



## EAST PALO ALTO CITY COUNCIL REGULAR SESSION **AMENDED** AGENDA

Tuesday, December 5, 2023, 6:30 PM  
EPA Government Center  
2415 University Avenue, First Floor  
East Palo Alto, CA 94303

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### NOTICE

This meeting will be held virtually and in-person at the Council Chambers located on 2415 University Ave, First Floor East Palo Alto, CA 94303. The virtual portion of this City Council meeting will be conducted in accordance with City of East Palo Alto Resolution adopted pursuant to Assembly Bill 361.

The public may participate in the City Council Meeting via Zoom Meeting or by attending in-person in the Council Chambers at 2415 University Ave, First Floor East Palo Alto, CA 94303. Community members may provide comments by emailing [cityclerk@cityofepa.org](mailto:cityclerk@cityofepa.org), submitting a speaker card at the meeting, or using the **RAISE HAND** feature when the Mayor or City Clerk call for public comment. Emailed comments should include the specific agenda item on which you are commenting.

Please click this URL to join

<https://us06web.zoom.us/j/85077033240>

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or  
+ 1 346 248 7799 or  
+ 1 253 215 8782 or  
+ 1 312 626 6799 or  
+ 1 929 205 6099 or  
+ 1 301 715 8592

Webinar ID: 850 7703 3240

International numbers available: <https://zoom.us/u/aMWYF4KT>

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1. **CALL TO ORDER AND ROLL CALL**

2. **APPROVAL OF THE AGENDA**

3. **APPROVAL OF CONSENT CALENDAR**

3.1 **Authorize the Purchase of Vehicles for the Building Services Division**

**Recommendation:**

Adopt a resolution:

1. Authorizing the City Manager to issue a purchase order to purchase two vehicles from one of the authorized dealers under the approved State of California's Statewide Contract number 1-22-23-23C, for the Building Services Division of the Community & Economic Development Department, in the amount of \$35,199.57 each, \$70,399.14 total; and
2. Waive the formal bid procedure pursuant to East Palo Alto Municipal Code Section 2.84.070(D).

3.2 **2023 Peninsula Volunteers Inc. Contract Renewal**

**Recommendation:**

Adopt a resolution:

1. Authorizing the City Manager to enter into a one-year agreement retroactive to the date of expiration of the previous with an option for two three-month extensions, in a form approved by the City Attorney, with Peninsula Volunteers Inc. (PVI) for provision of hot catered meals and supplies for the City's Senior Congregate Nutrition Program for a not-to-exceed amount of \$70,000.00;
2. Ratifying payment for services already rendered in an amount not to exceed \$27,500; and
3. Waiving formal bid procedures pursuant to East Palo Alto Municipal Code section 2.84.070(D).

3.3 **Adoption of East Palo Alto Opportunity to Purchase Act (EPA OPA)**

**Recommendation:**

1. Waive the second reading and adopt an "East Palo Alto Opportunity to Purchase Act (EPA OPA)" ordinance for real residential property, adding Chapter 14.25 to the East Palo Alto Municipal Code.
2. Direct the City Manager to return with Administrative Guidelines for

- the City Council's consideration; and
3. Find that the adoption by the City Council of the amendments is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines.

#### **3.4 Proclamation for Nuestra Casa**

**Recommendation:** Present the proclamation.

#### **3.5 Proclamation for 2023 Kiwanis Angel Award Recipient Carol Thomsen**

**Recommendation:** Present the proclamation.

### **4. CLOSED SESSION**

**4.1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957(b)(1). Title: City Manager**

**4.2 PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957(b)(1). Title: City Attorney**

### **5. PUBLIC COMMENT**

### **6. INFORMATIONAL REPORTS - NONE**

### **7. SPECIAL PRESENTATIONS**

#### **7.1**

**JobTrain EPA Career Center Update**

**Recommendation:**

Receive a presentation from JobTrain EPA Career Center.

### **8. PUBLIC HEARINGS**

**8.1 Development Code Text Amendment (ZTA23-001) to amend various Chapters and Sections of Title 18 (Development Code) of the East Palo Alto Municipal Code**

**Recommendation:**

As considered and recommended by the Planning Commission (Attachment 6 – Planning Commission resolution) at a publicly noticed hearing on November 13, 2023:

(a) 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, ; 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 500 square feet or 50 percent of the rear yard area, whichever is less, in the R-LD zoning district;; 4) amend Section 18.30.080 to allow second driveways on corner lots with single-family homes;

5) add Section 18.80.025 Streamlined Ministerial Review Actions; 6) 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; 7) add Chapter 18.85 Preliminary Ministerial Review; and 8) amend Chapter 18.90 Variances and Minor Variances to add fences up to eight feet to Table 7-3 Types of Minor Variances allowed.

(b) Discuss the matter of 1) reducing the required setbacks for detached accessory dwelling units (ADUs), possibly to 0-feet, and 2) allowing separate sale /conveyance of primary dwelling units and ADUs through condominium subdivisions pursuant to the recently approved Assembly Bill (AB) 1033 and provide direction to staff on said matters.

(c) Fine the proposed Zoning Text Amendments and discussion items being exempt in accordance with Public Resources Code (PRC) Section 21080.17 and CEQA Guidelines Sections 15061(b)(3) and 15282(h) of the California Environmental Quality Act (CEQA) Guidelines.

## **9. POLICY AND ACTION**

### **9.1 City Council's Proposed Schedule for 2024**

#### **Recommendation:**

Pursuant to Resolution No. 5061, by motion, approve the 2024 City Council meeting schedule in Attachment 1.

### **9.2**

#### **Updated Tobacco Retailer Ordinance**

#### **Recommendation:**

Waive the first reading and introduce an ordinance repealing and replacing Chapter 5.80 "Tobacco Retailer Permits" of the East Palo Municipal Code with an ordinance that consolidates and clarifies existing definitions, in addition to enacting additional requirements for tobacco retailer permits, to align with the County of San Mateo Model Ordinance.

## 9.3 Commission Appointments

**Recommendation:** Interview the applicants for the Rent Stabilization Board and the Senior Advisory Committee; and appoint applicants for Regular or Alternate Seats.

## 10. COUNCIL REPORTS

## 11. ADJOURNMENT

### Upcoming meetings:

|                                |                   |            |
|--------------------------------|-------------------|------------|
| Reorganization Special Meeting | December 12, 2023 | 6:00 p. m. |
| Regular Meeting                | December 14, 2023 | 6:30 p.m.  |
| Special Meeting                | January 9, 2023   | 6:30 p.m.  |

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*This AGENDA is posted in accordance with Government Code Section 54954.2(a)*

***This Notice of Availability of Public Records: All public records relating to an open session item which are not exempt from disclosure pursuant to the Public Records Act, that are distributed to the majority of the City Council will be available for public inspection at the City Clerk's Office, 2415 University Avenue, East Palo Alto, CA at the same time that the public records are distributed or made available to the City Council. Such documents may also be available on the East Palo Alto website [www.cityofepa.org](http://www.cityofepa.org) subject to staff's ability to post the documents prior to the meeting. Information may be obtained by calling (650) 853-3100.***

*The City Council meeting packet may be reviewed by the public in the Library or the City Clerk's Office. Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting, shall be made available for public inspection at the front counter at the City Clerk's Office, 2ND Floor, City Hall, 2415 University Avenue, East Palo Alto, California 94303 during normal business hours. Information distributed to the Council at the Council meeting becomes part of the public record. A copy of written material, pictures, etc. should be provided for this purpose.*

*East Palo Alto City Council Chambers is ADA compliant. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office at (650) 853-3127 no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.*

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### DECLARATION OF POSTING

This Notice is posted in accordance with Government Code §54954.2(a) or §54956. Members of the public can view electronic agendas and staff reports by accessing the City website. Under penalty of perjury, this Agenda was posted to the public at least 72 hours prior to the meeting.

POSTED: November 28, 2023

AMENDED: December 1, 2023

ATTEST:

**James Colin**

City Clerk



# **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** December 5, 2023

**TO:** Honorable Mayor and Members of the City Council

**VIA:** Melvin E. Gaines, City Manager

**BY:** Amy Chen, Director of Community and Economic Development  
Donald Zhao, Interim Chief Building Official

**SUBJECT:** Authorize the Purchase of Vehicles for the Building Services Division

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## **Recommendation**

Adopt a resolution:

1. Authorizing the City Manager to issue a purchase order to purchase two vehicles from one of the authorized dealers under the approved State of California's Statewide Contract number 1-22-23-23C, for the Building Services Division of the Community & Economic Development Department, in the amount of \$35,199.57 each, \$70,399.14 total; and
2. Waive the formal bid procedure pursuant to East Palo Alto Municipal Code Section 2.84.070(D).

## **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

Priority No. 3: Promote Health & Public Safety

## **Background**

The Building Division plays a crucial role in East Palo Alto by handling tasks such as building inspections, code enforcement, and other tasks. On June 20, 2023, the City Council, via

## **CONSENT ITEM 3.1**

Resolution No. 60-2023 adopted the Fiscal Year 2023-24 Budget. Through the annual budget process, the Building Services Division received budget authority of \$70,000 for the procurement of City vehicles.

On June 7, 2022, through the FY 2022-23 budget process, the Building Services Division received budget authority of \$60,000 for the procurement of City vehicles. On November 1, 2022, via Resolution No. 141-2022, Council authorized the City Manager to purchase two vehicles for the Building Services Division from Downtown Ford Sales in the amount of \$58,046.36 through the State of California's Statewide contracts (Attachment 2). Unfortunately, due to a delay in administrative processes, by the time the resolution and the purchase order were executed the vehicles from Downtown Ford Sales were no longer available.

Therefore, city staff requests authorization to rollover the FY 2022-23 funds allocated for the purchase of two vehicles from Downtown Ford Sales to purchase two vehicles from another one of the authorized State dealers.

### **Analysis**

The Building Services Division is responsible for a variety of services which require the daily operation of dependable and efficient vehicles for building inspections and enforcement of state and local regulatory laws within City limits. Currently, the Building Services Division has three vehicles. The Division is requesting authorization to purchase two additional vehicles to ensure each field inspector and the Chief Building Official (CBO) have an assigned vehicle to perform field inspections and other duties outside of the office. Utility vehicles offer the additional space (seats and cargo space), practicality, safety, and fuel efficiency the Division needs to meet the demands of the daily operations. Presently, field inspectors are required to carry a duffle bag with safety equipment when they go in and out of the field because they do not have dedicated vehicles. The additional space the utility vehicles offer will allow field inspectors to more easily carry the required equipment needed to perform inspections.

### **Bidding Procedure**

The City of East Palo Alto currently does not have a "piggy backing" policy that allows the City to suspend its bidding requirements by using bids received by other public agencies from their competitive bidding processes. As the City is a much smaller entity that purchases a much smaller volume of vehicles, thereby not likely to take advantage of a volume discount, it is unlikely that the City would get lower bids than these with its own via formal bidding process. Accordingly, staff is requesting that the Council waive formal bidding in favor of proceeding under the State contract.

Nevertheless, one contract established through competitive bidding processes exists from which the City may receive pricing terms. This includes the State of California Department of General Services Contract #1-22-23-23C. The cost for one 2023 Toyota RAV4 Hybrid (4435) is \$35,199.57, totaling \$70,399.14 for two vehicles. Please see attached vehicle quotes.

## **CONSENT ITEM 3.1**

While the City did not bid this contract directly, the City is accessing a State bid contract; these contracts are established through a competitive bid process by the State and result in competitive bids because of volume. The State's contracts provide fleet vehicles at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contracts # 1-22-23-23C (Attachment 3). The State of California Department of General Services has established standing purchase contracts with authorized dealers for Light Trucks, Vans, and Utility Vehicles. Through the State's contract, staff has received quotes totaling \$70,399.14 for the two vehicles (Attachment 4). Staff is requesting authorization to rely on the State's bid process to procure two utility vehicles for the Building Services Division.

The cost of the expenditure exceeds the City Manager's authority noted in a previous Resolution (141-2022) authorizing purchases from Downtown Ford. Thus, if approved, the resolution attached to this staff report would authorize the purchase of these two vehicles from one of the authorized dealers under the state contract.

Of note, the Building Division is waiting on the dealer to provide a quote for a third vehicle, a pickup truck, that may be available in late December. City staff wanted to move forward with this request for two 2023 Toyota RAV4 Hybrids (4435) before the vehicles become unavailable or sold out, as has happened in the past. Staff will return to City Council in early 2024 with another request to utilize the remaining funds if the purchase of these two vehicles is approved.

### **Fiscal Impact**

As mentioned, originally \$60,000 was approved in the 2022-2023 Budget for the Building Services Division to purchase vehicles. Although the purchase of vehicles from Downtown Ford was not complete, the \$58,046.36 was carried over to the Fiscal Year 2023-24 budget. A budget of \$70,000 was added to the 2023-24 budget, bringing the total to \$128,046.36 (\$58,046.36 + \$70,000). This amount is adequate for the purchase of these two vehicles from one of the authorized dealers under the state contract, totaling \$70,399.14.

### **Public Notice**

The public was provided notice by making the agenda and report available on the City's website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto.

### **Environmental**

The proposed action does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378(b)(4) and (5) in that it is a governmental fiscal, organizational or administrative activity that will not result in direct or indirect changes in the environment.

### **Attachments**

1. Resolution
2. Resolution 141-2022



## **CONSENT ITEM 3.1**

3. State of California Statewide Contract
4. Vehicle Quotes

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF EAST PALO ALTO**

**AUTHORIZING THE CITY MANAGER TO PURCHASE TWO VEHICLES FROM ONE OF THE  
AUTHORIZED DEALERS UNDER THE STATE OF CALIFORNIA'S STATEWIDE CONTRACTS FOR  
THE BUILDING SERVICES DIVISION**

**WHEREAS**, the Building Services Division is responsible for a variety of services and tasks including but not limited to building inspections and enforcement of state and local regulatory laws within City limits which require the daily operation of dependable vehicles; and

**WHEREAS**, The Building Services Division is responsible for a variety of services which require the daily operation of dependable and efficient vehicles for building inspections and enforcement of state and local regulatory laws within City limits; and

**WHEREAS**, the vehicles will reduce "downtime" for City services and minimize repair costs;  
and

**WHEREAS**, the City of East Palo Alto currently does not have a "piggy backing" policy that allows the City to suspend its bidding requirements by using bids received by other public agencies from their competitive bidding processes;

**WHEREAS**, as the City is a much smaller entity that purchases a much smaller volume of vehicles, thereby not likely to take advantage of a volume discount, it is unlikely that the City would get lower bids than these with its own via formal bidding process; and

**WHEREAS**, the State of California Department of General Services has established standing purchase contracts with authorized dealers for Light Trucks, Utility Vehicles using the state contract providing fleet vehicles at pricing to the State of California and local governmental agencies; and

**WHEREAS**, on November 1, 2022, via Resolution No. 141-2022, Council authorized the City Manager to purchase two vehicles in an amount not to exceed \$58,046.36 for the Building Services Division from Downtown Sales Ford. Unfortunately, due to a delay in administrative processes, by the time the resolution and the purchase order were executed the vehicles from Downtown Ford Sales were no longer in production; and

**WHEREAS**, Staff requests authorization to rollover the Fiscal Year 2023 funds allocated for the purchase of two vehicles from one of the authorized State dealers; and

**WHEREAS**, the cost of the vehicles is a General Fund expenditure that was included in the Building Services Division's FY2023-24 budget adopted by the City Council.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY:**

authorizes the City Manager to issue a purchase order to purchase two vehicles from one of the authorized dealers under the approved State of California's Statewide Contract number 1-22-23-23C, for the Building Services Division of the Community & Economic Development Department, in

the amount of \$35,199.57 each, \$70,399.14 total; and waive the formal bid procedure pursuant to East Palo Alto Municipal Code Section 2.84.070(D).

**PASSED AND ADOPTED** this 5<sup>th</sup> of December 2023, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Lisa Gauthier, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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

\_\_\_\_\_  
John D. Lê, City Attorney

**RESOLUTION NO. 141-2022**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF EAST PALO ALTO**

**AUTHORIZING THE CITY MANAGER TO PURCHASE TWO VEHICLES FROM DOWNTOWN FORD  
SALES FOR THE BUILDING SERVICES DIVISION IN AN AMOUNT NOT TO EXCEED \$58,046.36**

**WHEREAS**, the Building Services Division is responsible for a variety of services and tasks including but not limited to building inspections and enforcement of state and local regulatory laws within City limits which require the daily operation of dependable vehicles; and

**WHEREAS**, the vehicles will reduce “downtime” for City services and minimize repair costs;  
and

**WHEREAS**, the State of California Department of General Services has established a standing purchase contract with Downtown Ford Sales in Sacramento, California for light trucks, vans, and utility vehicles and the City is using the state contract (Contracts #1-22-23-23 A – I) providing fleet vehicles at pricing to the State of California and local governmental agencies; and

**WHEREAS**, the cost of the vehicles is a General Fund expenditure that was included in the Building Services Division’s FY2022-23 budget adopted by the City Council.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY** authorizes the City Manager to purchase two vehicles for the Building Services Division of the Community & Economic Development Department from Downtown Ford Sales of Sacramento, California in an amount not to exceed Fifty-Eight Thousand Forty-Six Dollars and Thirty-Six Cents (\$58,046.36).

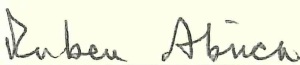
**PASSED AND ADOPTED** this 1<sup>st</sup> of November 2022, by the following vote:

**AYES:** Abrica, Lopez, Romero, Wallace-Jones

**NOES:**

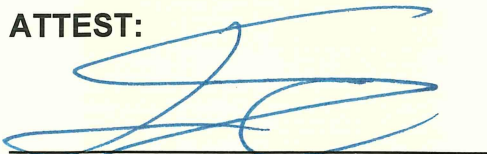
**ABSENT:** Gauthier

**ABSTAIN:**



Ruben Abrica, Mayor

**ATTEST:**

  
James Colin, City Clerk

**APPROVED AS TO FORM:**

  
Valerie J. Armento, Interim City Attorney



Department of General Services  
Procurement Division  
707 Third Street, 2<sup>nd</sup> Floor  
West Sacramento, CA 95605-2811

State of California  
**STATEWIDE CONTRACT**  
**USER INSTRUCTIONS**  
**MANDATORY**

***\*Supplement 7\****

***\*(Incorporates Supplements 1 – 7)\****

ISSUE AND EFFECTIVE DATE: ***\*06/16/2023\****

CONTRACT NUMBER: 1-22-23-23 A through I

DESCRIPTION: Fleet Vehicles – Vans & SUVs

CONTRACTOR(S): Lithia Nissan of Fresno (1-22-23-23A)  
Ocean Honda (1-22-23-23B)  
Freeway Toyota (1-22-23-23C)  
Winner Chevrolet (1-22-23-23D)  
Elk Grove Auto (1-22-23-23E)  
Downtown Ford (1-22-23-23F)  
Watsonville Fleet Group (1-22-23-23G)  
US Fleet Source (1-22-23-23H)  
CA Car Group (1-22-23-23I)

CONTRACT TERM: 05/01/2022 through 04/30/2025

STATE CONTRACT ADMINISTRATOR: **Contracts 1-22-23-23A-H**

Eugene Shemereko

279-946-8028

[Eugene.Shemereko@dgs.ca.gov](mailto:Eugene.Shemereko@dgs.ca.gov)

**Contract 1-22-23-23I**

Robb Parkison

279-946-8302

[Robb.Parkison@dgs.ca.gov](mailto:Robb.Parkison@dgs.ca.gov)

The contract user instructions, products, and pricing are included herein. All purchase documents issued under this contract incorporate the contract terms and applicable California General Provisions:

[Non-IT General Provisions \(rev 11/19/2021\)](https://www.dgs.ca.gov/-/media/199A6A32E4DE4BECAFF4EFA7194350CD.ashx) (<https://www.dgs.ca.gov/-/media/199A6A32E4DE4BECAFF4EFA7194350CD.ashx>)

Cal eProcure link: [www.caleprocure.ca.gov](http://www.caleprocure.ca.gov)

**Contract (Mandatory) 1-22-23-23 A-I**  
Contract User Instructions, ***\*Supplement 7\****

All changes to most recent Supplement are in ***bold red italic***. Additions are enclosed in asterisks; deletions are enclosed in brackets.

SUMMARY OF CHANGES

| Supplement Number | Description/Articles                                                                                                                                                                                                                                                                   | Supplement Date            |
|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <b><i>*7*</i></b> | <ul style="list-style-type: none"> <li>➤ <b><i>*Attachment A – Contract Pricing – Supplement 6 has been replaced with Attachment A – Contract Pricing – Supplement 7</i></b></li> <li>➤ <b><i>Downtown Ford's email address has been updated*</i></b></li> </ul>                       | <b><i>*06/16/2023*</i></b> |
| 6                 | ➤ Attachment A – Contract Pricing – Supplement 5 has been replaced with Attachment A – Contract Pricing – Supplement 6                                                                                                                                                                 | 01/23/2023                 |
| 5                 | ➤ Attachment A – Contract Pricing – Supplement 4 has been replaced with Attachment A – Contract Pricing – Supplement 5                                                                                                                                                                 | 12/06/2022                 |
| 4                 | ➤ Attachment A – Contract Pricing – Supplement 3 has been replaced with Attachment A – Contract Pricing – Supplement 4                                                                                                                                                                 | 11/04/2022                 |
| 3                 | <ul style="list-style-type: none"> <li>➤ Attachment A – Contract Pricing – Supplement 2 has been replaced with Attachment A – Contract Pricing – Supplement 3</li> <li>➤ Contact Information for Downtown Ford has been updated</li> </ul>                                             | 09/19/2022                 |
| 2                 | ➤ Attachment A – Contract Pricing – Supplement 1 has been replaced with Attachment A – Contract Pricing – Supplement 2                                                                                                                                                                 | 08/16/2022                 |
| 1                 | <ul style="list-style-type: none"> <li>➤ Attachment A – Contract Pricing has been replaced with Attachment A – Contract Pricing – Supplement 1</li> <li>➤ Attachment D – Vehicle Specifications has been added</li> <li>➤ Article 25 – Payments, language has been modified</li> </ul> | 05/26/2022                 |
| N/A               | Original Contract Posted                                                                                                                                                                                                                                                               | 05/01/2022                 |

All other terms and conditions remain the same.

**Contract (Mandatory) 1-22-23-23 A-I**  
Contract User Instructions, **\*Supplement 7\***

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**Contract (Mandatory) 1-22-23-23 A-I**  
Contract User Instructions, ***\*Supplement 7\****

- 32. STATE AND LOCAL GOVERNMENT EMPLOYEE PRICING\* .....**ERROR! BOOKMARK NOT DEFINED.**
- 33. ATTACHMENTS..... **ERROR! BOOKMARK NOT DEFINED.**

**Contract (Mandatory) 1-22-23-23 A-I**  
Contract User Instructions, **\*Supplement 7\***

## 1. SCOPE

The State's contracts provide Fleet Vehicles - Vans & SUVs at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contract # 1-22-23-23 A - I. The contractors shall supply the entire portfolio of products as identified in the contract and will be the primary point of contact for data collection, reporting, and distribution of Fleet Vehicles - Vans & SUVs to the State.

The contract term is for three (3) years with an option to extend the contract for two (2) additional one (1) year periods or portion thereof. The terms, conditions, and prices for the contract extension option shall be by mutual agreement between the contractor and the State. If a mutual agreement cannot be met the contract may be terminated at the end of the current contract term.

## 2. CONTRACT USAGE/RULES

### A. State Departments

- The use of this contract is mandatory for State of California departments. State Departments may purchase any vehicle that is awarded to each line item. This contract does not include ranking.
- State departments must adhere to all applicable State laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, and State Contracting Manual Volume 2 and SCM-F as applicable.
- Prior to placing orders against this contract, State departments must have been granted non-IT purchasing authority by the Department of General Services, Procurement Division (DGS-PD) for the use of this statewide contract. State departments that have not been granted purchasing authority by DGS-PD for the use of the State's statewide contracts may contact DGS-PD's Purchasing Authority Management Section by e-mail at [pams@dgs.ca.gov](mailto:pams@dgs.ca.gov).
- Departments must have a Department of General Services (DGS) agency billing code prior to placing orders against this contract. Ordering departments may contact their Purchasing Authority contact or their department's fiscal office to obtain this information.

### B. Local Governmental Agencies

- Local governmental agency use of this contract is optional.
- Local government agencies are defined as "any city, county, city and county, district or other governmental body or corporation", per Public Contract Code Chapter 2, Section 10298 (b), empowered to expend public funds for the acquisition of products; this includes the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges. While the State makes this contract available to local governmental agencies, each local

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governmental agency should determine whether this contract is consistent with its procurement policies and regulations.

- Local governmental agencies shall have the same rights and privileges as the State under the terms of this contract. Any agencies desiring to participate shall be required to adhere to the same responsibilities as do State agencies and have no authority to amend, modify or change any condition of the contract.
  - A DGS issued billing code is not required for local governmental agencies to place orders against this contract.
- C. Unless otherwise specified within this document, the term “ordering agencies” will refer to all State departments and/or local governmental agencies eligible to utilize this contract. Ordering and/or usage instructions exclusive to State departments or local governmental agencies shall be identified within each article.

### **3. DGS ADMINISTRATIVE FEES**

#### **A. State Departments**

The DGS will bill each State department an administrative fee for use of this statewide contract. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS.

Current fees are available online in the [Price Book & Directory of Services](https://www.dgs.ca.gov/OFS/Price-Book) (<https://www.dgs.ca.gov/OFS/Price-Book>) (go to Price Book Download and click on Purchasing under Procurement Division).

#### **B. Local Governmental Agencies**

For all local government agency transactions issued against the contract, the Contractor is required to remit the DGS-PD an Incentive Fee of an amount equal to 1.25% of the total purchase order amount excluding taxes and freight. This Incentive Fee shall not be included in the agency's purchase price, nor invoiced or charged to the purchasing entity. All prices quoted to local governmental agency customers shall reflect State contract pricing, including any and all applicable discounts, and shall include no other add-on fees.

### **4. SB/DVBE OFF-RAMP PROVISION**

There is no SB/DVBE off ramp associated with this contract.

### **5. PROBLEM RESOLUTION/SUPPLIER PERFORMANCE**

Ordering agencies and/or Contractor shall inform the State Contract Administrator of any technical or contractual difficulties encountered during contract performance in a timely manner. This includes and is not limited to informal disputes, supplier performance, outstanding deliveries, etc. The ordering agency should include all relevant information and/or documentation (e.g., purchase documents).

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## 6. CONTRACT ITEMS

Contract vehicles and pricing are listed on Attachment A, Contract Pricing. All prices listed shall be fixed as the maximum cost for the contract period unless a price increase is granted.

Each line item description on Attachment A, Contract Pricing, provides a description of the minimum requirements that each vehicle in that line item has met or exceeded.

A Maintenance Plan is offered on all light duty vehicles less than 8500 lbs Gross Vehicle Weight Rating (GVWR). Maintenance Plan pricing is listed on Attachment A, Contract Pricing. The purchase of the Maintenance Plan is optional. See Article 29, Maintenance Plan for more detailed information.

### Price Increases

Price increases may be requested with each model year change and will be posted on a quarterly basis.

Quarterly Increases shall be processed on the following calendar days:

- July 1st
- October 1st
- January 1st
- April 1st

Contractors are requested to price protect the contracted price for the duration between the price increase request and the time the increase is processed. If the Contractor is unable to honor the price protection, the Contractor's vehicle(s) will be unavailable for ordering until the price increases have been evaluated and approved.

### Multiple Award

Some line items may have multiple vehicles awarded with different make and models available. State Departments may choose any vehicle identified in the subject line item. There is no vehicle ranking associated with this contract.

### Sales Tax

The sales tax rate applied should be based on the rate of the "Bill To" address listed on the Purchase Order.

### Options

All factory options shall be available and priced at Contractor cost plus up to 10% for an addition or Contractor cost minus up to 10% for a deletion in accordance with the manufacturer's current model year price list. Types of equipment changes which might be made include, but are not limited, to the following:

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- Add trailer tow package
- Add Bluetooth
- Add parking sensors
- Delete pick up box (bed)

In no case shall options be included or deleted in such a manner as to cause the vehicle to conflict with any other line item on any other vehicle contract.

The Contractor shall provide ordering agencies a copy of the current model year factory price sheet with requested options, within ten calendar days of request.

Third-party upfitting (e.g utility body) may be requested by ordering agencies, however, this service is non-mandatory. When applicable, third-party upfits shall be subject to the same pricing provisions as factory options.

Note: Vehicles with added or deleted options MUST continue to meet the appropriate minimum specification.

Tire Fee

Purchase orders MUST include the State mandated \$1.75 per tire fee.

Document Processing Charge

In accordance with the California Vehicle Code Section 4456.5, a Contractor may charge the ordering agency a document processing charge for the preparation and processing of documents, disclosures, titling, registration, and information security obligations imposed by state and federal law. The document processing charge shall not exceed \$85 per vehicle purchased.

A Contractor may charge the ordering agency an electronic filing fee, which does not exceed the actual amount the Contractor is charged by a first-line service provider. The electronic filing fee shall not exceed \$30 per vehicle purchased.

## **7. SPECIFICATIONS**

All products must conform to the attached State of California Bid Specification Number 2310-4181 dated 08/16/2021 (Attachment B).

Vehicle color shall be a solar reflective color (white, silver metallic, or gold metallic) per SAM Section 3620.1 (exceptions are listed in the same manual section).

## **8. CUSTOMER SERVICE**

The Contractor shall provide office and personnel resources for responding to inquiries, including telephone and email coverage weekdays during the hours of 8:00 a.m. - 5:00 p.m., PT.

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The customer service unit shall be staffed with individuals that:

- Are trained in the requirements of this contract
- Have the authority to take administrative action to correct problems that may occur

The Contractor's customer service unit shall respond to all customer inquiries within two (2) business days of initial contact.

| Dealer                    | Contract #  | Contact             | Phone          | Email                                                                                                |
|---------------------------|-------------|---------------------|----------------|------------------------------------------------------------------------------------------------------|
| Lithia Nissan of Fresno   | 1-22-23-23A | Pat Ireland         | (559) 707-5735 | <a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a>                               |
| Ocean Honda               | 1-22-23-23B | Pat Ireland         | (559) 707-5735 | <a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a>                               |
| Freeway Toyota of Hanford | 1-22-23-23C | Pat Ireland         | (559) 707-5735 | <a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a>                               |
| Winner Chevrolet          | 1-22-23-23D | Jerry Powers        | (916) 426-5752 | <a href="mailto:jpowers@lasherauto.com">jpowers@lasherauto.com</a>                                   |
| Elk Grove Auto            | 1-22-23-23E | Jerry Powers        | (916) 426-5752 | <a href="mailto:jpowers@lasherauto.com">jpowers@lasherauto.com</a>                                   |
| Downtown Ford Sales       | 1-22-23-23F | Sandra Scott        | (916) 442-9631 | <a href="mailto:sandrascott@pricesimms.onmicrosoft.com">*sandrascott@pricesimms.onmicrosoft.com*</a> |
| Watsonville Fleet Group   | 1-22-23-23G | Yesenia Covarrubias | (626) 457-5590 | <a href="mailto:yesenia@watsonvillefleetgroup.com">yesenia@watsonvillefleetgroup.com</a>             |
| US Fleet Source           | 1-22-23-23H | Lisa Molino         | (626) 344-4285 | <a href="mailto:Info@usfleetsource.com">Info@usfleetsource.com</a>                                   |
| CA Car Group              | 1-22-23-23I | Richard M. Slad     | (925) 560-4465 | <a href="mailto:RichardMS@cacargroup.com">RichardMS@cacargroup.com</a>                               |

**Note:** Ordering agencies are encouraged to have one point of contact for inquiries, quotes, and orders whenever possible. Multiple calls and emails from various requestors for the same information can slow customer service response times.

## 9. PRODUCT SUBSTITUTIONS

Under no circumstance is the Contractor permitted to make substitutions with non-contract/unauthorized vehicles without approval of the DGS Contract Administrator (CA).

## 10. PURCHASE EXECUTION

### A. State Departments

#### 1) Std. 65 Purchase Documents

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State departments not transacting in FISCAL must use the Purchasing Authority Purchase Order (Std. 65) for purchase execution. An electronic version of the Std. 65 is available at the Office of State Publishing web site:

<https://www.dgsapps.dgs.ca.gov/osp/StatewideFormsWeb/Forms.aspx> (select Standard Forms).

All Purchasing Authority Purchase Orders (Std. 65) must contain the following:

- Agency Order Number (Purchase Order Number)
- Ordering Agency Name
- Agency Billing Code
- Purchasing Authority Number
- Leveraged Procurement Number (Contract Number)
- Supplier Information (Contact Name, Address, Phone Number, Fax Number, E-mail)
- Line Item number
- Quantity
- Unit of Measure
- Commodity Code Number
- Product Description
- Unit Price
- Extension Price
- Office of Fleet and Asset Management (OFAM) Approval Stamp (State departments only)

2) FISCAL Purchase Documents

State departments transacting in FISCAL will follow the FISCAL procurement and contracting procedures.

3) Blanket Orders

The use of blanket orders against this statewide contract is not allowed.

B. Local Governmental Agencies

Local governmental agencies may use their own purchase document for purchase execution. The purchase documents must include the same data elements as listed above (Exception: Purchasing Authority Number is used by State departments only).

## 11. MINIMUM ORDER

The minimum order shall be one (1) vehicle.

## 12. ORDERING PROCEDURE

A. Ordering Methods:

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Ordering agencies are to submit appropriate purchase documents directly to the contractor(s) via one of the following ordering methods:

- U.S. Mail
- Facsimile
- Email

The contractor's Order Placement Information is as follows:

| ORDER PLACEMENT INFORMATION |                                                                                                              |                              |                                                                                                                |
|-----------------------------|--------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------------------------------------------------------------------------------|
| Contract #<br>1-22-23-23A   | U.S. Mail:<br>Lithia Nissan of Fresno<br>5590 N Blackstone Ave<br>Fresno, CA 93710<br>Attn: Pat Ireland      | Facsimile:<br>(559) 961-4601 | Email:<br><a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a>                               |
| Contract #<br>1-22-23-23B   | U.S. Mail:<br>Ocean Honda<br>3801 Soquel Dr<br>Soquel, CA 95073<br>Attn: Pat Ireland                         | Facsimile:<br>(559) 961-4601 | Email:<br><a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a>                               |
| Contract #<br>1-22-23-23C   | U.S. Mail:<br>Freeway Toyota<br>1835 Glendale Avenue<br>Hanford, CA 93230<br>Attn: Pat Ireland               | Facsimile:<br>(559) 961-4601 | Email:<br><a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a>                               |
| Contract #<br>1-22-23-23D   | U.S. Mail:<br>Winner Chevrolet<br>8575 Laguna Grove Drive<br>Elk Grove, CA 95757<br>Attn: Jerry Powers       | Facsimile:<br>(916) 421-0149 | Email:<br><a href="mailto:jpowers@lasherauto.com">jpowers@lasherauto.com</a>                                   |
| Contract #<br>1-22-23-23E   | U.S. Mail:<br>Elk Grove Auto Group<br>8575 Laguna Grove Drive<br>Elk Grove, CA 95757<br>Attn: Jerry Powers   | Facsimile:<br>(916) 421-0149 | Email:<br><a href="mailto:jpowers@lasherauto.com">jpowers@lasherauto.com</a>                                   |
| Contract #<br>1-22-23-23F   | U.S. Mail:<br>Downtown Ford Sales<br>525 N 16 <sup>th</sup> St<br>Sacramento, CA 95811<br>Attn: Sandra Scott | Facsimile:<br>(916) 491-3138 | Email:<br><a href="mailto:sandrascott@pricesimms.onmicrosoft.com">*sandrascott@pricesimms.onmicrosoft.com*</a> |

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| ORDER PLACEMENT INFORMATION |                                                                                                                    |                              |                                                                                                    |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------------------------------------------------------------------|
| Contract #<br>1-22-23-23G   | U.S. Mail:<br>Watsonville Fleet Group<br>1601 W. Main Street<br>Alhambra, CA 91801<br>Attn: Yesenia<br>Covarrubias | Facsimile:<br>(626) 457-5593 | Email:<br><a href="mailto:yesenia@watsonvillefleetgroup.com">yesenia@watsonvillefleetgroup.com</a> |
| Contract #<br>1-22-23-23H   | U.S. Mail:<br>US Fleet Source<br>979 S. Village Oaks Drive<br>Covina, Ca 91724                                     | Facsimile:<br>(626) 228-3077 | Email: <a href="mailto:info@usfleetsource.com">info@usfleetsource.com</a>                          |
| Contract #<br>1-22-23-23I   | U.S. Mail:<br>CA Car Group<br>4200 John Monego Ct<br>Dublin, CA 94568<br>Attn: Richard M. Slade                    | Facsimile:<br>N/A            | Email:<br><a href="mailto:RichardMS@cacargroup.com">RichardMS@cacargroup.com</a>                   |

When using any of the ordering methods specified above, all State departments must conform to proper State procedures.

### 13. ORDER ACCEPTANCE

The Contractor shall accept orders from any State department or local governmental agency. The Contractor shall not accept purchase documents for this contract that:

- Are incomplete;
- Are submitted without OFAM approval stamp
- Contain non-contract items; or
- Contain non-contract terms and conditions.

The Contractor must not refuse to accept orders from any State department or local governmental agency for any other reason without written authorization from the CA.

### 14. ORDER ACKNOWLEDGMENT

The Contractor will provide the ordering agencies with an order receipt acknowledgment via e-mail/facsimile within ten (10) calendar days after receipt of an order. The acknowledgement will include:

- Ordering Agency Name
- Agency Order Number (Purchase Order Number)
- Description of Goods
- Vehicle Model Year
- Total Cost
- Date order is placed with manufacturer
- Anticipated Delivery Date

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- Delayed Production Notification (if applicable)
- Discontinued Vehicle Notification (if applicable)

Contractor shall notify the ordering agency of any delays in production or delays in orders being accepted by the manufacturer for any period of time. Contractor shall provide estimated production start date and delivery date.

## **15. DELAYED PRODUCTION REMEDY**

Upon receipt of order acknowledgment identifying a delay in production or orders not being accepted by the manufacturer, the ordering agencies shall have the following options:

- Request back order; or
- Cancel the item from the order with no penalty

## **16. DISCONTINUED VEHICLE REMEDY**

Upon receipt of order acknowledgment identifying discontinued items, the ordering agencies shall have the following options:

- Amend purchase document to reflect DGS approved replacement vehicle; or
- Cancel the item from the order

Under no circumstance is the Contractor permitted to make substitutions with non-contract/unauthorized vehicles without approval of the DGS CA.

## **17. DELIVERY PROCEDURES**

### Pre-Delivery Checklist

Prior to delivery, each vehicle shall be completely inspected, serviced, and detailed by the delivering Contractor and/or the manufacturer's pre-delivery service center. A copy of the pre-delivery checklist shall be completed for each vehicle, signed by a representative of the organization performing the inspection/service, and delivered with the vehicle.

### Delivery:

Delivery shall be within one hundred and fifty (150) days after receipt of order unless there is a delay in production/order acceptance from the manufacturer when changing from one model year to the next. Contractor shall notify the ordering agency of such delay per Article 14, Order Acknowledgement.

Orders requiring customized work by a 3<sup>rd</sup> party supplier may exceed the delivery period requirement. Contractor shall notify ordering agency of extended delivery period per Article 14, Order Acknowledgement.

Caravan or drive-away method of delivery from the factory to a Contractor is not acceptable unless agreed upon by the ordering agency.

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Drop ship deliveries shall not be made without prior State inspection. All vehicles shall be delivered with no less than five (5) gallons of fuel in the tank.

Unless pre-arranged between the Contractor and the ordering agency, vehicles delivered with more than 50 miles on the odometer may be charged fifty (50) cents per mile in excess of 50 miles. This charge may be reflected on the invoice as a deduction from the order price. Vehicles with more than five hundred (500) miles on the odometer may not be accepted.

