowed on parcels zoned to allow single-family dwellings and are not permitted on a property with a multiple-family dwelling.
- B. Density. An ADU or JADU unit conforming to the requirements of this chapter shall not be included in the calculation of residential density for the purpose of determining general plan and zoning conformance and is deemed to be a residential use consistent with the existing General Plan and zoning designations for the parcel.
- C. Single-Family Dwellings. Any of the following may be permitted on a parcel with an existing or proposed single-family dwelling:
  - 1. One JADU that meets the standards in Section 18.96.060 below. JADUs are only permitted on a parcel with no more than one existing or proposed single-family dwelling.
  - 2. One new construction, attached or detached ADU that meets the standards in Section 18.96.050 below.
  - 3. One accessory dwelling unit created from converted existing space within the walls of a proposed or existing single-family detached dwelling or within an existing accessory structure, including a detached garage, that meets the standards in Section 18.96.050. An existing single-family residence may be converted to an ADU in conjunction with the development of a new primary

dwelling unit on the site and in conformity with the development standards in Section 18.96.050.

- D. Multiple-family Dwellings. Multiple-family dwelling units as specified in Subsection 18.96.030.E below. For purposes of this Chapter 18.96 only, multiple-family dwelling units includes two family dwellings.
- E. Statewide Exemption ADUs. Any of the following will be ministerially permitted on a parcel and are not required to meet the additional development and design standards in the underlying zoning district or in Section 18.96.050, unless specified:
  - 1. One ADU and one JADU per parcel with a proposed or existing single-family dwelling if all of the following apply:
    - a. The ADU or JADU is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure. An expansion beyond the physical dimensions of the existing structure shall be limited to accommodating ingress and egress.
    - b. The space has exterior access from the proposed or existing single-family dwelling.
    - c. The side and rear setbacks are sufficient for fire and safety.
    - d. The JADU complies with the requirements of Section 18.96.060 below.
  - 2. One detached, new construction ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling, does not exceed 800 square feet in floor area, and does not exceed the allowed height in Subsection 18.96.050.C, below. The ADU may be combined with a JADU that meets the standards as described in Section 18.96.060.
  - 3. Multiple ADUs within the portions of a multiple-family building that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings. The number of ADUs permitted is equivalent to up to 25 percent of the number of existing, legally permitted

units in the multiple-family dwelling, or one, whichever is greater.

4. Not more than two detached ADUs that are located on a lot that has an existing or proposed multiple-family dwelling. The ADUs must not exceed the allowed height in Subsection 18.96.050.C and must have a minimum rear and side setbacks of four feet. If the existing multifamily dwelling has a rear or side setback of less than four feet, the existing multifamily dwelling will not be required to be modified to meet this setback.

F. Sale and Rental of JADUs and ADUs.

1. Neither JADUs nor ADUs may be sold separately from the primary dwelling unit. However, an ADU may be owned by multiple owners as tenants in common if the single-family dwelling or ADU was developed by a qualified nonprofit, as that term is defined in and pursuant to Government Code Section 65852.26, the transaction meets the requirements of Government Code Section 65852.26, and an enforceable restriction on the use of the land that satisfies the requirements of Government Code Section 65852.26 is recorded against the property. The qualified buyer, as that term is defined in Government Code Section 65852.26, must occupy the accessory dwelling unit or primary dwelling unit as their principal residence.
2. JADUs and ADUs may be rented independently of the primary dwelling unit. However, neither the JADU nor the ADU may be used for short-term residential rentals of less than 30 consecutive days.
3. Owner occupancy is required in the single-family residence in which a JADU is permitted. The owner may reside in either the remaining portion of the structure or the newly created JADU. Owner-occupancy is not required if the owner is another governmental agency, land trust, or housing organization.

G. Building Code Requirements. JADUs and ADUs shall comply with all applicable building, health and safety, and fire code requirements. Notwithstanding this requirement:

1. No passageway (pathway unobstructed to the sky extending from a street to an entrance of the unit) shall be required in conjunction with the construction of an ADU.
2. Fire sprinklers are not required in an ADU if they are not required for the

- primary dwelling unit. Fire sprinklers will not be required for an existing primary dwelling unit as a condition of the construction of an ADU; and
3. The new construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety or the ADU is converted from unhabitable or nonresidential space.