**\*\*Cab and Chassis trucks may require driving from an out-of-state factory and may exceed the five hundred (500) mile or less expectation. The Contractor shall notify the ordering Department at the time of purchase order execution.**

When feasible, Contractor is requested to make deliveries in metropolitan areas during off-peak hours. Off-peak hours are Monday through Friday, 10:00 AM to 4:00 PM PST.

Documents

The following documents shall be delivered to the receiving agency with the vehicle:

- Completed and signed pre-delivery service checklist, including the order number and Vehicle Identification Number (VIN)
- "Line Set Tickets" or "Window (Monroney) Sticker" showing all options installed
- One (1) copy of the warranty, including applicable certificates, cards, etc.
- One (1) copy of the owner's manual.

**18. INSPECTION AND ACCEPTANCE**

Vehicles ordered for State use will be inspected by a State inspector at the Contractor's place of business or as otherwise agreed to by the Contractor and ordering agency.

Inspection will commence within five (5) working days of notification that a vehicle is ready for inspection. Inspection will include:

- Specification Compliance
- Workmanship
- Appearance
- Proper Operation of all Equipment and Systems
- Presence of all Applicable Documents

In the event deficiencies are detected, the vehicle will be rejected and the Contractor will be required to make the necessary repairs, adjustments or replacements. Payment and/or the commencement of a discount period (if applicable) will not begin until the defects are corrected and the vehicle is re-inspected and accepted.

Completion of inspection or acceptance by the State inspector shall in no way release the Contractor from satisfying the requirements of the contract, specifications, and warranty.

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Deviations from the specified requirements that are detected by the inspection shall be corrected by the Contractor in an expeditious manner at no expense to the ordering agency.

Inspection by local agencies will be at the Contractor's place of business or as otherwise agreed to by the Contractor and local agency.

**19. EMERGENCY/EXPEDITED ORDERS**

Not Applicable.

**20. FREE ON BOARD (F.O.B.) DESTINATION**

Contractors shall deliver vehicles to State or local agencies located in Sacramento County at no additional cost for delivery. If the Purchase Order indicates delivery outside Sacramento County, the Contractor and agency may negotiate delivery costs. If delivery is subject to an additional delivery charge, it shall be shown as a separate item on the purchase order and invoice.

State departments requesting delivery outside of Sacramento County must contact the Transportation Management Unit for freight rate comparisons to confirm appropriate pricing if the Contractor is delivering the vehicle.

Responsibility and liability for loss or damage for all orders shall remain with the Contractor until final inspection and acceptance, when all responsibility shall pass to the ordering agency, except the responsibility for latent defects, fraud, and the warranty obligations.

**21. SHIPPED ORDERS**

All shipments shall be in accordance with the General Provisions, Article 12 entitled "Packing and Shipment".

**22. CONTRACT ADMINISTRATION**

The State and the Contractors have assigned Contract Administrators as the single points of contact for problem resolution and related contract issues.

| <b>State Contact Information</b> | <b>DGS/PD Contract Administrator (Contracts 1-22-23-23A-H)</b>                                                                     | <b>DGS/PD Contract Administrator (Contract 1-22-23-23I)</b>                                                                     |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| <b>Contact Name:</b>             | Eugene Shemereko                                                                                                                   | Robb Parkison                                                                                                                   |
| <b>Telephone:</b>                | (279) 946-8028                                                                                                                     | (279) 946-8302                                                                                                                  |
| <b>Facsimile:</b>                | NA                                                                                                                                 | NA                                                                                                                              |
| <b>Email:</b>                    | <a href="mailto:Eugene.Shemereko@dgs.ca.gov">Eugene.Shemereko@dgs.ca.gov</a>                                                       | <a href="mailto:Robb.Parkison@dgs.ca.gov">Robb.Parkison@dgs.ca.gov</a>                                                          |
| <b>Address:</b>                  | DGS/Procurement Division<br>Attn: Eugene Shemereko<br>707 Third Street, 2 <sup>nd</sup> Floor, MS 201<br>West Sacramento, CA 95605 | DGS/Procurement Division<br>Attn: Robb Parkison<br>707 Third Street, 2 <sup>nd</sup> Floor, MS 201<br>West Sacramento, CA 95605 |

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| <b>Dealer Contact Information</b> | <b>Lithia Nissan of Fresno</b><br>Contract # 1-22-23-23A               | <b>Ocean Honda</b><br>Contract # 1-22-23-23B                           |
|-----------------------------------|------------------------------------------------------------------------|------------------------------------------------------------------------|
| <b>Contact Name:</b>              | Pat Ireland                                                            | Pat Ireland                                                            |
| <b>Telephone:</b>                 | (559) 707-5735                                                         | (559) 707-5735                                                         |
| <b>Facsimile:</b>                 | (559) 961-4601                                                         | (559) 961-4601                                                         |
| <b>Email:</b>                     | <a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a> | <a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a> |
| <b>Address:</b>                   | Lithia Nissan of Fresno<br>5590 N Blackstone Ave<br>Fresno, CA 93710   | Ocean Honda<br>3801 Soquel Dr<br>Soquel, CA 95073                      |

| <b>Dealer Contact Information</b> | <b>Freeway Toyota of Hanford</b><br>Contract # 1-18-23-23C             | <b>Winner Chevrolet</b><br>Contract # 1-18-23-23D                  |
|-----------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------|
| <b>Contact Name:</b>              | Pat Ireland                                                            | Jerry Powers                                                       |
| <b>Telephone:</b>                 | (559) 707-5735                                                         | (916) 426-5752                                                     |
| <b>Facsimile:</b>                 | (559) 961-4601                                                         | (916) 421-0149                                                     |
| <b>Email:</b>                     | <a href="mailto:patireland1962@yahoo.com">patireland1962@yahoo.com</a> | <a href="mailto:jpowers@lasherauto.com">jpowers@lasherauto.com</a> |
| <b>Address:</b>                   | Freeway Toyota<br>1835 Glendale Avenue<br>Hanford, CA 93230            | Winner Chevrolet<br>8575 Laguna Grove Drive<br>Elk Grove, CA 95757 |

| <b>Dealer Contact Information</b> | <b>Elk Grove Auto Group</b><br>Contract # 1-22-23-23E               | <b>Downtown Ford Sales</b><br>Contract # 1-22-23-23F                                                  |
|-----------------------------------|---------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| <b>Contact Name:</b>              | Jerry Powers                                                        | Sandra Scott                                                                                          |
| <b>Telephone:</b>                 | (916) 426-5752                                                      | (916) 442-9631                                                                                        |
| <b>Facsimile:</b>                 | (916) 421-0149                                                      | (916) 491-3138                                                                                        |
| <b>Email:</b>                     | <a href="mailto:jpowers@lasherauto.com">jpowers@lasherauto.com</a>  | <a href="mailto:*sandrascott@pricesimms.onmicrosoft.com">*sandrascott@pricesimms.onmicrosoft.com*</a> |
| <b>Address:</b>                   | Elk Grove Auto Group<br>8575 Laguna Grove Dr<br>Elk Grove, CA 95757 | Downtown Ford Sales<br>525 N 16 <sup>th</sup> St<br>Sacramento, CA 95811                              |

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| <b>Dealer Contact Information</b> | <b>Watsonville Fleet Group</b><br>Contract # 1-22-23-23G                                 | <b>US Fleet Source</b><br>Contract # 1-22-23-23H                   |
|-----------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| <b>Contact Name:</b>              | Yesenia Covarrubias                                                                      | Lisa Molino                                                        |
| <b>Telephone:</b>                 | (626) 457-5590                                                                           | (626) 344-4285                                                     |
| <b>Facsimile:</b>                 | (626) 457-5593                                                                           | (626) 416-3064                                                     |
| <b>Email:</b>                     | <a href="mailto:yesenia@watsonvillefleetgroup.com">yesenia@watsonvillefleetgroup.com</a> | <a href="mailto:info@usfleetsource.com">info@usfleetsource.com</a> |
| <b>Address:</b>                   | Watsonville Fleet Group<br>1601 W. Main Street<br>Alhambra, CA 91801                     | US Fleet Source<br>979 S. Village Oaks Drive<br>Covina, Ca 91724   |

| <b>Dealer Contact Information</b> | <b>CA Car Group</b><br>Contract # 1-22-23-23I                          |
|-----------------------------------|------------------------------------------------------------------------|
| <b>Contact Name:</b>              | Richard M. Slade                                                       |
| <b>Telephone:</b>                 | (925) 560-4465                                                         |
| <b>Facsimile:</b>                 | N/A                                                                    |
| <b>Email:</b>                     | <a href="mailto:RichardMS@cacargroup.com">RichardMS@cacargroup.com</a> |
| <b>Address:</b>                   | CA Car Group<br>4200 John Monego Ct<br>Dublin, CA 94568                |

## 23. RESTOCKING FEES

The Contractor may impose a restocking fee to the ordering agency on orders cancelled after the order has been placed with the manufacturer: The Contractor shall notify the ordering agency of the order placement per Article 14, Order Acknowledgment.

Re-stocking fees can be no greater than ten percent (10%) of the value of the vehicle being restocked.

## 24. INVOICING

Ordering agencies may require separate invoicing, as specified by each ordering organization. Invoices will contain the following information:

- Contractor's name, address and telephone number
- Leveraged Procurement Number (Contract Number)
- Agency Order Number (Purchase Order Number)
- Item and commodity code number

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- Quantity purchased
- Contract price and extension
- State sales and/or use tax
- Prompt payment discounts/cash discounts, if applicable
- Totals for each order

## **25. PAYMENT**

### **A. Terms**

Payment terms for contracts 1-22-23-23 A – G include a \$500 per vehicle discount for payment made within twenty (20) days. Contracts 1-22-23-23 H & I offer no discount. The cash discount time is defined by the State as beginning only after the vehicle has been inspected, delivered, and accepted by the receiving agency, or from the date a correct invoice is received in the office specified on the Purchase Order, whichever is later.

Payment is deemed to be made, for the purpose of earning the discount, one (1) working day after the date on the State warrant or check. Typically, acceptance will be accomplished within twenty (20) business hours after a vehicle is delivered.

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927, et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than forty-five (45) days after the date of acceptance of goods, performance of services, or receipt of an undisputed invoice, whichever is later.

### **B. CAL-Card Use**

Use of the CAL-Card for payment of invoices is not allowed under this statewide contract.

### **C. Payee Data Record**

Each State accounting office must have a copy of the Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting office(s). Without the Std. 204, payment may be unnecessarily delayed. State departments may contact the Contractor for copies of the Payee Data Record.

### **D. State Financial Marketplace**

The State reserves the right to select the form of payment for all procurements, be it either an outright purchase with payment rendered directly by the State, or a financing/lease-purchase or operating lease via the State Financial Marketplace (GS \$Mart and/or Lease \$Mart). If payment is via the financial marketplace, the Contractor will invoice the State and the State will approve the invoice and the selected

**Contract (Mandatory) 1-22-23-23 A-I**  
Contract User Instructions, **\*Supplement 7\***

Lender/Lessor for all product listed on the State's procurement document will pay the Contractor on behalf of the State.

## 26. CALIFORNIA SELLER'S PERMIT

The California seller permit number for the Contractor is listed below. State departments can verify that permits are currently valid at the following website: [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov). State departments must adhere to the file documentation required identified in the State Contracting Manual Volume 2 and Volume 3 and SCM-F.

| Contractor Name         | Seller Permit #         |
|-------------------------|-------------------------|
| Lithia Nissan of Fresno | 97163762                |
| Ocean Honda             | 101-652579              |
| Freeway Toyota          | 102-659756              |
| Winner Chevrolet        | 100-208309              |
| Elk Grove Auto Group    | 100-197237              |
| Downtown Ford Sales     | 28600344                |
| Watsonville Fleet Group | 245364864<br>101-135239 |
| US Fleet Source         | 103-097044              |
| CA Car Group            | 100-214737              |

## 27. WARRANTY

The manufacturer's standard new vehicle warranty shall apply to all vehicles purchased from these contracts. All warranties shall be factory authorized. The warranty shall be honored by all franchised dealers of the vehicle within the State of California. The Warranty term for the vehicles offered under these contracts shall meet the following (as applicable):

- Bumper to bumper warranty shall cover not less than 3 years/36,000 miles, no charge for parts and labor.
- Power train warranty for light duty vehicles weighing 8500 lbs. GVWR or less shall cover not less than 5 years/100,000 miles, no charge for parts and labor.
- Power train warranty for vehicles over 8500 lbs. GVWR shall cover not less than 5 years/60,000 miles, no charge for parts and labor.

The State's established preventative maintenance procedures and practices shall be acceptable to the manufacturer/contractor in lieu of the manufacturer's prescribed procedures which may form a part of the warranty.

All emission-related components shall be warranted in compliance with California Air Resources Board and Federal requirements. Contractor cannot offer independent insurance or statements indicating self insurance. If an additional extended warranty is

**Contract (Mandatory) 1-22-23-23 A-I**  
Contract User Instructions, **\*Supplement 7\***

purchased, a warranty certificate, warranty card, or a statement indicating the extended warranty has been recorded with the manufacturer shall be furnished with each vehicle delivered.

Normal wear items such as tires, belts, hoses, headlamps, light bulbs, brake linings, brake discs/drums, etc. are excluded from warranty coverage. All other items not subject to normal wear or gross operator neglect and abuse, such as window, seat, or wiper motors, chassis electrical switches (door, trunk lid), paint, hinges, locks, etc., shall be covered.

The State reserves the right to use re-refined lubrication oils, where available, in lieu of virgin equivalent oils. The re-refined oils used by the State will meet all API and SAE standards and specifications as set forth by the vehicle manufacturer. The use of said oils shall in no way void or degrade the original manufacturer's standard warranty.

The State reserves the right to use recycled content antifreeze/coolant, where available, in lieu of virgin equivalent antifreeze/coolant when servicing its vehicles. The recycled content antifreeze/coolant used by the State will meet all ATSM standards and specifications as set forth by the vehicle manufacturer.

## **28. REPAIR PARTS**

The manufacture of the awarded vehicle(s) should maintain an adequate stock of all regular and special parts to meet the continuing service and repair parts needs of the State without undue delay.

A special system shall be set up for expediting the procurement of back-order items needed to repair an inoperative vehicle including a system to air freight parts at factory expense when parts are not in stock in California parts depots. Parts must be available within three (3) working days after telephone notification.

Vehicles with new technology emerging into the industry (e.g., fuel cell vehicles) may require more than (3) working days for the availability of certain parts. Contractor must notify the State Contract Administrator and ordering agency when this occurs and provide the estimated date of availability.

## **29. MAINTENANCE PLAN**

A maintenance plan is available for light duty vehicles under 8500 lbs. GVWR. The purchase of a maintenance plan is optional. The maintenance plan covers all regularly scheduled service for a minimum of five (5) years/75,000 miles. The maintenance shall include at a minimum all manufacturer recommended services such as, but not limited to:

- Oil changes;
- Filter changes;
- Fluid changes;
- Lubrications;

**Contract (Mandatory) 1-22-23-23 A-I**  
Contract User Instructions, **\*Supplement 7\***

- Tire rotations;
- Equipment and safety inspections

The Maintenance Plan is not required to cover wear items such as brake pads/shoes, wiper blades, etc.

Purchase of the Maintenance Plan is non-mandatory for State departments.

The Maintenance Plan is not applicable to vehicles over 8,500 lbs. GVWR.

### **30. RECYCLED CONTENT**

State departments are required to report purchases in many product categories. The Postconsumer-Content Certification Form (CIWMB 74) for the Contractor(s) is attached (Attachment C).

### **31. SB/DVBE PARTICIPATION**

There is no Small Business (SB) or Disabled Veteran Business Enterprise (DVBE) participation for this contract.

### **32. STATE AND LOCAL GOVERNMENT EMPLOYEE PRICING**

In the interest of expanding the California marketplace for Zero Emission Vehicles (ZEV), some Contractors have offered a discount to any interested State of California or local government employee when purchasing a ZEV for personal use. A list of participating Dealers and vehicles can be found at: <https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/State-of-California-Green-Fleet-Employee-Pricing-Program>

### **33. ATTACHMENTS**

Attachment A – Contract Pricing **\*Supplement 7\***  
Attachment B – Specification 2310-4181, revised 08/16/2021  
Attachment C – Postconsumer Content Certification Workbook  
Attachment D – Vehicle Specifications

# FREEWAY TOYOTA



1835 Glendale Ave  
Hanford, CA. 93230

City of East Palo Alto  
1960 Tate St  
East Palo Alto, CA. 94303  
Attn: Janet Nunez-Aguilar

9/6/2023

As per your request for CA State Contract #1-22-23-10C Line Item #21

|                                       |                         |
|---------------------------------------|-------------------------|
| <b>2023 Toyota RAV4 Hybrid (4435)</b> | <b>\$30258.00</b>       |
| <b>Upgrade to 2024 (4435)</b>         | \$1321.00               |
| <b>Doc Fee</b>                        | \$85.00                 |
| <b>9.875% County Sales Tax</b>        | \$3126.82               |
| <b>CA Tire Tax</b>                    | \$8.75                  |
| <b>Delivery to East Palo Alto</b>     | \$400.00                |
| <b>Total</b>                          | <b>\$35,199.57 Each</b> |

Protect against future mechanical or electrical issues with Toyota Platinum Extra Care \$0 Deductible

5 Years /100,000 Miles \$1130.00

6 Years / 100,000 Miles \$1450.00

7 Years / 125,000 Miles \$2145.00

Thank you for the opportunity to earn your business.

Patrick G Ireland

Government Fleet Manager



# **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** December 5, 2023  
**TO:** Honorable Mayor and Members of the City Council  
**VIA:** Melvin E. Gaines, City Manager  
**BY:** Maurice Baker, Community Services Manager  
**SUBJECT:** 2023-24 Peninsula Volunteers Contract Renewal

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## **Recommendation**

Adopt a resolution:

1. Authorizing the City Manager to enter into a one-year agreement retroactive to the date of expiration of the previous with an option for two three-month extensions, in a form approved by the City Attorney, with Peninsula Volunteers Inc. (PVI) for provision of hot catered meals and supplies for the City's Senior Congregate Nutrition Program for a not-to-exceed amount of \$70,000.00;
2. Ratifying payment for services already rendered in an amount not to exceed \$\_\_\_\_\_; and
3. Waiving formal bid procedures pursuant to East Palo Alto Municipal Code section 2.84.070(D).

## **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

- Priority #3: Increase Organizational Effectiveness and Efficiency
- Priority #6: Create a Healthy and Safe Community
- Priority #7: Enhance Community Services and Parks

### **Background**

Meeting the needs of our aging community has been the charge of East Palo Alto for many years leading back to the time prior to incorporation. For the past 10 years, the City has contracted with Peninsula Volunteers, Inc. (PVI) to provide meals to seniors. This relationship has allowed the Community Services Department to meet the needs of Seniors in the community while operating in a limited fashion. The latest contract extension expired on June 30, 2023 which provided the City with 525 meals a month that equated to 25 meals a day. At the height of the pandemic, East Palo Alto saw itself delivering upwards of 40 meals a day to residents who were under Shelter-in-Place orders. As the City seeks to update this contract, we plan to provide 400 meals per month to residents at the Senior Center due to decreased participation.

### **Analysis**

In response to inflation, PVI has increased the cost per meal to \$10.75 for fiscal year 2023-24. The City expects to serve an average of 4,800 meals annually. Unfortunately, the Congregate Nutrition Program participation has declined from 10,400 meals annually since the Senior Center re-opened to the public in June 2022 and the Home Delivery Meals (HDM) program ended.

While PVI has determined the contract amount of \$70,000 for the fiscal year 2023-24, the City's contribution is estimated to be \$31,500. The City was awarded a grant in July 2022 from San Mateo County's Office of Aging and Adult Services (OAAS) in the amount of \$197,004 for the fiscal years 2022-2026, which offsets the City's total contribution. The County divides the total award amount over four fiscal years. Below is a breakdown of this year's budget allocation.

Table 1: **Senior Services Projected Budget (Nutrition)**

| <b>Funding Descriptions</b>   | <b>2023-24 Allocations</b> | <b>Details</b>                       |
|-------------------------------|----------------------------|--------------------------------------|
| General Fund Allocation       | \$31,500                   |                                      |
| OAAS Grant (Transportation)   | \$4,901                    |                                      |
| OAAS Grant (Nutrition)        | \$40,772                   |                                      |
| Contingency                   | \$10,427                   |                                      |
|                               |                            |                                      |
| Units of Service @ 10.75 per  | \$51,600                   | 20 meals per day/4800 meals annually |
| <b>Total Expense (Budget)</b> | <b>\$77,173</b>            |                                      |

Staff recommends that the City enter into a new agreement with PVI for a one-year term for an annual amount not exceeding \$70,000 for catered meal service throughout the Fiscal Year 2023-24. The existing agreement expired in or around July of this year. PVI has rendered services in

## **CONSENT ITEM 3.2**

the amount of approximately \$27,500 since that expiration date of the existing and awaits payment for services already rendered, in addition to standing ready to provide similar services going forward. Accordingly, in addition to entering into a new one-year agreement, staff is recommending that this new agreement contain retroactive language permitting payment to PVI for services already rendered.

Further, going out to bid would not be in the City's interests at this juncture. First, PVI has already provide services and is poised to continue providing those services. Thus, staff would like to see no disruption in such services. Second, the County, as a grantor, has vetted PVI to provide such service and would likely need to so if the City were to award an agreement to another vendor. Rather, staff is asking for approval of this limited duration agreement, with the expectation that staff will formally bid this contract in the near future. Accordingly, staff is requesting that the Council waive formal bidding procedures for this agreement.

### November Update on the Partnership Between the City and the Senior Center Inc.

As the City seeks to continue improving the experiences for our aging community, the Mayor, other Councilmembers, and staff have been in active discussions with the Senior Center Inc. on ways in which the City and Senior Center can better partner with members of East Palo Alto's senior community. These discussions will continue with input from our residents. Staff will also be seeking to conduct a master plan on aging that will allow an opportunity for the community to provide a survey on their experiences as aging in the community through AARP.

### **Fiscal Impact**

The total agreement cost, not including staff time for Fiscal Year 2023-24, is \$70,000. The General Fund impact will be \$30,750. The remaining \$39,250 will be covered by the grant.

### **Public Notice**

The public was provided notice by making the agenda and report available on the City's website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto.

### **Environmental**

The proposed action does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378(b)(4) and (5) in that it is a governmental fiscal, organizational or administrative activity that will not result in direct or indirect changes in the environment.

### **Attachments**

1. Resolution
2. Draft Agreement for FY 2022-23

## **CONSENT ITEM 3.2**

## RESOLUTION NO.

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO

**AUTHORIZING THE CITY MANAGER TO ENTER INTO A ONE-YEAR AGREEMENT WITH AN OPTION FOR TWO-THREE MONTH EXTENSIONS, IN A FORM APPROVED BY THE CITY ATTORNEY, WITH PENINSULA VOLUNTEERS INC. (PVI) FOR PROVISION OF HOT CATERED MEALS AND SUPPLIES FOR THE CITY'S SENIOR CONGREGATE NUTRITION PROGRAM FOR A NOT-TO-EXCEED AMOUNT OF \$70,000.00**

**WHEREAS**, meeting the needs of our aging community has been the charge of East Palo Alto for many years leading back to the time prior to incorporation. With the increased focus on isolation in the nation coming out of one of the worse pandemics that the world has experienced, access to hot meals and congregation is of the utmost importance; and

**WHEREAS**, the partnership between the City of East Palo Alto and Peninsula Volunteers Inc. has sought to provide relief and food/nutrition disparities through its Senior Congregate Nutrition and Transportation programs at the East Palo Alto Senior Center since July of 2002 including a time of food delivery during Shelter-in-Place and the re-opening of the Senior Center in June 2022; and

**WHEREAS**, to ensure the sustainability of this program, the City applied and was awarded a grant in the amount of \$52,200 from the County of San Mateo Office of Aging and Adult Services to support the Congregate Nutrition Program for Fiscal Year 2023-2024 and the program anticipates servicing and average of 4,800 meals next year; and

**WHEREAS**, Peninsula Volunteers, Inc. provides catered meal service delivery including supplies that meet the requisite nutrition standards set by the County at a reasonable rate.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO:**

1. Finds the foregoing recitals are true and correct, and are incorporated by this reference into this action;
2. Authorizes the City Manager to enter into a one-year agreement with an option for two-three month extensions, in a form approved by the City Attorney, with Peninsula Volunteers Inc. for provision of hot catered meals and supplies for the City's Senior Congregate Nutrition Program for a not to exceed amount of \$70,000.00; and
3. Finds that the proposed action does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378(b)(4) and (5) in that it is a governmental fiscal, organizational or administrative activity that will not result in direct or indirect changes in the environment.

**PASSED AND ADOPTED this 5<sup>th</sup> day of December 2023, by the following vote:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Lisa Gauthier, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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James Colin, City Clerk

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John D. Lê, City Attorney

2023-2024

FISCAL YEAR

CITY OF EAST PALO ALTO AND PENINSULA VOLUNTEERS, INC.

SUPPLIER AGREEMENT FOR SENIOR LUNCH PROGRAM MEALS

THIS 2023 - 2024 SUPPLIER AGREEMENT ("**Agreement**") is deemed dated as of July 1, 2023 by and between CITY OF EAST PALO ALTO, a California municipal corporation ("**City**") ("**Purchaser**"), and PENINSULA VOLUNTEERS, INC., a California nonprofit corporation ("**Supplier**").

A. CITY operates the SENIOR LUNCH PROGRAM ("**SLP**") at the East Palo Alto Senior Center located at 560 Bell Street in East Palo Alto ("**SLP Site**"). Participants in the program receive, among other things, a hot lunch and snacks.

B. CITY desires to engage Supplier to supply meals and other products to and for SLP. Supplier desires to supply the meals and other products to SLP, on the terms and conditions set forth herein below.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged CITY and Supplier hereby agree as follows:

**Scope of Engagement.** Supplier agrees to supply meals and certain products ("**Products**") to SLP for the Term (as defined in Section 2 herein) at the SLP Site. An itemized list of the Products is attached hereto as Exhibit A.1 to the Blanket Purchase Order attached hereto as Exhibit A.

**Contract Period.** The term of this Agreement ("**Term**") shall mean the period between the Commencement Date and the Expiration Date of this Agreement. The initial Term ("**Initial Term**") shall commence on July 1, 2023 ("**Commencement Date**") and expire on June 30, 2024 ("**Expiration Date.**"). City Manager has the authority to approve two three-month extensions to extend contract through December 31, 2024.

• **Blanket Purchase Order.**

• Menu items are at the sole discretion of the Supplier as approved by the Registered Dietician at the San Mateo County Aging and Adult Services department, and shall meet all requirements of federal, state and local laws. Each meal shall provide one-third (1/3) of the Dietary Reference Intakes (DRI) and comply with the most current Dietary Guidelines for Americans (DGA). For each schedule of menus, CITY and Supplier shall sign a Blanket Purchase Order stating forth the following mutually agreed terms ("**Executed Purchase Order**"):

- a description of the Products to be supplied by Supplier;
- the specifications for the Products ("**Specifications**");
- the delivery location for the Products (if different than the SLP site); and
- the delivery schedule for the Products.

A true and correct copy of the initial Executed Purchase Order effective as of the Commencement Date of the Initial Term is attached hereto and incorporated herein as Exhibit A.

- In the event CITY desires to change the terms of an Executed Purchase Order then in effect, CITY shall provide Supplier with a proposed new Blanket Purchase Order. The terms set forth in the proposed new Blanket Purchase Order shall be binding upon Supplier unless Supplier provides CITY with a written notice specifying the terms of the proposed new Blanket Purchase Order to which Supplier objects within ten (10) days after Supplier's receipt of the same. In the event Supplier issues a timely notice of objection to CITY, the parties shall make good faith diligent efforts to negotiate and execute the terms of a mutually agreeable new Blanket Purchaser Order. Once executed, such new Blanket Purchase Order shall replace the Executed Purchase Order attached as an exhibit to this Agreement.

- CITY to Control Volume of Product. CITY makes no representations, implied or expressed, regarding the quantity of Product or number of Orders to be purchased from Supplier during the Term.

**Ordering and Delivery.** CITY may place periodic or standing orders for Products with Supplier pursuant to the then effective Executed Purchase Order in writing, by e-mail, by specifying the quantities of Products ordered, the date that the Products are to be delivered, and the place to which the Products are to be delivered (each, an "**Order**"). An Order shall be deemed accepted by Supplier unless Supplier provides written objection faxed to CITY within one (1) week before the scheduled delivery time of the Order. In the event CITY places an Order with Supplier less than one (1) week before such Order's scheduled delivery time, Supplier shall use its best efforts to notify CITY as soon as possible in the event such Order is not acceptable. All Orders shall be shipped in accordance with the requirements set forth in the Blanket Purchase Order then in effect and in the San Mateo Department of Health Services, Aging & Adult Services Program Memo No. PM 95-03 (P) dated February 2, 1995 ("**February 2, 1995 Memo**") attached hereto as Exhibit C. Delivery shall not be complete until the Products have been actually delivered to and accepted by CITY. CITY agrees that Supplier may make reasonable material substitutions of Product, unless CITY has specifically forbidden such substituted Product in advance. Each Order shall be shipped according to the schedule required by such Order. Supplier shall immediately notify CITY of any delay or "threat of delay" arising from any cause in the production or delivery of the Product for any Order. Supplier's notice shall describe the reason for such delay or threatened delay.

**Pricing.** CITY shall pay \$10.75 for each meal supplied by Supplier, for a total contract amount, including any extensions through December 31, 2024, not to exceed Seventy thousand dollars (\$70,000.00). It is the responsibility of CITY not to order meals or supplies that would exceed this limit.

**Invoice & Payment Terms.** Supplier shall issue an invoice for its services to CITY at the beginning of each calendar month of the Term. CITY agrees to pay each such invoice within thirty (30) calendar days after CITY receives such invoices. The parties may execute an amendment to this Agreement specifying terms providing a discount to CITY for earlier payment. Invoices not paid within thirty (30) days from the date of CITY's receipt of the invoice shall be deemed overdue. In the event CITY fails to pay any amount when due, CITY agrees to pay interest on the unpaid amount at a rate equal one percent (1%) per month or the highest rate allowed by law, whichever is less.

**Packaging Specifications.** Supplier will package the Products in accordance with the packaging requirements and specifications ("**Packaging**") stated in Exhibit B hereto. Supplier, at its sole cost expense, will provide the Packaging to CITY.

**Trademarks and Designs.** Some of the Products may bear Supplier's name, logo and/or other proprietary marks ("**Trademarks**") and proprietary designs ("**Designs**"). CITY shall not use the Trademarks in CITY's advertising or promotions except with Supplier's prior written reasonable approval.

**Inspection.** Supplier agrees that every six (6) months, or at any time that CITY has reason to believe that Supplier is not in compliance with this Agreement, authorized representatives of CITY and/or County Aging Services may enter Supplier's place of production to observe during Supplier's production process of the Products to ensure quality and consistency and to ensure Supplier's compliance with this Agreement. CITY shall give Supplier at least 48 hours' prior notice of such inspection. Supplier agrees to implement any written CITY recommendation that may be reasonably required to maintain a level of quality consistent with CITY's standards, but only if said recommendation is also made by the Registered Dietician at the San Mateo County Aging and Adult Services department. Upon CITY's request, Supplier shall provide CITY with access to Supplier's quality assurance data documentation upon request.

**Representations and Warranties.** Supplier represents and warrants, which warranties and representations will survive the term of this Agreement:

- that the Products will conform to all Specifications, including photographs of the Products, and including but not limited to those specifications contained in the Blanket Purchase Order, and will be merchantable, free from defects and will be fit for the purpose intended for the period of time that is set forth in the February 2, 1995 Memorandum attached hereto as Exhibit C;

- that the Products, including food articles, food ingredients, food packaging, and food labeling relating to or comprising the Products or any part thereof delivered, sold or transferred to CITY hereunder shall comply with all applicable federal, state and local statutes, rules, codes and regulations; and

- that Supplier has the facilities and capacity to supply the Products to CITY in accordance with the Specifications; that Supplier's facilities will comply with the inspection and testing procedures established and carried out by the American Institute of Baking and/or the United States Department of Agriculture; and that Supplier shall conform to the February 2, 1995 Memo attached hereto as Exhibit C.

- **Presentation and Serving.** Supplier is responsible of the safe delivery of the Products up through and into the interior of Purchaser's premises. After delivery of the Products by Supplier, Purchaser is responsible for all handling, preparation, service and storage, presentation of and disposal of the Products in compliance with law.

- **Food Safety.** Throughout the Term of this Agreement, Purchaser shall employ at least one person who has successfully passed an approved and accredited food safety certification examination as specified under California Health & Safety Code Sections 113700 – 113733, as may be amended, or any more stringent certification that may be required by local governing body. Supplier shall provide a daily delivery sheet showing the quantity and the temperature of the items as they leave Supplier's location. CITY shall note the time and temperature when received and shall immediately notify Supplier if items were delivered at an unsafe temperature. These completed daily delivery sheets shall be scanned and e-mailed by CITY to Supplier no less frequently than weekly.

**Conformity of Products/Additional Samples.** In the event the Products do not conform to the requirements set forth in this Agreement, CITY shall be permitted to reject all nonconforming shipments upon initial inspection.

**Insurance.** During the Term, Supplier agrees to maintain the policies set forth in Exhibit D entitled “INSURANCE REQUIREMENTS”, which is attached and incorporated in this Agreement as if set forth in full. All policies, endorsements, certificates and/or binders shall be subject to approval by the City Attorney. These requirements are subject to amendment or waiver only if so approved in writing by the City Attorney. Supplier shall not commence work until all insurance required hereunder has been submitted and approved. A lapse in any required amount or type of insurance coverage during this Agreement shall be a breach of this Agreement.

**Cure Notice and Default.** The parties will monitor product quality, conformance to specifications and customer feedback regarding the Products. The parties will work as a team to continually provide Products that meet the Specifications and satisfy CITY program clients. If CITY does not believe that a Product or Products meet the Specifications (“**Product Default**”), CITY shall provide written notice to Supplier stating the requirements that are not being met and requesting corrective action (“**Notice of Product Default**”). Supplier shall have ten (10) days following receipt of the Notice of Default to cure the Product Default to the satisfaction of CITY. Any cure shall not require Supplier to perform beyond the requirements of the Specifications. If Supplier does not timely cure such Product Default, CITY may terminate this Agreement upon three (3) days’ notice to Supplier.

**Termination for Convenience.** Either party shall have the right to terminate this Agreement at any time without cause with sixty (60) days prior written notice, whether or not the other party is in default of any Agreement requirements or obligations. Upon termination, Supplier will immediately cease performance, cease any further use of any CITY names, logos and trademarks and shall not represent itself as affiliated in any way with CITY.

- **Termination for Non Payment.** Should Purchaser fail to pay Supplier in accordance with the terms or conditions of this Agreement more than two (2) consecutive calendar months during the Term, Supplier may cease production of Products and terminate this Agreement, both not less than five (5) days prior written notice to Purchaser. If Supplier ceases production and terminates this Agreement for non-payment more than once during the term of this Agreement, the Supplier will be under no obligation to reinstate services and may, at its sole option, consider reinstatement under a new agreement to be approved by all parties prior to any resumption of services.

- **Indemnification.**

Supplier shall protect, defend (with counsel acceptable to CITY), indemnify and hold harmless CITY, its council members, officers, employees and agents from any and all actions, causes of actions, claims, losses, expenses (including reasonable attorneys’ fees and costs) or liability (collectively called “Actions”) on account of damage of property or injury to or death of persons arising out of or resulting in any way from work performed in connection with this Agreement by Supplier, its officers, employees, sub-consultants or agents. Supplier shall protect, defend (with counsel acceptable to CITY), indemnify and hold harmless CITY, its council members, officers, employees and agents from any and all contractor Actions for additional compensation resulting from Supplier’s failure to disclose information known by the Supplier. The acceptance of Supplier’s services by the CITY shall not operate as a waiver of such right of indemnification.

Supplier acknowledges and agrees that it has an immediate and independent obligation to defend CITY, its council members, officers, employees and agents from any claim or Action which potentially

falls within this indemnification provision, which obligation shall arise at the time such claim is tendered to Supplier by CITY and continues at all times thereafter.

All of Supplier's obligations under this section are intended to apply to the fullest extent permitted.

**Independent Contractor Relationship.** The parties intend that the Supplier, in performing the services hereinafter specified, shall act as an independent contractor and shall have the control of the work and the manner in which it is performed. It is understood and agreed that this agreement is not a contract of employment in the sense that the relationship of master and servant exists between the CITY and undersigned. At all times, Supplier shall be deemed to be an independent contractor and Supplier is not authorized to bind the CITY to any contracts or obligations in executing the Agreement. Supplier is not to be considered an agent or employee of the CITY, and is not entitled to participate in a pension plan, insurance, bonus or similar benefits the City of East Palo Alto provides. Supplier will determine the method, details and means of performing the services described in this Agreement.

- **Assignment/Delegation.** The parties agree that the expertise and experience of Supplier and any subcontractors are material considerations for this Agreement. Supplier shall not assign or transfer any rights, duties, obligations or interest in this Agreement nor the performance of any of Supplier's obligations hereunder, without the prior written consent of the City Manager, and any attempt by Supplier to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect and a breach of this Agreement. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

- **Conflict of Interest.** Supplier shall at all times avoid conflicts of interest and take reasonable steps to avoid appearances of conflicts of interest in the performance of this Agreement. Without limiting the foregoing, Supplier, including its officers, employees and subcontractors, specifically covenants that it presently has no interest, and shall not acquire, any interest, direct or indirect, which would conflict in any manner or degree with the performance of its service hereunder. Supplier further covenants that no one who has or will have any financial interest under this Agreement is an officer or employee of the CITY.

- **Force Majeure.** Each party shall incur no liability to the other party with respect to, and shall not be responsible for any failure to perform, any of its obligations hereunder if such failure is caused by any reason beyond the control of such party including, but not limited to, strike, labor trouble, governmental rule, regulations, ordinance, statute or interpretation, or by fire, earthquake, civil commotion, or failure or disruption of utility services. The performance of any covenant, agreement, work, service, or other act shall be excused for the period of delay and the period for the performance of the same shall be extended by such period. The parties shall develop an emergency meal replacement plan in an attempt to continue limited meal service in the event of an event of force majeure.

- **Non-Discrimination & Non-Harassment.** Supplier shall comply with all applicable federal, state and local laws, rules and regulations in regard to nondiscrimination and non-harassment in employment because of race, color ancestry, national origin, religion, sex, marital status, age, sexual orientation, medical condition or physical handicap. Supplier agrees to abide by the CITY's Policy against Discrimination, Harassment and Retaliation as set out in attached Exhibit E and incorporated herein by reference as if fully set forth as part of this Agreement.

- **Governing Law.** The law governing this Agreement shall be that of the State of California.
- **Compliance With Laws.** Supplier shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.
- **Waiver.** Waiver of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by Supplier shall not be deemed to be a waiver of any term or condition of this Agreement.
- **Merger and Modification.** This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms of the agreement, pursuant to California Code of Civil Procedure Section 1856 and as a complete and exclusive statement of the terms of the agreement. No modification to this agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.
- **Severability.** Each provision of this Agreement is intended to be severable. If any term of any provision shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be wavered from this agreement and shall not affect the validity of the remainder of the agreement.
- **Dispute Resolution.** Any dispute or claim in law or equity between the CITY and Supplier arising out of this agreement, if not resolved by informal negotiation between the parties, shall be submitted to alternate dispute resolution, with each party bearing its own costs and legal fees. Should litigation result, the court shall determine who bears legal fees and costs.

**Notices.** All notices and other communications required or permitted to be given under this Agreement shall be given in writing by personal delivery, by facsimile transmission with verification of receipt, or by U. S. mail, postage prepaid and return receipt requested, addressed to the respective parties as follows:

|                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b><u>CITY :</u></b></p> <p>CITY OF EAST PALO ALTO /<br/>COMMUNITY SERVICES<br/>DIVISION<br/>SENIOR LUNCH PROGRAM<br/>2415 University Avenue<br/>City Hall, 2<sup>nd</sup> Floor<br/>East Palo Alto, CA 94303<br/>Attn: Maurice Baker<br/><b>Community Services Manager</b><br/>Telephone: (650) 660-2527<br/>Facsimile: (650) 853-3115<br/>E-Mail: <a href="mailto:mbaker@cityofepa.org">mbaker@cityofepa.org</a></p> | <p><b><u>SUPPLIER:</u></b></p> <p>PENINSULA VOLUNTEERS, INC.<br/>800 Middle Avenue<br/>Menlo Park, CA 94025<br/>Attention: Peter Olson<br/>Telephone: (650) 326-0665<br/>Facsimile: (650) 326-9547</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|  |  |
|--|--|
|  |  |
|--|--|

Notice shall be deemed communicated on the earlier of the actual receipt or forty-eight (48) hours after deposit in the U. S. mail, the date of delivery shown on deliverers receipt, or by acknowledgment of the facsimile transmission.

THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE HEREBY  
ACKNOWLEDGED AND AGREED TO:

|                                                                                                                        |                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| <p><b><u>CITY:</u></b></p> <p><b>CITY OF EAST PALO ALTO</b></p><br><p>By: _____<br/>Melvin E. Gaines, City Manager</p> | <p><b><u>SUPPLIER:</u></b></p> <p><b>PENINSULA VOLUNTEERS, INC.</b></p><br><p>By: _____<br/>Peter Olson, Chief Executive Officer</p> |
|                                                                                                                        |                                                                                                                                      |

APPROVED AS TO FORM

By: \_\_\_\_\_  
John Le, City Attorney

## **EXHIBIT A TO SUPPLIER AGREEMENT**

### **BLANKET PURCHASE ORDER**

Blanket Purchase Order No. -

This Blanket Purchase Order ("Purchase Order") is deemed dated October 1, 2022 by and between by and between CITY OF EAST PALO ALTO, a Municipal Corporation ("CITY" or "PURCHASER"), and PENINSULA VOLUNTEERS, INC., a California Non-Profit Corporation ("Supplier"), and issued pursuant to that certain Supplier Agreement between PURCHASER and Supplier dated July 1, 2021 ("Supplier Agreement"). Capitalized terms used in this Purchase Order which are not otherwise defined herein shall have the meanings set forth in the Supplier Agreement.

**PRODUCTS AND SPECIFICATIONS:** Supplier agrees to supply Products to PURCHASER pursuant to the Product Menus and Specifications listed in Exhibit A.1 to this Blanket Purchase Order. Supplier shall package meals in bulk container pans to be utilized and portioned for serving by CITY. Supplier shall also provide "Hot & Cold Food Carriers", and will deliver the meals to specified locations in East Palo Alto, CA. Replacement of lost or damaged Hot & Cold Food Carriers (beyond normal wear and tear) shall be the responsibility of CITY.

**PRICING:** CITY shall pay Supplier \$10.75 for each meal supplied by Supplier for the period of October 1, 2023 through and including June 30, 2024, not to exceed a total of SEVENTY THOUSAND DOLLARS AND 00/100 (**\$70,000.00**). The price of each meal includes a complete meal prepared to meet the food service requirements for congregate meals as defined in the Title 22, California Code of Regulations, Chapter 4, Article 5, Title III C – Elderly Nutrition Program regulations of the San Mateo County Department of Health Services Aging & Adult Services, pursuant to the attached "Cycle Menu." Supplier will charge a Supplemental Delivery Fee of \$15.00 for any day where the number of meals delivered is less than twenty. If CITY re-packages the meals for delivery to its clients, Supplier may provide the necessary supplies for individual meal packaging for a supplemental fee of \$1.50 per meal.

**ORDERING and DELIVERY:**

By the third Monday of every month CITY shall provide Supplier with a list by CITY of the total number of Meals ordered by day for the subsequent calendar month. This list shall also specify any days that the Senior Center has notified the CITY that they will be closed or days where the Senior Center plans to have a special program that would affect the usual number of meals. The Meals shall be delivered to SLP. If CITY requires delivery to any other location, the list shall provide the location(s) for delivery and directions to such other location(s), and Supplier shall cause the Product delivered to the location(s) designated by CITY. Each delivery shall include a time and temperature record, attached to and incorporated into this Agreement as

Attachment A.2 to this Blanket Purchase Order.

EXHIBIT A

ATTACHMENT A.1 TO EXHIBIT A

**PRODUCT MENUS AND SPECIFICATIONS**

**ACHMENT A.2 TO EXHIBIT A**

**TIME AND TEMPERATURE RECORD**



**ATTACHMENT 1 TO EXHIBIT A TO SUPPLIER AGREEMENT**  
**BLANKET PURCHASE ORDER**  
**Product Menus and Specifications**

**EXHIBIT B TO SUPPLIER AGREEMENT**  
**PACKAGING SPECIFICATIONS**

**Meals shall be packed using the following packaging components**

**Hot Meals**

Supplier shall supply hotel pans for steam tables for serving meals.

**Cold Food**

Supplier shall use delivery boxes with "cold packs" to keep items temperature controlled.

**Hot & Cold Food Carriers**

Supplier shall use Cambro (brand) Hot Food transport containers, or other Hot Food transport containers of comparable capacity and quality.

**EXHIBIT C TO SUPPLIER AGREEMENT**

San Mateo County Department of Health Services

Aging and Adult Services Program Memo No. PM 95-03 (P)

- Supplier will supply only "Essential Non-Food" supplies as set forth in this paragraph one. Supplier will only provide sufficient of Essential Non-Food supplies to serve the pre-determined amount of meals served at each senior center twice per month.
- Essential Non-Food Supplies provided by Supplier include:
  - 5 Compartment Plates
  - Dinner Napkins
  - 5 oz. Cold Cups
  - Soup Cups (where applicable)

- Plates for entrée salads (where applicable)
- Straws
- Margarine
- Salt Packets
- Pepper Packets

Non-Essential Non Food Supplies provided by Supplier at Supplier's cost plus 10% include:.

- Cleaning Supplies i.e. bleach dishwashing soap
- Aprons
- Gloves
- Hairnets
- Placemats
- 3 Compartment Plates
- 8 oz. Paper Hot cups w/handle
- Coffee Stirrers
- Sugar Substitutes
- Sugar Packets
- 
- 

• **EXHIBIT D TO SUPPLIER AGREEMENT**

## INSURANCE REQUIREMENTS

### I. TYPES OF INSURANCE

- Commercial General Liability Insurance: Contractor's General Liability insurance shall include contractual liability coverage. Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the Contractor's operations under this Agreement, whether such operations be by Contractor or by any sub-Contractor or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000), in aggregate or Three Million Dollars (\$3,000,000) combined single limit bodily injury and property damage for each occurrence. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.
- Automobile Liability Insurance: Contractor shall take out and maintain during the life of this Agreement such Automobile Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000) for each occurrence combined single limit or not less than One Million Dollars (\$1,000,000) for any one (1) person, and One Million Dollars (\$1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, (\$300,000) property damage. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.
- Worker's Compensation and Employer's Liability Insurance: Contractor shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement".
- Professional Liability Insurance: Contractor shall take out and maintain during the life of this Agreement a policy of professional liability insurance, protecting it against claims arising out of the acts, errors, or omissions of Contractor pursuant to this Agreement, in the amount of not less than One Million Dollars (\$1,000,000) per claim. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.

## II. ADDITIONAL REQUIREMENTS

- Broader Insurance Coverage: In the event that Contractor maintains broader coverage and/or higher limits than the City's minimum requirements, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance shall be called upon to protect it as a named insured.
- Additional Insured Status: The City of East Palo Alto, its subsidiary agencies, directors, officers, employees, agents, independent contractors and volunteers shall be named as additional insureds on any such policies of comprehensive general and automobile liability insurance.
- Primary and Non-Contributory Coverage: Except for professional liability and worker's compensation insurance, the policies shall also contain a provision that the insurance afforded to the City, its subsidiary agencies, and their directors, officers, employees, agents, independent contractors and volunteers based on additional insured status shall be primary and non-contributory insurance to the full limits of liability of the policy, and that if the City, its subsidiary agencies and their directors, officers, employees, agents, independent contractors and volunteers have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.
- Verification of Coverage: Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause). All certificates and endorsements are to be received and approved by the City Attorney's Office at least five days before Contractor commences work to be performed pursuant to the agreement.
- Notice of Cancellation: Contractor shall provide thirty (30) days' notice, in writing, to the City, at 2415 University Avenue, East Palo Alto, CA 94303, of any pending change or cancellation of the policy.
- Deductibles or Self-Insured Retentions: Prior to the execution of this Agreement, any deductibles or self-insured retentions must be declared to and approved by City.
- Breach: In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, City, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

• **EXHIBIT E TO SUPPLIER AGREEMENT**

•

**CITY OF EAST PALO ALTO'S POLICY AGAINST  
DISCRIMINATION, HARASSMENT AND RETALIATION**

EFFECTIVE DATE: 12/21/2004

REVISED DATE: 1/12/07

ADOPTED BY CITY COUNCIL: 12/21/2004

**I. PURPOSES**

The purposes of this policy are to emphasize the City's commitment to keeping its workplace free of harassment, discrimination and retaliation, to define and provide examples of the conduct that is prohibited, to summarize the respective responsibilities for preventing, reporting, investigating, and responding to violations and to give clear warning of the serious consequences that violators will face.

A copy of this policy shall be provided to all persons who are subject to it, and shall be posted on City bulletin boards in all City facilities.

**II. POLICY**

All of the following are prohibited by this Policy:

- Discrimination or harassment in any aspect of City employment based on any legally protected characteristic or status, including sex, gender, sexual orientation, race, color, national origin, language, ancestry, religion, age, marital status, domestic partner, physical disability, mental disability, or medical condition.
- Retaliation for opposing, filing a complaint about, or participating in an investigation of, any such harassment or discrimination.
- Aiding, abetting, inciting, compelling, or coercing or any such discrimination, harassment or retaliation, or attempting to do so.

The City will take all reasonable steps necessary to prevent such misconduct from occurring, and to remedy and punish any occurrence. Any City employee, Council member, member of any advisory body, including any Commissioner, Committee member, or Board member found having engaged in any such misconduct will be subject to disciplinary action up to and including termination or censure or removal and will be deemed to have acted outside the course and scope of his or her employment.

This policy applies to all City employees, volunteers, interns, vendors, and contractors as well as to all applicants for City positions.

The policy shall not be interpreted or applied in any manner that would be inconsistent with any applicable State or Federal law or regulation, or increase the legal liability of the City.

### **III. DESCRIPTION AND EXAMPLES OF PROHIBITED HARASSMENT**

Harassment on the basis of sex is unlawful, and is prohibited by this policy. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- An individual's submission to such conduct is made explicitly or implicitly, a term or condition of that individual's employment; or,
- An individual's submission to or rejection of such conducts is used as the basis for an employment decision affecting that individual; or,
- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, abusive, or offensive work environment.

Sexual harassment need not be motivated by sexual desire or gratification and may include nonsexual conduct motivated by the violator's hostility towards the victim's gender, or towards the victim's nonconformity to gender stereotypes. Sexual harassment includes not only conduct motivated by gender, but also by pregnancy, childbirth, or a related condition. A harasser may be either male or female, and the victim may either be the same sex or the opposite sex. Even a person who is not the intended target of harassment may be harassed by it if he or she witnesses it.

Sexual harassment may be verbal, visual, or physical. For example:

- Verbal harassment may consist of derogatory, threatening, or intimidating comments, epithets, slurs or jokes; references to gender, physical appearance, attire, sexual prowess, marital status, or pregnancy; or sexual advances, propositions, or demands.
- Visual harassment may consist of displaying or circulating derogatory or offensive posters, cartoons, drawings, photographs, pin-ups, computer images, or electronic media transmissions.
- Physical harassment may consist of assault, battery, or unwelcome, unnecessary and offensive touching (kissing, hugging, patting, rubbing, pinching, brushing against), staring, leering, gesturing, whistling or making noises, impeding or blocking movement, or physical interfering with normal work or movement.

In addition to prohibiting harassment based on sex or gender, this policy also prohibits harassment based on sexual orientation, or upon any other legal protected characteristic or status, such as race, religion, creed, color, national origin, language, ancestry, physical disability, mental disability, medical condition, marital status, domestic partner, or age.

Harassment on the basis of such factors is subject to the principles applicable to sexual harassment, as stated above.

#### **IV. REPORTING DISCRIMINATION, HARASSMENT OR RETALIATION**

Any City employee, volunteer, intern, vendor, contractor, or applicant who becomes aware of any discrimination, harassment or retaliation prohibited by this policy shall report it immediately to their immediate supervisor, or higher ranking supervisor, or the Assistant City Manager. Under no circumstances shall such a report be required or expected to be made to the person who engaged in the misconduct that is subject to this report.

The responsibility to report conduct prohibited by this policy arises even if the conduct is directed toward someone else and even if the person toward whom it is directed does not want it reported.

Reports may be made orally or in writing, free of requirements as to form.

Because reports of conduct prohibited by this policy will be treated as serious charges, the making of a deliberately false report, or a report made with reckless disregard for its truth or falsity, may subject the maker to disciplinary action.

#### **V. INVESTIGATION AND RESOLUTION**

The City of East Palo Alto will investigate all reported violations of this policy. All employees, volunteers, interns, vendors and contractors, members of the City Council, or members of a City advisory body shall cooperate with any such investigation.

Any supervisor, manager department head, member of the City Council, or member of a City advisory body who receives a report of, or who becomes aware of, conduct prohibited by this policy shall promptly report it to the Personnel Officer. Upon receiving the report, the Personnel Officer shall direct any report that accuses a City Council member or appointee to the City Council for investigation and resolution. The City Council shall delegate the responsibility to conduct a prompt, full, and fair investigation to the qualified private investigator. Upon receiving a report regarding a non-City Council member or appointee, the Personnel Officer shall conduct a prompt, full, and fair investigation, or delegate that responsibility to a qualified City employee or private investigator. The person performing the investigation shall:

- Interview the complainant, the accused, and any other person the investigator believe to have knowledge relevant to the charges;
- Gather and review any documentary, electronic, or physical evidence relevant to the charges;
- Consult with legal counsel as needed;
- Determine whether the charges can or cannot be substantiated; and
- Develop recommendations for appropriate remedial and/or disciplinary action, if any.

## **VI. OUTSIDE ADMINISTRATIVE AGENCIES**

In addition to the remedies described in this Policy, the U.S. Equal Employment Commission and the California Department of Fair Employment and Housing provide administrative complaint and investigation processes as to harassment, discrimination or retaliation on the basis of a protected status. The toll free telephone number for such office is listed below:

California Department of Fair Employment and Housing 1.800.233.3212

U.S. Equal Employment Opportunity Commission 1.800.669.4000



# **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** December 5, 2023

**TO:** Honorable Mayor and Members of the City Council

**VIA:** Melvin E. Gaines, City Manager

**BY:** Karen Camacho, Housing & Economic Development Manager  
Benjamin Toney, Partnership for the Bay's Future Fellow

**SUBJECT:** Adoption of East Palo Alto Opportunity to Purchase Act (EPA OPA)

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## **Recommendation**

1. Waive the second reading and adopt an “East Palo Alto Opportunity to Purchase Act (EPA OPA)” ordinance for real residential property, adding Chapter 14.25 to the East Palo Alto Municipal Code.
2. Direct the City Manager to return with Administrative Guidelines for the City Council’s consideration; and
3. Find that the adoption by the City Council of the amendments is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3), 15378(b)(4), 15378, 15061(b)(3), and 15183 of the CEQA Guidelines.

## **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

Priority No. 1: Promote Housing, Economic and Workforce Development

### **Executive Summary**

At the November 7, 2023 City Council meeting, prior to waiving the first reading and introducing an ordinance (East Palo Alto Opportunity to Purchase Act, “EPA OPA”), the Council made additional revisions on the dais as described herein, including amending the effective date of the Ordinance the earlier of the adoption of the Administrative Guidelines, or sixty (60) days after the second reading, on February 5, 2024.<sup>1</sup>

### **Background**

In October 2018, the City Council adopted the City’s Affordable Housing Strategy (“the Strategy”) which laid out the City’s affordable housing goals and objectives through 2023.<sup>1</sup> One of the key goals of the Strategy, which the City Council officially adopted as a Council Priority in 2021, was to “Advance the Concept of TOPA/COPA and Other Homeownership Opportunities.” The East Palo Alto Opportunity to Purchase Act (also referred to herein as “Ordinance,” “Chapter” or “EPA OPA”) was drafted to combat displacement short term and long term,<sup>2</sup> promote community stability, increase homeownership opportunity for residents, and preserve affordable housing, by facilitating purchases of both single family and multifamily properties across an array of rightsholders: Tenants, Housing Providers (also referred to as “Qualified Nonprofits” or “QNPs”), and the City.

On November 7, 2023, the City Council introduced a joint Tenant Opportunity to Purchase Act and Community Opportunity to Purchase Act ordinance (the “East Palo Alto Opportunity to Purchase Act” or “EPA OPA”), assigning rights to Tenants, Housing Providers, and the City for single family housing and multifamily housing, with additional revisions on the dais, as described below.

### **Analysis**

#### **Additional Revisions**

Prior to introduction, the City Council directed staff to make the following changes to the proposed ordinance, as set forth in Attachment 1 (highlighted below with double underlined text).

#### ***Definitions***

Adding or removing language in definitions to resolve clerical errors.

#### **14.25.020 Definitions**

[...]

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<sup>1</sup> See November 7, 2023 City Council public hearing at: [https://cityofepa.granicus.com/player/clip/42?view\\_id=1&redirect=true&h=3629c057d322f3933f1d91ee079324b6](https://cityofepa.granicus.com/player/clip/42?view_id=1&redirect=true&h=3629c057d322f3933f1d91ee079324b6).

## **CONSENT ITEM 3.3**

**“Junior Accessory Dwelling Unit (JADU)”** means an accessory dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence, as defined in Chapter 18.96.

[...]

~~**“Rightsholder Purchaser(s)” or “Rightsholding Purchaser(s)”** means Tenants, Qualified Non-Profits, or the City who are purchasing a Residential Property.~~

[...]

**“Rightsholder”** means Tenant, Qualified Non-Profit Housing Organization, or the City in reference to the Right of First Offer and Right of First Refusal as conferred in this chapter.

[...]

**“Third-Party Purchaser”** means any person or entity other than a Rightsholder that has entered into a bona fide contract of sale for a Residential Property ~~prior to an Owner giving the Rightsholder(s) an opportunity to purchase at a price and terms that represent a Bona Fide Offer to Purchase.~~

### ***Consistent Timelines***

Removal of mention of “Notice Period” and other revisions to create timeline consistency.

#### 14.25.020 Definitions

[...]

**“First Offer”** means an offer made by a Rightsholder (Tenant, Qualified Non-Profit Housing Organization, or the City) during the Offer Period.

[...]

**“Offer Period”** means the time allotted, as varied by building type following the timely submittal of a Statement of Interest by a Rightsholder, during which Rightsholders may make First Offers to purchase the property.

[...]

#### 14.25.060 Assignment of Rights

[...]

- C. The assignment of rights may occur at any time during the Statement of Interest Period and/or Offer Period no later than the end of the Offer to Purchase period.

[...]

#### 14.25.070 Notice of Intent to Sell; Statement of Interest

[...]

- D. Effect of Statement of Interest. Receipt of a timely Statement of Interest by the Owner and transmission of a disclosure package to the Rightsholders shall initiate the Offer Period during which rightsholders can exercise Right of First Offer as follows:

[...]

#### 14.25.090 Offer to Purchase

- A. Submission of Offer to Purchase. The Rightsholder may deliver to the Owner of the Residential Property an offer to purchase the property at any time prior to the expiration of the Offer Period. The Owner may accept or reject any offer to purchase received from a Rightsholder subsequent to the steps set forth in Section 14.25.080.

| <b>Dwelling Type</b> | <b><u>Offer</u> Period</b> |
|----------------------|----------------------------|
| Single Family        | <u>30</u> calendar days    |
| Multiple 2-3 Units   | <u>60</u> calendar days    |
| Multiple 4+ Units    | <u>60</u> calendar days    |

[...]

- C. Termination of Right of First Offer. Upon rejection of all offers to purchase made within the Offer Period, or the closure of the Statement of Interest Period and/or Offer Period by expiration or waiver of rights by all qualifying Rightsholders, the Owner may list and market for sale the Residential Property and may solicit and conditionally accept any Third-Party Offer, subject to the requirements of Section 14.25.100.

#### ***Applicability by Law***

Adding “as applicable by law” where needed.

#### 14.25.070 Notice of Intent to Sell; Statement of Interest

[...]

- C. Disclosure Package. Within five (5) days of sending a Notice of Intent to Sell to Rightsholder, the Owner must provide a disclosure package, as required by applicable law, and that may include documents and information set forth in the Administrative Guidelines, and at minimum, an itemized list of annual income and expenses, including but not limited to rent and other income collected, and costs of management, insurance, utilities, maintenance, and repairs.

### ***Closing***

Adding language to resolve clerical errors.

14.25.110 Closing

[...]

- B. Rejection of Offer or Failure to Close. If each Rightsholder entitled to receive an Offer to Purchase waives or fails to exercise the Right of First Offer within the time set forth in this section, or if an Owner rejects any and all First Offers made by Rightsholders during the Offer Period, or if a Rightsholder that submits an accepted Offer to Purchase fails to close escrow within the time set forth in this section, the Owner may immediately proceed with the sale or transfer of the Residential Property to a Third-Party Purchaser.
- C. Notwithstanding any other provision of this section, conditional sales agreements between an Owner and a Third-Party Purchaser are permitted so long as the agreement preserves the Right of First Refusal as conferred by this chapter.

### ***Notarization***

Removal of recordation requirement in favor of a notarized seller declaration before close of escrow.

14.25.160 Enforcement

- A. Owner Certification. Before close of escrow, the Owner(s) shall cause to be executed, through the escrow company that facilitates the sale of the property, a notarized signed declaration, under penalty of perjury, affirming that the sale of that property substantially complied with the requirements of this chapter. Owner shall instruct the escrow company to file a copy of the Owner Certification with the City. The City will publish addresses of all such sales on its website.

### ***Enforcement***

Capping penalties to a maximum amount of \$15,000 in the absence of willful non-compliance.

14.25.160 Enforcement

[...]

D. Penalties for violation of this Chapter:

1. Any violation shall be subject to a civil penalty not to exceed \$1,000 per day, unless such a penalty would not be in the interests of justice, as determined by a court of law. Each failure to provide the required notice or disclosure shall be considered a separate violation for each unit on a Property. Penalties assessed for violations found not willful shall not exceed \$15,000; no such maximum shall apply for willful violations.

***Administrative Guidelines***

Adoption of the administrative guidelines by resolution.

14.25.180 Implementation

- A. The City Council shall initially approve the Administrative Guidelines, by resolution, necessary to implement the requirements of this Chapter. Thereafter, the City Council may delegate to the City Manager the authority to amend the Administrative Guidelines as needed.

***Effective Date***

Changing the effective date to the sooner of Council adoption of the administrative guidelines by resolution, or 60 days after the ordinance adoption.

**SECTION 5. EFFECTIVE DATE.**

The Effective Date of this chapter shall be the earlier of City Council adoption of Administrative Guidelines by resolution, or 60 days after ordinance adoption. ~~This Ordinance shall take effect and be in full force on \_\_\_\_\_.~~

***Evaluation***

Adding an evaluation after two years from the effective date, under a new Section 6.

**SECTION 6. EVALUATION**

By operation of law, this Ordinance shall be evaluated in its entirety commencing two years from the Effective Date. Upon evaluation, the City Council may by an affirmative vote take action to retain or revise the Ordinance and any amendments thereto, or portions thereof.

**Fiscal Impact**

There is no fiscal impact associated with this staff report. The City's award of a Partnership for the Bay's Future Breakthrough Grant partially mitigates that cost by adding dedicated staff capacity from the Policy Grant Fellow, who will support with the mechanisms associated with implementation.

**Public Notice**

The public was provided notice by making the agenda and report available on the City's website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto. A newspaper notice was published on November 24, 2023 in the San Mateo County Times Newspaper.

**Environmental**

The proposed action is not subject to CEQA because it is not a "project" which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to California Environmental Quality Act ("CEQA") Guidelines section 15378(b)(4) in that it is a governmental fiscal, organizational or administrative activity that will not result in direct or indirect changes in the environment. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378 (regulatory actions), Section 15061(b)(3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning). The Council therefore directs that the Planning Division may file a Notice of Exemption with the San Mateo County Clerk.

**Attachments**

1. EPA OPA Ordinance (Chapter 14.25 of EPA Municipal Code)

**ORDINANCE NO. \_\_\_\_**

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

**ADDING CHAPTER 14.25 ENTITLED “EAST PALO ALTO OPPORTUNITY TO  
PURCHASE ACT” TO THE EAST PALO ALTO MUNICIPAL CODE**

**WHEREAS**, the City Council finds that East Palo Alto is experiencing a shortage of affordable housing, especially for extremely low-income, very low-income, low-income and moderate-income residents, and a displacement crisis; and

**WHEREAS**, rapid displacement is evidenced in East Palo Alto by high rates of eviction, increasing rents, and increasing home values; and

**WHEREAS**, there is a disproportionate impact of displacement, homelessness, and unmet affordable housing and homeownership needs in East Palo Alto borne by African American, Latinx, and Pacific Islander communities of color; and

**WHEREAS**, sixty percent (60%) of East Palo Alto’s population are renters, and over half of these renters are cost-burdened, meaning they spend over thirty percent (30%) of their monthly income on rent; and

**WHEREAS**, according to the Bay Area Equity Atlas and the Urban Displacement Project, seventy-two percent (72%) of low-income households in East Palo Alto live in gentrifying neighborhoods; and

**WHEREAS**, due to state law, tenants living in single-family homes and tenants living in buildings built after 1988 are not protected by rent stabilization (although the Just Cause for Eviction provision applies); tenants in rent-stabilized units are not protected from displacement by owner move-in; and when a tenant moves out, the rent for that unit can be raised to market value; and

**WHEREAS**, according to the American Community Survey (2015-2019) and San Mateo County Income Limits, the median household income in East Palo Alto of \$67,087 is less than half the county’s median household income, and most East Palo Alto households fall into the “extremely low-income” to “very low-income” category, or 30-50% AMI, making residents highly susceptible to dramatic shifts in the housing market; and

**WHEREAS**, according to the Center for Responsible Lending, during the foreclosure crisis from 2004-2008, African Americans and Latinxs in California were more than twice as likely as non-Hispanic Whites to lose their homes to foreclosure; and

**WHEREAS**, there is a concentration of properties in East Palo Alto owned by individual and entity investors and the majority of these investors are not residents of the City of East Palo Alto; and

**WHEREAS**, historically, East Palo Alto residents, both owners and renters, have been denied opportunities to build wealth through property ownership due to discriminatory housing policies, including the practice of redlining that impacted longer term residents and continues to impact successive generations of East Palo Alto residents; and

**WHEREAS**, it is a necessary and important public purpose to provide relief for these economic and social ills arising from the housing challenges facing East Palo Alto residents; and

**WHEREAS**, approximately 5.8% of properties in East Palo Alto are owned by East Palo Alto residents with a primary residence elsewhere in the city; and

**WHEREAS**, a limited exemption for these local residents who own other properties within East Palo Alto will promote the purpose of providing relief for these economic and social ills experienced by residents of East Palo Alto; and

**WHEREAS**, Tenant and Community Opportunity to Purchase Act programs have been adopted in a number of jurisdictions including Washington, D.C. and San Francisco to protect residents' ability to stay in a neighborhood in a cost-effective manner; and

**WHEREAS**, the City Council desires to prevent further displacement of East Palo Alto households, to supply a variety of affordable rental and ownership housing options, and to protect the health, safety and general welfare of the public through an opportunity to purchase program; and

**WHEREAS**, this action is exempt from the California Environmental Quality Act ("CEQA"), each as a separate and independent basis, including but not limited to, the following: CEQA Guidelines Section 15378 (regulatory actions). Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning.)

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

**SECTION 1. AMENDMENT TO THE EAST PALO ALTO MUNICIPAL CODE**

The City Council hereby adds Chapter 14.25 (“East Palo Alto Opportunity to Purchase Act”) to the East Palo Alto Municipal Code to read as follows:

**Chapter 14.25  
East Palo Alto Opportunity to Purchase Act**

**14.25.010 Title and Purpose**

- A. This chapter may be referred to as the “East Palo Alto Opportunity to Purchase Act” or “EPA OPA” program.
- B. The purpose of this chapter is to confer upon Tenants, Qualified Non-Profit Housing Organizations, and the City of East Palo Alto an opportunity to purchase upon the transfer or sale of Residential Property to prevent displacement of lower-income tenants, to facilitate ownership for residents, and to create more affordable housing opportunities in East Palo Alto.

**14.25.020 Definitions**

**“Absentee Owner(s)”** means an owner (or owners) of a residential property who do not occupy the residential property as the owner’s (or owners’) principal residence.

**“Accessory Dwelling Unit (ADU)”** means a separate dwelling unit providing complete independent living facilities for one or more persons containing living, sleeping, kitchen and sanitation facilities as defined in and subject to the provisions in Chapter 18.96.

**“Administrative Guidelines”** means any requirements for implementation and administration of this chapter adopted by the City.

**“50% AMI Income Household”** means households whose income does not exceed fifty percent (50%) of the Area Median Income, adjusted for family size and as published annually by the City.

**“Bona Fide Offer to Purchase”** means an offer to purchase a property or the interest in the property that is either:

(1) In cases in which a First Offer made by a Rightsholder is acceptable to an Owner, an offer with a price and other material terms at which a willing Owner would sell and a willing Buyer would purchase the property, or the appraised value; or,

(2) In cases following the expiration of marketing prohibition in which a Third-Party Offer is acceptable, an offer with a price and other material terms at which a willing Owner would sell and a willing Buyer would purchase the property, or the appraised value; or,

(3) In cases involving the exercise of the Right of First Refusal, an offer to purchase for the Rightsholder at a price and other material terms that are substantially equivalent to those accepted by an Owner in an arm’s length Third-Party Offer.

**“City”** means the City of East Palo Alto, including any departments within the City that are assigned any responsibilities under this chapter.

**“Condominium”** means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in space in a residential structure located on the real property in compliance with Civil Code Section 783. A condominium may include, in addition, a separate interest in other portions of the real property.

**“Day or Days”** means calendar day(s) unless otherwise stated.

**“Dwelling Unit”** means a structure or the part of a structure that is used as a residence that provides complete, independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.

**“Duplex”** means a single building that contains two dwelling units or two dwelling units on a single parcel. Duplex does not include accessory residential units.

**“First Offer”** means an offer made by a Rightsholder (Tenant, Qualified Non-Profit Housing Organization, or the City) during the Offer Period.

**“Junior Accessory Dwelling Unit (JADU)”** means an accessory dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence, as defined in Chapter 18.96.

**“Low-Income Households”** are households whose income does not exceed sixty percent (60%) of the Area Median Income, adjusted for family size and as published annually by the City.

**“Listing or Marketing”** means adding the property to the Multiple Listing Service (MLS) or any other private or public online database, or adding or disseminating information about the property, with the intent of informing Third-Parties or their representatives about the opportunity to purchase, promoting the property, or any actions that promote or facilitate communications from prospective buyers.

**“Median-Income Households”** are households whose income does not exceed eighty percent (80%) of the Area Median Income, adjusted for family size and as published annually by the City.

**“Moderate-Income Households”** are households whose income does not exceed one hundred and twenty percent (120%) of the Area Median Income, adjusted for family size and as published annually by the City.

**“Multiple-Family Dwelling”** means any property with two or more dwelling units.

**“Non-Exempt”** means a residential property or a transfer that is not exempt under provisions of this chapter.

**“Notice of Intent to Sell”** means a required notice from a non-exempt residential property owner of their intent to sell a residential property, to be provided to the Rightsholders prior to listing or marketing the residential property for sale.

**“Offer Period”** means the time allotted, as varied by building type following the timely submittal of a Statement of Interest by a Rightsholder, during which Rightsholders may make First Offers to purchase the property.

**“Owner”** means any natural person, corporation, association, partnership, joint venture, limited liability company, trustee, business entity and its respective agents, or any other entity, who is the owner of record of a residential property.

**“Owner-Occupied Single-Family Dwelling”** means a single-family dwelling that is occupied by the owner(s) as the owner’s or owners’ principal residence.

**“Owner-Occupied Duplex”** means a duplex in which at least one unit is occupied by the owner(s) as the owner’s or owners’ principal residence.

**“Owner-Occupied Triplex”** means a triplex in which at least one unit is occupied by the owner(s) as the owner’s or owners’ principal residence.

**“Pre-Marketing Period”** means the time before a non-exempt residential property owner may list or market the residential property to prospective Third-Party Purchasers, which may include the Statement of Interest Period and/or the Offer Period.

**“Principal Residence”** means a residential dwelling that is occupied and is the usual place of return of a natural person. A dwelling qualifies as a primary residence when the person has lived in the dwelling for more than fifty percent (50%) of the time in the year prior to the proposed sale; and the person acknowledges the dwelling as the person’s primary residence by voter registration, address on tax returns, homeowner’s exemption, and/or mailing address.

**“Qualified Non-Profit” or “Qualified Non-Profit Housing Organization”** means an organization that is exempt from Federal Income Tax under 26 USC Section 501(c)(3), or a California cooperative corporation that has the capacity to acquire, provide and manage affordable housing for low, very low, and extremely low income households as defined by the City’s annual Area Median Income calculations, has a commitment to prevent displacement, has a demonstrated commitment to community engagement, and is certified by the City through an application process.

**“Rent”** means the consideration, including security deposit, cleaning deposit and any other deposits, bonus, benefit or gratuity demanded or received for or in connection with the use or occupancy of rental units and housing services. Rent includes monies and the fair market value of goods or services rendered to or for the benefit of the landlord under the rental agreement.

**“Residential Property”** means any property containing one or more dwelling units and located in the City.

**“Right of First Offer”** means the Rightsholder's right to make a first offer to purchase a residential property, during the Offer Period following timely submittal of a Statement of Interest, prior to its listing or marketing to a broader audience by the Owner.

**“Right of First Refusal”** means the Rightsholder’s right to match a Third-Party Purchaser’s Bona Fide Offer to Purchase. Single-Family Dwellings are exempt.

**“Rightsholder”** means Tenant, Qualified Non-Profit Housing Organization, or the City in reference to the Right of First Offer and Right of First Refusal as conferred in this chapter.

**“Single-Family Dwelling”** means a building, structure or dwelling unit (e.g. accessory dwelling unit), or portion of a building, structure, or dwelling unit principally designed for the residential habitation of one household, with all secure entrances leading to the same set of interior common areas.

**“Statement of Rights and Obligations”** means a statement provided by a Qualified Non-Profit to a Tenant that assigns their rights under this chapter, or by a Qualified Non-Profit that purchases a residential property under this chapter, outlining its responsibilities as the Rightsholder and/or Subsidized Purchaser.

**“Subsidized Purchaser”** is any Rightsholder (Tenant, Qualified Non-Profit, or City) receiving public or private subsidy to support a purchase.

**“Tenant”** means a renter, tenant, subtenant, lessee or sublessee of a rental unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or sublessees of any rental unit, or any other person entitled to the use or occupancy of such rental unit.

**“Third Party”** means any person or entity that is not a Rightsholder and not the Owner/Seller of the property.

**“Third-Party Offer”** means any offer made by a person or entity for a Residential Property other than a Rightsholder.

**“Third-Party Purchaser”** means any person or entity other than a Rightsholder that has entered into a bona fide contract of sale for a Residential Property.

**“Triplex”** means a single building that contains three dwelling units or three dwelling units on a single parcel. Triplex does not include accessory dwelling units.

#### **14.25.030     Applicability**

This chapter applies to the sale or transfer of all Residential Property in the City unless otherwise exempted.

#### **14.25.040 Exemptions**

A. Exempt Residential Property. Residential Property not subject to the requirements of this chapter:

1. Owner-Occupied Single-Family Dwellings, including those with an Accessory Dwelling Unit(s) (inclusive of any Junior Accessory Dwelling Unit) when the Owner has occupied the Single-Family Dwelling or the ADU as the Owner's Principal Residence for at least one (1) year or more.
2. Non-Owner-Occupied Residential Property owned by an East Palo Alto resident, when the Owner has occupied a Residential Property within East Palo Alto as the Owner's Principal Residence for at least one (1) year or more. This exemption shall not apply to any Residential Property owned by:
  - a. A real estate investment trust, as defined in Section 856 of the Internal Revenue Code;
  - b. A corporation; or
  - c. A limited liability company in which at least one member is a corporation.
3. Owner-Occupied Condominiums when the Owner has occupied the Condominium as the Owner's Principal Residence for at least one (1) year or more.
4. Any Owner-Occupied Duplex with or without any Accessory Dwelling Unit(s) (inclusive of any Junior Accessory Dwelling Unit) when the Owner has occupied any Dwelling Unit on the property as the Owner's Principal Residence for at least one (1) year or more.
5. Any Owner-Occupied Triplex with or without any Accessory Dwelling Unit(s) (inclusive of any Junior Accessory Dwelling Unit) when the Owner has occupied any Dwelling Unit on the property as the Owner's Principal Residence for at least one (1) year or more.
6. Residential Property owned by the local, state, or federal government.
7. Residential Property subject to resale price control under Chapter 18.37.

8. Residential Property owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions.

B. Exempt Transfers. Transfers of Residential Property not subject to the requirements of this chapter:

1. An inter vivos transfer, whether or not for consideration, between spouses, domestic partners, parents and children, siblings, nieces and nephews, and/or grandparents and grandchildren.
2. A transfer for consideration by a decedent's estate if the consideration arising from the transfer will pass from the decedent's estate to, or solely for the benefit of, charity.
3. A transfer of legal title or an interest in an entity holding legal title to a Residential Property pursuant to a bona fide deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a bona fide deed of trust or mortgage. This exemption does not supersede any rights to purchase afforded to Rightsholders under California Civil Code Sections 2924(f)-(h), 2924(m)-(n), or 2929.3.
4. A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where one or more transferors is a current beneficiary of the trust.
5. A transfer by devise, descent, or operation of the law upon the death of a natural person.
6. A transfer pursuant to court order or court-approved settlement.
7. Any transfer to a public agency, including but not limited to a transfer by eminent domain or under threat of eminent domain.
8. Any transfer of a fractional interest in a Residential Property that is less than fifty percent (50%) of an undivided interest in the Residential Property.
9. Any transfer in which the transferee receives a low-income housing credit pursuant to 28 U.S.C. § 42.

10. A transfer of a Residential Property with no more than four (4) Dwelling Units made for the purpose of either: (a) paying for imminently necessary health care expenses of an Owner of the Residential Property, or (b) an emergency circumstance placing the Owner in financial hardship and at imminent risk of foreclosure or bankruptcy and the Owner has occupied the Residential Property as the Owner's Principal Residence for at least one (1) year or more. For purposes of this subsection only, "Owner" shall be limited to a natural person having an undivided interest in the Residential Property of at least fifty percent (50%). An Owner may claim this Exempt Transfer within one (1) year of having vacated the Residential Property where the Owner demonstrates the existence of the conditions set forth in this subsection.

C. Transfer Exemption Procedures. The Owner shall submit a Certificate of Exemption signed under penalty of perjury to the City after deciding to sell and before marketing the property, self-certifying one of the exemptions described in subsection B. A Certificate of Exemption must be accompanied by supporting documents as set forth in the Administrative Guidelines. The City shall make the template Certificate of Exemption publicly available, including on the City website. This section shall not be construed to or used in a manner that unreasonably delays an Owner's valid and lawful transfer of a real property interest under Exempt Transfers.

#### **14.25.050 Qualified Non-Profits**

A. Certification, Term, and Renewal. The City Council shall certify and recertify Qualified Non-Profits through the Administrative Guidelines which establish the application process. A Non-Profit organization's certification as a Qualified Non-Profit shall be valid for five (5) years. The City Manager or designee shall solicit new applications for Qualified Non-Profit status at least once each calendar year, at which time existing Qualified Non-Profits shall be eligible to apply for renewed certification. A list of Qualifying Non-Profits shall be published on the City's website.