### 18.96.040 - Provisions Applicable to Junior Accessory Dwelling Units (JADUs)

In addition to other provisions of this chapter, the following provisions apply to JADUs:

- A. Covenant. Prior to issuance of a building permit for a JADU, the owner of the parcel shall record a covenant in a form prescribed by the city attorney, which shall run with the land and provide for the following:
  1. A prohibition on the sale of the JADU separate from the sale of the single-family residence;
  2. A restriction on the size and attributes of the JADU consistent with this section;
  3. A restriction on renting the JADU for fewer than 30 consecutive calendar days; and
  4. A requirement that either the single-family dwelling or the JADU be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.
  5. A copy of the recorded covenant shall be filed with the Community and Economic Development Department prior to issuance of a building permit.

### 18.96.050 – Development Standards – Accessory Dwelling Units (ADUs)

- A. The ADU shall comply with the requirements of the underlying zoning district unless:



1. The requirements are inconsistent with the provisions of this chapter, in which case the standards of this section shall apply;
2. The application is to legalize an unpermitted ADU that was constructed prior to January 1, 2018, even if the ADU is nonconforming with local zoning, Government Code Section 65852.2, and/or California and local building code requirements. However, the City may deny the application for an unpermitted accessory dwelling if the City makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure. The section shall not apply to a building that is deemed substandard pursuant to Health and Safety Code Section 17920.3; or
3. Limits on size based on a percentage of the proposed or existing primary dwelling, lot coverage, floor area ratio, front set back, open space, and size shall permit, or shall be waived in order to allow, a detached or attached ADU up to 800 square feet in size with four-foot side and rear yards, if the proposed ADU is in compliance with all other development standards.

B. Unit size.

1. **Maximum Size.** The floor area of a new construction attached or detached ADU, inclusive of a habitable basement and an attic, may not exceed the lesser of 50 percent of the floor area of the primary dwelling or 1,000 square feet. The limitation based on size of the primary dwelling shall not apply if the ADU is 800 square feet or less.
2. **Minimum Size.** No ADU may be smaller than an efficiency unit pursuant to Health and Safety Code Section 17958.1.

C. Height.

1. ADUs may not exceed the heights in this section unless additional elevation is required for floodproofing pursuant to Section 15.52.070.A of the Municipal Code.
2. **Attached ADU.** The height of an attached ADU may not exceed 25 feet or the height limitation that applies to the single-family or multiple-family dwelling, whichever is lower. However, the ADU may not exceed two stories.
3. **Detached ADU.** The height of a detached ADU may not exceed:

- a. 17 feet on a parcel with an existing or proposed single-family dwelling or multiple-family dwelling;
  - b. 18 feet on a parcel with an existing or proposed single-family dwelling or multiple-family dwelling if the parcel is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Public Resources Code Section 21155. An additional two feet in height may be permitted to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the single-family or multiple-family dwelling;
- D. Open Space. A minimum of fifty percent (50%) of the remaining rear yard or 500 square feet of open space, whichever is less restrictive, shall be provided and maintained as usable rear yard open space with no permanent hardscape for the life of the project on the lot provided at least an 800-square foot ADU is allowed.
- E. Site Coverage and Floor Area Ratio. Construction of any ADU shall be subject to the site coverage and floor area ratio requirements of the underlying zoning district provided at least an 800-square foot ADU is allowed.
- F. Parking.
  1. Requirements: At least one (1) uncovered off-street parking space shall be required for the ADU in addition to the off-street parking spaces required for the primary dwelling. The parking space may be provided in an existing driveway or by tandem parking in compliance with Section 18.30.050, unless a specific finding is made that such parking is not feasible due to specific site, topographical or fire and life safety conditions. Covered parking is not required.
  2. Exceptions to the Parking Requirements: No parking requirement shall be imposed for the construction of an ADU if:
    - a. The ADU is located within one-half mile walking distance of, and has a path of travel that is always publicly accessible to, public transit.
    - b. The ADU is located within an architecturally and historically significant historic district.
    - c. The ADU is part of the existing primary residence or an existing accessory structure.