B. Disqualification of Qualified Non-Profits. The City Manager or designee shall promptly investigate any complaint alleging that a Qualified Non-Profit has failed to comply with this chapter. If after providing the Qualified Non-Profit with notice and opportunity to respond, the City Manager or designee determines that an organization listed as a Qualified Non-Profit has failed to comply with the requirements of this chapter, the City Manager or designee may decide whether to exercise their discretion to recommend to City Council to limit, suspend, or revoke that organization's certification as a Qualified Non-Profit.

#### **14.25.060      Assignment of Rights**

- A. A Tenant living in a Non-Exempt Single-Family Dwelling with Absentee Owner(s) may assign rights to a Qualified Non-Profit.
- B. A Qualified Non-Profit assignee shall sign and submit a “Statement of Rights and Obligations” to the Tenant. The content of the statement shall be set forth in the Administrative Guidelines.
- C. The assignment of rights may occur at any time during the Statement of Interest Period and/or Offer Period no later than the end of the Offer to Purchase period.
- D. Neither Qualified Non-Profit assignees nor the assignor shall accept any payment or reward in exchange for the assignment of rights under this section. An offer to rent (or continue renting) the Single-Family Dwelling at terms favorable to a Tenant or Qualified Non-Profit assignee, including at an affordable rate, shall not be considered payment or reward.

#### **14.25.070      Notice of Intent to Sell; Statement of Interest**

- A. Notice of Intent to Sell. An Owner of a Non-Exempt Residential Property shall provide all Rightsholders a Notice of Intent to Sell prior to listing or marketing a Residential Property for sale. The City shall make the template Notice of Intent to Sell available on the City website. The Notice of Intent to Sell shall be sent to each Rightsholder as set forth in the Administrative Guidelines, and shall include the following:
  - 1. A statement that the Owner intends to sell the Residential Property.
  - 2. A statement describing the rights of Rightsholders and stating the deadlines for exercising those rights.
  - 3. Instructions for submitting a Statement of Interest, including the address and email address where a Statement of Interest may be sent.
- B. Statement of Interest. A Rightsholder may respond to the Notice of Intent to Sell by submitting a Statement of Interest during the thirty (30) day Statement of Interest Period. The purpose of the Statement of Interest is to notify the Owner of the Rightsholder’s interest in exercising the Right of First Offer and/or Right of First Refusal. To be eligible to submit a Statement of Interest, within the first fifteen (15) days of receiving the Owner’s Notice of Intent to Sell, a Rightsholder shall notify the Owner by reliable means of communication (established by

Administrative Guidelines) of the Rightsholder's intent to submit a Statement of Interest. A Rightsholder subsequently has the remainder of the thirty (30) day Statement of Interest Period to deliver the Statement of Interest to the Owner of the Residential Property. The template Statement of Interest shall be available on the City website.

- C. **Disclosure Package.** Within five (5) days of sending a Notice of Intent to Sell to Rightsholder, the Owner must provide a disclosure package, as required by applicable law, and that may include documents and information set forth in the Administrative Guidelines, and at minimum, an itemized list of annual income and expenses, including but not limited to rent and other income collected, and costs of management, insurance, utilities, maintenance, and repairs.
- D. **Effect of Statement of Interest.** Receipt of a timely Statement of Interest by the Owner and transmission of a disclosure package to the Rightsholders shall initiate the Offer Period during which rightsholders can exercise Right of First Offer as follows:

| <b>Dwelling Type</b> | <b>Offer Period</b> |
|----------------------|---------------------|
| Single Family        | 30 calendar days    |
| Multiple 2-3 Units   | 60 calendar days    |
| Multiple 4+ Units    | 60 calendar days    |

During the Offer Period, Rightsholders may submit an offer to purchase the property pursuant to Section 14.25.090.

- E. **Prohibition on Listing or Marketing Property During the Statement of Interest Period and Offer Period.** Before the Owner of a Residential Property may offer, list, market, or solicit offers for that property for sale to any purchaser other than a Rightsholder, the Owner shall notify each Rightsholder of the intent to sell the property. The Owner is prohibited from offering, listing, marketing, or soliciting offers until the Right of First Offer has been exercised or waived by each of the Rightsholders.

#### **14.25.080      Rightsholders and Priority Order**

A. Before the Owner of a Residential Property may list or market that property for sale to any purchaser, the Owner shall give all Rightsholder(s) an opportunity to purchase at a price and terms that represent a Bona Fide Offer to Purchase. The Owner is not required to give the Rightsholder(s) an opportunity to purchase when the Owner has received an unsolicited offer unless the Owner takes any action to accept the unsolicited offer.

B. The priority order for Rightsholders for Tenant-Occupied Single-Family Dwellings and Condominiums from Absentee Owner(s) not maintaining a Principal Residence in City is Tenants, Qualified Non-Profits, and the City:

1. Notice of Intent to Sell. The Owner must provide all Rightsholders with a Notice of Intent to Sell, followed by a disclosure package as required in this chapter.
2. Statement of Interest. All Rightsholders are allowed to submit a Statement of Interest to Purchase.
3. Right of First Offer.
  - a. In the event a Tenant submits a Statement of Interest in response to the Notice of Intent to Sell, the statement shall be given priority over any Statement of Interest submitted by a Qualified Non-Profit or the City. Nothing prohibits the Tenant(s) from assigning their Right of First Offer to a Qualified Non-Profit during the Statement of Interest period. A Qualified Non-Profit may be conferred a Right of First Offer if a Tenant assigns in writing the Tenant's Right of First Offer, or executes a written waiver of the Tenant's Right of First Offer, or no Tenant submits a Statement of Interest.
  - b. In the event no Tenant submits a Statement of Interest in response to the Notice of Intent to Sell, the statement(s) submitted by Qualified Non-Profit(s) shall be given priority over any statement submitted by the City.
  - c. In the event no Tenant or Qualified Non-Profit submits a Statement of Interest in response to the Notice of Intent to Sell, any Statement of Interest submitted by the City shall be given priority.

4. Right of First Refusal.

- a. No Right of Refusal is conferred to Rightsholders for Single-Family Dwellings and Condominiums.

C. The priority order for Rightsholders for Non-Tenant Occupied Single Family Dwellings and Condominiums, Duplexes and Triplexes (with or without tenants) and Multiple-Family Dwellings, with four (4) or more units (with or without tenants), from Absentee Owner(s) not maintaining a Principal Residence in City is Qualified Non-Profits and the City.

1. Notice of Intent to Sell. The Owner is required to provide all Rightsholders with a Notice of Intent to Sell, followed by a disclosure package as required in this chapter.
2. Statement of Interest. All Rightsholders are allowed to submit a Statement of Interest.
3. Right of First Offer.
  - a. In the event any Qualified Non-Profit submits a Statement of Interest in response to the Notice of Intent to Sell, the statement(s) shall be given priority over any statement submitted by the City.
  - b. In the event no Qualified Non-Profit submits a Statement of Interest, any Statement of Interest submitted by the City shall be considered, and the City may proceed with the Right of First Offer process.
4. Right of First Refusal.
  - a. The Right of First Refusal is applicable only for Duplexes and Triplexes (with or without tenants) and Multiple-Family Dwellings, with four (4) or more units (with or without tenants), from Absentee Owner(s) not maintaining a Principal Residence in City. The Right of First Refusal is not applicable for Single-Family Home Dwellings and Condominiums (with or without tenants) and residential properties and transfers exempt under Section 14.25.040.

- b. In the event the Owner rejects the offer(s) submitted by all Rightsholders and takes any action to move forward with a qualifying Third-Party Offer, the Owner must notify all the Rightsholders, who timely submitted a Statement of Interest and a First Offer, and give priority in the order described for the exercise of Right of First Refusal.
- c. In the event the Qualified Non-Profits do not submit a match to the Bona Fide Offer to Purchase for the exercise of Right of First Refusal, the City's offer to match Third-Party price and terms in the exercise of Right of First Refusal will stand.

#### **14.25.90 Offer to Purchase**

A. Submission of Offer to Purchase. The Rightsholder may deliver to the Owner of the Residential Property an offer to purchase the property at any time prior to the expiration of the Offer Period. The Owner may accept or reject any offer to purchase received from a Rightsholder subsequent to the steps set forth in Section 14.25.080.

| <b>Dwelling Type</b> | <b>Offer Period</b> |
|----------------------|---------------------|
| Single Family        | 30 calendar days    |
| Multiple 2-3 Units   | 60 calendar days    |
| Multiple 4+ Units    | 60 calendar days    |

B. Acceptance of Offer to Purchase. Upon acceptance of an offer to purchase a Residential Property, the Rightsholder shall make reasonable and good faith efforts to close escrow on the transaction. The timeline for close of escrow is:

| <b>Dwelling Type</b> | <b>Close of Escrow</b> | <b>Extended Escrow Period</b>                            |
|----------------------|------------------------|----------------------------------------------------------|
| Single Family        | 30 calendar days       | 60 calendar days*<br>+ any agreement between the parties |
| Multiple 2-3 Units   | 90 calendar days       | Any agreement between the parties                        |
| Multiple 4+ Units    | 90 calendar days       | Any agreement between the parties                        |

\*If the Rightsholder provides written documentation that the lender requires a commercial loan for the purchase of the property.

C. Termination of Right of First Offer. Upon rejection of all offers to purchase made within the Offer Period, or the closure of the Statement of Interest Period and/or Offer Period by expiration or waiver of rights by all qualifying Rightsholders, the Owner may list and market for sale the Residential Property and may solicit and conditionally accept any Third-Party Offer, subject to the requirements of Section 14.25.100.

#### **14.25.100 Exercise of Right of First Refusal**

- A. The Right of First Refusal is applicable only for Duplexes and Triplexes (with or without tenants) and Multiple-Family Dwellings, with four (4) or more units (with or without tenants), from Absentee Owner(s) not maintaining a Principal Residence in City. The Right of First Refusal is not applicable for Single-Family Home Dwellings and Condominiums (with or without tenants), and residential properties and transfers exempt under Section 14.25.040.
- B. The Right of First Refusal is not applicable to accepted or conditionally accepted Third-Party Offers which exceed 115% of the highest rejected First Offer made by a Rightsholder.
- C. Disclosure of Third-Party Offer to Purchase. An Owner interested in accepting a Third-Party Offer less than or equal to one hundred fifteen percent (115%) of the highest First Offer received, shall disclose terms of that Third Party Offer to any Rightsholder that submitted a First Offer. Within two (2) days of signaling intent and/or taking action to accept of the Third-Party Offer, the Owner shall disclose to each Rightsholder that submitted a First Offer all material terms, together with all commercially reasonable disclosures, in substantially the same form and having substantially the same content as would be provided to any prospective Third-Party Purchaser; provided, however, that any confidential information not necessary to comply with the requirements of this section shall be redacted from such offers.
- D. Right of First Refusal. Any Rightsholder that submitted a Statement of Interest and an Offer may have the Right of First Refusal. When an Owner takes action to accept a Third Party Offer at a price less than or equal to one hundred fifteen percent (115%) of the First Offer, the Rightsholder may exercise a Right of First Refusal and match the Third Party Offer within the time period set forth in this section. To exercise its Right of First Refusal, the Rightsholder must make an offer of substantially equivalent price and terms except for the time to close escrow as described in this section and the deposit amount as described in Section 14.25.110; provided, however, the financing of the Rightsholder's purchase shall

not be considered a material term of the Offer to Purchase so long as it does not affect the net value of the Sale to the Owner.

- E. Time to Exercise Right of First Refusal. Subsequent to accepting, conditionally accepting, or taking any action to accept a Third-Party Offer less than or equal to 115% of the highest rejected First Offer, the Owner shall disclose the terms of that offer and provide any Rightsholder that submitted a Statement of Interest and an Offer these minimum amounts of time to match the Third-Party Offer:

| Dwelling Type | Exercise of Right of First Refusal |
|---------------|------------------------------------|
| 2-3 Units     | 20 calendar days                   |
| 4+ Units      | 20 calendar days                   |

The acceptance of a Rightsholder's First Offer to Purchase by an Owner extinguishes any Right of First Refusal of other Rightsholders.

#### **14.25.110 Closing**

- A. Time to Close Escrow. Upon acceptance of the Offer to Purchase, the Rightsholder shall have these minimum amounts of times to close escrow:

| Dwelling Type      | Close of Escrow  | Extended Escrow Period                                   |
|--------------------|------------------|----------------------------------------------------------|
| Single Family      | 30 calendar days | 60 calendar days*<br>+ any agreement between the parties |
| Multiple 2-3 Units | 90 calendar days | Any agreement between the parties                        |
| Multiple 4+ Units  | 90 calendar days | Any agreement between the parties                        |

\*If the Rightsholder provides written documentation the lender requires a commercial loan for the purchase of the property.

- B. Rejection of Offer or Failure to Close. If each Rightsholder entitled to receive an Offer to Purchase waives or fails to exercise the Right of First Offer within the time set forth in this section, or if an Owner rejects any and all First Offers made by Rightsholders during the Offer Period, or if a Rightsholder that submits an accepted Offer to Purchase

fails to close escrow within the time set forth in this section, the Owner may immediately proceed with the sale or transfer of the Residential Property to a Third-Party Purchaser.

C. Notwithstanding any other provision of this section, conditional sales agreements between an Owner and a Third-Party Purchaser are permitted so long as the agreement preserves the Right of First Refusal as conferred by this chapter.

#### **14.25.120 Contract Negotiation**

A. **Bargaining in Good Faith.** The Rightsholder and Owner shall bargain in good faith. The following constitute prima facie evidence of not bargaining in good faith:

1. The failure of an Owner to offer the Rightsholder a price or term substantially equivalent to that offered to a Third Party, without a reasonable justification for so doing;
2. The failure of an Owner to make a contract with the Rightsholder substantially equivalent to the price and terms of a Third-Party contract within the time periods specified in this chapter, without a reasonable justification for so doing; or
3. The intentional failure of a Rightsholder or an Owner to comply with the provisions of this chapter, including but not limited to Rightsholders making offers without intention to close, or Owners soliciting Third-Party Offers to disqualify the Right of First Refusal without the intention to close.

B. **Reduced Price.** If the Owner sells or contracts to sell the Residential Property to a Third-Party Purchaser for a price more than fifteen percent (15%) less than the price of the highest rejected First Offer by a Rightsholder or for other terms which would constitute not bargaining in good faith, the sale or contract is void and the Owner shall comply anew with all applicable requirements of this chapter .

C. **Financial Assurances.** The Owner may not require the Rightsholder to prove financial ability to perform as a prerequisite to entering into a contract. The Owner may not require the Rightsholder to pay the purchase price in installments unless the Owner provides deferred purchase money financing on terms reasonably acceptable to the Rightsholder. The Owner may require the Rightsholder to prove that the Rightsholder, either alone or in conjunction with a Third-Party, has comparable financial ability to the Third-Party Purchaser before the Owner will be required to grant deferred purchase money financing to the Rightsholder on the same terms and conditions conditionally accepted between the Owner and the Third-Party Purchaser. If the Rightsholder can

prove comparable financial ability alone, the Owner may not require the Rightsholder to secure a third-party guarantor. This proof cannot be required as a prerequisite to contracting. It may be required only as a prerequisite to the Owner granting deferred purchase money financing at settlement.

D. Transfers of Interest in a Partnership or Corporation and Master Leases. In the event of a transfer of interest in a partnership or corporation or in the event of a master lease or agreement that is considered a sale but which does not involve a transfer of record title to the real property, the Owner shall be bargaining in good faith if the Owner offers the Rightsholder the opportunity to acquire record title to the real property or offers the Rightsholder the opportunity to match the type of transfer or agreement entered into with the Third Party. With respect to either type of offer, all provisions of this chapter apply.

E. Deposit. The Owner shall not require the Rightsholder to pay a deposit of more than three percent (3%) of the contract sales price to make a contract. The deposit is refundable in the event of a good faith failure of the Rightsholder to perform under the contract unless otherwise provided in the contract.

#### **14.25.130 Long-Term Affordability and Tenant Protections in Properties Purchased Pursuant to this Chapter**

All Residential Properties purchased pursuant to this chapter, except for Single-Family Dwellings purchased with no subsidy, shall be subject to rental affordability restrictions and restrictions on the resale value of a given property.

A. Subsidized Purchaser(s). In exchange for the rights conferred by this chapter, Subsidized Purchasers shall sign and submit a Statement of Rights and Obligations, available on the City website, agreeing to maintain the Residential Property as permanently affordable. This Statement of Rights and Obligations shall be recorded.

B. Rental Units. If, upon purchase, the average rental rate of the units in the property, based on the existing tenancies of the non-purchasing Tenants exceeds a rent affordable to 50% AMI households, the new Owner shall rent each vacant unit to 50% AMI income households until the 50% AMI rental rate average is achieved. Future rental rates of any vacant units shall not exceed a rent affordable to Low-Income Households. These affordability levels may be amended by Council resolution.

C. Owned Multiple-Family Units. The sales price shall be calculated based on Chapter 18.37 and the inclusionary housing guidelines. The sales price for any vacant

units shall be set at an affordable price to Median Income Households and to Moderate Income Households, with the first vacant unit restricted to Median Income Households. The resale or transfer of ownership units shall be subject to long-term affordability covenants consistent with Section 18.37.100.

D. Permanent affordability standards shall remain in force in perpetuity or for no less than ninety-nine (99) years and be renewable. The standards shall be evidenced by one of the following:

1. A restrictive covenant placed on the deed to the Residential Property that runs with the land and is enforceable by the City against the purchasers and their successors;
2. A Community Land Trust lease, which is a ninety-nine (99)-year renewable land lease with affordability and Owner-occupancy restrictions; or
3. Affordability covenants in land leases or other recorded documents which run with the land and are enforceable.

E. The sale of a Residential Property pursuant to this chapter shall not impair the rights of any Tenant under Chapter 14.04 or any other applicable state law or local law. Further, any Tenant who resides in any unit at the time of the sale of a Residential Property under this chapter shall not be subject to eviction based on their failure to meet income restrictions or other eligibility requirements imposed by this section.

F. All covenants created in accordance with this section shall be recorded with the San Mateo County's Recorder's Office.

G. Required Filing to Certify Compliance with Affordability Restrictions. In the case that permanent affordability restrictions materialize as a covenant enforceable by the City, the Owner(s) of the Residential Property shall file a document every three (3) years with the City in which the Owner(s) affirmatively state the rents for each unit in the Residential Property.

#### **14.25.140 Conduct**

A. The sale or transfer of any Residential Property subject to this chapter is prohibited unless an exemption applies and the Owner complies with Section 14.25.040. Any change of ownership of real property as defined in Revenue & Taxation Code § 64(c) shall be considered a sale or transfer of Real Property for purposes of this Chapter.

B. A Tenant or Rightsholder is prohibited from receiving any consideration in exchange for foregoing any right afforded to them under this chapter or sell a waiver of any such right.

C. An Owner shall not coerce a Rightsholder to waive their rights, retaliate against or harass a Tenant seeking to exercise their rights, or engage in conduct intended to prevent a Tenant from exercising their rights under this chapter.

D. Any agreement between the Owner and a Rightsholder to shorten the time periods provided for exercise of any right afforded under this chapter is prohibited unless all other Rightsholders have waived their rights under this chapter. Notwithstanding the foregoing, any Rightsholder may affirmatively indicate they have no interest in a Residential Property prior to the expiration of any deadlines and in accordance with the Administrative Guidelines. Nothing in this section shall prohibit an agreement to extend the deadlines set forth herein.

E. Any Rightsholder that Purchases a Residential Building under the right of first offer set forth in Section 14.25.090 shall, to the maximum extent permitted by law and otherwise feasible, be obliged to work with the Owner in good faith to facilitate an exchange of real property of the kind described in 26 US. C. § 1031, for the purpose of facilitating the Owner's realization of any federal tax benefits available under that section of the Internal Revenue Code.

#### **14.25.150 Confidentiality**

Any information exchanged between Owner(s) and Rightsholders intended to facilitate the sale of property including, but not limited to, disclosures, any intent to sell, and terms and conditions of an offer of sale, shall be kept confidential to the greatest extent permitted by law. This section shall not prohibit disclosure of information necessary to effectuate the purpose of this chapter to any Owner, Tenant, Qualified Non-Profit, or to the City or its agents or contractors, nor shall this chapter be construed to limit disclosure of information in response to a lawfully issued subpoena or court order.

#### **14.25.160 Enforcement**

A. Owner Certification. Before close of escrow, the Owner(s) shall cause to be executed, through the escrow company that facilitates the sale of the property, a notarized signed declaration, under penalty of perjury, affirming that the sale of that property substantially complied with the requirements of this chapter. Owner shall instruct the

escrow company to file a copy of the Owner Certification with the City. The City will publish addresses of all such sales on its website.

B. The City Attorney, any non-exempt Owner subject to the provisions of this chapter, and/or any Rightsholder may bring a civil action to enforce this chapter and shall be entitled to the remedies set forth in this section to the greatest extent permitted by law.

C. A prevailing party in any action to enforce this chapter shall be entitled to civil damages according to proof and reasonable attorneys' fees and costs. Any court of competent jurisdiction may enforce the affordability requirements of this chapter, when applicable. Any court of competent jurisdiction may enjoin a transfer or sale of Property, or rescind a sale of Property, where the Owner failed to comply with requirements of this chapter, and may order that an Owner comply with the requirements of this chapter.

D. Penalties for violation of this chapter:

1. Any violation shall be subject to a civil penalty not to exceed \$1,000 per day, unless such a penalty would not be in the interests of justice, as determined by a court of law. Each failure to provide the required notice or disclosure shall be considered a separate violation for each unit on a Property. Penalties assessed for violations found not willful shall not exceed \$15,000; no such maximum shall apply for willful violations.
2. If the Owner's violation was knowing or willful, mandatory civil penalties equal to ten percent (10%) of the sale price for a first violation; twenty percent (20%) for the second, and thirty percent (30%) for each violation thereafter.

E. Suspension or Disqualification of Qualified Non-Profits. The City shall promptly investigate any complaint alleging that a Qualified Non-Profit has failed to comply with this chapter. If, after providing the Qualified Non-Profit with notice and opportunity to be heard, the City determines that a Qualified Non-Profit has failed to comply with this chapter, the City may suspend or revoke a Qualified Non-Profit's certification.

#### **14.25.170 Financial Assistance**

A. The City Manager or designee shall develop guidelines, which shall be subject to approval by the City Council, for providing financial assistance to allow for the acquisition of Residential Property. Financial assistance may be provided to Rightsholders. Nothing in this section commits the City Council to providing a specified level of funding for the acquisition of Residential Property under this chapter.

B. The provision of financial assistance to any Tenant who acquires an interest in a Residential Property pursuant to this chapter must be conditioned on the Tenant's agreement to reside at the Residential Property for at least three (3) years. The City Manager or designee is authorized to impose a lien on the Residential Property to enforce the requirements of this section.

#### **14.25.180 Implementation**

A. The City Council shall initially approve the Administrative Guidelines, by resolution, necessary to implement the requirements of this chapter. Thereafter, the City Council may delegate to the City Manager the authority to amend the Administrative Guidelines as needed.

B. The City shall annually post and update the City's website with information on the East Palo Alto Opportunity to Purchase Act process, including information about rights and sales.

C. The City Manager or designee shall develop online and printed forms and databases, Qualified Non-Profit list and registry, and other administrative services to ensure efficient management of the program.

### **SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Adoption of this Ordinance is not subject to CEQA because it is not a "project" which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to California Environmental Quality Act ("CEQA") Guidelines. The City Council therefore directs that the Planning Division file a Notice of Exemption with the San Mateo County Clerk.

### **SECTION 4. 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 5. EFFECTIVE DATE.**

The Effective Date of this chapter shall be the earlier of City Council adoption of Administrative Guidelines by resolution, or 60 days after ordinance adoption.

**SECTION 6. EVALUATION**

By operation of law, this Ordinance shall be evaluated in its entirety commencing two years from the Effective Date. Upon evaluation, the City Council may by an affirmative vote take action to retain or revise the Ordinance and any amendments thereto, or portions thereof.

**SECTION 7. PUBLICATION.**

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

This Ordinance was introduced at the \_\_\_\_\_ meeting of the City Council of the City of East Palo Alto.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 202\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Lisa Gauthier, Mayor

ATTEST:

APPROVED AS TO FORM:

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

\_\_\_\_\_  
John D. Lê, City Attorney



# **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** December 5, 2023

**TO:** Honorable Mayor and Members of the City Council

**VIA:** Melvin E. Gaines, City Manager

**BY:** James Colin, City Clerk

**SUBJECT:** Proclamation for Nuestra Casa

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## **Recommendation**

Present the proclamation.

## **Attachments**

1. Proclamation

# PROCLAMATION OF THE CITY OF EAST PALO ALTO RECOGNIZING NUESTRA CASA FOR THEIR SERVICE TO THE COMMUNITY

WHEREAS, Nuestra Casa has been dedicated to serving the needs of the Latinx population of East Palo Alto and surrounding communities since 2002, arising from a community assessment conducted by a passionate group of local activists concerned about the growing needs of the rising immigrant population in East Palo Alto; and

WHEREAS, Nuestra Casa has become a vital resource for East Palo Alto residents, offering services and advocacy on various issues, including environmental justice, water justice, housing, civic engagement, food distribution, and safety net resources; and

WHEREAS, Nuestra Casa has demonstrated unwavering commitment to transformative leadership development through its Promotora Program, fostering community-driven initiatives and empowering individuals within our community; and

WHEREAS, Nuestra Casa, recognizing the concerns of East Palo Alto residents regarding water quality, became involved in water justice advocacy two years ago, establishing a community water task force and contributing to a comprehensive regional water needs assessment report; and

WHEREAS, Nuestra Casa stands as a beacon of support and empowerment for our community, welcoming residents to a place that feels like home, guiding them through institutions, building people's power, and encouraging the use of their voices to shape a new, more equitable community.

NOW, THEREFORE, BE IT PROCLAIMED that the City Council of the City of East Palo Alto hereby recognizes and commends Nuestra Casa for their outstanding dedication, service, and transformative impact on our community.



Dated: December 5, 2023

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Lisa Gauthier, Mayor



# **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** December 5, 2023

**TO:** Honorable Mayor and Members of the City Council

**VIA:** Melvin E. Gaines, City Manager

**BY:** James Colin, City Clerk

**SUBJECT:** Proclamation for 2023 Kiwanis Angel Award Recipient Carol Thomsen

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**Recommendation**

Present the proclamation.

# PROCLAMATION OF THE CITY OF EAST PALO ALTO RECOGNIZING THE 2023 PALO ALTO KIWANIS ANGEL AWARD WINNER: CAROL THOMSEN

WHEREAS, the City Council of the City of East Palo Alto takes great pride in recognizing individuals whose outstanding contributions positively impact the lives of our community members; and

WHEREAS, Carol Thomsen, Founder and Executive Director of All Five, is a beacon of inspiration who has dedicated her life to challenging the status quo in early childhood education; and

WHEREAS, All Five, an early childhood education school created by Carol Thomsen, serves families of socioeconomically and ethnoracially diverse backgrounds for 10 hours a day and 50 weeks each year, providing an innovative and inclusive learning environment; and

WHEREAS, Carol Thomsen's decades of experience in early childhood teaching have fueled her mission to address the disparities faced by young children in their formative years, breaking the cycle of assumptions based on income and ethnicity; and

WHEREAS, All Five, in just eight years, has garnered recognition for its impact locally, evidenced by the waiting list of children and families eager to enroll, showcasing the demand for its transformative model; and

WHEREAS, Carol Thomsen's visionary leadership has propelled All Five to expand its reach from initially serving 24 children to currently providing essential education to 60 children, with plans to extend its impact to 90 children over the next two years; and

WHEREAS, All Five's commitment to socioeconomically diverse high-quality enrollment has bridged gaps in opportunity, with 75% of families earning at or near the poverty line and 25% having the means to pay full tuition, creating a supportive community; and

WHEREAS, the national recognition received by All Five, featured in a story addressing the "Extremely Separate and Widely Unequal" landscape of early childhood education programs, highlights the school's role in challenging systemic policies that perpetuate segregation; and

WHEREAS, Carol Thomsen's leadership and All Five's model are acknowledged as a crucial force in bringing equity to early childhood education, as attested by consultations with top researchers, journalists, and policymakers, including Stanford's Dr. Deborah Stipek; and

NOW, THEREFORE, BE IT PROCLAIMED, that the City Council of the City of East Palo Alto extends its heartfelt congratulations to Carol Thomsen as the recipient of the 2023 Palo Alto Kiwanis Angel Award, commending her exceptional dedication, innovation, and tireless efforts in advancing the field of early childhood education.



Dated: October 25, 2023

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Lisa Gauthier, Mayor



# EAST PALO ALTO CITY COUNCIL STAFF REPORT

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**DATE:** December 5, 2023  
**TO:** Honorable Mayor and Members of the City Council  
**VIA:** Melvin E. Gaines, City Manager  
**SUBJECT:** JobTrain EPA Career Center Update

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## **Recommendation**

Receive a presentation from JobTrain EPA Career Center.



# EAST PALO ALTO CITY COUNCIL STAFF REPORT

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**DATE:** December 5, 2023

**TO:** Honorable Mayor and Members of the City Council

**VIA:** Melvin E. Gaines, City Manager

**BY:** Elena Lee, Planning Manager  
Salifu Yakubu, Senior Planner  
Michelle Huang, Assistant Planner

**SUBJECT:** Development Code Text Amendment (ZTA23-001) to amend various Chapters and Sections of Title 18 (Development Code) of the East Palo Alto Municipal Code

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## **Recommendation**

As considered and recommended by the Planning Commission at a publicly noticed hearing on November 13, 2023 (Attachment 6 – Planning Commission resolution):

- 1) Waive the First Reading and introduce an ordinance amending Title 18 of the East Palo Alto Municipal Code to:
  - a) 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;
  - b) 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;
  - c) amend Section 18.10.030 Table 2-2 to reduce the minimum useable open space requirement from 750 square feet to 500 square feet or 50 percent of the remaining rear yard, whichever is less, in the R-LD zoning district;

- d) amend Section 18.30.080 to allow second driveways on corner lots with single-family homes;
  - e) add Section 18.80.025 Streamlined Ministerial Review Actions;
  - f) 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;
  - g) add Chapter 18.85 Preliminary Ministerial Review; and 8) amend Chapter 18.90 Variances and Minor Variances to add fences up to eight feet to Table 7-3 Types of Minor Variances allowed.
- 2) Discuss the matter of 1) reducing the required setbacks for detached ADUs, possibly to 0-feet, and 2) allowing separate sale /conveyance of primary dwelling units and ADUs through condominium subdivisions pursuant to the recently approved Assembly Bill (AB) 1033 and provide direction to staff on how to proceed regarding these two items, which may include returning to either the Planning Commission or the Council with additional information for further consideration.
  - 3) Find the proposed Zoning Text Amendments and discussion items being exempt in accordance with Public Resources Code (PRC) Section 21080.17 and CEQA Guidelines Sections 15061(b)(3) and 15282(h) of the California Environmental Quality Act (CEQA) Guidelines.

### **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

Priority No. 1: Promote Housing, Economic and Workforce Development

### **Background**

#### **State ADU Legislation**

During the past decade, the California Legislature has passed multiple laws to allow ADUs by right in single-family, multi-family, and mixed-use zoning districts. The objective of these laws is to facilitate the supply of a relatively affordable housing type within all residential communities in California. New state laws regarding ADUs are passed nearly every year.

The City of East Palo Alto last amended its ADU regulations in 2020, but further amendments are necessary to conform with state laws enacted in 2022 and 2023. Local agencies, including the City of East Palo Alto, that have not already adopted an Ordinance compliant with Government Code Sections 65852.2 and 65852.22 are required to default to the standards specified in state law for ADUs and junior accessory dwelling units (JADUs).

In 2022, Senate Bill (SB) 897 was signed by the Governor and went into effect January 1, 2023. The key provisions of SB 897 necessitating the amendment of the city's ADU regulations are noted in Attachment 2, which also provides a chronology of state legislations on ADUs enacted from 2016 to 2022.

On October 11, 2023, Governor Gavin Newsom signed Assembly Bills (AB) 976, AB 1033, and AB 1332, amending section 65852.2 of the Government Code and adding a new section 65852.27 to the Government Code. These bills, amongst other provisions, permanently prohibit a local agency from requiring owner occupancy for properties with ADUs and provide the option for a city or county to adopt an ordinance that allows separate conveyance of the primary dwelling unit and accessory dwelling unit as condominiums. Government Code section 65852.27, added by AB 1332, requires local agencies to develop a program for preapproval of ADU plans by January 1, 2025. This bill also reduces the amount of time a local agency has to approve or deny an ADU application if the project applicant is utilizing a preapproved plan to 30 days after an application is deemed complete.

### **City ADU Regulations**

Before the state ADU legislations in 2016, the City Council adopted Ordinance 380 in June 2014 for construction of second units/ADUs, garage conversions to habitable space, and guest houses to promote local affordable housing. Ordinance 380 went through extensive community engagement and was established to reflect the public interest at that time.

In January 2017, an amended ADU Ordinance was adopted in response to the 2016 State ADU legislations. The updated ADU regulations were codified in Chapter 18.96 of the East Palo Alto Municipal Code (EPAMC) as part of the comprehensive zoning code updates in 2018. No substantial changes were made to Ordinance 380 and the 2017 Amendment apart from those needed to reconcile with the State mandated conditions.

The ADU regulations were last amended in November 2020 (Attachment 3) to bring them into compliance with state legislation on ADUs. The updated 2020 ADU regulations, hereby referred to as “current ADU Ordinance” are now codified in Chapter 18.96 of the EPAMC.

The current ADU Ordinance is a critical reference for the draft ADU Ordinance, hereby known as “the Ordinance”. Staff recommends amendments to the current ADU Ordinance to conform with state laws enacted in 2021 through 2023 and the continuation and/or addition of certain objective development standards to facilitate the compatibility of ADUs with the surrounding neighborhood context, in compliance with state ADU legislation and City Council direction.

### **Development Review Open House**

The City held a Development Review Open House on November 30, 2022 at Cooley Landing to provide information on the development review process. While the Open House provided a general overview of the development review process, staff also presented information, specifically, on the permitting process for ADUs. The Open

House also afforded members of the public, including homeowners, an opportunity to ask questions and provide feedback on general development review directly to staff. Staff also met with several members of the public to discuss concerns about their specific projects. Most of the concerns and questions raised centered on setbacks, parking, open space requirements and process improvements. Staff is considering another Open House for early 2024 to provide information on the proposed amendments, once they are adopted by City Council, and solicit community input on possible financial incentives for the development of ADUs and the development of preapproved model ADU plans, both to be presented for City Council consideration next year.

### **City Council Discussion and Direction**

On December 6, 2022, staff presented possible measures to incentivize the construction of ADUs and bring the current ADU Ordinance into compliance with state law to members of the City Council. The staff report ([Attachment 4](#)), which can be accessed from the City website<sup>1</sup>, introduced several options for City Council consideration, including amendments to ADU regulations, ADU development review streamlining, and financial incentives or assistance for the construction of ADUs. The following is a summary of the City Council's deliberation on those options:

- 1) The City Council supported aligning the City of East Palo Alto's Municipal Code with state law.
- 2) 2<sup>nd</sup> Floor/Two Story ADUs - the current ADU ordinance limits detached ADU's to 17 feet in height, without any mention of number of stories. However, the City Council did not discourage the inclusion of a 2<sup>nd</sup> floor in detached ADUs or converted spaces of existing or proposed primary dwellings.
- 3) Setback Reductions or Exceptions – The City Council was generally supportive of some exceptions, but some members were concerned about the potential cost/financial implications of zero or reduced setbacks. There was some discussion regarding existing ADUs and accessory structures that do not meet the required setbacks and the possibility of grandfathering those that existed prior to the City's incorporation in 1983.
- 4) Flexibility in Open Space Requirement – The City Council did not expressly reject the notion but was insistent on the maintenance of “useable” open space for dwellings.
- 5) Second Driveways for Corner Lots – The City Council did not oppose the notion but rather its discussion centered on the geometry of corner parcels and where it would make the most sense to have a second driveway without causing ingress and egress conflicts with vehicular trips on the abutting streets.
- 6) Objective Design Standards - The City Council agreed for staff to develop a future work program to prepare objective design standards for all residential

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<sup>1</sup> <https://eastpaloalto.iqm2.com/Citizens/FileOpen.aspx?Type=30&ID=6855>

development, including those for ADUs and other ministerial projects which by legislation must be objective.

- 7) Development Review Streamlining – The City Council was supportive of streamlining the development review process as to allow concurrent zoning review/building permit processing, creating a new process/nomenclature for the ministerial planning clearance of ADUs, and the pre-review/approval of ADU model plans.
- 8) The City Council also supported government provision of financial incentives and assistance for constructing ADUs through state/federal grant programs, and waivers, reductions, or deferral of permit processing fees or development impact fees.

Based on these deliberations and accompanying City Council direction staff developed a work program to accomplish the following tasks:

- 1) Repeal and replace the current ADU Ordinance for compliance with state law as part of a comprehensive code clean-up effort;
- 2) Create a new Preliminary Ministerial Review process to replace the ADU Zoning Clearance process which by definition is a discretionary process per the EPAMC;
- 3) Relax the EPAMC requirements for private open space and second driveways for ADUs and seek input on expanding such to all single-family zoned properties;
- 4) Seek input on reducing minimum side and rear setbacks for detached ADUs, and on common interest developments and sale (condominium subdivisions) of ADUs;
- 5) Conduct research on the creation and implementation of model ADU plans;
- 6) Conduct research on fee waivers and financial incentives for ADUs and make recommendations to City Council on their implications for the affordability and production of ADUs.

While the first three of these tasks are included in the current Development Code Text Amendment, the fourth, fifth and sixth tasks merit additional research and outreach and would be subject to a future City Council hearing next year.

### **Communication from State Department of Housing and Community Development (HCD) on current ADU Ordinance**

On April 14, 2023, HCD issued a letter (Attachment 5) to the City finding the following sections of the current ADU Ordinance out of compliance with Government Code Sections 65852.2 and 65852.22. City staff responded on May 12, 2023, that the Municipal Code would be updated by the end of 2023. The HCD letter indicated that the current Ordinance did not comply with State ADU law in the following areas:

- 1) Junior Accessory Dwelling Unit (JADU) Definition (§18.96.020)
- 2) Zoning (§18.96.030. A)
- 3) Unit Size (§18.96.030. C)
- 4) Open Space (§18.96. 030. E)
- 5) Front Setback Requirements (§18.96.030. L)
- 6) Height Limitations (§18.96.040. M; and §18.96.050. C)
- 7) Architectural Compatibilities (§18.96.030. N.1)
- 8) Unit Combination (§18.96.030. B.2.a)
- 9) Minimum ADU Size (§18.96.050. B.2.b)
- 10) Illegal Accessory Units (§18.96.070)

### **Technical Working Group (TWG) Meeting**

On July 28, 2023, planning and housing staff and the Community Planning Collaborative (CPC) - the City's ADU ordinance update consultant, met with the ADU Technical Working Group (TWG) members comprising of a roundtable of planning, building and housing community partners focused on nuts and bolts of ADU Implementation, including EPACANDO, to discuss potential updates to the EPAMC. The TWG expressed interest in two general subject areas 1) relaxation of some development standards to encourage ADUs, especially those over 800 square feet (sq ft), and 2) legalization of unpermitted units; and came up with the following recommendations:

- 1) Relaxation of development standards by:
  - Reducing minimum open space requirement to 500 square feet,
  - Reducing minimum setbacks for detached ADUs to potentially 0 feet, and
  - Identifying uses appropriate for non-living spaces in the floodplain and clarifying the exclusion of non-living spaces from calculating the height limit.
- 2) Legalization of unpermitted units by:
  - Grandfathering unpermitted units, and
  - Developing an amnesty/legalization program to bring illegal structures into conformance with the health and safety standards of the building code.

Staff have met regularly with the TWG to discuss ADU production, including the update of the current ADU ordinance and other EPAMC provisions to facilitate and incentivize the production of ADUs.

### **Planning Commission Discussion and Recommendations**

On November 13, 2023, a Planning Commission meeting was held to discuss the proposed ADU Ordinance update. In the Planning Commission staff report<sup>2</sup>, staff introduced amendments to the ADU regulations that were intended to codify the state

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<sup>2</sup> <https://d3n9y02raazwpg.cloudfront.net/cityofepa/87141746-58a4-11ee-ae13-0050569183fa-071bcefc-bca4-45ae-9ad3-867910591258-1699570101.pdf>

ADU legislative changes. Staff also introduced other changes to the ADU regulations unrelated to the state legislation. Those proposed changes below are only for R-LD single-family zoned lots:

- Reduction of standards for open space by requiring the maintenance of 50% of the existing rear yard or 500 sq ft of private open space, whichever is less. This is a reduction from the previous requirement of 750 sq ft.
- Remove the prohibition of second driveways on single-family zoned lots and allow second driveways for ADUs on single-family zoned corner lots.

The Planning Commission also discussed whether these regulations should be extended to all single-family zoned lots. After discussion, the Planning Commission recommended that the minimum open space requirement be reduced to 500 sq ft for all R-LD single-family zoned lots and that second driveways be allowed for all R-LD single-family zoned corner lots. These proposed regulations are intended to balance the promotion of the ADUs with maintaining the quality of life of local residents. The regulations, if adopted, will maintain integrity of existing neighborhoods, provide open space in the residential rear yard for environmental benefits, and facilitate additional parking. The proposed City-driven ADU changes have been adjusted to ensure conformity with the state statutes.

The Planning Commission acknowledged that the state ADU requirements were mandated and also accepted the recommended city-specific amendments. Therefore, the proposed ADU Ordinance Amendment being considered by the City Council is substantially consistent with the draft ordinance that was discussed at the Planning Commission meeting on November 13, 2023.

The Planning Commission also discussed and recommended further study of other possible amendments to the ADU regulations, including reducing the requirement of a minimum four (4) foot setback, potentially to 0-feet, for detached ADUs and allowing condominium subdivisions for the separate sale or conveyance of ADUs and primary dwelling units. EPACANDO and City Systems, members of the Technical Working Group, submitted a letter dated November 13, 2023 (Attachment 8) and EPACANDO provided public comment in favor of the reduction of rear and side setbacks to zero feet in order to facilitate the legalization of formerly unpermitted ADUs that were built with zero to four foot side or rear setbacks and to make efficient use of available space for new housing among other benefits enumerated in the letter. Staff recommends that the Council provide direction to staff on how to proceed regarding these two items, which may include returning to either the Planning Commission or the Council with additional information for further consideration.

## **Analysis**

There is a need to realign the Municipal Code to bring it into conformance with the latest legislative changes from 2021 through 2023 to ADU statutes, and to address the HCD finding of non-conformance in their letter dated April 14, 2023. Staff acknowledged receipt of the letter and affirmed that the current Ordinance would be updated in late

2023. City staff seeks the City Council's discussion and adoption of the draft Ordinance, as well as the approval of the other provisions suggested by staff. The intent of these changes is to promote and incentivize the construction of ADUs and enhance the livability and compatibility of ADUs within neighborhoods if life and safety requirements are met and compliance with state housing legislation is maintained.

This staff report is organized into the following proposed action items for the City Council's consideration:

- A. Repeal and replace EPAMC Chapter 18.96 (current ADU Ordinance) to update the ADU and JADU provisions and development standards for conformance with state legislation.
- B. Amend ADU Zoning Regulations in other Chapters of Title 18 to relax certain development standards, including certain provisions regarding processing of ministerial applications.
- C. Amend certain code provisions regarding livability of single-family neighborhoods citywide.
- D. Consider certain provisions regarding other development standards pertaining exclusively to ADUs.
- E. Consider certain provisions on private open space and driveways regarding all single-family zoned parcels citywide without existing or proposed ADUs.

**A. Repeal and Replace the ADU Ordinance for compliance with state law as part of a comprehensive code clean-up effort.**

The City's current ADU Ordinance was codified in Chapter 18.96 of the EPAMC. As of January 1, 2023, the provisions that conflict with State law may be rendered null and void by a court of law. Staff recommends that the current ADU Ordinance be repealed and replaced by the draft Ordinance (Exhibit D of Attachment 1). The draft Ordinance is intended to address those sections of the current ADU Ordinance conflicting with the state legislation while maintaining those requirements that are still appropriate. Attachment 7 of this report provides the Ordinance in tracked changes to highlight the proposed modifications to Chapter 18.96. A clean version of the draft Ordinance is also attached as Exhibit D to the City Council ordinance (Attachment 1 – City Council Ordinance).

Changes of note include the following:

- Updated and new definitions (Table 1 below) for ADU, JADU, Primary Dwelling Unit, Public Transit, and Major Transit Stop,
- Reduction of standards for open space per Section 18.96.060 D Open Space of the draft Ordinance requiring the maintenance of 50% of existing rear yard or 500

sq ft of private open space whichever is less,

- Allowance of a second driveway per Section 18.96.060 F 4 on corner lots,
- Addition of objective development standards per Section 18.96.060 J on window placement, Section 18.96.060 K on skylights, and Section 18.96.060 L on decks and balconies, and
- Addition of a new Preliminary Ministerial Review process to replace the ADU Zoning Clearance process per Section 18.96.070 on Application and Processing for ADUs.

The draft Ordinance is reorganized to increase clarity of the regulations and improve public comprehension of the objective development standards for various types of ADUs in different zones and thus facilitate the construction of ADUs.

**Table 1. Definitions**

|                                                                                | <b>Staff Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Accessory Dwelling Unit (ADU) Definition</b><br>(§18.08.010 and §18.96.010) | ADU means a converted, attached or new construction 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. |
| <b>Junior Accessory Dwelling Unit (JADU) Definition</b><br>(§18.96.010)        | 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.      |
| <b>Primary Dwelling Unit</b><br>(§18.96.010)                                   | A 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.                                                                                                                                                                                                                                                                                           |
| <b>Public Transit</b><br>(§18.96.010)                                          | 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.                                                                                                                                                                                                                                                    |
| <b>Major Transit Stop</b><br>(§18.08.010)                                      | 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                                                                                                                                                |

Table 2 below includes recommendations that bring the Ordinance into compliance with State Law and respond to the HCD findings regarding the current ADU Ordinance (Attachment 3).

**Table 2. Compliance with state legislations**

|                                               | <b>Staff Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Zoning</b><br>(§18.96.030.A)               | 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 or on lots with multiple detached single-family dwellings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>State Exemption ADUs</b><br>(§18.96.030.E) | 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 in Section 18.96.050:<br><ol style="list-style-type: none"> <li>1. One ADU and one JADU per parcel with a proposed or existing single-family dwelling that complies with the requirements of state ADU law.</li> <li>2. One detached, new construction ADU that meets requirements of the Ordinance. The ADU may be combined with a JADU that meets the standards as described in Section 18.96.060.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Unit Size</b><br>(§18.96.050.B)            | The floor area of a new construction attached or detached ADU or an ADU from converted space, 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Height</b><br>(§18.96.050.C)               | 17 feet maximum in addition to required elevation for floodproofing when the subject site is located within a special flood hazard area.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Height Limitations</b><br>(§18.96.050.C)   | 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.<br><ol style="list-style-type: none"> <li>1. 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. However, the ADU may not exceed two stories.</li> <li>2. Detached ADU. The height of a detached ADU may not exceed: <ol style="list-style-type: none"> <li>a) 17 feet on a parcel with an existing or proposed single-family dwelling or multiple-family dwelling;</li> <li>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.</li> </ol> </li> </ol> |

|                                                      | <b>Staff Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Open Space</b><br>(§18.96.050.D)                  | 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Front Setback Requirements</b><br>(§18.96.050.I)  | 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 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>Setbacks</b><br>(§18.96.050.I)                    | <ol style="list-style-type: none"> <li>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.</li> <li>2. New construction: A minimum of 4-foot side and rear setbacks must be maintained for construction of ADUs. Provided an 800-square foot accessory dwelling unit is not prohibited from being built, a minimum of 6-foot separation shall be maintained from the primary dwelling to any detached accessory dwelling unit. New ADUs shall be subject to the front yard setback requirements set forth in development standards of the underlying zoning district.</li> </ol> |
| <b>Architectural Compatibility</b><br>(§18.96.050.J) | <p>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:</p> <ol style="list-style-type: none"> <li>1. The ADU 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.</li> <li>2. 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.</li> </ol>                                               |
| <b>Window Placement</b><br>(§18.96.050.K)            | <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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</li> </ol>                                               |

|                                              | <b>Staff Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                              | <p>requirements:</p> <ul style="list-style-type: none"> <li>a. Windows shall face towards the interior of the site.</li> <li>b. Windows shall not face towards the rear and closest side property lines, unless the following standards are met: <ul style="list-style-type: none"> <li>i. 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.</li> <li>ii. Second story windows may be clerestory windows with the sill of the window frame not lower than six feet or 72 inches above finished floor.</li> <li>iii. Second story windows which are not clerestory windows must utilize opaque glazing up to a height of six feet or 72 inches above finished floor.</li> </ul> </li> </ul> |
| <b>Skylights</b><br>(§18.96.050.L)           | Skylights, whether operable or not, may be used to supplement interior lighting for all types of ADUs and JADUs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Decks and Balconies</b><br>(§18.96.050.M) | Second story doors, balconies, and decks for all detached ADUs and attached ADUs that encroach into the minimum required setbacks for the primary structure 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.                                                                                                                                                    |
| <b>Non-permitted ADUs</b><br>(§18.96.090)    | 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 2018 shall be issued a building 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.                                                                                                                                                                                                                                                                    |

Staff recommended the minor reduction of standards for open space by requiring the maintenance of 50% of the existing rear yard or 500 square feet (sq ft) of private open space, whichever is less. This provision would potentially allow more ADUs that are larger than the state exempted 800 sq ft ADU with only marginal impacts on storm runoff. An additional recommendation is to relax the prohibition of second driveways on single-family zoned lots and allow second driveways for ADUs on corner lots in order to facilitate the construction of Accessory Dwelling Units (ADUs) in the City. Second driveways would be allowed only if they don't impact traffic and public safety. In order not to exacerbate the volume of storm runoff and the heat island effect, second driveways will be required to use permeable pavers with optional green/vegetated joints

and include flanking vegetation to provide shade. The second driveway would also facilitate additional parking for ADUs on corner lots. Table 3 includes recommended development standards changes for discussion. As discussed above, the Planning Commission voted to recommend the following provisions for all single-family R-LD zoned properties: 1) reducing the rear yard to 50% of the existing rear yard or 500 sq ft. whichever is less, and 2) allowing second driveways on corner lots which meet minimum traffic and public safety standards and utilize permeable pavers. The draft Ordinance has been amended to include both of these proposed changes.

**Table 3. Relaxation of additional ADU development standards in Chapter 18.96, Section 18.96.050 and 18.30.080 of the EPAMC**

|                                                          | <b>Staff Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Open Space</b><br>(§18.96.050.D)                      | 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. Cross reference to Subsection 18.96.050 D will be added to Section 18.10.030 Table 2-2. |
| <b>Corner Lots – Second Driveway</b><br>(§18.96.050.F.3) | 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.                                   |
| <b>Parking for Single Family Lots</b><br>(§18.30.080.A)  | Cross reference to Subsection 18.96.050.F.3 will be added to Subsection 18.30.080.A.                                                                                                                                                                                                                                                                                                                         |

## **B. Amend ADU Zoning Regulations in other Chapters of Title 18 to relax certain development standards,**

Several Sections have also been amended or added to certain Chapters of Title 18 beyond the state requirements to facilitate the development of ADUs. These include Section 18.80.025 on Streamlined Ministerial Review Actions, and Section 18.82.020 on Authority for Land use and Zoning Decisions to add the Preliminary Ministerial Review (PMR) Clearance to **Table 7-1** on Review Authority (Exhibit B of Attachment 1). Chapter 18.85 on Preliminary Ministerial Review (Section 6 of Attachment 1) has also been added to replace the ADU Zoning Clearance process and clarify the process for zoning review and approval.

With the new Chapter 18.85 of the EPAMC, staff is proposing a new streamlined application for ministerial permits to verify if a proposed land use or structure complies with the uses allowed in the applicable zone and the objective development, design, and subdivision standards applicable to the use or structure. ADUs would follow this process rather than the previous Zoning Clearance process. This would clarify that the process is ministerial, unlike the standard Zoning Clearance which is a discretionary

planning entitlement. Additionally, this new process would be available for other ministerial processes, such as those under the HOME Act (SB 9) and Streamlined Ministerial Approval process (SB 35), providing for a planning review prior to the building permit process.

**C. Amend certain code provisions regarding livability of single-family neighborhoods citywide.**

The Planning staff is also proposing a specific code amendment that will generally benefit single-family dwellings, and by extension ADUs, since a vast majority of them in the City are built on single-family zoned properties. It is aimed at improving the livability of single-family neighborhoods citywide when single-family zoned properties abut non-residential zoned properties. This amendment, to Section 18.90.020 B 1 (Exhibit C of Attachment 1) of Chapter 18.90 on Variances and Minor Variances will add fences or walls up to eight feet to **Table 7-3** on Types of Minor Variances Allowed, so that such fences and walls will be processed administratively as minor variances. Currently, fences are allowed up to four feet within the front setback and up to six feet in the side or rear yards. A fence in the rear or side may be extended to a maximum of seven feet with a minor fence variance. However, where residential properties abut nonresidential uses, a taller fence or wall would be beneficial by providing a higher visual screen and acoustic barrier for noise reduction, and a greater sense of safety. Fence variances are processed administratively at staff level and would be subject to appeal to the Planning Commission.

**D. Consider certain provisions regarding other development standards pertaining exclusively to ADUs.**

There are two additional standards that the Planning Commission discussed and made recommendations on. These include the issue of reducing the requirement of a minimum four (4) foot side yard setback, potentially to 0-feet, for detached ADUs and the propriety of condominium subdivisions to allow the separate sale of ADUs. These two items are included below for City Council consideration.

Setback Reductions: Staff recommended that the Planning Commission discuss and provide a recommendation regarding the question of reducing minimum side and rear setbacks to less than four feet as was discussed at the December 6<sup>th</sup>, 2022 City Council meeting. The Council was open to considering some exceptions but did not expressly support zero setbacks. Substandard setbacks have been issues primarily for existing nonconforming ADUs. New ADUs have been approved with all required setbacks.

Substandard setback concerns have been primarily addressed by SB 897 for existing ADUs and recent ADU applications have not shown that the four-foot setback is an issue. Currently, only two nearby jurisdictions, Santa Clara County and the City of Santa Clara, have reduced setbacks by allowing three-foot minimum setbacks for ADUs.

Zero setback ADUs are possible but in all cases are conditioned on the health and safety of the future occupants and community as determined by the Building Official,

including the first risk posed to adjoining structures as setbacks can provide a natural fire barrier. Common solutions to this issue where setbacks are reduced involve relatively expensive construction including fire rated walls, thereby halting or reducing the speed of a fire spreading. Any windows must be especially fire rated and clerestory-type with no visibility onto the adjoining properties. Roof overhangs must not encroach into adjoining properties and all roof drainage must be confined to the subject site. These measures can often be costly and may defeat the underlying premise of affordability for ADUs. On the other hand, reduced setbacks could increase available private open space. Some people prefer zero setbacks to sub-standard setbacks of one or two feet as those create unusable narrow spaces but still with the need for expensive fire rated walls and other measures already discussed. However, even minimal setbacks of one to two feet can be advantageous as they would allow space for erection/maintenance of fences and detached ADUs. The Planning Commission was concerned about potential impacts with lesser setbacks, including noise, and recommended that the reduction beyond the State maximum of four feet be studied further and brought back to the Commission for discussion.

Condominium Subdivisions: The October 2023 passage of AB 1033 provides the option for the City to adopt an ordinance that allows separate conveyance of the primary dwelling unit and accessory dwelling unit as condominiums. Current state and East Palo Alto regulations prohibit the separate ownership of ADUs from the primary unit except for qualified nonprofits for deed restricted units. The Planning Commission briefly discussed allowing separate sale of primary dwelling units and ADUs as condominiums. Allowing units to be sold as condominiums, which tend to sell for much less than single-family homes, may create options for residents for which homeownership is currently out of reach. While additional condominiums can be a more affordable option and help to increase the possibility of homeownership for some, this may still not be an affordable option for everyone. Separate sale may also have benefits for homeowners in need of supplemental income. Additionally, allowing homeowners the option to sell the ADU or primary home may also encourage more ADUs to be built by offsetting the high cost of building an ADU. However, allowing ADUs as condominiums could potentially change the development pattern of single-family neighborhoods.

As a newly enacted state law, the City may choose to defer consideration of an ADU condominium option to provide more time to study and understand the implications as it is not a mandate. Condominium subdivisions should be further evaluated before a decision is made. First, there are common interest issues regarding accessibility (ingress and egress), utility easements, management of common spaces, etc. Second, the basic relationship between primary dwelling and accessory dwelling is irretrievably severed with all dwellings assuming primary status possibly without access to parking and other residential amenities. The Planning Commission recommended that this item also be deferred to a future action pending additional analysis. If the City Council accepts this recommendation, it should direct staff to formulate a work plan for the Council's consideration, including to host another roundtable on these issues, reach out to various community stakeholder for input, and re-engage the Planning Commission in

a study session format before returning for City Council discussion and action by the end of 2024.

**E. Consider certain provisions on private open space and driveways for all single-family zoned properties without existing or proposed ADUs:**

The draft Ordinance originally proposed the relaxation of development standards for private open space and allowance of a second driveway for corner lots only for properties with ADUs. However, based on the Planning Commission discussion and recommendation, the revised ordinance proposed for adoption now includes both of these amendments. Because these provisions were previously discussed above, only a brief summary is provided as follows:

**Open Space Requirement.** Staff recommended a limited reduction for single-family lots containing ADUs while the Planning Commission recommended extending the same open space requirement to all single family lots for consistency.

**Second driveways on all single-family zoned corner lots.** Staff recommended the relaxation of the prohibition of second driveways on single-family zoned corner lots with ADUs. The Commission recommended allowing second driveways for all single family lots for consistency. This would provide additional parking for all properties, including for SB 9 units and not just ADUs. However, second driveways could also impact the neighborhood development patterns and reduce landscaped areas.

These recommendations will involve amendments to EPAMC minimum requirement to reduce the 750 sq ft. private open space under Section 18.10.030 Table 2-2 Development Standards for Residential Zones (Exhibit A of Attachment 1) and Section 18.30.080 A.5 to allow up to two driveways for single-family zoned properties on corner lots (Section 3 of Attachment 1).

**Next Steps**

The draft Ordinance is intended to address those sections of the Municipal Code that conflict with state legislation and to respond to City Council direction on ADUs. If the local Ordinance is out of compliance with the state regulations, the less restrictive state regulations would override local codes. The proposed amendments to the City's ADU Ordinance will bring the Municipal Code into compliance with the state legislation and enable the City to continue to encourage and regulate the construction of ADUs and JADUs.

If approved by the City Council, the Development Code Text Amendment (ZTA23-001) would be scheduled for adoption at a subsequent meeting on December 14, 2023. The Development Code Text Amendment (ZTA23-001) would become effective on the 31st day following the adoption of the Ordinance by the Council.

**Fiscal Impact**

There is no fiscal impact to the City associated with the proposed Ordinance.

## **Public Notice**

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at City Hall located at 2415 University Avenue, East Palo Alto. Additionally, Additionally, a legal advertisement was placed in the local newspaper on November 24, 2023, more than ten (10) days prior to this meeting.

## **Environmental**

The adoption of the 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. The proposed 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 state law and other provisions of the proposed ordinance address processing of permit applications and approval authority for activities already allowed in the City's Development Code. Planning staff have determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

## **Attachments:**

- Attachment 1 – ZTA23-001 City Council Ordinance.
- Attachment 2 - Key provisions of SB 897.
- Attachment 3 – Current EPA ADU Ordinance.
- Attachment 4 - December 6, 2022 City Council Staff Report.
- Attachment 5 – April 14, 2022 HCD Letter on EPA ADU Ordinance.
- Attachment 6 – Draft Planning Commission Resolution (Amended to reflect hearing decision).
- Attachment 7 – Tracked Draft EPA ADU Ordinance.
- Attachment 8 – EPACANDO letter to Planning Commission, November 13, 2023.

# **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 500 SQUARE FEET OR 50 PERCENT OF THE REMAINING REAR YARD, WHICHEVER IS LESS RESTRICTIVE, IN THE R-LD ZONING DISTRICT; 4) AMEND SECTION 18.30.080 TO ALLOW SECOND DRIVEWAYS ON CORNER LOTS WITH SINGLE-FAMILY HOMES; 5) ADD SECTION 18.80.025 STREAMLINED MINISTERIAL REVIEW ACTIONS; 6) 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; 7) ADD CHAPTER 18.85 PRELIMINARY MINISTERIAL REVIEW; AND 8) AMEND CHAPTER 18.90 VARIANCES AND MINOR VARIANCES TO ADD FENCES UP TO EIGHT FEET TO TABLE 7-3 TYPES OF MINOR VARIANCES ALLOWED. (EXHIBITS A, B, C AND D).**

**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 a duly and properly noticed public hearing on **December 5, 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 18.30.080 PARKING AREAS, DEVELOPMENT AND MAINTENANCE AMENDED**

Section 18.30.080.A.5 is hereby amended to add the underlined text and remove the strikeout text to read as follows:

**Driveway.** Only one drive 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. ~~Single-family homes are prohibited from having more than one driveway entrance.~~ For non-corner lots, All dwelling units must be served by the same driveway access to the street as the main dwelling, and, if an existing property has more than one driveway, any new development permit, including but not limited to, design review, grading, drainage, or tenant improvements, shall be conditioned to remove the additional driveway(s).

**SECTION 4. 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 5. 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 6. 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 7. CHAPTER 18.90 VARIANCES AND MINOR VARIANCES AMENDED**

Table 7-3 Types of Minor Variances Allowed hereby amended as shown in Exhibit “C”, attached hereto and incorporated herein by reference.

### **SECTION 8. 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 “D” attached hereto and incorporated herein by reference.

## **SECTION 9. 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 10. 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 11. EFFECTIVE DATE.**

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

## **SECTION 12. 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 \_\_\_\_\_, 2023, and

**PASSED AND ADOPTED** at a regular City Council meeting held on \_\_\_\_\_, 2023, 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 – Table 7-3 Types of Minor Variances Allowed**

**Exhibit D - Draft 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.

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

|                                                                                                                                                       |                                                                                                                                                                           |                                                       |                                                      |                                           |                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------------|-------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Corner Vision Triangle                                                                                                                                | 12 ft.                                                                                                                                                                    | 12 ft.                                                | 12 ft.                                               | 12 ft.                                    |                                                                                                                                        |
| Side/Street Side                                                                                                                                      | 5 ft.                                                                                                                                                                     | 10 ft.                                                | 10 ft./15 ft.                                        | 10 ft./15 ft.                             |                                                                                                                                        |
| Rear<br>1 <sup>st</sup> Story<br>2 <sup>nd</sup> Story<br>(see footnote 1 for structures above 18 feet)                                               | 10 ft.<br>10 ft.                                                                                                                                                          | 20 ft.<br>30 ft.                                      | 20 ft.                                               | 20 ft.                                    | R-LD zone:<br>The 10-foot rear setback requires a minimum of 750 sq. ft. of usable rear yard area; if not, development is not allowed. |
| Site Coverage                                                                                                                                         | 50%                                                                                                                                                                       | 60%                                                   | 70%                                                  | 70%                                       |                                                                                                                                        |
| Floor Area Ratio                                                                                                                                      | .55                                                                                                                                                                       | .65                                                   | —                                                    | —                                         |                                                                                                                                        |
| Height                                                                                                                                                | Dwelling:<br>2 stories or 26 ft., whichever is greater                                                                                                                    | R-MD-1:<br>2½ stories or 30 ft., whichever is greater | R-HD-3:<br>3 stories or 36 ft., whichever is greater | 7 stories or 75 ft., whichever is greater |                                                                                                                                        |
|                                                                                                                                                       | Accessory Structure:<br>15 ft.                                                                                                                                            | R-MD-2:<br>3 stories or 36 ft., whichever is greater  | R-HD-5:<br>5 stories or 60 ft., whichever is greater |                                           |                                                                                                                                        |
| Open Space - Minimum sq. ft. of open space required for each dwelling unit. All open space areas shall be landscaped in compliance with Chapter 18.28 |                                                                                                                                                                           |                                                       |                                                      |                                           |                                                                                                                                        |
|                                                                                                                                                       | 500 sq. ft. in rear of property, usable and open, no permanent hardscape, or 50% of remaining rear yard, whichever is less restrictive to allow Accessory Dwelling Units. |                                                       |                                                      |                                           |                                                                                                                                        |
| Common Open Space                                                                                                                                     | N/A                                                                                                                                                                       | 250 sq. ft. (minimum                                  | 100 sq. ft. (minimum                                 | 50 sq. ft. (minimum                       | Common and Private Open                                                                                                                |

|                                                                                                                          |                              |                                                                      |                                                                         |                                                                     |                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Must be usable and provide amenities.<br><br>Setbacks may count toward open space requirement if all provisions are met. |                              | dimension [length/width] shall be 15 feet)                           | dimension [length/width] shall be six feet)                             | dimension [length/width] shall be six feet)                         | Space may be aggregated on a parcel in R-MD, R-HD and R-UHD zones; (minimum dimension [length/width] shall be 20 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.

| Table 7-1 Review Authority                      |                          |                                                                        |            |            |
|-------------------------------------------------|--------------------------|------------------------------------------------------------------------|------------|------------|
| Type of Action                                  | Applicable Code Citation | Role of Review Authority <sup>(1)(2)</sup>                             |            |            |
|                                                 |                          | Director                                                               | Commission | Council    |
| A. Administrative Permits and Actions           |                          |                                                                        |            |            |
| 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     |
| <u>Preliminary Ministerial Review Clearance</u> | <u>Ch. 18.85</u>         | <u>Decision</u>                                                        | <u>N/A</u> | <u>N/A</u> |
| B. Quasi-Judicial Permits and Actions           |                          |                                                                        |            |            |
| 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   |
| C. Legislative Actions                          |                          |                                                                        |            |            |
| 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   |
| D. Subdivision Maps and Other Approvals         |                          |                                                                        |            |            |
| Tentative Maps, Final and Parcel Maps           | See Table 5-1            |                                                                        |            |            |
| Lot Line Adjustments, Mergers, and Approvals    | See Table 5-1            |                                                                        |            |            |

;sz=9q;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

### Chapter 18.90 Variances and Minor Variances

#### 18.90.020 Applicability

- A. **Variances.** A Variance may allow any adjustment from any of the development standards required by the Development Code if the required findings are made.
- B. **Minor Variances.** A Minor Variance may be granted only for the items specified in Table 7-3 and only if the required findings are made.

| <b>Table 7-3<br/>Types of Minor Variances Allowed</b>                                                                                                                                                                   | <b>Maximum<br/>Variance</b> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| 1. Allowable height of a fence, hedge, or wall. An increase of the allowed maximum height of a fence, hedge, or wall located within a side or rear setback.                                                             | Up to seven feet            |
| <u>1b. Allowable height of a fence, hedge, or wall. An increase of the allowed maximum height of a fence, hedge, or wall located within a side or rear setback when a nonresidential zone abuts a residential zone.</u> | <u>Up to eight feet</u>     |
| 2. Distances between structures. A decrease of the minimum required distances between detached accessory structures and main structures on the same site.                                                               | 10 percent                  |
| 3. Impervious surface coverage. An increase of the maximum allowable impervious surface coverage.                                                                                                                       | 10 percent                  |
| 4. Projections. An increase in the allowed projection of chimneys, eaves, fireplaces, landings, overhangs, stairways, and steps into any required front, side, or rear setbacks.                                        | 10 percent                  |
| 5. Reduction of landscape standards. Reduction of required on-site landscaping standards.                                                                                                                               | 10 percent                  |
| 6. Setbacks. A decrease of the maximum required setback areas (e.g., front, rear, and side) for structures.                                                                                                             | 10 percent                  |
| 7. Signs. Sign regulations (other than prohibited signs).                                                                                                                                                               | 10 percent                  |
| 8. Structure heights. An increase in the maximum allowed height of structures.                                                                                                                                          | 5 percent                   |
| 9. Code Enforcement. A reduction in development standards, if doing so will help the City abate a public nuisance as part of a code enforcement hearing or process.                                                     | 10 percent                  |
| 10. Nonconforming Adjustments                                                                                                                                                                                           | 10 percent                  |

## Exhibit D – Draft 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. The 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.
  2. 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.
- 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 six feet or 72 inches above finished floor.
  3. Second story windows which are not clerestory windows must utilize opaque glazing up to a height of six feet or 72 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.

## **Attachment 2**

### **Chronology of State Legislation on ADUs (2016 – 2022)**

#### State ADU Legislation Passed in 2016

On September 27, 2016, Governor Brown signed Senate Bill 1069 (“SB 1069”) and Assembly Bill 2299 (“AB 2299”), amending Section 65852.2 of the Government Code. Both bills reduced local authority to regulate ADUs, requiring that ADUs be ministerially approved. SB 1069 and AB 2299 became effective January 1, 2017.

#### State ADU Legislations Passed in 2019

On October 9, 2019, Governor Newsom signed SB 13<sup>1</sup>, AB 68<sup>2</sup>, and AB 881<sup>3</sup>, amending Sections 65852.2 and 65852.22 of the Government Code, effective January 1, 2020. These new provisions further reduced local authority to regulate ADUs and mandate that local jurisdictions allow the creation of ADUs, including Junior Accessory Dwelling Units (JADUs), in accordance with specified standards and conditions with the statutes. Local agencies that have not adopted an ordinance compliant with Government Code Sections 65852.2 and 65852.22 are required to default to the standards specified in state law for permitting ADUs and JADUs.

SB 13, AB 68, and AB 881 reduce barriers to ADU approval and construction by further streamlining the process and limiting development standards and fees. This reflects the Legislature’s and Governor’s position that ADUs are an important part of the solution to the housing crisis. The changes include the following:

- Prohibits a minimum lot size.
- Requires approval of ADUs in multifamily zoning districts and within existing garages.
- Prohibits requirements for owner occupancy until 2025.
- Requires cities to allow a minimum sized 800 square-foot ADU with four-foot setbacks.
- Prohibits cities from requiring replacement off-street parking if the covered parking is converted to an ADU.
- Requires a delay of enforcement of building code violations in an ADU for five years unless necessary to protect health and safety.
- Requires decisions on ministerial ADU applications within 60 days (from 120 days previously).
- Maximum size for ADUs cannot be less than 850 square feet for one bedroom and 1,000 square feet for two-bedroom units.
- Jurisdictions must now allow JADUs.
- A site can now have one ADU and one JADU by right if standards are met.
- Jurisdictions cannot require corrections to nonconforming zoning conditions.

As a result of the most recent legislation, the number of eligible parcels for construction of an ADU or JADU within the City has been increased from approximately 2,400 to 4,150 square feet (“sq ft”) in areas zoned to allow residential, according to the analysis provided by the ADU Initiative based on the City’s GIS database. Additionally, more

ADUs can be developed in mixed-use zones where multiple family residential uses are allowed.

#### State ADU Legislations Effective as of 2021

After the 2019 updates, the California State Legislature passed AB 3182<sup>4</sup>, which was intended as a clean-up bill for SB 13, AB 68, and AB 881, and took effect on January 1, 2021. The summary of the changes from AB 3182 are provided below:

- An owner of a separate interest in a common interest development (i.e., homeowners associations) shall not prohibit rentals at all, no matter when the governing documents were adopted.
- Local agencies shall act upon the completed application within 60 days, otherwise the application shall be deemed approved.
- On a residential property, where a JADU would be allowed, an ADU also is allowed.

As AB 3182 provides clarity and not substantive changes, staff recommended, and the Council adopted (on November 17, 2020) the third requirement in the current ADU Ordinance Section 18.96.030(N)(1).

#### State ADU Legislation Passed in 2022

On September 28, 2022, Governor Gavin Newsom signed SB 897, a “final” ADU bill to help homeowners construct ADUs by removing unnecessary barriers that hinder development. The salient updates occasioned by the bill are summarized (from the Legislative Counsel’s Digest on Senate Bill 897, Chapter 664 published on September 29, 2022) in the Tables 1a, 1b, and 1c below:

**Table 1a. SB 897 Changes to ADU Legislation, Part I**

**SB 897**  
**CHANGES TO ADU LEGISLATION**  
 Approved & Filed with Secretary of State –September

| CATEGORY          | PREVIOUS LAW                                                                                                                                                                                    | SB ADU                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| STANDARDS         | Requires Imposition of standards including parking, height, setback, landscape, architectural review, and maximum size of unit                                                                  | <ol style="list-style-type: none"> <li>1. Requires standards to be objective</li> <li>2. Prohibits denial of ADU/JADU due to need to correct non-conforming issues, building code violations, and unpermitted structures without public health and safety concerns</li> </ol>                                                                                                |
| HEIGHT            | Allows 16-foot height limitation and a 4-foot side and rear setback requirement                                                                                                                 | Increases height limitation to allow: <ol style="list-style-type: none"> <li>1. 18-feet if ADU is within ½ mile of transit, detached, and on lot with multi-family or multi-story dwelling.</li> <li>2. 16-feet for all other detached ADUs</li> <li>3. 25-feet (or height limitation of the zoning district, whichever is lower) if attached to primary dwelling</li> </ol> |
| SPRINKLERS        | Prohibits a local agency from requiring fire sprinklers if they're not required for primary dwelling                                                                                            | Prohibits ADU to trigger requirement for fire sprinklers in existing primary dwelling                                                                                                                                                                                                                                                                                        |
| PARKING STANDARDS | Prohibits a local agency from imposing parking standards on certain ADU's including those within ½ mile of transit, within architecturally or historically significant historic districts, etc. | Prohibits a local agency from imposing any parking standards on an ADU included in an application to create a new SF unit or new MF dwelling                                                                                                                                                                                                                                 |

**Table 1b. SB 897 Changes to ADU Legislation, Part II**

**SB 897**  
**CHANGES TO ADU LEGISLATION**  
 Approved & Filed with Secretary of State –September

| CATEGORY                                 | PREVIOUS LAW                                                                                                                                                                                                                  | SB ADU                                                                                                                                                                                                                                                                                                       |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| BUILDING STANDARDS                       | Requires a local agency to delay enforcement of building standards applicable to ADUs for up to 5-years upon owner requesting delay on the basis that correcting the violations is not necessary to protect health and safety | Prohibits a local agency from denying permit for unpermitted ADU built before January 1, 2018, even if it is in violation of building or state or local standards unless a finding is made that correcting the violation is necessary to protect the health and safety of the public or occupants of the ADU |
| COMBINE DEMOLITION PERMIT AND ADU REVIEW | N/A                                                                                                                                                                                                                           | Requires a local agency to require that a demolition permit for a detached garage that is to be replaced with an ADU be reviewed with the application for the ADU and be issued at the same time.                                                                                                            |
|                                          |                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                              |

**Table 1c. SB 897 Changes to ADU Legislation, Part III**

**SB 897**  
**CHANGES TO ADU LEGISLATION**  
 Approved & Filed with Secretary of State –September

| CATEGORY                                        | PREVIOUS LAW | SB ADU                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| OWNER OCCUPANCY                                 | N/A          | <ol style="list-style-type: none"> <li>1. Prohibits a local agency from imposing an owner-occupant requirement on an ADU before January 1, 2025</li> <li>2. Prohibits a local agency from imposing an owner-occupant requirement on an ADU that was permitted between January 1, 2020, and January 1, 2025</li> </ol> |
| MAXIMUM SF REQUIREMENTS                         | N/A          | Prohibits a local agency from establishing maximum square footage requirement for either an attached or detached ADU that is less than 800 square feet or 1,000 feet for units that provide more than 1-bedroom                                                                                                       |
| EXEMPTIONS FROM CERTAIN DEV. STANDARDS/CRITERIA | N/A          | Prohibits a local agency from establishing minimum or maximum size for an ADU based on criteria (such as lot coverage, floor area ratio, open space, minimum lot size for either attached or detached ADU) that doesn't permit at least 800 square feet with four-foot side and rear yard setbacks                    |

## Attachment 3

### *Chapter 18.96 Accessory Dwelling Unit<sup>1</sup>*

#### **18.96.010 Purpose and Intent**

The purpose and intent of this chapter is:

- A. To increase the supply of affordable housing by allowing accessory dwelling units (also known as second units) in conformance with Government Code Section 65852.1 et seq. to be established in areas zoned to allow single-family or multiple-family residential use;
- B. To establish standards for the development and occupancy of accessory dwelling units to 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

(Ord. No. 08-2020, § 4, 11-17-2020)

#### **18.96.020 Definition**

**Accessory Dwelling Unit (ADU).** As used in this chapter ADU means a separate dwelling unit providing complete independent living facilities for one or more persons containing living, sleeping, kitchen and sanitation facilities which are defined as a full bathroom (tub/shower, sink and, a toilet). An existing single-family residence may be converted to accessory dwelling unit(s) in conjunction with the development of a new main dwelling unit on the site and in conformity with the development standards for a new accessory unit as set forth in this chapter. Subject to the restrictions contained in this chapter, an accessory dwelling unit may be either attached to, or detached from or incorporated into the main dwelling unit. An Accessory Dwelling Unit 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.** A unit that is no more than 500 square feet in size and contained entirely within a single-family residence.

**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.

(Ord. No. 08-2020, § 4, 11-17-2020)

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<sup>1</sup>Editor's note(s)—Ord. No. 08-2020, § 4, adopted Nov. 17, 2020, amended Ch. 18.96 in its entirety to read as herein set out. Former Ch. 18.96, §§ 18.96.010—18.96.170, pertained to similar subject matter, and derived from the 2018 Development Code provisions.

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## 18.96.030 Development Standards—Lot with Single-Family Dwelling

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

- A. **Zoning.** The lot is within a residential or mixed-use zoning district and includes one proposed or legally created dwelling.
- B. **Density.** The Accessory Dwelling Unit or Junior Accessory Dwelling Unit shall not be included in the calculation of residential density for the purpose of determining general plan and zoning conformance.
- C. **Unit size.** The maximum size of any Accessory Dwelling Unit living area, inclusive of a habitable basement and an attic, shall not exceed 1,000 square feet. If there is an existing single-family dwelling, the total floor area of an attached accessory unit shall not exceed fifty percent (50%) of the existing primary dwelling, provided an 800-square foot attached accessory unit is not prohibited, up to a maximum of 1,000 square feet.
- D. **Building Codes.** An accessory unit shall comply with applicable building, health safety and fire codes. 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 accessory unit. Accessory units shall not be required to provide fire sprinklers if fire sprinklers are not required for the primary residence.
- E. **Open Space.** A minimum of fifty percent (50%) of the remaining rear yard or 750 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 life of the project on the lot.
- F. **Site Coverage and Floor Area Ratio.** Construction of any accessory unit shall be subject to the site coverage and floor area ratio requirements of the underlying zoning district provided at least an 800-square foot accessory unit is allowed.
- G. **Parking.**
  - 1. **Requirements:** At least one (1) uncovered off-street parking space shall be required for the Accessory Dwelling Unit in addition to the off-street parking spaces required for the main dwelling. The parking space may be provided in an existing driveway or by tandem parking in compliant with Section 18.30.039, 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 Accessory Dwelling Unit if:
    - a. The accessory unit 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 accessory unit is located within an architecturally and historically significant historic district.
    - c. The accessory unit 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 accessory unit.
    - e. Where there is a car share vehicle located within one block of the accessory unit.