- d. When on-street parking permits are required but not offered to the occupant of the ADU.
    - e. Where there is a car share vehicle located within one block of the ADU.
  - 3. Corner lots. Only one driveway shall be provided for each single-family zoned parcel, except for corner lots where a second driveway may be allowed as long as it is proposed at least 25 feet away from the point of intersection of the two property lines fronting the parcel and from any other driveway. Second driveways shall incorporate permeable pavers that minimize runoff.
- G. Replacement Parking: Replacement parking shall not be required when a garage or covered parking structure is demolished in conjunction with the construction of an ADU, or conversion of that parking structure into an ADU.
- H. Common Entrance. If the ADU is attached to the primary dwelling, both the ADU and the primary dwelling unit must be served by a common entrance or a separate entrance to the ADU must be located on the side or at the rear of the primary dwelling, whenever feasible.
- I. Setbacks.
  - 1. Converted Structures. No setback is required for an existing living area or an existing accessory structure converted to an ADU, or for a new ADU constructed in the same location and built to the same dimensions as an existing structure.
  - 2. New Construction. Provided an 800-square foot ADU is not prohibited, a minimum of four (4)-foot side and rear setbacks must be maintained for construction of any ADUs. -ADUs shall be subject to the front yard setback requirements compliant with development standards of the underlying zoning district.
  - 3. When a property has recorded easement(s) or setback(s), the creation of the ADU shall conform to the recorded restrictions.
  - 4. A detached ADU shall be located a minimum of six (6) feet from the primary dwelling unit, provided an 800-square foot ADU is not prohibited.

J. Architectural Compatibilities. New construction attached or detached ADUs shall meet the following design standards unless the requirement would prevent the creation of the ADU. Architectural review of an ADU will be limited to the following standards:

1. Attached ADU shall utilize the same architectural style, exterior materials, and colors or exhibit the same appearance as the existing or proposed primary dwelling unit, and the quality of the materials shall be the same or exceed that of the primary dwelling unit. The ADU shall match the roof pitch and roof form of the primary dwelling unit in order to blend with the architecture of the primary dwelling.
2. Detached ADUs shall utilize the same architectural style, exterior materials, and colors or shall exhibit the same appearance as the existing or proposed primary dwelling unit, and the quality of the materials shall be the same or exceed that of the primary dwelling unit.
3. Should the city pre-approve any plans and/or prefabricated/ modular designs, detached ADUs that are based on such plans shall be exempt from the architectural compatibility standards illustrated in item 2 above.
4. Detached ADUs shall comply with the architectural compatibility standards illustrated in item 2 above. Alternatively, they shall match at least three of the following six architectural elements that are found on the primary dwelling:
  - a. Massing including simple or winged forms, and gabled and hipped roof forms;
  - b. Façade design elements, including belly bands, frieze boards, corner boards, cornices, trims, and wall materials (such as siding, stucco, etc.), and textures;
  - c. Building elevations including floor plate level and entry stoops;
  - d. Fenestration: Windows and door with respect to placement, composition/patterns, types, trims, sills, shutters, and glazing;
  - e. Porches: Design, column spacing, balustrade details; and
  - f. Roof design and pitches, rafter details, fascia boards and eave details. To allow flexibility in roof design of the ADU a positive or negative variation from the roof slope of the primary dwelling of up to 33% grade

is allowed. Under this scenario an ADU roof slope, for example, can vary from a primary building's roof slope of 6/12 (rise/run in inches) at 50% grade to any slope ranging from 4/12 at 33.33% grade to 10/12 at 83.33% grade.

K. Window Placement.

1. Regulations and standards pertaining to the placement and sizing of windows for ADUs and JADUs that are converted from existing spaces within an existing or proposed primary dwelling shall be the same as for the primary dwelling unit.
2. Regulations and standards pertaining to the placement and sizing of windows for attached ADUs that maintain the minimum required setbacks for the applicable zone shall be the same as for the primary dwelling unit.
3. Windows for all detached ADUs and attached ADUs that encroach into the minimum required setbacks for the primary structure in the applicable zone shall comply with the following requirements:
  - a. Windows shall face towards the interior of the site.
  - b. Windows shall not face towards the rear and closest side property lines, unless the following standards are met:
    1. For first story windows, the head of the window frame shall not be higher than 80 inches above finished floor, as long as the finished floor is not higher than 18 inches above grade.
    2. Second story windows may be clerestory windows with the sill of the window frame not lower than 66 inches above finished floor.
    3. Second story windows which are not clerestory windows must utilize opaque glazing up to a height of 66 inches above finished floor.

L. Skylights. Skylights, whether operable or not, may be used to supplement interior lighting for all types of ADUs and JADUs.