- 
3. **Replacement Parking:** Replacement parking shall not be required when a garage or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit, or conversion of that parking structure into an Accessory Dwelling Unit.
- H. **Utilities and Impact Fees.**
1. No accessory unit shall be permitted if it is determined that there is not adequate water or sewer service to the property.
  2. Accessory units, not created within the existing dwelling unit, may be required to have a new or separate utility connection directly between the accessory unit and the utility. 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.
  3. **Impact Fees.**
    - a. No impact fees may be imposed on an accessory unit 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.
    - b. For accessory units 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.
- I. **Access.** The accessory unit shall be served by the same driveway access to the street as the existing main dwelling. Access via an alley may be allowed to a detached Accessory Dwelling Unit when a property abuts a public alley.
- J. **Common Entrance.** If the accessory unit is attached to the main dwelling, both the accessory unit and the main dwelling unit must be served by a common entrance or a separate entrance to the accessory unit must be located on the side or at the rear of the main dwelling, whenever feasible.
- K. **Setback for Accessory Structure or Garage Conversion.** No setback shall be required for a legally constructed accessory structure that is converted to an Accessory Dwelling Unit. Junior Accessory Dwelling Units are not allowed in an accessory structure.
- L. **Setbacks for New Construction.** A minimum of four (4)-foot side and rear setbacks must be maintained for construction of any Accessory Dwelling Units. Provided an 800-square foot accessory dwelling unit is not prohibited, a minimum of six (6)-foot separation shall be maintained from the primary dwelling to any detached accessory unit. Accessory Dwelling Units shall be subject to the front yard setback requirements compliant with development standards of the underlying zoning district. When a property has recorded easement(s) or setback(s), the creation of the accessory unit shall conform to the recorded restrictions.
- M. **Height.** Any Accessory Dwelling Unit shall not exceed 17 feet in height in addition to any required elevation for floodproofing pursuant to Section 15.52.070.A of the Municipal Code.
- N. **Architectural Compatibilities.** Architectural review of an accessory unit will be limited to the following:
1. The architectural features, window styles, roof slopes, exterior materials, colors, appearance, and design of the accessory unit shall be compatible with the existing single-family residence.
  2. An accessory unit located within a historic site shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

(Ord. No. 08-2020, § 4, 11-17-2020)

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### **18.96.040 Development Standards—Lots with Two-Family and Multiple-Family Dwellings**

Except as otherwise provided in this chapter, any accessory unit that meets all of the following specified development standards shall be approved by the City:

- A. Multiple accessory units may be allowed within the existing portion of two-family or multiple-family dwellings 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 the current Building and Fire Codes for dwellings.
- B. At least one accessory unit may be allowed within an existing multiple-family dwelling, subject to requirements in subsection A. Attached accessory units may be allowed up to twenty-five percent (25%) of the existing number of units within the site.
- C. No more than two detached accessory units may be allowed on a lot zoned for two-family or multiple-family dwellings. A detached accessory unit shall not exceed 16 feet in height, in addition to any required elevation for floodproofing pursuant to Section 15.52.070.A of the Municipal Code, as well as minimum rear and side setbacks of four (4) feet.
- D. Accessory units shall comply with the provisions of Section 18.96.030, as applicable.

(Ord. No. 08-2020, § 4, 11-17-2020)

### **18.96.050 Additional Provisions Applicable to Junior Accessory Dwelling Units**

In addition to other provisions of this chapter, the following provisions apply to Junior Accessory Dwelling Units:

- A. A Junior Accessory Dwelling Unit shall be allowed on a single-family dwelling lot pursuant to the following standards:
  - 1. May share sanitation facilities with the existing primary dwelling.
  - 2. Shall include a separate entrance from the main entrance to the primary dwelling unit; and may include an interior entry to the main living area.
  - 3. Shall include at least an efficiency kitchen, which shall contain all of the following: (a) a cooking facility with appliances; and (b) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
  - 4. No additional parking shall be required unless the unit is created in an attached garage.
- B. A Junior Accessory Dwelling Unit may be allowed on the same lot with an Accessory Dwelling Unit, provided the following criteria are met:
  - 1. The provisions of Section 18.96.030 are met.
  - 2. The following standards, as applicable, are met:
    - a. The Accessory Dwelling Unit is fully detached and is located a minimum of six (6) feet from the primary dwelling unit and the Junior Accessory Dwelling Unit is located within an existing or proposed single-family dwelling.
    - b. The Accessory Dwelling Unit shall not exceed a total floor area of more than 800 square feet and a maximum height of 16 feet in addition to the required elevation for floodproofing pursuant to Section 15.52.070.A of the Municipal Code.

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- c. Junior Accessory Dwelling Unit is located within an existing or proposed single-family dwelling. A unit within an existing single-family dwelling may include an expansion of no more than 150 square feet beyond the physical dimensions of the existing structure to provide for ingress.
  - d. The Accessory Dwelling Unit has exterior access independent from the proposed or existing single-family dwelling.
  - e. The existing single-family dwelling or accessory structure has side and rear setbacks sufficient for fire safety. If the existing dwelling or structure complies with the setback requirements as described in this code, this standard is met.
- 3. No Junior Accessory Dwelling Unit is allowed on a single-family lot with multiple detached single-family dwellings.
- C. A Junior Accessory Dwelling Unit requires the recordation of a deed restriction, which includes the following:
    - 1. Either the existing main dwelling or the newly created Junior Accessory Dwelling unit shall be occupied as the principal place of residence of the record owner of the lot. In the case of ownership by a corporation, partnership, trust or association, either the main dwelling or the accessory unit shall be the place of residence of an officer, director or shareholder of the corporation, a partner in the partnership, a trustor, trustee or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is a government agency, land trust, or housing organization.
    - 2. The Junior Accessory Dwelling Unit, or the main unit if the accessory unit is owner occupied, shall not be rented out on a short-term (less than 30 days) basis.
    - 3. A prohibition on the sale of the Junior Accessory Dwelling Unit separate from the sale of the single-family residence.

(Ord. No. 08-2020, § 4, 11-17-2020)

### 18.96.060 Zoning Clearance for Accessory Unit

Review of an application for a Zoning Clearance for an accessory unit to verify compliance with this chapter is ministerial in nature and requires action by the Director or his/her designee. A determination about compliance with standards shall be made within 60 days of the determination that the application submittal is complete.

- A. **Contents of application.** A zoning clearance application for an accessory unit 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, including but not limited to the following:
  - 1. A Zoning Clearance Form for an accessory unit published on the City website.
  - 2. Building Permit submittal requirements established for an accessory unit.
- B. **Processing fee.** A processing fee established by resolution of the Council shall be paid to the City at the time of filing the application for an Accessory Dwelling Unit or Junior Accessory Dwelling Unit permit.

(Ord. No. 08-2020, § 4, 11-17-2020)

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### **18.96.070 Illegal Accessory Units**

The establishment or continuance of an accessory unit 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. 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 Government Code Section 17980.12.

(Ord. No. 08-2020, § 4, 11-17-2020)



## EAST PALO ALTO CITY COUNCIL STAFF REPORT

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**DATE:** December 6, 2022

**TO:** Honorable Mayor and Members of the City Council

**VIA:** Patrick Heisinger, Interim City Manager

**BY:** Karen Camacho, Housing Project Manager  
Elena Lee, Planning Manager  
Hansom Hom, Deputy Manager, Special Projects

**SUBJECT:** Discussion of Possible Zoning Amendments and Other Measures to Incentivize the Construction of ADUs

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### **Recommendation**

Provide feedback on possible measures to incentivize the construction of Accessory Dwelling Units (ADUs), and direct staff to return in early 2023 with recommendations on: 1) an updated ADU Ordinance; 2) fee waivers or reductions and other financial incentives; 3) development review streamlining measures; and 4) other approaches to facilitate the construction and legalization of ADUs.

### **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

Priority No. 3: Increase Organizational Effectiveness and Efficiency

Priority No. 6: Create a Healthy and Safe Community

### **Background**

#### **Overview**

California has witnessed a housing shortage for several decades. Most of the housing that is being built occurs in bedroom communities that are far from most jobs. This pattern contributes to a worsening commute-time traffic, automobile-generating pollution, and attendant build-up of green-house gases, as well as a loss of productivity due to the long hours spent commuting between work and residences.

Research has shown that in the last couple of decades housing supply in California has lagged far behind demand. This has resulted in an astronomical rise in housing costs with the average household having a harder time, more than ever before, in accessing affordable housing. The San Francisco Bay Area has especially experienced constrained housing production that has

not kept pace with employment and population growth. The insufficiency of housing to meet the demand has escalated both sales prices and market rents for housing units.

Recognizing that California is experiencing a housing crisis, the state legislature and various local government agencies have been looking beyond the traditional modes of housing production to expand housing types. One housing type, Accessory Dwelling Units (ADUs), has received much attention as a viable, cost-effective way to combat the housing crisis and provide affordable units.

ADUs (also known as second units, in-law quarters, granny units, etc.) have been around for a long time. In the past, cities and counties regulated them very differently; some had zoning ordinances that prohibited them altogether. Recent state legislative actions allow ADUs “by right,” which means cities cannot require discretionary approval of these units if certain standards are met. This has streamlined the processing of ADU applications statewide.

An ADU is accessory to a primary residence and has complete independent living facilities for one or more persons. ADUs can be new living spaces, detached or attached, to the primary residence. Existing space within a primary dwelling, an accessory structure, or an attached or detached garages may be converted to an ADU. This form of housing has enormous benefits for both renters and homeowners. Such units are considered natural affordable housing as market rents tend to be lower.

These units also provide more flexible housing options for extended families, such as aging parents and adult children. ADUs also offer a solution for seniors to “age-in-place” while creating rental income to cover housing and living costs.

### **State ADU Legislation**

During the past decade, the California Legislature has passed multiple laws to allow ADUs by right in single-family and multi-family zoning districts. The objective of these laws is to facilitate the supply a relatively affordable rental housing type within all residential communities in California. The state legislation is challenging to follow and has evolved over the years. As soon as a city updates its ADU regulations, a new state law is passed. East Palo Alto last amended its ADU regulations in 2020, but further amendments are necessary to conform with state law enacted in 2022. Attachment A provides a chronology of state legislation on ADUs enacted from 2016 to 2022. The latest bill is SB 897 was signed by the Governor in September 2022 and will be effective January 1, 2023. The key provisions of this bill are listed in Attachment A. City ADU regulations that need to be updated to conform with SB 897 are noted in Table A in the Analysis section.

### **City ADU Regulations**

In June 2014, the City Council adopted Ordinance 380 to allow second units/ADUs, garage conversions to habitable space, and guest houses to promote local affordable housing options. Ordinance 380 was the subject of extensive community engagement and reflects the City’s interest in supporting these types of developments. (See Attachment B for a summary of Community Engagement efforts on ADUs)

In January 2017, the City Council amended the ADU Ordinance to bring the regulations into compliance with the 2016 ADU legislation. The updated ADU regulations were codified in Chapter 18.96 of the East Palo Alto Municipal Code (EPAMC) as part of the comprehensive Development Code updates in 2018.

In November 2020, the city revised its ADU ordinance (“Current ADU Ordinance”) and brought the City’s ADU regulations into compliance with then-current state legislation on ADUs. The 2017 ADU Ordinance was a critical reference point for the Current ADU Ordinance. It provided a baseline of requirements that were adjusted for conformance with state legislation, as well as to reflect the City Council’s approach on such issues as the maintenance of community character through neighborhood compatibility. Some of the changes in the 2020 ordinance were the following:

- **JADU Size.** Defined and codified the size limitations of a Junior Accessory Unit (JADU).
- **Minimum Lot Size.** An attached ADU is allowed on a parcel zoned residential or mixed-use with a lot size consistent with the requirement of the underlying zoning district.
- **Unit Size.** The maximum size of an ADU living area, inclusive of habitable basement and attic, may not exceed 1,000 square feet (sf). If there is an existing single-family dwelling, the total floor area of the attached ADU may not exceed 50% of the existing primary dwelling
- **Site Coverage and Floor Area Ratio (FAR).** The total floor area of the main dwelling and the ADU shall not exceed the permissible floor area ratio or lot coverage for the underlying zoning district provided at least an 800-square foot accessory unit is allowed.
- **Open Space.** A minimum of fifty percent (50%) of the remaining rear yard or 750 square feet of open space, whichever is less restrictive, must be provided and maintained as usable rear yard open space with no permanent hardscape for life of the project on the lot.
- **Parking.** A minimum of one (1) uncovered off-street parking space must be provided for the ADU in addition to the off-street parking spaces required for the main dwelling. Covered parking is not required.
- **Exceptions to Parking Requirements.** No parking requirement shall be imposed for the construction of an Accessory Dwelling Unit if:
  - o The unit is within ½ of transit
  - o The unit within an architecturally or historically significant historic district.
  - o The unit is part of an existing primary dwelling or existing accessory structure
  - o On-street parking permits are required but not offered to the occupants of the unit
  - o There is a car share vehicle within one block of the unit
- **Replacement Parking.** Replacement parking shall not be required when a garage or covered carport is demolished in conjunction with the construction of an ADU, or conversion of that parking structure into an ADU
- **Access.** The ADU shall be served by the same driveway access to the street as the existing main dwelling. Access via an alley may be allowed to a detached ADU when a property abuts a public alley.
- **Common Entrance.** If the ADU is attached to the main dwelling, both the ADU and the main 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 main dwelling, whenever feasible.
- **Setback for Accessory Structure or Garage Conversion.** No setback may be required for a legally constructed accessory structure converted to an ADU. Junior ADUs are not allowed in an accessory structure.
- **Height.** Any ADU may not exceed 17 feet in height in addition to any required elevation for floodproofing pursuant to Section 15.52.070.A of the Municipal Code.
- **Additional Provisions Applicable to Junior Accessory Dwelling Units** were included.
- **Zoning Clearance for Accessory Unit.** Review of an application for a Zoning Clearance for an accessory unit is ministerial in nature.

## **Analysis**

Staff continues to hear from applicants expressing an interest in legalizing previously converted garages or detached accessory structures into ADUs without benefit of permits. There also is interest among staff and the development community to streamline the permitting process for ADUs to improve efficiency and reduce processing time. There has been a gradual uptick in the number of inquiries about, and subsequent applications for, ADUs in the City over the last five (5) years. Over that period there have been 68 Zoning Clearance and 72 Permit approvals by the Planning and Building Divisions' respectively. While the review times vary depending on the underlying issues, such as existing Code Enforcement cases and applicants' preference to combine ADUs with other improvements, etc., these projects received Zoning Clearance within 30-days on the average, which matches the 30-day review cycle for Building Permit application. It should be noted, however, that the State mandated 60-day ministerial review period for ADU's applies solely to the Building permit stage, after the Zoning Clearance. A breakdown of the approvals is provided in Attachment C.

Additionally, there is the need to review and realign the Municipal Code to bring it into conformance with the latest legislative changes resulting from the approval of State Senate Bill SB 897 as previously mentioned. Staff suggests that additional measures beyond permit streamlining and zoning amendments for state law compliance could be considered to further promote and incentivize the construction of ADUs, provided that life and safety requirements are met.

Options for City Council consideration to facilitate the construction of ADUs can be grouped into the following categories and topics. Additionally, the Council may suggest other options for staff to explore.

### **A. Amendments to ADU Zoning Regulations**

#### **1. Comprehensive Code Clean-Up/State Law Compliance**

Staff recommends the Council direct staff to proceed with a comprehensive amendment of the Development Code ADU regulations to bring its provisions and requirements into conformance with current state ADU legislation. Staff recommends these changes include the following:

- a. Clean up the Code to clarify that an ADU within an existing or proposed primary dwelling or attached or detached unit built within standard buildable areas may be constructed on the second floor.
- b. Incorporate language about conversions, including from attached garages, detached accessory structures, etc.
- c. Clarify the height/other requirements for detached and attached ADUs.
- d. Clarify requirements for ADUs in multi-family dwellings.

Table A summarizes the key elements of the current East Palo Alto ADU regulations including those for which amendments are necessary. The State regulations apply a minimum standard. The City has the option to be more permissive.

**Table A**  
**Key Differences Between East Palo Alto and State ADU Regulations**

| <b>Item</b>                                                  | <b>East Palo Alto</b>                                                                                                   | <b>State</b>                                                                                |
|--------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <b>Minimum Lot Size</b><br>(square feet)                     | 5,000 sf                                                                                                                | N/A                                                                                         |
| <b>Unit Size</b>                                             | Detached - 1,000 sf max<br>Attached - 800 sf or 50% of Primary Dwelling (PD) whichever is larger not to exceed 1,000 sf | Detached - 1,200 sf max<br>Attached - same                                                  |
| <b>Site Coverage/Floor Area Ratio</b>                        | Subject to Zoning<br>Up to 800 sf exempt                                                                                | Subject to Zoning<br>Up to 800 sf exempt                                                    |
| <b>Density</b>                                               | N/A                                                                                                                     | N/A                                                                                         |
| <b>Open Space (OS)</b><br>(percentage or square feet)        | 50% of remaining yard or 750 sf, whichever is less restrictive                                                          | Up to 800 sf exempt from OS requirement                                                     |
| <b>Parking</b>                                               | 1 uncovered space with exceptions                                                                                       | 1 uncovered space with exceptions                                                           |
| <b>Height (feet):</b>                                        |                                                                                                                         |                                                                                             |
| <b>Height (Attached)</b>                                     | 26' R-LD                                                                                                                | 25'                                                                                         |
| <b>Height (Detached)</b>                                     | 17'                                                                                                                     | 16'<br>18' (1/2 mile of Transit or on lot with existing multi-family, multi-story dwelling) |
| <b>Setbacks (feet):</b>                                      |                                                                                                                         |                                                                                             |
| <b>Front</b>                                                 | Subject to Zoning                                                                                                       | Subject to Zoning<br>(up to 800 sf exempt)                                                  |
| <b>Side</b>                                                  | Min 4'                                                                                                                  | Max 4'                                                                                      |
| <b>Rear</b>                                                  | Min 4'                                                                                                                  | Max 4'                                                                                      |
| <b>Separation from Primary Dwelling and other structures</b> | Min 6'<br>(up to 800 sf exempt)                                                                                         | N/A<br>(up to 800 sf, 16' high exempt)                                                      |
| <b>JADU combined with detached ADU on same lot</b>           | Allowed if:<br>Detached and 6' from PD<br>800 sf max<br>16' max height                                                  | Allowed                                                                                     |
| <b>JADU</b>                                                  | Not allowed on SF lot with multiple SF dwellings                                                                        | Same                                                                                        |
| <b>Multi-family sites (#)</b>                                | Up to two (2) detached ADUs                                                                                             | Up to two (2) detached ADUs<br>At least one (1) interior ADU                                |

## 2. Setback Reductions or Exceptions

Inquiries have been received regarding the ability of the City to relax the required rear and side setbacks, at times with a request for a zero side and/or rear setback. ADUs have been constructed as a new detached structure in the rear yard and also through conversions of existing legal detached accessory structures. Under the Current ADU Ordinance, detached ADUs must have minimum rear and side yard setbacks of four feet. The Development Code requires that detached accessory structures (larger than 120 sf) have a minimum rear yard setback of six feet and side yard setback of three feet. However, some homeowners have chosen to convert existing accessory structures located less than four feet from side and rear property lines. While conversions are allowed to have less than the four-foot setbacks, the original structure must have been legally constructed.

Verifying the legal status of existing accessory structures has been difficult due to the lack of permit history, particularly for structures constructed before the City was incorporated in 1983. Reducing the setback requirements would allow more unverified or unpermitted accessory structures to be potentially eligible for conversion to ADUs. While an estimate of the number of these structures is uncertain until further research is conducted, staff has encountered several cases where converting the structure could not be approved under current setback standards because of the inability to verify the structure had previously been approved or permitted.

Staff reviewed the ordinances of several neighboring cities (San Bruno, Menlo Park, Redwood City, and South San Francisco) to understand their code requirements with respect to an ADU. In all cases the setbacks were the same, the only difference occurring with accessory structures (see Table B). Staff is aware that some other cities have reduced setbacks or even allowed zero rear setbacks for accessory structures on condition that those structures meet the code requirements for building and fire safety on the property line. If Council determines that relaxing the setback requirement would facilitate the development of detached accessory structures in the city, it could direct staff to include such a change for future Council consideration.

**Table B**  
**ADU Setback Requirements Comparison Across Jurisdictions**

| CITY                | ATTACHED ADU |      | DETACHED ADU |      | ACCESSORY STRUCTURES      |      |
|---------------------|--------------|------|--------------|------|---------------------------|------|
|                     | Rear         | Side | Rear         | Side | Rear                      | Side |
| EAST PALO ALTO      | 4-ft         | 4-ft | 4-ft         | 4-ft | 3-ft<br>6-ft <sup>1</sup> | 3-ft |
| SAN BRUNO           | 4-ft         | 4-ft | 4-ft         | 4-ft | 1-ft                      | 1-ft |
| MENLO PARK          | 4-ft         | 4-ft | 4-ft         | 4-ft |                           |      |
| REDWOOD CITY        | 4-ft         | 4-ft | 4-ft         | 4-ft | 4-ft                      | 4-ft |
| SOUTH SAN FRANCISCO | 4-ft         | 4-ft | 4-ft         | 4-ft | 5-ft                      | 5-ft |

1. For Accessory Structure with a footprint greater than 120-square feet

3. Flexibility in Open Space Requirement

The 750-sf requirement for open space should be reviewed and clarified for consistency with the recent legislative changes included in SB 897, especially for an ADU which is no larger than 800 square feet. If setback requirements are met, flexibility could be considered in requiring the 750-square foot requirement.

4. Driveway Exceptions: Second Driveways for Corner Lots

EPAMC Section 18.30.080.A.5 states that properties in the single-family zoning district (RLD) can have only one driveway. Staff has received requests for a second driveway for ADUs on corner lots, with applicants arguing that it would enable more parking on their properties. An exception could be considered to allow a second driveway on corner lots, provided design and safety requirements are met.

5. Objective Design Standards

SB 897 provides that cities can only impose objective design standards for reviewing ADUs. Standards cannot be subjective or uncertain. While ADUs are allowed by right and subject to ministerial review only, objective design standards may establish measures to mitigate concerns of neighbors and reduce the potential impacts of ADUs on adjacent properties, particularly if reduced setbacks are allowed. A future work program item for Planning is preparing objective design standards for all residential development, and it would be appropriate to include specific design standards for ADUs as part of these objective standards.

**B. Development Review Streamlining**

1. Process Improvements

The current process for approval an ADU involves two applications: an initial Zoning Clearance process by the Planning Division, prior to a subsequent Building Permit

approval by the Building Division. A shorter, streamlined process could fold the Zoning Clearance process in the Building Permit approval where the Planning staff will review the Building Permit application to ensure that the ADU complies with objective development and design standards, as well as other Development Code requirements. To facilitate this transition and ensure the cost recovery of Planning Services, however, the Building Division staff would be required to collect the applicable Planning fees at the Building Permit intake. Alternatively, the City Council can waive the applicable Planning fees if it concludes that doing so would further facilitate the development of Accessory Dwelling Units in East Palo Alto (see discussion below).

Another option, if the Council desires to maintain the current two-step application process for an ADU, is to rename the processing of Zoning Clearance to a different nomenclature. This would separate the ADU process from other Zoning Clearance applications and thus help to clarify that the ADU approval process is ministerial and not appealable.

## 2. Pre-Review/Approval of ADU Model Plans

With the growing interest among homeowners to construct ADUs, the design and construction industry have responded with model architectural plans and prefabricated or modular units for ADUs which provide “off-the-shelf” design options for homeowners. These options can reduce the cost of hiring an architect or designer to prepare a customized plan for a client. While these plans still require a building permit from the City (or for prefabricated or modular units a state certification), the permit process can be simplified and streamlined. A further streamlining measure is having the City pre-approve model plans; homeowners would then have greater assurance that these plans meet building and fire code standards. It should be noted however that Zoning Clearance and a Building Permit are still required to confirm conformance with zoning standards and to review the foundation design, electrical, mechanical, and plumbing work.

## 3. Design Assistance/Permit Facilitation

While permit streamlining and simplification of the approval process for ADUs can facilitate the construction of ADUs, homeowners may find that the process of preparing design plans, obtaining financing and permits, and constructing an ADU is still a daunting project. An option considered by some cities is offering the services of a third-party designer, architect, or contractor to assist homeowners in constructing an ADU. The third-party firm or individual would be familiar with the City’s zoning and building standards and review process. With establishment of program criteria and insurance requirements, the services can be offered to homeowners at a nominal or affordable fee by the designer, architect or contractor.

# C. Financial Incentives or Assistance for Construction of ADUs

## 1. Waiver or Reduction of Permit Processing Fees

Planning and Building permit processing fees can be a disincentive for homeowners to construct an ADU. The City Council can consider reducing planning and building fees. Various fee waivers or reductions can be considered, such as based on the size of ADU. A fee waiver could be considered for nonprofits and homeowners willing to build an ADU with a deed restriction (i.e., that the unit will be rented and maintained as an affordable unit). Fee waivers should be balanced with the financial impact of reducing

revenue that covers staff operating costs for permit processing.

### *Existing Planning and Building Permit Fee Costs*

Homeowners, nonprofit organizations, and developers wishing to build an ADU currently pay between \$5,000 to \$10,000 in Planning, Building, and other permit processing fees depending on the size and building valuation of the ADU. Table C provides a summary of common ADU fees that are charged at the Planning entitlement stage and later at the Building permit stage.

**Table C**  
**ADU Fees Permit Processing Fees**

| Planning Entitlement                                                  | Building Permit & Construction                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Zoning Clearance*</li> </ul> | <ul style="list-style-type: none"> <li>• Processing</li> <li>• Plan Check</li> <li>• Building Inspection</li> <li>• Engineering Offsite Improvements</li> <li>• Engineering Review of Building Permit</li> <li>• Address Assignment (per unit)</li> </ul> |

\* Engineering and building fees may be charged if requested for complex cases

As an example, the City's ADU Working Group found in 2022 that the permit costs for a sample ADU project in the City was nearly \$10,000 as itemized below:

Building Fee (October 2021): \$3,116.22  
 EPASD Permit: \$525  
 Planning Fee (October 2021): \$586  
 Fire Fee: \$220  
 CCTV DVD: \$5  
 Encroachment Permit (January 2022): \$764  
 Lateral Repair: \$4,500

**Total Cost: \$9,711.22**

### *Existing City Financial Assistance*

The City has a CalHome ADU/JADU loan program ("CalHome Program") to provide low-interest loans of up to \$80,000 to income-qualified homeowners interested in building ADU/JADUs, in exchange for renting their units to income-eligible East Palo Alto households. The California State Department of Housing and Community Development ("HCD") awarded the City with the CalHome program award in an amount of \$2 million in July 2020.

On October 19, 2021, via Resolution No. 141-2021, the City issued an agreement with East Palo Alto Community Alliance and Neighborhood Development Organization ("EPACANDO") to help administer the CalHome program until June 2024. The City worked with EPACANDO, HCD, and Meriwest Credit Union ("Meriwest") to establish

program guidelines and launched the program on January 19, 2022 via a webinar. The City account with Meriwest for loan disbursement was finalized at the end of September 2022. On October 6, 2022, EPACANDO and the City held another informational webinar to seek more potential eligible applicants. The CalHome Program helps pay for plans and permits, necessary site upgrades, and construction costs. Table D shows the loan assistance amounts:

**Table D**  
**CalHome ADU/JADU Program**

|                                                                                                                            | <b>Junior ADU</b> | <b>Attached ADU</b> | <b>Detached ADU</b> |
|----------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------|---------------------|
| <b>Maximum Award Total<sup>1</sup></b>                                                                                     | <b>\$70,000</b>   | <b>\$75,000</b>     | <b>\$80,000</b>     |
| <b>Plans &amp; Permits<sup>2</sup></b><br>Reimbursement of plan design costs and city application fees                     | \$25,000          | \$25,000            | \$25,000            |
| <b>Necessary Site Upgrades<sup>3</sup></b><br>Reimbursement of infrastructure cost upgrades needed to complete the project | \$25,000          | \$25,000            | \$25,000            |
| <b>Construction Assistance</b><br>Reimbursement of construction costs                                                      | \$20,000          | \$25,000            | \$30,000            |
| <sup>1</sup> Maximum assistance shall not exceed fifty percent (50%) of total project cost                                 |                   |                     |                     |
| <sup>2</sup> <sup>3</sup> Up to \$25,000 or 20% of project cost; whichever is smaller                                      |                   |                     |                     |

Since the program launch, EPACANDO has been working with several potential applicants who have reached the building phase and who are income-qualified. EPACANDO has worked with over 77 East Palo Alto households through its “CANDO ADU” program and identified a pipeline of potential CalHome applicants, has assisted over 16 potential CalHome applicants in identifying pre-qualification, has successfully pre-qualified five households, and is currently working with four pre-qualified households. One household’s application will proceed to Merwest for underwriting, pending a building permit. The second household that was going to proceed to Merwest underwriting dropped out due to family issues unrelated to the program. There are also three other households awaiting Building permits before taking the next step.

The majority of applicants began with code enforcement cases for unpermitted second units or other conditions, and are working with City Code Enforcement staff on corrective measures, or working on getting their units to meet the planning requirements. These conditions do not preclude the owner from pursuing the CalHome Program, but rather, has introduced a level of complexity that challenged City staff. Knowing the universe of CalHome Program applicants and their overlap with code enforcement issues has led the City to consider other ways to support rehabilitation/repairs and formalize a City legalization program through development code and design review changes.

A second challenge that EPACANDO and the City have encountered is income-qualifying residents. Pre-qualification barriers include: being over-income; having a high

debt-to-income ratio; having a high loan-to-value ratio; and lacking the primary financing needed to build the ADU or JADU. City timelines and fees have served as a disincentive for potential CalHome applicants.

#### *Additional Financial Incentives Needed*

Staff conducted initial research on cities that have waived or reduced permit processing fees for ADUs. Table E lists jurisdictions such as Milpitas, Dublin, Fremont, County of Marin, City of San Diego, Encinitas, Vista, and San Diego County that have adopted either fee waivers or fee reductions to incentivize the construction of ADU's. These fee approaches reduce an impediment to providing lower-income and "missing middle" affordable housing opportunities. "Missing middle" affordable housing is moderate-income housing consisting of multi-unit or clustered housing types compatible in scale with single-family homes that help meet the growing housing needs.

**Table E**  
**Permit Processing Fee Waivers and Reductions for Selected Cities**

| <b>Jurisdiction</b> | <b>Fee Policy</b>                                                                                  |
|---------------------|----------------------------------------------------------------------------------------------------|
| Milpitas            | Zero Permit Fees for all ADUs. Paid through ARPA (American Rescue Plan Funding).                   |
| Dublin              | Plan check and permit fee waiver for 750 sf or less and if greater than 750 sf w/ deed-restricted. |
| Fremont             | Pre-approved ADU program and the plan check fees are fixed at \$1000.                              |
| County of Marin     | Incentives varying on renter's income level.                                                       |
| City of San Diego   | Low Income Construction Financing Program.                                                         |
| Encinitas           | All development and services fees are waived.                                                      |
| Vista               | Fees are waived if certain conditions are met.                                                     |
| San Diego County    | Pre-approved ADU Program. Fees waived.                                                             |

#### 2. Waiver or Reduction of Development Impact Fees

In addition to permit processing fees, the City also collects development impact fees to fund capital infrastructure project or public facilities costs attributable to development impacts. These impact fees are substantial and can present a formidable obstacle for construction of ADUs. Development impact fees are typically due at the time of building permit issuance. The legal requirements for enactment of an impact fee program are set forth in Government Code Sections §66000 - 66025 (the "Mitigation Fee Act"), commonly referred to as AB 1600. Waiver or reducing impact fees would be a decision to subsidize the cost for infrastructure costs attributed to these projects to achieve a City policy objective.

In July 2020, the City Council adopted Resolution No. 108-2020, the first major revision of the City's Comprehensive Fee Schedule, effective September 20, 2020. Development impact fees are adopted separately from user and regulatory fees and are generally amended annually by the change in the Construction Cost Index, or CCI, published by Engineering News Record. Since 2020, the City's development impact fees have risen annually by the CCI amount. Most recently, in FY 2022-23, development impact fees increased by 8.9%, in accordance with CCI. The authorizing

Municipal Code section and resolution adopting each fee is summarized in Table F.

**Table F**  
**Authorizing Municipal Code and Resolution by Fee Type**

| <b>Fee Type</b>                       | <b>Authorizing Municipal Code</b> | <b>Authorizing Fee Setting and Annual Increase</b> |
|---------------------------------------|-----------------------------------|----------------------------------------------------|
| Parks & Trails                        | 13.28.040                         | Reso – 5093 &<br>MC – 13 .28.100                   |
| Public Facilities                     |                                   |                                                    |
| Storm Drainage:                       |                                   |                                                    |
| Inside Ravenswood Business District   |                                   |                                                    |
| Outside Ravenswood Business District  |                                   |                                                    |
| Transportation                        | 13.24.100                         | Reso – 5004                                        |
| Water Capacity                        |                                   |                                                    |
| Affordable Housing Commercial Linkage | 18.40.010                         | Reso – 118-2020                                    |

Table G shows the types of development projects subject to each of the development impact fees that apply to residential projects in FY 2022-23. It should be noted that state law exempts development impact fees for ADUs less than 750 sf in size and the City's does not impose impact fees on attached ADUs, so the ADU fees listed below only apply to detached ADUs exceeding 750 sf. Additionally, ADUs fees are set based on a proportion of the fees charged for new single-family dwellings.

**Table G**  
**Development Impact Fees for Residential Projects (FY 2022-23)**

| <b>Fee Type</b>           | <b>How It Is Charged</b>                  | <b>Development Type</b>         | <b>Amount</b> |
|---------------------------|-------------------------------------------|---------------------------------|---------------|
| <b>Parks &amp; Trails</b> | Per dwelling unit                         | <b>Detached ADU</b>             | \$1,885.61    |
|                           |                                           | Single Family                   | \$4,714.61    |
|                           |                                           | Multifamily                     | \$3,247.64    |
| <b>Public Facilities</b>  | Per dwelling unit                         | <b>Detached ADU</b>             | \$3,306.96    |
|                           |                                           | Single Family                   | \$8,267.96    |
|                           |                                           | Multifamily                     | \$5,695.63    |
| <b>Storm Drainage</b>     | Per dwelling unit – single family and ADU | <b>Detached ADU in RBD*</b>     | \$2,208.45    |
|                           |                                           | Single Family in RBD            | \$5,521.10    |
|                           |                                           | <b>Detached ADU outside RBD</b> | \$1,277.61    |
|                           |                                           | Single Family outside RBD       | \$3,194.03    |
| <b>Transportation</b>     | Per dwelling unit                         | <b>Detached ADU</b>             | \$1,075.70    |
|                           |                                           | Single Family                   | \$2,689.83    |
|                           |                                           | Multifamily                     | \$2,024.79    |
| <b>Water Capacity</b>     | Per dwelling unit                         | <b>Detached ADU</b>             | \$5,719.58    |
|                           |                                           | Single Family                   | \$9,293.47    |
|                           |                                           | Multifamily                     | \$5,719.58    |

\*Ravenswood Business District/4 Corners Specific Plan Area

The City Council can consider waiving or reducing the development impact fees for detached ADUs over 750 square feet to reduce the financial barrier for producing these types of ADUs. If this is an option the City Council would like to explore, staff would evaluate possible approaches and contact surrounding cities to compare the impact fees assessed on ADUs for possible guidance.

### 3. Affordable Housing Deed Restriction

While ADUs are recognized as providing a good option for affordable housing, it does not guarantee that an ADU will be offered at an affordable rent or that the ADU will be available as a rental unit. Homeowners may choose to build an ADU to create more living space for an extended or growing family without the intent of generating income from the unit.

Policy discussions have included offering financial incentives if a homeowner, non-profit organization, or other entity is willing to record a deed restriction on a property to maintain an ADU as an affordable rental or ownership unit for a defined time period. Discussions have included targeting these units for veterans, disabled individuals, at-risk youths, unhoused persons, or other special needs populations. Incentives could include waiving both permit processing fees and development impact fees.

In addition to the existing CalHome ADU/JADU Loan Program that is administered by EPACANDO, additional financial incentives through grants or loans could be considered to assist in funding the design and construction of ADUs. The total cost to design and construct an ADU can easily exceed \$250,000, and the \$80,000 loan limit, while sizable, is still insufficient for many homeowners. Local funds could be considered for

supplemental financing such as Measure HH or Measure O funds, or the City could explore funding availability from state housing programs.

### **Next Steps**

Based on City Council discussion and direction on the options outlined in this staff report, staff will draft a work program and recommendations that could include zoning amendments, development streamlining measures, and financial incentives to facilitate the construction of ADUs consistent with the latest state legislation where applicable. Community input will be sought, and recommendations will be presented to the Planning Commission before presenting to the City Council for consideration.

### **Questions for the City Council**

1. Does the City Council support the relaxation of zoning standards particularly pertaining to reduction of side and rear setbacks, but also including flexibility or exceptions to open space, driveways, or other standards to reduce zoning impediments for facilitating the construction of ADUs?
2. Does the City Council support development streamlining options for review and approval of ADU applications, such as consolidation of Planning and Building review, pre-approval of ADU model plans, or third-party design and permit assistance?
3. Does the City Council support offering financial incentives and assistance for constructing ADUs, such as waiver or reduction of permit processing fees or development impact fees, or financial assistance for ADUs which may include the recordation of a deed restriction?
4. What other options should be considered for facilitating or promoting the production of ADUs in the City?

### **Fiscal Impact**

There is no fiscal impact with the items described in this staff report. If City Council wishes to explore the options of consolidating Planning and Building processes, and of waiving or reducing Building fees, there may be a reduction in revenue generated from fees.

### **Public Notice**

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website.

### **Environmental**

The items described in this staff report are not considered a project under the provisions of the California Environmental Quality Act (CEQA).

### **Attachments**

- A. Chronology of State Legislations on ADUs (2016-2022)
- B. Past Community Engagement on ADUs
- C. ADU Approvals from 2018-2022

## Attachment A

### Chronology of State Legislation on ADUs (2016 – 2022)

#### State ADU Legislation Passed in 2016

On September 27, 2016, Governor Brown signed Senate Bill 1069 (“SB 1069”) and Assembly Bill 2299 (“AB 2299”), amending Section 65852.2 of the Government Code. Both bills reduced local authority to regulate ADUs, requiring that ADUs be ministerially approved. SB 1069 and AB 2299 became effective January 1, 2017.

#### State ADU Legislations Passed in 2019

On October 9, 2019, Governor Newsom signed SB 13<sup>1</sup>, AB 68<sup>2</sup>, and AB 881<sup>3</sup>, amending Sections 65852.2 and 65852.22 of the Government Code, effective January 1, 2020. These new provisions further reduced local authority to regulate ADUs and mandate that local jurisdictions allow the creation of ADUs, including Junior Accessory Dwelling Units (JADUs), in accordance with specified standards and conditions with the statutes. Local agencies that have not adopted an ordinance compliant with Government Code Sections 65852.2 and 65852.22 are required to default to the standards specified in state law for permitting ADUs and JADUs.

SB 13, AB 68, and AB 881 reduce barriers to ADU approval and construction by further streamlining the process and limiting development standards and fees. This reflects the Legislature’s and Governor’s position that ADUs are an important part of the solution to the housing crisis. The changes include the following:

- Prohibits a minimum lot size.
- Requires approval of ADUs in multifamily zoning districts and within existing garages.
- Prohibits requirements for owner occupancy until 2025.
- Requires cities to allow a minimum sized 800 square-foot ADU with four-foot setbacks.
- Prohibits cities from requiring replacement off-street parking if the covered parking is converted to an ADU.
- Requires a delay of enforcement of building code violations in an ADU for five years unless necessary to protect health and safety.
- Requires decisions on ministerial ADU applications within 60 days (from 120 days previously).
- Maximum size for ADUs cannot be less than 850 square feet for one bedroom and 1,000 square feet for two-bedroom units.
- Jurisdictions must now allow JADUs.
- A site can now have one ADU and one JADU by right if standards are met.
- Jurisdictions cannot require corrections to nonconforming zoning conditions.

As a result of the most recent legislation, the number of eligible parcels for construction of an ADU or JADU within the City has been increased from approximately 2,400 to 4,150 square feet (“sq ft”) in areas zoned to allow residential, according to the analysis provided by the ADU Initiative based on the City’s GIS database. Additionally, more

ADUs can be developed in mixed-use zones where multiple family residential uses are allowed.

#### State ADU Legislations Effective as of 2021

After the 2019 updates, the California State Legislature passed AB 3182<sup>4</sup>, which was intended as a clean-up bill for SB 13, AB 68, and AB 881, and took effect on January 1, 2021. The summary of the changes from AB 3182 are provided below:

- An owner of a separate interest in a common interest development (i.e., homeowners associations) shall not prohibit rentals at all, no matter when the governing documents were adopted.
- Local agencies shall act upon the completed application within 60 days, otherwise the application shall be deemed approved.
- On a residential property, where a JADU would be allowed, an ADU also is allowed.

As AB 3182 provides clarity and not substantive changes, staff recommended, and the Council adopted (on November 17, 2020) the third requirement in the current ADU Ordinance Section 18.96.030(N)(1).

#### State ADU Legislation Passed in 2022

On September 28, 2022, Governor Gavin Newsom signed SB 897, a “final” ADU bill to help homeowners construct ADUs by removing unnecessary barriers that hinder development. The salient updates occasioned by the bill are summarized (from the Legislative Counsel’s Digest on Senate Bill 897, Chapter 664 published on September 29, 2022) in the Tables 1a, 1b, and 1c below:

**Table 1a. SB 897 Changes to ADU Legislation, Part I**

**SB 897**  
**CHANGES TO ADU LEGISLATION**  
 Approved & Filed with Secretary of State –September

| CATEGORY          | PREVIOUS LAW                                                                                                                                                                                    | SB ADU                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| STANDARDS         | Requires Imposition of standards including parking, height, setback, landscape, architectural review, and maximum size of unit                                                                  | <ol style="list-style-type: none"> <li>1. Requires standards to be objective</li> <li>2. Prohibits denial of ADU/JADU due to need to correct non-conforming issues, building code violations, and unpermitted structures without public health and safety concerns</li> </ol>                                                                                                       |
| HEIGHT            | Allows 16-foot height limitation and a 4-foot side and rear setback requirement                                                                                                                 | <p>Increases height limitation to allow:</p> <ol style="list-style-type: none"> <li>1. 18-feet if ADU is within ½ mile of transit, detached, and on lot with multi-family or multi-story dwelling.</li> <li>2. 16-feet for all other detached ADUs</li> <li>3. 25-feet (or height limitation of the zoning district, whichever is lower) if attached to primary dwelling</li> </ol> |
| SPRINKLERS        | Prohibits a local agency from requiring fire sprinklers if they're not required for primary dwelling                                                                                            | Prohibits ADU to trigger requirement for fire sprinklers in existing primary dwelling                                                                                                                                                                                                                                                                                               |
| PARKING STANDARDS | Prohibits a local agency from imposing parking standards on certain ADU's including those within ½ mile of transit, within architecturally or historically significant historic districts, etc. | Prohibits a local agency from imposing any parking standards on an ADU included in an application to create a new SF unit or new MF dwelling                                                                                                                                                                                                                                        |

**Table 1b. SB 897 Changes to ADU Legislation, Part II**

**SB 897**  
**CHANGES TO ADU LEGISLATION**  
 Approved & Filed with Secretary of State –September

| CATEGORY                                 | PREVIOUS LAW                                                                                                                                                                                                                  | SB ADU                                                                                                                                                                                                                                                                                                       |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| BUILDING STANDARDS                       | Requires a local agency to delay enforcement of building standards applicable to ADUs for up to 5-years upon owner requesting delay on the basis that correcting the violations is not necessary to protect health and safety | Prohibits a local agency from denying permit for unpermitted ADU built before January 1, 2018, even if it is in violation of building or state or local standards unless a finding is made that correcting the violation is necessary to protect the health and safety of the public or occupants of the ADU |
| COMBINE DEMOLITION PERMIT AND ADU REVIEW | N/A                                                                                                                                                                                                                           | Requires a local agency to require that a demolition permit for a detached garage that is to be replaced with an ADU be reviewed with the application for the ADU and be issued at the same time.                                                                                                            |
|                                          |                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                              |

**Table 1c. SB 897 Changes to ADU Legislation, Part III**

**SB 897**  
**CHANGES TO ADU LEGISLATION**  
 Approved & Filed with Secretary of State –September

| CATEGORY                                        | PREVIOUS LAW | SB ADU                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| OWNER OCCUPANCY                                 | N/A          | <ol style="list-style-type: none"> <li>1. Prohibits a local agency from imposing an owner-occupant requirement on an ADU before January 1, 2025</li> <li>2. Prohibits a local agency from imposing an owner-occupant requirement on an ADU that was permitted between January 1, 2020, and January 1, 2025</li> </ol> |
| MAXIMUM SF REQUIREMENTS                         | N/A          | Prohibits a local agency from establishing maximum square footage requirement for either an attached or detached ADU that is less than 800 square feet or 1,000 feet for units that provide more than 1-bedroom                                                                                                       |
| EXEMPTIONS FROM CERTAIN DEV. STANDARDS/CRITERIA | N/A          | Prohibits a local agency from establishing minimum or maximum size for an ADU based on criteria (such as lot coverage, floor area ratio, open space, minimum lot size for either attached or detached ADU) that doesn't permit at least 800 square feet with four-foot side and rear yard setbacks                    |

## Attachment B

### Past Community Engagement Efforts on ADUs

#### Past Community Engagement on ADUs

In 2013, the City was approached by residents organized by faith-based leaders to develop fairer Accessory Dwelling Unit (“ADU”) laws. The City responded and enlisted Peninsula Conflict Resolution Center to facilitate multi-lingual community study sessions. The following is a summary of the City’s community engagement efforts.

#### Faith Community White Paper on ADUs

On October 18, 2016, because of increased code enforcement activity that caused many families to be displaced, faith community leaders consisting of Faith in Action Bay Area, Project Sentinel, Tokaikolo Church, Faith Missionary Baptist Church and St. Francis of Assisi came together and presented a community white paper on legalizing ADUs in East Palo Alto as a vision for long-term solution. The white paper provided short-term solutions such as a moratorium on “red tagging” for any unit other than those identified as posing a health and safety threat, retroactive protections for residents under eviction notice, and 30- and 60-day notices for imminent hazard rather than 10-day notices that provided limited time for tenants to vacate the property due to unsafe conditions. The white paper also provided long-term solutions such as an amnesty period that would allow landlords to come out of the shadows and get help legalizing their units with reduced fees to help them comply with any deficiencies in their ADUs, recommendations for a task force, and for community education and communication, among other things.

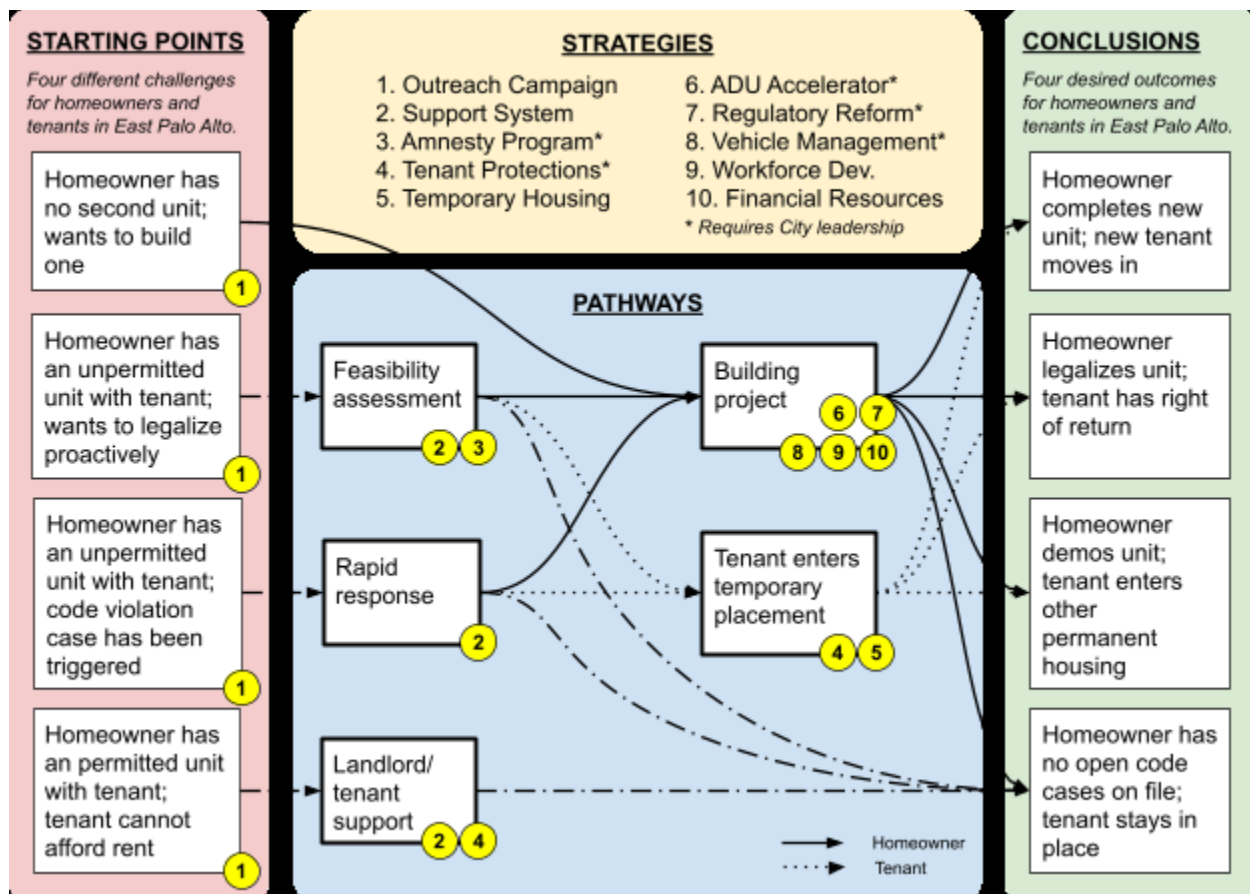
#### Second Unit Task Force Recommendations

In November 2019, the East Palo Alto Second Unit Task Force (“Task Force”) that resulted from faith leaders’ recommendations provided a report on further strategies the City could adopt to address ADU legalization and tenant displacement issues. Task Force members consisted of Faith in Action members, Rebuilding Together Peninsula members, two City Council members, two Planning Commission members, a Menlo Park Fire Protection District member, a Community Legal Services attorney, staff from the San Mateo County Department of Housing and the San Mateo County Health System, and several City Council-appointed residents. The Task Force’s ten recommended key strategies included:

1. **Outreach Campaign** – multilingual community outreach for tenants who live in unpermitted units and are subject to citation for code violation.
2. **Support System** – case managers who can provide rapid response assistance to landlords and tenants to prevent tenants from having to leave.

3. **Amnesty Program** – that provides homeowners with a scope of work for minimum health and safety critical issues to address and incentivizes landlords in coming forward.
4. **Tenant Protections** – the suspension of code enforcement during the legalization process.
5. **Temporary Housing** – master leasing, home sharing, and other shelters for temporary relocation assistance.
6. **ADU Accelerator** – streamlining procedures on both sides of the permit counter.
7. **Regulatory Report** – addressing additional policy barriers beyond state reports.
8. **Vehicle Management** – increased front yard parking, residential parking permit, shared parking, and improved transit and transit-oriented development to decrease parking issues.
9. **Workforce Development** – to train the next generation of City and support staff.
10. **Financial Resources** – including creative financing instruments to incentivize deed-restricting affordability.

The following Task Force diagram illustrates the challenges homeowners with ADUs and ADU tenants face, the strategies that can help address these challenges, and the desired outcomes for these homeowners and tenants:



### ADU Working Group Engagement

The culmination of the Task Force in November 2019 created the inception of a working group (“ADU Working Group”) consisting of ADU professionals, including technical assistance providers and community-based organizations, and City staff. Today, the working group consists of the City of East Palo Alto, City Systems, EPACANDO, and Soup. The working group previously also consisted of Faith in Action and Rebuilding Together.

The ADU Working Group is focused on implementing ADU laws, identifying challenges and barriers, and creating lessons learned. The working group has also worked on implementing the Task Force’s recommended strategies and identify ways to build more ADUs and legalize existing ADU structures to support East Palo Alto residents. Aside from working directly with potential homeowners interested in building an ADU, the working group has also participated on panels, provided presentations, and facilitated community discussions.

**Attachment C**  
**ADU Approvals from 2018 – 2022**

| <b>Year</b>  | <b>Zoning Clearance</b> | <b>Building Permit</b> |
|--------------|-------------------------|------------------------|
| 2018         | 6                       | 1                      |
| 2019         | 7                       | 8                      |
| 2020         | 12                      | 13                     |
| 2021         | 26                      | 30                     |
| 2022         | 17                      | 20                     |
| <b>TOTAL</b> | <b>68</b>               | <b>72</b>              |

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
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[www.hcd.ca.gov](http://www.hcd.ca.gov)



April 14, 2023

Elena Lee, Manager  
Department of Planning  
City of East Palo Alto  
1960 Tate St  
East Palo Alto, CA 94303

Dear Elena Lee:

**RE: Review of East Palo Alto's Accessory Dwelling Unit (ADU) Ordinance under  
State ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the City of East Palo Alto (City) accessory dwelling unit (ADU) Ordinance No. 08 - 2020 (Ordinance), adopted November 17, 2020, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the Ordinance does not comply with sections 65852.2 and 65852.22 in the manner noted below. Under that statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than May 12, 2023.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

- **Section 18.96.020 – JADU Definition** – The Ordinance defines a JADU as: “A unit that is no more than 500 square feet in size and contained entirely within a single-family residence.” However, Government Code section 65852.22, subdivision (i)(1), states that “A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.” Furthermore, Government Code section 65852.22, subdivision (a)(4), states that for the purposes of JADU creation, an attached garage is considered within the walls of a single family-residence. HCD recommends including these provisions in the Ordinance’s definition to comply with State ADU Law.
- **Section 18.96.030 (A) – Zoning** – The Ordinance permits ADU development on lots with “one proposed or legally created dwelling.” The term “legally created dwelling” is not defined in the Ordinance. Whereas Government Code section 65852.2, subdivision (a)(1)(D)(ii), and throughout the section generally uses the term “proposed or *existing* dwelling.” Regardless of whether the primary structure

is “legally created”, Government Code section 65852.2, subdivision (d)(2), states that “The local agency shall not deny an application for a permit to create an accessory dwelling unit 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.” Therefore, the City must amend the Ordinance to comply with State ADU Law.

- Section 18.96.030 (C) – *Unit Size* – The Ordinance states that: “The maximum size of any Accessory Dwelling Unit living area, inclusive of a habitable basement and an attic, shall not exceed 1,000 square feet.” However, the Ordinance does not set a unit size requirement for detached ADUs. Government Code section 65852.2, subdivisions (c)(1) and (c)(2), establishes the maximum unit size requirements for **both** attached and **detached** ADUs. The City must amend and add detached ADUs to the unit size provision of the Ordinance.
- Section 18.96.030 (E) – *Open Space* – The Ordinance states: “A minimum of fifty percent (50%) of the remaining rear yard or 750 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 life of the project on the lot.” However, requiring a certain amount of open space may restrict ADU size. Government Code section 65852.2, subdivision (c)(2)(C), prohibits local agencies from establishing “Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.” Therefore, the City must remove this requirement or positively state that no open space requirement will preclude the development of an 800 square foot ADU.
- Section 18.96.030 (L) – *Front Setback Requirements* - The Ordinance states that “Accessory Dwelling Units shall be subject to the front yard setback requirements compliant with development standards of the underlying zoning district.” However, Government Code section 65852.2, subdivision (c)(2)(C), states that a local agency may not impose any limits on front setbacks for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards. The City must amend the Ordinance to comply with State ADU Law.
- Section 18.96.030(M); Section 18.96.040(C); and Section 18.96.050 (B)(2)(b) - *ADU Height Limitations* - The Ordinance provides for the maximum height allowances for ADUs. However, Government Code 65852.2 (c)(2)(D), amended by SB897 and effective January 1, 2023, provides the maximum height limitation of

up to 16, 18, 20 or 25 feet as provided in the subdivision. Therefore, the City must update the maximum height limitations to comply with State ADU Law.

- Section 18.96.030 (N)(1) – *Architectural Compatibilities* – The Ordinance states that architectural review of ADUs will be limited to “The architectural features, window styles, roof slopes, exterior materials, colors, appearance, and design of the accessory unit shall be compatible with the existing single-family residence.” However, while Government Code section 65852.2, subdivision (a)(1)(B)(i), authorizes a local agency to impose objective standards on accessory dwelling units, Government Code section 65852.2, subdivision (j)(1), further defines objective standards to mean “standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.” Also, Government Code section 65852.2, subdivision (a)(6), requires that jurisdictions “provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units....” Therefore, the City must amend the Ordinance to provide objective standards and ensure that a ministerial approval process is followed.
- Section 18.96.050 (B)(2)(a) – *Unit Combination* – The Ordinance allows combination of a JADU and an ADU if “the Accessory Dwelling Unit is fully detached and is located a minimum of six (6) feet from the primary dwelling....” However, Government Code section 65852.2, subdivision (e)(1)(A), permits “One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling” and subdivision (e)(1)(A)(i) if either 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...” Therefore, the ADU and JADU combination may both be within the proposed or existing single-family dwelling. Additionally, Government Code section 65852.2, subdivision (e)(1), states that a local agency shall ministerially approve an application to create any of the following ADUs listed from subdivision (e)(1)(A) through (D). The City must amend its Ordinance to also allow for a combination of subdivision (e)(1)(A) (for ADUs created within an existing space) and (e)(1)(B) (for an 800 square foot detached ADU). This would allow for the possibility of up to two ADUs (one converted and one detached) and one JADU in a single-family residence. Furthermore, the building separation requirement of six (6) feet cannot preclude the ministerial approval of an 800 square foot detached ADU created pursuant to subdivision (e)(1)(B). Therefore, the City must amend the Ordinance to comply with State ADU Law.
- Section 18.96.050 (B)(2)(b) – *Minimum ADU Size* – The Ordinance states that a JADU may be allowed on the same lot with an ADU, provided that: “The Accessory Dwelling Unit shall not exceed a total floor area of more than 800 square feet and

a maximum height of 16 feet in addition to the required elevation for floodproofing pursuant to Section 15. 52. 070(A) of the Municipal Code.” However, Government Code section 65852.2, subdivision (c)(2)(B), states that local agencies shall not establish a maximum square footage requirement for ADUs that is less than either 850 square feet, or 1,000 square feet for an ADU that provides more than one bedroom. Therefore, the City must modify its language to allow for ADU developments greater than 800 sq ft.

- Section 18.96.070 – *Illegal Accessory Units* – The Ordinance states that “The establishment or continuance of an accessory unit 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. 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 Government Code Section 17980.12.” Please note that Government Code section 65852.23, which became effective January 1, 2023, requires that a local agency shall not deny a permit for an unpermitted ADUs that was constructed before January 1, 2018. The City must amend the Ordinance to comply with recent changes in State ADU Law.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City’s response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

HCD appreciates the City’s efforts provided in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Nicholas Green, of our staff, at (916) 841-6665 or at [Nicholas.Green@hcd.ca.gov](mailto:Nicholas.Green@hcd.ca.gov).

Sincerely,



Shannan West  
Housing Accountability Unit Chief

# Attachment 6

RESOLUTION NO. \_\_\_\_\_

## A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EAST PALO ALTO

### RECOMMENDATION TO THE CITY COUNCIL TO ADOPT ZONING TEXT AMENDMENT (ZTA23-001) AMENDING VARIOUS CHAPTERS AND SECTIONS OF TITLE 18 (DEVELOPMENT CODE) OF THE EAST PALO ALTO MUNICIPAL CODE (EPAMC)

**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 (ADUs) and junior accessory dwelling units (JADUs) 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**, the City Council held a duly noticed public hearing on December 6, 2022 to discuss ways of incentivizing the construction of ADUs and directed staff to develop a work program to amend the Development Code in order to bring it into conformance with state legislation and to pursue other clean up amendments aimed at facilitating the development of ADUs; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on November 13, 2023 to consider the Zoning Text Amendment (ZTA23-001); and

**WHEREAS**, the Planning Commission finds the proposed ordinance amendment would repeal and replace Chapter 18.96 of Title 18 of the East Palo Alto Municipal Code regulating accessory dwelling units to be consistent with the Government Code 65852.2 and 65852.22 and add provisions to allow second driveways to corner lots for ADUs in single family residential zones and reduced useable open space requirement from 750 square feet to 500 square feet; and

**WHEREAS**, the Planning Commission finds the proposed ordinance amendment would modify Title 18 of the East Palo Alto Municipal Code to 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, amend Section 18.30.080 to allow second driveways to corner lots for single family homes, amend Section 18.10.030 Table 2-2 to reduce useable open space requirement from 750 square feet to 500 square feet, add Section 18.80.025 Streamlined Ministerial Review Actions, 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, add Chapter 18.85 Preliminary Ministerial Review, amend Chapter 18.90 Variances and Minor Variances to add fences up to eight feet to Table 7-3 Types of Minor Variances allowed; and

**WHEREAS**, the Planning Commission recognizes that more time is needed to study the modalities and implications of 1) reducing the required setbacks for detached accessory dwelling units (ADUs), possibly to 0-feet, and 2) separate sale /conveyance of primary dwelling units and ADUs through condominium subdivisions pursuant to the recently approved Assembly Bill (AB) 1033; and

**WHEREAS**, the Planning Commission determines that the proposal is consistent with General Plan because it supports Land Use Element Policy 3.1 & 5.6, which encourages second dwelling units in residential areas within the City; and

**WHEREAS**, the proposed 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. The proposed 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 the proposed 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 the proposed ordinance address processing of permit applications and approval authority for activities already allowed in the City’s Development Code.

**NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF EAST PALO ALTO HEREBY** adopts a resolution recommending that the East Palo Alto City Council approve Zoning Text Amendment, ZTA23-001, as set forth in Exhibit A and incorporated by this reference, that:

- 1) Amends Title 18 of the East Palo Alto Municipal Code by repealing and replacing Chapter 18.96 regulating accessory dwelling units in conformance with Government Code 65852.2 and 65852.22 and add provisions for second driveways to corner lots for ADUs in single family residential zones and reduced useable open space requirement from 750 square feet to 500 square feet; and
- 2) Amends Title 18 of the East Palo Alto Municipal Code to 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, amend Section 18.30.080 to allow second driveways to corner lots with single-family homes, amend Section 18.10.030 Table 2-2 to reduce useable open space requirement from 750 square feet to 500 square feet in the R-LD zoning district, add Section 18.80.025 Streamlined Ministerial Review Actions, 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, add Chapter 18.85 Preliminary Ministerial Review, amend Chapter 18.90 Variances and Minor Variances to add fences up to eight feet to Table 7-3 Types of Minor Variances allowed; and
- 3) Finds that the proposed Zoning Text Amendments to be exempt in accordance with Public Resources Code (PRC) Section 21080.17 and CEQA Guidelines Sections 15061(b)(3) and 15282(h) of the California Environmental Quality Act (CEQA) Guidelines;

- 4) Additionally, the Planning Commission recommends that the City Council direct staff to study potentially1) reducing the required setbacks for detached accessory dwelling units (ADUs), possibly to 0-feet, and 2) separate sale /conveyance of primary dwelling units and ADUs through condominium subdivisions pursuant to the recently approved Assembly Bill (AB) 1033 and revert to the Planning Commission for further discussion and recommendation for City Council action by the end of 2024.

**PASSED AND ADOPTED** this 13<sup>th</sup> day of November 2023, by the following vote:  
**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

**SIGNED:**

\_\_\_\_\_  
Michael Mashack  
Chair

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Matthew Ball  
Interim Planning Secretary

\_\_\_\_\_  
John D. Lê  
City Attorney

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. The ADU shall utilize the same architectural style, exterior materials, and colors 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.

2. 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.
- 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 six feet or 72 inches above finished floor.
      3. Second story windows which are not clerestory windows must utilize opaque glazing up to a height of six feet or 72 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 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.

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### Chapter 18.96 - Accessory Dwelling Unit

*Footnotes:*

~~—(2)—~~

*Editor's note — Ord. No. 08-2020, § 4, adopted Nov. 17, 2020, amended Ch. 18.96 in its entirety to read as herein set out. Former Ch. 18.96, §§ 18.96.010 — 18.96.170, pertained to similar subject matter, and derived from the 2018 Development Code provisions.*

#### 18.96.010 - ~~Purpose and Intent~~ Definitions

~~The purpose and intent of this chapter is:~~

~~A.~~

~~To increase the supply of affordable housing by allowing accessory dwelling units (also known as second units) in conformance with Government Code Section 65852.1 et seq. to be established in areas zoned to allow single-family or multiple-family residential use; B.~~

~~To establish standards for the development and occupancy of accessory dwelling units to 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~~

~~G.~~

~~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~~

~~(Ord. No. 08-2020, § 4, 11-17-2020)~~

#### ~~18.96.020 — Definition~~

**Accessory Dwelling Unit (ADU).** ~~As used in this chapter~~ ADU means ~~a separate~~ an attached or detached residential dwelling unit providing complete independent living facilities for one or more persons containing permanent provisions for living, sleeping, ~~kitchen-eating, cooking,~~ and sanitation facilities which are defined as a full bathroom (tub/shower, sink- and ~~, a toilet~~). ~~An existing single family residence may be converted to accessory dwelling unit(s) in conjunction with the development of a new main dwelling unit on the site and in conformity with the development standards for a new accessory unit as set forth in this chapter. Subject to the restrictions contained in this chapter, an accessory dwelling unit may be either attached to, or detached from or incorporated into the main dwelling unit. An Accessory Dwelling Unit~~ a toilet). An ADU also includes an efficiency unit, as defined

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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.** ~~A. (JADU).~~ A residential dwelling unit that is no more than 500 square feet in size ~~and,~~ 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.

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**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.

~~(Ord. No. 08-2020, § 4, 11-17-2020)~~

~~18.96.030—Development Standards—Lot with Single-Family Dwelling~~

### 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

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### 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~~ Unit (JADU) that meets all of the following specified development standards shall be approved by the City:

~~A.~~

~~Zoning. The lot is within a residential or mixed-use zoning district and includes one proposed or legally created dwelling.~~

~~B.~~

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. ~~The Accessory Dwelling Unit or Junior Accessory Dwelling Unit~~ 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

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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.

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### 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.~~

~~Unit size. The maximum size of any Accessory Dwelling Unit living area, inclusive of a habitable basement and an attic, shall not exceed 1,000 square feet. If there is an existing single-family dwelling, the total floor area of an attached accessory unit shall not exceed fifty percent (50%) of the existing primary dwelling, provided an 800-square foot attached accessory unit is not prohibited, up to a maximum of 1,000 square feet.~~

~~D.~~

- G. Building ~~Codes~~Code Requirements. ~~An accessory unit~~JADUs and ADUs shall comply with all applicable building, health and safety, and fire ~~codes~~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 accessory unitADU. ~~Accessory units shall not be required to provide fire sprinklers if fire sprinklers are not required for the primary residence.~~

~~E.~~

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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**

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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 ~~750~~ 500 square

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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. ~~F~~ provided at least an 800-square foot ADU is allowed.

- E. Site Coverage and Floor Area Ratio. Construction of any ~~accessory unit~~ 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 ~~accessory unit~~ ADU is allowed.

- ~~G.~~  
F. Parking.

- ~~1.~~  
1. Requirements: At least one (1) uncovered off-street parking space shall be required for the ~~Accessory Dwelling Unit~~ ADU in addition to the off-street parking spaces required for the ~~main~~ primary dwelling. The parking space may be provided in an existing driveway or by tandem

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7/24/23, 11:35 PM East Palo Alto, CA Code of Ordinances parking in ~~compliant~~ compliance with Section ~~18.30.039~~ 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.~~  
2. Exceptions to the Parking Requirements: No parking requirement shall be imposed for the construction of an ~~Accessory Dwelling Unit~~ ADU if:

- ~~a.~~  
a. The ~~accessory unit~~ 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.~~  
b. The ~~accessory unit~~ ADU is located within an architecturally and historically significant historic district.
- ~~c.~~  
c. The ~~accessory unit~~ ADU is part of the existing primary residence or an existing accessory structure.

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- ~~d.~~
- d. When on-street parking permits are required but not offered to the occupant of the ~~accessory unit~~ADU.
- ~~e.~~
- e. Where there is a car share vehicle located within one block of the ~~accessory unit~~ADU.
- ~~3.~~
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.
- 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 ~~Accessory Dwelling Unit~~ADU, or conversion of that parking structure into an ~~Accessory Dwelling Unit~~ADU.
- ~~H.~~
- 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:

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1. The ADU shall utilize the same architectural style, exterior materials, and colors 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.
2. 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.

### 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 six feet or 72 inches above finished floor.
    3. Second story windows which are not clerestory windows must utilize opaque glazing up to a height of six feet or 72 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 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

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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.

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- 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.~~  
1. No ~~accessory unit~~ ADU shall be permitted if it is determined that there is not adequate water or sewer service to the property.
- ~~2.~~  
2. ~~Accessory units~~ 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 ~~accessory unit~~ 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.
- ~~3.~~  
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.

~~a-~~

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b.

f.

1. No impact fees may be imposed on an ~~accessory unit~~ 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 ~~accessory units~~ 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

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~~Access. The accessory unit shall be served by the same driveway access to the street as the existing main dwelling. Access via an alley may be allowed to a detached Accessory Dwelling Unit when a property abuts a public alley.~~

j.

~~Common Entrance. If the accessory unit is attached to the main dwelling, both the accessory unit and the main dwelling unit must be served by a common entrance or a separate entrance to the accessory unit must be located on the side or at the rear of the main dwelling, whenever feasible.~~

k.

~~Setback for Accessory Structure or Garage Conversion. No setback shall be required for a legally constructed accessory structure that is converted to an Accessory Dwelling Unit. Junior Accessory Dwelling Units are not allowed in an accessory structure.~~

l.

~~Setbacks for New Construction. A minimum of four (4) foot side and rear setbacks must be maintained for construction of any Accessory Dwelling Units. Provided an 800-square foot accessory dwelling unit is not prohibited, a minimum of six (6) foot separation shall be maintained from the primary dwelling to any detached accessory unit. Accessory Dwelling Units shall be subject to the front~~

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~~yard setback requirements compliant with development standards of the underlying zoning district. When a property has recorded easement(s) or setback(s), the creation of the accessory unit shall conform to the recorded restrictions. M.~~

~~Height. Any Accessory Dwelling Unit shall not exceed 17 feet in height in addition to any required elevation for floodproofing pursuant to Section 15.52.070.A of the Municipal Code. N.~~

~~Architectural Compatibilities. Architectural review of an accessory unit will be limited to the following:~~

- ~~1. The architectural features, window styles, roof slopes, exterior materials, colors, appearance, and design of the accessory unit shall be compatible with the existing single family residence.~~
- ~~2. An accessory unit located within a historic site shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.~~

~~(Ord. No. 08-2020, § 4, 11-17-2020)~~

### ~~18.96.040—Development Standards—Lots with Two-Family and Multiple-Family Dwellings~~

~~Except as otherwise provided in this chapter, any accessory unit that meets all of the following specified development standards shall be approved by the City:~~

~~A. Multiple accessory units may be allowed within the existing portion of two-family or multiple family dwellings 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 the current Building and Fire Codes for dwellings.~~

~~B.~~

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~~At least one accessory unit may be allowed within an existing multiple-family dwelling, subject to requirements in subsection A. Attached accessory units may be allowed up to twenty-five percent (25%) of the existing number of units within the site.~~

~~C.~~

~~No more than two detached accessory units may be allowed on a lot zoned for~~

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~~two-family or multiple-family dwellings. A detached accessory unit shall not exceed 16 feet in height, in addition to any required elevation for floodproofing pursuant to Section 15.52.070.A of the Municipal Code, as well as minimum rear and side setbacks of four (4) feet. D.~~

~~Accessory units shall comply with the provisions of Section 18.96.030, as applicable.~~

~~(Ord. No. 08-2020, § 4, 11-17-2020)~~

### ~~18.96.050—Additional Provisions Applicable to Junior Accessory Dwelling Units~~

~~In addition to other provisions of this chapter, the following provisions apply to Junior Accessory Dwelling Units:~~

~~A.~~

~~A Junior Accessory Dwelling Unit shall be allowed on a single-family dwelling lot pursuant to the following standards:~~

~~1.~~

~~May share sanitation facilities with the existing primary dwelling.~~

~~2.~~

~~Shall include a separate entrance from the main entrance to the primary dwelling unit; and may include an interior entry to the main living area.~~

~~3.~~

~~Shall include at least an efficiency kitchen, which shall contain all of the following: (a) a cooking facility with appliances; and (b) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit. 4.~~

~~No additional parking shall be required unless the unit is created in an attached garage.~~

~~B.~~

~~A Junior Accessory Dwelling Unit may be allowed on the same lot with an Accessory Dwelling Unit, provided the following criteria are met:~~

~~1.~~

~~The provisions of Section~~

~~18.96.030 are met. 2.~~

~~The following standards, as applicable, are met:~~

~~a.~~

~~The Accessory Dwelling Unit is fully detached and is located a minimum of six (6) feet from the primary dwelling unit and the Junior Accessory Dwelling Unit is located within an existing or proposed single-family~~

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~~dwelling.~~

~~b.~~

~~The Accessory Dwelling Unit shall not exceed a total floor area of more than 800 square feet and a maximum height of 16 feet in addition to the required elevation for floodproofing pursuant to Section 15.52.070.A of the Municipal Code.~~

~~Junior Accessory Dwelling Unit is located within an existing or proposed single-family dwelling. A unit within an existing single-family dwelling may include an expansion of no more than 150 square feet beyond the physical dimensions of the existing~~

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~~structure to provide for ingress.~~

~~d.~~

~~The Accessory Dwelling Unit has exterior access independent from the proposed or existing single-family dwelling.~~

~~e.~~

~~The existing single-family dwelling or accessory structure has side and rear setbacks sufficient for fire safety. If the existing dwelling or structure complies with the setback requirements as described in this code, this standard is met.~~

~~3.~~

~~No Junior Accessory Dwelling Unit is allowed on a single-family lot with multiple detached single-family dwellings.~~

~~G.~~

~~A Junior Accessory Dwelling Unit requires the recordation of a deed restriction, which includes the following:~~

~~1.~~

~~Either the existing main dwelling or the newly created Junior Accessory Dwelling unit shall be occupied as the principal place of residence of the record owner of the lot. In the case of ownership by a corporation, partnership, trust or association, either the main dwelling or the accessory unit shall be the place of residence of an officer, director or shareholder of the corporation, a partner in the partnership, a trustor, trustee or beneficiary of the trust, a member of the association, or an employee of any such~~

## Attachment 7

~~organization. Owner occupancy shall not be required if the owner is a government agency, land trust, or housing organization.~~

~~2.~~

~~The Junior Accessory Dwelling Unit, or the main unit if the accessory unit is owner occupied, shall not be rented out on a short-term (less than 30 days) basis.~~

~~3.~~  
~~A prohibition on the sale of the Junior Accessory Dwelling Unit separate from the sale of the single family residence.~~

~~(Ord. No. 08-2020, § 4, 11-17-2020)~~

### 18.96.060— Zoning Clearance for Accessory Unit

~~Review of an application for a Zoning Clearance for an accessory unit to verify compliance with this chapter is ministerial in nature and requires action by the Director or his/her designee. A determination about compliance with standards shall be made within 60 days of the determination that the application submittal is complete.~~

~~A.~~

~~Contents of application. A zoning clearance application for an accessory unit 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, including but not limited to the following:~~

~~1.~~

~~A Zoning Clearance Form for an accessory unit published on the City website.~~

~~2.~~

~~Building Permit submittal requirements established for an accessory unit.~~

about:blank 6/7

7/24/23, 11:35 PM East Palo Alto, CA Code of Ordinances

~~B. Processing fee. A processing fee established by resolution of the Council shall be paid to the City at the time of filing the application for an Accessory Dwelling Unit or Junior Accessory Dwelling Unit permit.~~

~~(Ord. No. 08-2020, § 4, 11-17-2020)~~

### 18.96.070— Illegal Accessory Units

~~The~~ Subject to the provisions in Government Code Sections 65852.2(n) and 65852.23, the establishment or continuance of an ~~accessory unit~~ 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. Any

## Attachment 7

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 ~~Government~~ [Health & Safety](#) Code Section 17980.12.

~~(Ord. No. 08-2020, § 4, 11-17-2020)~~

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## Attachment 7

### 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.

# Attachment 8



November 13, 2023

Elena Lee, Planning Director  
City of East Palo Alto  
1960 Tate St  
East Palo Alto, CA 94303

Re: Development Code Text Amendment (ZTA23-001) to amend various Chapters and Sections of Title 18 (Development Code) of the East Palo Alto Municipal Code

Dear Chair and Members of the Planning Commission:

The East Palo Alto ADU Working Group is a valuable resource for the City, providing technical expertise and community connections to promote the production of Accessory Dwelling Units (ADUs) and address the rehabilitation and repair of second units. This collaboration dates back to 2016 when the City Council appointed several non-profit organizations to an advisory body called the Second Unit & Anti-Displacement Task Force. This was in response to community concerns about resident displacement resulting from code enforcement cases of unpermitted second units. The Task Force carried out the work from a community white paper titled “Legalizing Accessory Dwelling Units in East Palo Alto - A Vision for a Long-Term Solution” authored by St. Francis of Assisi Catholic Church, Faith Missionary Baptist Church, Tokaikolo Church, Project Sentinel, and Faith in Action Bay Area.

In 2019, the Second Unit & Anti-Displacement Task Force concluded and set forth ten different strategies to alleviate the barriers that homeowners faced on the pathways to ADU development and rehabilitation. After its conclusion, the non-profit organizations formed a Second Unit Working Group to provide direct technical assistance to residents and work with City staff to accelerate the legalization of garage conversions and ADUs. Today, this group comprises EPACANDO and City Systems.

The Working Group, through their community connections, has played a significant role in assisting with new construction and legalization of existing unpermitted ADUs, community outreach, and financing, while also working alongside City staff to improve internal processes and provide culturally relevant information to guide homeowners through the second unit permitting process.

Thanks to these efforts, the City has made remarkable progress towards ADU legalization and development, including:

- Approval of **122 ADU/JADUs**, and **61 finalized** from **2016-2022**
- Adoption of the **2020 East Palo Alto ADU Ordinance**
- Zoning Clearance **Streamlining**
- **Pre-reviewed** HEART of San Mateo County's GLADUR plans
- Open-source **plug-in garage** ADU product
- Recipient of **CalHome ADU/JADU** Funds

The East Palo Alto ADU Working Group is in favor of the **reduction of rear and side setbacks to zero**. This applies to ADUs with a structure height of 17 feet (or 18 feet) or less, which may observe a zero-foot setback at the interior side yard and rear yard.

The benefits of reducing setbacks to zero are numerous. First, for legalization projects in particular, many formerly unpermitted ADUs are within structures that are between 0-4ft from side or rear property lines and can only feasibly be brought into compliance if setbacks were reduced. It is worth emphasizing that, in these situations, the structure in question has often been in place for a long time, so there is no “new” encroachment on setback to address. Moreover, where concerns may exist about the building code and safety risks of a structure encroaching upon a setback, allowing and encouraging such structures to complete the legalization process is arguably better than the current situation, where such structures remain “under the radar” because they have no pathway to compliance -- setbacks being a major barrier.

Second, besides ensuring concurrence of setbacks between legalization and new construction projects out of fairness, reducing setbacks to zero for new construction allows for an increase in housing density, making efficient use of available land that is limited. Zero setbacks can allow for more efficient land use by maximizing the use of available space without the need for additional land acquisition. Homeowners can benefit from greater flexibility in designing and using their properties, with more options for where to place ADUs, allowing for creative and practical solutions. Notably, the existing requirement for a certain amount of rear open space is easier to achieve with zero setbacks.