M. Decks and balconies. Second story doors, balconies, and decks shall not face adjacent property lines. Second story decks and balconies for all detached ADUs and attached ADUs that encroach into the minimum required setbacks for the primary structure shall utilize screening barriers to prevent views towards an adjacent interior property line. These barriers shall be a minimum of six feet or 72

inches in height, from the floor level of the deck or balcony and shall not include perforations of any kind that would allow visibility onto adjacent properties.

- N. Historic Sites and Properties. An ADU located within a historic site shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

### 18.96.060 – Development Standards for Junior Accessory Dwelling Units (JADUs)

- A. The JADU shall comply with the requirements of this Section 18.96.060.
- B. Size and Kitchen. A JADU may not exceed 500 square feet in size and shall contain at least an efficiency kitchen which includes cooking appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the JADU.
- C. Entrance. A JADU shall have a separate entrance from the single-family dwelling.
- D. Sanitation Facilities. The JADU may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the JADU shall share sanitation facilities with the single-family dwelling. If the sanitation facilities are provided as part of the single-family dwelling, the JADU shall have direct access to the main living area of the single-family dwelling so as to not need to go outside to access the sanitation facilities.
- E. No additional parking shall be required unless the JADU is created in an attached garage, in which instance the applicant shall replace the off-street parking for the single-family dwelling.

### 18.96.070 - Applications and Processing for ADU

- A. An application for a Preliminary Ministerial Review (PMR) is required for ADUs and JADUs prior to building permit application submittal. Applications to create or serve a JADU or an ADU shall be ministerially processed and either approved or denied without discretionary review or a hearing within 60 days of receipt of a complete application. If the application is denied, the City will provide, within the 60-day review period, a complete list of the application's deficiencies and describe how the applicant can remedy the application.
  - 1. Contents of application. A PMR application for an ADU or JADU permit shall

be filed with the Director on such form as the Director shall prescribe. The application shall be accompanied by information required by the Director.

2. Processing fee. A processing fee established by resolution of the Council shall be paid to the City at the time of filing the PMR application for an ADU or JADU permit.
  3. Appeals. PMR for ADUs is ministerial and there is no appeal process.
- B. Notwithstanding subdivision (A) above, if the permit application is submitted with a permit application to create a single-family dwelling or multiple-family dwelling on the parcel, the application for the JADU or ADU shall not be acted upon until the application for the new single-family dwelling or multiple-family dwelling is approved or denied. Occupancy of the JADU or ADU shall not be allowed until the City approves occupancy of the primary dwelling unit.
- C. The City shall grant a delay in processing if requested by the applicant, in which case the 60-day period is tolled for the period of the requested delay.
- D. If the applicant applies for a demolition permit to demolish a detached garage and a building permit to construct a detached ADU, the demolition permit and building permit for the detached ADU will be issued at the same time. –

## 18.96.080 - Utilities and Impact Fees

### A. Utilities.

1. No ADU shall be permitted if it is determined that there is not adequate water or sewer service to the property.
2. ADUs, not created within the existing dwelling unit or existing accessory structure, may be required to have a new or separate utility connection directly between the ADU and the utility.
3. The connection may be subject to a connection fee or capacity charge. Any fee or charge shall be proportionate to the burden upon the water or sewer system of the proposed unit, based on unit size or the number of plumbing fixtures. The fee or charge shall not exceed the reasonable cost of providing the service.
4. Junior accessory dwelling units and accessory dwelling units that meet the requirements of Subsection 18.96.030.C.3 above are exempt from any

requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges.

**B. Impact Fees.**

1. No impact fees may be imposed on an ADU that is less than 750 square feet in size. For purposes of this section, "impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.
2. For ADUs that have a floor area of 750 square feet or greater, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit, consistent with EPAMC Chapter 13.28.

### **18.96.090 - Non-Permitted ADUs**

The establishment or continuance of an ADU without a permit as required under this chapter is declared to be unlawful and shall constitute a misdemeanor violation of this chapter and a public nuisance. ADUs constructed prior to January 1, 2018 shall be issued a permit in accordance with Section 18.96.050. Any violation of this chapter shall be subject to the enforcement provisions and penalties as prescribed in Chapter 18.118. The enforcement of the code violation abatement shall be consistent with Health & Safety Code Section 17980.12.

### **18.96.100 - Interpretation.**

If any portion of this chapter conflicts with California Government Code sections relating to accessory dwelling units and junior accessory dwelling units or other applicable state law, state law shall supersede the sections of this chapter that conflict with state law. Any ambiguities in this chapter shall be interpreted to be consistent with state law. Statutory references in this ordinance include successor provisions.