Third, for homeowners and developers, adhering to setback requirements can result in additional construction costs, such as site modifications, or smaller ADU footprints to meet setbacks. By eliminating setbacks, homeowners and developers can save on additional expenses, leading to more cost-effective construction.

Fourth, eliminating setbacks can reduce the administrative burden on government agencies, given the back-and-forth that often occurs in design reviews on the topic of

setbacks, potentially speeding up the approval process. Zero setbacks can lead to more consistent rules and requirements for ADU construction, making it easier for homeowners and builders to understand and comply with regulations. This consistency can lead to fewer disputes, resulting in smoother and quicker approvals.

### Addressing Possible Concerns

The Planning Division is responsible for ensuring that buildings and structures are integrated into the community in a way that promotes safety, aesthetics, and overall neighborhood well-being. When working with zero setbacks, certain measures can be taken to achieve these goals:

1. Ensure the usage of professional surveys to ensure that legal property boundaries are respected, even when working with zero setbacks.
2. Address aesthetic concerns by implementing well-crafted zoning and design guidelines that ensure the design blends with the existing property, preserving the architectural character of the neighborhood, and does not create adverse impacts.
3. Address open space concerns by encouraging the designs and layouts to be as compact and space-efficient as possible to maximize the remaining open space. Shared courtyards or common areas, as well as gardens, raised beds, and landscaped areas, can be used to create a sense of community and shared open space that can coexist with zero setbacks.

While the Building Division is ultimately responsible for ensuring compliance with building codes, the East Palo Alto ADU Working Group strongly believes that inter-division collaboration is crucial for achieving this goal. Compliance with building codes can be achieved when working with zero setbacks by taking into account the following measures and design considerations:

1. Address fire safety concerns by ensuring the use of fire-resistant materials and construction techniques. Fire-rated walls, roofs, and windows, as well as proper spacing of windows, can help reduce the risk of fire spreading from one building to another. As a reminder, existing unpermitted structures that are within 0 to 4 ft of property lines arguably pose greater fire risk than a legalized structure that has been allowed to formally achieve building code compliance.
2. Ensure egress requirements are met, which specify the number and location of exits and accessibility standards, including ramps, stairs, and door widths. It is

important to meet these requirements even in cases of zero setbacks to ensure safe access and exit from the ADU.

3. Address natural light and ventilation concerns by ensuring the use of properly sized and located windows and ventilation systems. Habitability codes typically address various aspects of living conditions to protect the health and well-being of occupants.

#### Other Cities that have adopted a zero-setback

The City of San Diego has taken significant steps toward encouraging the construction of Accessory Dwelling Units (ADUs). In 2019, they implemented their ADU development code (Section 141.0302) which allows for a zero-back on all ADUs. While there have been some changes to the code since then, such as the requirement of setbacks for second-story ADUs, the City has been successful in stimulating the production of hundreds of ADUs. A 2023 report from the Turner Center for Housing Innovation, titled “San Diego’s Success in Spurring Missing Middle Housing: The Accessory Dwelling Unit Bonus Program,” highlights the success of the City’s ADU Bonus program, which incentivizes and prioritizes ADU production through building code and zoning flexibilities. The program has also been instrumental in increasing the number of deed-restricted units, thus contributing to the overall housing availability in the City.

#### Other Considerations for Planning

Setback regulations are put in place for several reasons, including ensuring safety, protecting property values, maintaining neighborhood character, and addressing land use concerns. However, it is important to acknowledge that zoning and land use policies have a history of being used to segregate communities based on race and socioeconomic status. For instance, discriminatory practices such as redlining, exclusionary zoning, and racial covenants were pervasive in the United States and resulted in systemic racial segregation in housing and neighborhoods. These practices have had long-lasting effects on communities and have contributed to disparities in housing opportunities, quality of life, and access to resources.

Many cities and municipalities are reevaluating zoning regulations to promote equity and inclusivity. Some argue that setback regulations, along with other zoning rules, can perpetuate discriminatory patterns if not carefully considered and reformed to promote fair and equitable access to housing and neighborhoods. It is crucial to examine how zoning and land use policies, including setback regulations, are applied and whether they contribute to or mitigate racial and socioeconomic disparities in housing and community development. Addressing these disparities may involve reforming zoning

regulations to ensure more equitable access to housing and neighborhoods for all residents.

Thank You

In conclusion, the East Palo Alto ADU Working Group believes that reducing rear and side setbacks to zero for ADUs with a structure height of 17 feet or less can have numerous benefits for homeowners, developers, and the community as a whole. While there may be concerns regarding safety, aesthetics, and open space, these can be addressed through professional surveys, well-crafted zoning and design guidelines, and space-efficient designs. By working collaboratively with the Planning and Building Divisions, we can ensure that compliance with building codes is achieved while also promoting the development of affordable housing and the preservation of neighborhood character. The East Palo Alto ADU Working Group strongly supports the reduction of setbacks to zero and looks forward to continued progress in ADU development and legalization.

Sincerely,

A handwritten signature in black ink, appearing to be 'DB' or similar initials, written in a stylized, cursive manner.

Duane Bay, Executive Director  
EPACANDO

A handwritten signature in black ink, appearing to be 'Derek Ouyang', written in a stylized, cursive manner.

Derek Ouyang, Executive Director  
City Systems



## **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** December 5, 2023

**TO:** Honorable Mayor and Members of the City Council

**VIA:** Melvin E. Gaines, City Manager

**BY:** James Colin, City Clerk  
Bo-Kyoung Kim, Financial Services Manager

**SUBJECT:** City Council's Proposed Schedule for 2024

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### **Recommendation**

Pursuant to Resolution No. 5061, by motion, approve the 2024 City Council meeting schedule in Attachment 1.

### **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

Priority No. 4: Ensure Our Financial and Organizational Health

### **Background**

Pursuant to the East Palo Alto Municipal Code Section 2.08.010, it is the intention of the City Council to set the date and time of all meetings of the City Council by resolution. With this item, staff seeks to provide a report on the proposed meeting schedule for the City Council in 2024. After deliberation, staff is requesting that the 2024 City Council meeting schedule, as set forth in Attachment 1, be approved and set by resolution, subject to any changes made by the Council.

### **Regular Meetings**

Pursuant to Resolution No. 5061, all regular meetings are to be held the first and third

## **POLICY AND ACTION ITEM 9.1**

Tuesdays of the month with the following exceptions:

- **First Tuesday in January (2) and Third Tuesday in January (16)** – Due to the proximity of this meeting to the holiday break, City staff recommends cancellation of these meetings. Additionally, staff suggests that, in place of the January 2 and 16 meetings, the Council consider rescheduling meetings to January 9 and 23.
- **August Meetings (6 & 20)** – In keeping with past practice, staff recommends removing all August meetings in observance of the traditional August recess.

In December, the third Tuesday of the month, is very close to the Christmas Holiday and staff is recommending a slight change to the Regular Schedule to provide staff and the City Council with additional time to enjoy the holidays. Therefore, staff recommends the second regular City Council meeting (Special Meeting) in December be held on **Thursday, December 19, 2024, at 6:30 p.m.**, in lieu of the Tuesday meeting of the same week.

### Special Study Sessions

Special Study Sessions are scheduled to provide the Council with ample to discuss specific topics or projects, including future development, infrastructure, and City finances amongst other items. In 2023, the City Council reserved six dates for Study Sessions and as such was able to advance several key City initiatives.

In keeping with past practice, staff is recommending that the City Council schedule six study sessions/special meetings, with the addition of one meeting for the City Council Reorganization, as follows:

- February 3 @ 9:00 a.m. (Strategic Planning Retreat)
- March 28 @ 6:00 p.m.
- April 25 @ 6:00 p.m.
- July 25 @ 6:00 p.m.
- September 26 @ 6:00 p.m.
- November 12 @ 6:00 p.m.
- December 17 @ 6:00 p.m. (Council Reorganization)

### Special Budget Meetings

Similar to study sessions/special meeting schedule, budget meetings are set specifically to ensure ample review time of the City's budget, which needs to be adopted by the June 4, 2024, Regular City Council meeting. Scheduling two meetings solely for the budget allows the City to adopt a budget before the end of the fiscal year. The special budget meetings are set for:

- Thursday, May 23 @ 6:00 p.m.
- Thursday, May 30 @ 6:00 p.m. (Only if required)

## POLICY AND ACTION ITEM 9.1

### Strategic Planning Retreat

As part of the study session/special meeting schedule, the Strategic Planning Retreat is a half-day event that in the past was held on a Saturday in February. This year the Strategic Planning Retreat is proposed to be scheduled on Saturday, February 3, 2024, from 9:00 a.m. to 1:00 p.m.

### **Public Notice**

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at the San Mateo County Library located at 2415 University Avenue, East Palo Alto.

### **Environmental**

The proposed action does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378(b)(4) and (5) in that it is a governmental fiscal, organizational or administrative activity that will not result in direct or indirect changes in the environment.

### **Attachments**

1. Proposed 2024 City Council Calendar
2. Proposed 2024 Budget Calendar
3. Resolution No. 5061

# 2024

## CITY COUNCIL MEETING SCHEDULE

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    | 1  | 2  | 3  | 4  | 5  | 6  |
| 7  | 8  | 9  | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | 31 |    |    |    |

### JAN

2 - Cancelled Meeting

9 - Special Council Meeting @ 6:00 pm

16 - Cancelled Meeting

23 - Special Meeting @ 6:00 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    |    |    |    | 1  | 2  | 3  |
| 4  | 5  | 6  | 7  | 8  | 9  | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 28 | 29 |    |    |    |

### FEB

3 - Strategic Planning Retreat @ 9:00 am

6 - Regular Meeting @ 6:30 pm

20 - Regular Meeting @ 6:30 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    |    |    |    |    | 1  | 2  |
| 3  | 4  | 5  | 6  | 7  | 8  | 9  |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| 31 |    |    |    |    |    |    |

### MAR

5 - Regular Meeting @ 6:30 pm

19 - Regular Meeting @ 6:30 pm

28 - Study Session @ 6:00 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    | 1  | 2  | 3  | 4  | 5  | 6  |
| 7  | 8  | 9  | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 |    |    |    |    |

### APR

2 - Regular Meeting @ 6:30 pm

16 - Regular Meeting @ 6:30 pm

25 - Study Session @ 6:00 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    |    |    | 1  | 2  | 3  | 4  |
| 5  | 6  | 7  | 8  | 9  | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | 31 |    |

### MAY

7 - Regular Meeting @ 6:30 pm

21 - Regular Meeting @ 6:30 pm

23 - Budget Meeting @ 6:00 pm

30 - Budget Meeting @ 6:00 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    |    |    |    |    |    | 1  |
| 2  | 3  | 4  | 5  | 6  | 7  | 8  |
| 9  | 10 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 |    |    |    |    |    |    |

### JUN

4 - Regular Meeting @ 6:30 pm

18 - Regular Meeting @ 6:30 pm

# 2024

## CITY COUNCIL MEETING SCHEDULE

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    | 1  | 2  | 3  | 4  | 5  | 6  |
| 7  | 8  | 9  | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | 31 |    |    |    |

### JUL

2 - Regular Meeting @ 6:30 pm

16 - Regular Meeting @ 6:30 pm

25 - Study Session @ 6:00 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    |    | 1  | 2  | 3  | 4  | 5  |
| 6  | 7  | 8  | 9  | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 |    |    |

### OCT

1 - Regular Meeting @ 6:30 pm

15 - Regular Meeting @ 6:30 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    |    |    |    | 1  | 2  | 3  |
| 4  | 5  | 6  | 7  | 8  | 9  | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

### AUG

6 - Cancelled Meeting (Council Recess) □

20 - Cancelled Meeting (Council Recess)

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    |    |    |    |    | 1  | 2  |
| 3  | 4  | 5  | 6  | 7  | 8  | 9  |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |

### NOV

5 - Regular Meeting @ 6:30 pm

12 - Study Session @ 6:00 pm

19 - Regular Meeting @ 6:30 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
| 1  | 2  | 3  | 4  | 5  | 6  | 7  |
| 8  | 9  | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 |    |    |    |    |    |

### SEP

3 - Regular Meeting @ 6:30 pm

17 - Regular Meeting @ 6:30 pm

26 - Study Session @ 6:00 pm

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
| 1  | 2  | 3  | 4  | 5  | 6  | 7  |
| 8  | 9  | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 |    |    |    |    |

### DEC

3 - Regular Meeting @ 6:30 pm

17 - Reorg Meeting @ 6:00 pm

19 - Special Meeting @ 6:30 pm



# Office of the City Manager

## STRATEGIC PLANNING AND BUDGET SCHEDULE

**FISCAL YEAR (FY) 2024-2025**

| Item | Action                                                                                                                                                                                                                                                                                                                                                                                                     | Target Date(s)                         |   |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---|
| 1    | Administrative Preparation: <ul style="list-style-type: none"> <li>Finance analysis of economic budget capacity for CMO (Dec 18<sup>th</sup>)</li> <li>Directors Strategic Planning and Budget Meeting (Dec 19<sup>th</sup>)</li> </ul>                                                                                                                                                                    | December 11, 2023<br>December 19, 2023 |   |
| 2    | Caselle Budget Module Training –Directors, Managers, Analysts                                                                                                                                                                                                                                                                                                                                              | January 10, 2024                       |   |
| 3    | Finance Issues FY 2024-2025 Budget Transmittal <ul style="list-style-type: none"> <li>Distribute Budget Instructions and Online/Worksheet Formats: <ul style="list-style-type: none"> <li>Department Budget Worksheets</li> <li>Supplemental Budget and Staffing Requests</li> <li>Capital Project Budget Requests</li> <li>Department Narratives, Performance Measures, Objectives</li> </ul> </li> </ul> | January 12, 2024                       |   |
| 4    | <b>Council Report on Status of Strategic Priorities Implementation</b>                                                                                                                                                                                                                                                                                                                                     | <b>January 16, 2024</b>                |   |
| 5    | <b>City Council Strategic Priorities Retreat</b>                                                                                                                                                                                                                                                                                                                                                           | <b>February 03, 2024</b>               | * |
| 6    | <b>City Council Presentation: Mid-Year Budget and Projected Economic Capacity</b>                                                                                                                                                                                                                                                                                                                          | <b>February 06, 2024</b>               |   |
| 7    | FY 2024-2025 Budget Input/Worksheets due to Finance: <ul style="list-style-type: none"> <li>Department Budget Worksheets</li> <li>Supplemental Budget and Staffing Requests</li> <li>Capital Project Budget Requests</li> </ul>                                                                                                                                                                            | February 16, 2024                      |   |
| 8    | Public Works Distribute Draft Update Ten-Year Capital Improvement Plan                                                                                                                                                                                                                                                                                                                                     | February 26, 2024                      |   |
| 9    | Department Narratives, Performance Measures, Objectives due to City Manager: <ul style="list-style-type: none"> <li>Updated Department Narratives</li> <li>FY 2023-2024 Department Accomplishments</li> <li>FY 2024-2025 Department Objectives</li> </ul>                                                                                                                                                  | March 1, 2024                          |   |
| 10   | <b>Approve City Council Strategic Priorities and 2024-25 Implementation Plan</b>                                                                                                                                                                                                                                                                                                                           | <b>March 5, 2024</b>                   |   |
| 11   | CMO-FINANCE Meetings with Departments: Review Operating Budgets, Supplemental Budget and Staffing Requests, and Alignment of Requests and Objectives with Council Priorities                                                                                                                                                                                                                               | March 11 – 22, 2024                    |   |

|    |                                                                                              |                |  |
|----|----------------------------------------------------------------------------------------------|----------------|--|
| 12 | Public Works & Transportation Committee Meeting – Review of New Capital Improvement Projects | March 20, 2024 |  |
| 13 | Planning Commission Meeting – Review of New Capital Improvement Projects                     | April 8, 2024  |  |

| Item | Action                                                                                                                                                                                                                                                     | Target Date(s)        |   |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|---|
| 14   | <b>City Manager’s FY 2024-2025 Preliminary Budget Message</b>                                                                                                                                                                                              | <b>April 16, 2024</b> |   |
| 15   | Finance Department Meetings: Final Review of Proposed Budgets                                                                                                                                                                                              | April 17 – 23, 2024   |   |
| 16   | Distribute Proposed Ten-Year Capital Improvement Plan (Notice Hearing)                                                                                                                                                                                     | April 25, 2023        |   |
| 17   | <b>Council Hearing to Adopt Ten-Year Capital Improvement Plan</b>                                                                                                                                                                                          | <b>May 07, 2023</b>   |   |
| 18   | Distribute FY 2024-2025 Proposed Budget (Notice Sessions/Hearing)                                                                                                                                                                                          | May 14, 2024          |   |
| 19   | <b>Budget Study Session #1: Introduction of the City Manager’s Budget Message &amp; Overview of the Proposed Budget and Operating Department Budget Presentations</b>                                                                                      | <b>May 30, 2024</b>   | * |
| 20   | <b>Budget Study Session #2– Continuation of Operating Department Budget Presentations, Non-Departmental, FY 2024-2025 Capital Budget, and Proposed Allocation of FY 2023-24 Budget Surplus in Accordance with City Fund Balance Policy (if applicable)</b> | <b>June 4, 2024</b>   |   |
| 21   | <b>Budget Study Session #3 (only if required)</b>                                                                                                                                                                                                          | <b>June 06, 2024</b>  | * |
| 22   | <b>Budget Hearing &amp; Adoption of FY 2024-2025 Budget and Allocation of 2023-24 Budget Surplus (if applicable)</b>                                                                                                                                       | <b>June 18, 2024</b>  |   |
|      |                                                                                                                                                                                                                                                            |                       |   |
| *    | <b>Special City Council Meeting</b>                                                                                                                                                                                                                        |                       |   |

**RESOLUTION NO. 5061**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO  
ESTABLISHING A NEW START TIME OF 6:30 PM FOR REGULAR  
CITY COUNCIL MEETINGS**

**WHEREAS**, in 2001, the City Council adopted Resolution No. 1860 establishing that regular City Council meeting take place on the first and third Tuesdays of the month and commence at 6:30 pm; and

**WHEREAS**, at the December 4, 2018 City Council meeting, the Council directed City staff to bring forth a resolution changing the regular City Council meeting start time to 6:30 pm on the first and third Tuesdays of every month except for Council recess; and

**WHEREAS**, the City Council hereby finds and determines that it is in the public interest to establish an earlier start time for regular City Council meetings.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY:**

1. Affirms that regular City Council meetings take place on the first and third Tuesdays of the month;
2. Establishes a new start time of 6:30 pm for regular City Council meetings;
3. Determines that the new City Council start time shall take effect on January 15, 2019; and
4. Rescinds Resolution No. 1860.

**PASSED AND ADOPTED this 18th day of December 2018, by the following vote:**

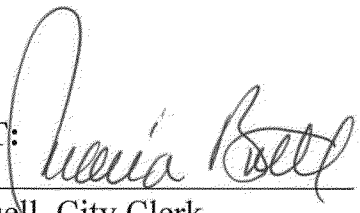
**AYES: WALLACE-JONES, MOODY, GAUTHIER, ROMERO**

**NOES: NONE**

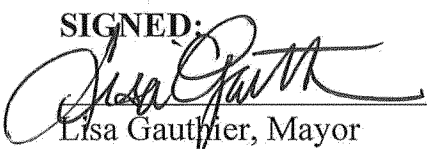
**ABSENT: ABRICA**

**ABSTAIN: NONE**

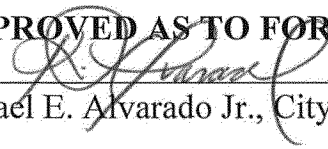
**ATTEST:**

  
Maria Buell, City Clerk

**SIGNED:**

  
Lisa Gauthier, Mayor

**APPROVED AS TO FORM:**

  
Rafael E. Alvarado Jr., City Attorney



# **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** December 5, 2023  
**TO:** Honorable Mayor and Members of the City Council  
**VIA:** John D. Lê, City Attorney  
**SUBJECT:** Updated Tobacco Retailer Ordinance

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## **Recommendation**

Waive the first reading and introduce an ordinance repealing and replacing Chapter 5.80 “Tobacco Retailer Permits” of the East Palo Alto Municipal Code with an ordinance that consolidates and clarifies existing definitions, in addition to enacting additional requirements for tobacco retailer permits, to align with the County of San Mateo Model Ordinance.

## **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

Priority No. 3: Promote Health & Public Safety

## **Background**

Currently, Chapter 5.80 of the East Palo Alto Municipal Code provides that sellers of any tobacco products must obtain and maintain a valid tobacco retailer permit. Under this existing local law, the City of East Palo Alto has authorized the San Mateo County Environmental Health Division to administer and enforce the requirements of the City’s Tobacco Retailer Permit Ordinance.

Recently, however, the San Mateo County Board of Supervisors adopted an ordinance (Chapter 4.98 of the County Ordinance Code) to amend the San Mateo County Code related to Tobacco Retailer Permits. The County Environmental Health Division has indicated it will continue to administer a tobacco retailer permit program for those cities which adopt the County’s comprehensive ordinance in its entirety, without alteration. The proposed amendments to

## **POLICY AND ACTION ITEM 9.2**

Chapter 5.80 would add definitions to incorporate best practices across the state, strengthen ordinance language to reduce youth access to tobacco products, and make the East Palo Alto Municipal Code consistent with the San Mateo County Code of Ordinances, thereby promoting more efficient administration and enforcement. Staff recommends the Council waive the first and reading and introduce the attached ordinance to provide consistency and maintain the City's interest in providing stringent regulation for the sale of tobacco products. Doing so, will also continue to authorize the County to administer a tobacco retailer permit program in the City of East Palo Alto.

### **Analysis**

Over the years, 14 jurisdictions within San Mateo County have adopted their own tobacco retailer ordinances, with varying degrees of consistency with the San Mateo County Ordinance. In May of 2023, San Mateo County adopted a revised ordinance. The revised San Mateo County ordinance proposes key provisions in the newly added Chapter 4.98:

- Updated definitions to align with similar model ordinances across California. For example, the "Tobacco Product" definition will now include synthetic nicotine, and align language, where appropriate, with the new Statewide ban of flavored tobacco products.
- Restrictions on where new retailers may be located: no new Tobacco Retailer Permit will be issued to a location within 1,000 of a Youth-Populated Area or within 500 feet of a location already occupied by another tobacco retailer. "Youth-Populated Areas" is updated to include college campuses.
- Prohibition on posting advertisements offering tobacco products unless the retailer has a valid permit to sell tobacco products.
- Increase in the age for those who sell tobacco products to match the minimum age allowed to purchase tobacco under State law, currently 21 years old.
- Increase in fines up to \$500 for the first violation, and up to \$1,000 for all subsequent violations within a 60-month period.
- Requirement that a permit be suspended if a business is found to have sold tobacco products to persons under the age of 21.
- Required annual inspection of each tobacco retailer by an enforcement designee to monitor compliance with applicable laws.
- Increased permit suspension and revocation escalation period for cumulative violations from 12 to 60 months.

The revised San Mateo County ordinance also clarifies requirements for cities to authorize the County to administer and enforce the Tobacco Retailer Permit ordinance in incorporated jurisdictions. Specifically, cities will have the option to have the County administer and enforce this ordinance if a city passes its own identical version of the County's ordinance.

## **POLICY AND ACTION ITEM 9.2**

The addition of an annual inspection for all tobacco retailers would increase the annual permitting fee from \$174 to \$423. Additionally, a \$249 one-time application fee would be assessed to review the application of a new business and assess various new location restrictions. These fees are necessary to obtain full cost recovery for the administration of the permit. This fee increase will be presented as an amendment to the County's Code, which sets forth the fee schedule for all Environmental Health Services' fees. If the amendment increasing these fees is passed, Environmental Health Services staff will then incorporate these new fee amounts into the comprehensive fee schedule set forth therein. If the City ultimately adopts the attached ordinance, tobacco retailer businesses within the City's jurisdictional limits would be subject to this fee.

As of the date of this staff report, a number of jurisdictions, including the cities of South San Francisco and San Carlos, have adopted the County's revised ordinance. Staff recommends that the Council waive the first reading and introduce the attached ordinance this evening to ensure timely and expeditious enforcement of its provisions within the City.

### **Fiscal Impact**

There are no fiscal impacts associated with the proposed action.

### **Public Notice**

The public was provided notice by making the agenda and report available on the City's website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto.

### **Environmental**

The proposed action is not a "project" under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378 and Public Resources Code section 21065 because it does not: (1) approve a project or result in a direct physical impact on the environment, or (2) contemplate known future projects, and as such, no known environmental impacts are known at this time. Instead, the proposed action would clarify procedural aspects related to the implementation of locally adopted building and other related codes.

As a separate and independent basis, the proposed action is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

### **Attachments**

1. Ordinance

ORDINANCE NO. \_\_\_\_\_

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

**REPEALING AND REPLACING CHAPTER 5.80 (TOBACCO RETAILER)  
OF THE EAST PALO ALTO MUNICIPAL CODE TO CONSOLIDATE AND  
CLARIFY EXISTING DEFINITIONS AND ENACT ADDITIONAL  
REQUIREMENTS FOR TOBACCO RETAILER PERMITS TO ALIGN  
WITH THE COUNTY OF SAN MATEO MODEL ORDINANCE**

WHEREAS, the County of San Mateo Division of Environmental Health operates a countywide program of enforcement of tobacco retailers; and

WHEREAS, the County pays for the cost of operating the program with permit fees and fines collected, with a goal of obtaining compliance and for the protection of the health and safety of its residents; and

WHEREAS, the City Council agrees that regulation of tobacco retail permits and sales and enforcement of these regulations saves limited code enforcement resources of the City; and

WHEREAS, Chapter 5.80 of the Municipal Code regulates Tobacco retailers in the City and authorizes County enforcement; and

WHEREAS, the County is requesting cities desiring to participate and authorize enforcement of the program to adopt a model ordinance with identical provisions in order to provide efficient and uniform enforcement for the tobacco permit and regulatory program; and

WHEREAS, replacement and amendment of Chapter 5.80 of the East Palo Alto Municipal Code will provide for continued health and safety of the residents of East Palo Alto, contribute to uniform countywide enforcement of these regulations stated therein by the County of San Mateo Environmental Health Division, and is necessary and appropriate for these purposes.

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

**SECTION 1: INCORPORATION OF RECITALS**

The City Council finds that all the foregoing recitals are true and correct and incorporated herein by reference. Based thereon, the City Council hereby finds that the proposed ordinance is in the public interest.

**SECTION 2: AMENDMENT AND REPLACEMENT OF CHAPTER 5.80**

The City Council hereby amends and replaces Chapter 5.80 (TOBACCO RETAILER) of the East Palo Alto Municipal Code to read in its entirety as set forth in **Exhibit A**, which is attached hereto and incorporated in its entirety by this reference:

**SECTION 3: CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

This Ordinance is not subject to CEQA because it is not a “project” which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to California Environmental Quality Act (“CEQA”) Guidelines section 15378(b)(4) and (5) in that it is a governmental fiscal, organizational or administrative activity that will not result in direct or indirect changes in the environment. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378 (regulatory actions), Section 15061(b)(3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning). The Council therefore directs that the Planning Division may file a Notice of Exemption with the San Mateo County Clerk.

**SECTION 4: IMPLIED REPEAL.**

Any provision of the East Palo Alto Municipal Code inconsistent with this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effectuate this Ordinance.

**SECTION 5: 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 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 6: EFFECTIVE DATE.**

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

**SECTION 7: PUBLICATION.**

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

This Ordinance was introduced at the December 5, 2023 meeting of the City Council of the City of East Palo Alto.

**PASSED AND ADOPTED** this 5th day of December, 2023 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Lisa Gauthier, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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James Colin, City Clerk

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John D. Lê, City Attorney

**EXHIBIT A**  
**Chapter 5.80**  
**Tobacco Retailer**

**5.80.010 – Definitions.**

- A. “Characterizing Flavor” means a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a Tobacco Product or any byproduct produced by the Tobacco Product. Characterizing flavors include, but are not limited to, tastes or aroma relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a Characterizing Flavor.
- B. “Constituent” means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a Tobacco Product during the processing, manufacture, or packing of the Tobacco Product.
- C. “Consumer” means a person who purchases a Tobacco Product for consumption.
- D. “Coupon” means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or other form, used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.
- E. “Director” means the Chief of San Mateo County Health, or designee.
- F. “Distinguishable” means perceivable by either the sense of smell or taste.
- G. “Electronic Smoking Device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine, and whether natural or synthetic. “Electronic Smoking Device” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.
- H. “Flavored Tobacco Product” means any Tobacco Product that contains a Constituent that imparts a Characterizing Flavor.

- I. "Full Retail Price" means the price listed for a Tobacco Product on its Packaging or on any related shelving, advertising, or display where the Tobacco Product is sold or offered for Sale, plus all applicable taxes and fees if such taxes and fees are not included in the listed price.
- J. "Labeling" means written, printed, pictorial, or graphic matter upon any Tobacco Product or any of its packaging.
- K. "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold, or offered for Sale, to a Consumer.
- L. "Permit" or "Tobacco Retailer Permit" means a valid permit issued by the Director to a Person to act as a Tobacco Retailer.
- M. "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other entity.
- N. "Pharmacy" means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for Sale, regardless of whether the retail establishment Sells other retail goods in addition to prescription pharmaceuticals.
- O. "Sale" or "Sell" means transfer to, exchange, barter, or distribute for a commercial purpose.
- P. "Self-Service Display" shall be defined as the open display or storage of Tobacco Products in a manner that is physically accessible to the general public without the assistance of the retailer or employee of the retailer and a direct face-to-face transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.
- Q. "Tobacco Paraphernalia" means any item designed or marketed for the consumption, use, or preparation of Tobacco Products.
- R. "Tobacco" or "Tobacco Product(s)" means:
  - 1. any product containing, made of, or derived from tobacco or nicotine, whether natural or synthetic, that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

2. any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine, and whether natural or synthetic; or
  3. any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, whether natural or synthetic, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.
  4. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.
- S. "Tobacco Product Flavor Enhancer" means a product designed, manufactured, produced, marketed or Sold to produce a Characterizing Flavor when added to a Tobacco Product.
- T. "Tobacco Retailer" means any Person who Sells, or offers for Sale, Tobacco Products. This definition is without regard to the quantity of Tobacco Products sold or offered for Sale.
- U. "Youth-Populated Area" means a parcel of real property that is occupied, in whole or in part, by any of the following:
1. a private or public school that educates children in grades kindergarten through high school;
  2. a library that is open to the public;
  3. a playground that is open to the public;
  4. a youth center, defined as a facility where children ages 6 to 17 come together for programs and activities;
  5. a recreation facility open to the public, defined as an area, place, structure, or other facility that is used either permanently or temporarily for community recreation, even though it may be used for other purposes. "Recreation facility" includes, but is not limited to, a gymnasium, playing court, playing field, and swimming pool;
  6. a public or private college or university that serves as an institution for education beyond the high school level;

7. a licensed child-care facility or preschool, other than a small-family day care home or a large-family daycare home as defined in California Health & Safety Code § 1596.78.

#### **5.80.020 – Requirement for a Permit.**

- A. No Tobacco Retailer or other Person shall Sell or offer for Sale any Tobacco Product without a current and valid Tobacco Retailer Permit from San Mateo County for each location where such activities are conducted.
- B. Permits are valid for one year and must be timely renewed annually by the Permit holder in order to continue to sell or offer for sale any Tobacco Product. A Retailer must obtain a separate Permit for each location at which any Tobacco Product will be sold, offered for sale or distributed. A Permit that is not renewed in a timely manner shall expire at the end of its term, and the Tobacco Retailer must obtain a new Permit prior to any further sale, offer for sale, or distribution of any Tobacco Product.
- C. No Tobacco Retailer shall violate, or cause or allow the Tobacco Retailer's agents or employees to violate, any provision of this Chapter or any other local, state, or federal law applicable to Tobacco Products or Tobacco Retailing.
- D. Tobacco Retailers are responsible for the actions of their employees and agents relating to the sale, offer to sell, and furnishing of tobacco products at the retail location. The sale of any tobacco product by an employee shall be considered an act of the tobacco retailer and the permit holder shall be responsible for any monetary penalties levied.
- E. Nothing in this Chapter shall be construed to penalize the purchase, use, or possession of a Tobacco Product by any Person not engaged in Tobacco Retailing.

#### **5.80.030 – Permit is Nontransferable.**

- A. Tobacco Retailer Permits are nontransferable as between Persons, locations, or otherwise. Any attempted transfer shall render the Permit null and void.
- B. Notwithstanding any other provision of this Chapter, prior violations of this Chapter at a location shall continue to be counted against that location and Permit ineligibility and suspension periods shall continue to apply to that location unless:
  1. One hundred percent of the interest in the stock, assets, or income of the business, other than a security interest for the repayment of debt, has been transferred to the new owner(s); and

2. The County is provided with clear and convincing evidence, including an affidavit, that the business has been acquired in an Arm's Length Transaction. An Arm's Length Transaction, for the purposes of this section, means a transaction in which two or more unrelated and unaffiliated parties agree on the transfer in question; the parties act independently and in their own self-interest; and the parties have equal bargaining power and symmetric information, leading the parties to agree upon fair-market terms.

#### **5.80.040 – Permit Conveys a Limited, Conditional Privilege.**

- A. Nothing in this Chapter shall be construed to grant any Person or entity obtaining and maintaining a Permit any status or right other than the limited, conditional privilege to Sell Tobacco Products and act as a Tobacco Retailer at the location in the County identified on the face of the Permit for the period of time shown on the Permit. All Permits are issued subject to the County's right to amend this Chapter from time to time, and Retailers shall comply with all provisions of this Chapter, as amended.

#### **5.80.050 – Application, Issuance and Renewal Procedure.**

- A. Application for a Tobacco Retailer's Permit or the renewal of a Tobacco Retailer Permit shall be submitted in the name of the Person proposing to conduct retail sales of Tobacco Products, referred to herein as the "Applicant," and shall be signed by such Person or an authorized agent thereof. All applications shall be submitted to the Director on a form supplied by the Director and contain, at a minimum, the following information:
  1. The name, address, and telephone number of the Applicant;
  2. The business name, address, and telephone number of the location where Tobacco Products are proposed to be sold, offered for sale or distributed by the Applicant;
  3. Proof that the location for which a Tobacco Retailer's Permit is sought has been issued a valid state license for the sale of Tobacco Products, if the Tobacco Retailer sells products that require such license;
  4. A statement whether or not the Tobacco Retailer or any agent of the Retailer has been found to have violated this Chapter or other applicable law governing Tobacco Products or Tobacco Retailing and, if so, the dates and locations of all such violations within the previous five years;
  5. Such other information as the Director determines is necessary for implementation of this Chapter;

6. An application for a new or renewal Permit will be denied if there are any outstanding fines or late fees issued by the Director, or during any period of suspension; and
7. It is the responsibility of each Permit holder to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a Tobacco Retailer Permit. No Permit holder may rely on the issuance of a Permit as a determination by San Mateo County that the Permit holder has complied with all laws applicable to Tobacco Retailing. A Permit issued contrary to this Chapter or any other law, or on the basis of false or misleading information supplied by the Applicant, shall be revoked. Nothing in this Chapter shall be construed to vest in any person or entity obtaining or maintaining a Tobacco Retailer's Permit any status or right to act as a Tobacco Retailer in contravention of any provision of law.

#### **5.80.060 – Display of Permit.**

- A. Upon receipt of an application for a Tobacco Retailer Permit in compliance with the requirements of this Chapter, the Director or designee may issue a Permit which, if issued, must be prominently displayed in a publicly visible location at the location where Tobacco Product Sales are conducted and permitted.

#### **5.80.070 – Prohibitions Regarding Coupons, Discounts, Pharmacies, Flavored Tobacco, and Electronic Smoking Devices.**

- A. No Tobacco Retailer shall do any of the following:
  1. Honor or redeem, or offer to honor or redeem, a Coupon to allow a Consumer to purchase a Tobacco Product for less than Full Retail Price;
  2. Sell any Tobacco Product to a Consumer through a multiple package discount or otherwise provide any such product to a Consumer for less than the Full Retail Price in consideration for the purchase of any Tobacco Product or any other item; or
  3. Provide any free or discounted item to a Consumer in consideration for the purchase of any Tobacco Product.
- B. No Person, Tobacco Retailer or other legal entity shall sell or distribute to a person any electronic smoking device that delivers natural or synthetic nicotine or any other substance(s) to the person inhaling from the device. This includes any component, part, or accessory intended or reasonably expected to be used with the electronic device, whether or not sold separately.
- C. No Person or Tobacco Retailer shall sell or offer to sell any Flavored Tobacco Product or Tobacco Product Flavor Enhancer. There shall be a rebuttable

presumption that a Tobacco Product is a Flavored Tobacco Product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the Tobacco Product has or produces a Characterizing Flavor including, but not limited to, text, color, and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate that the Tobacco Product has a Characterizing Flavor.

- D. No Pharmacy or Pharmacy employee or agent shall sell or offer to sell any Tobacco Product. The Director shall not issue any new, or renew any existing, Tobacco Retailer Permit for any Pharmacy.
- E. Subdivisions b. and c. of this Section shall not apply to the duty- free stores located at the San Francisco International Airport.

#### **5.80.080 – Packaging and Labeling.**

- A. No Tobacco Retailer or other Person shall Sell or offer for Sale any Tobacco Product to any Consumer unless the Tobacco Product:
  - 1. is Sold in the original manufacturer's Packaging intended for Sale to Consumers;
  - 2. conforms to all applicable federal Labeling requirements; and
  - 3. conforms to all applicable child-resistant packaging requirements.

#### **5.80.090 – Self-Service Displays Prohibited; On-Site, In-Person Sales Required.**

- A. Tobacco Retailing by means of a Self-Service Display is prohibited.
- B. All Sales of Tobacco Products and Tobacco Paraphernalia shall be conducted in-person, over the counter, in the permitted location.

#### **5.80.100 – Notice of Minimum Age for Purchase of Tobacco Products.**

- A. Tobacco Retailers shall post conspicuously, at each point of purchase, a notice stating that Selling Tobacco Products to anyone under 21 years of age is illegal and subject to penalties. The form and content of such notice shall be subject to the approval of the Director.

#### **5.80.110 – Positive Identification Required.**

- A. No Tobacco Retailer or other Person shall Sell or offer to Sell a Tobacco Product to another Person without first verifying by means of government-issued

photographic identification that the recipient is at least the minimum legal sales age required under state law to purchase a Tobacco Product.

**5.80.120 – Minimum Age for Individuals Selling Tobacco Products.**

- A. No Tobacco Retailer shall allow, at its Retail location, any individual who is younger than 21 years of age to Sell or offer to Sell Tobacco Products.

**5.80.130 – Display or Offers to Sell Tobacco Products Without Tobacco Retailer Permit Prohibited.**

A Tobacco Retailer without a current valid Permit:

- A. Shall keep all Tobacco Products out of public view. The public display of Tobacco Products in violation of this provision shall constitute Tobacco Retailing without a Permit.
- B. Shall not display any advertisement relating to Tobacco Products that offers the Sale of such products from the Tobacco Retailer's location.

**5.80.140 – Limits on Eligibility for a Permit.**

- A. No Tobacco Retailer's Permit may be issued to authorize Tobacco Retailing at or from other than a fixed location. For example, Sales by Persons on foot or from vehicles or other forms of mobile vending are prohibited.
- B. No Tobacco Retailer's Permit may be issued to authorize Sales of Tobacco Products at a temporary event, such as flea markets and farmers' markets.
- C. No new Tobacco Retailer Permit may be issued to authorize Tobacco Product Sales at any location within 1,000 feet of a Youth-Populated Area, as measured by a straight line from the nearest point of the property line of any parcel on which a Youth-Populated Area is located and any point along the property line of the parcel on which the Permit applicant has or proposes to locate the business.
- D. No new Tobacco Retailer's Permit may be issued for a location which is within 500 feet of a location already occupied by another Tobacco Retailer, as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing Tobacco Retailer's business is located.
- E. Tobacco Retailers with a current and valid Permit as of the date of adoption of this ordinance shall be exempt from subsections c. and d. of this Section unless the existing Tobacco Retailer fails to timely renew the Permit prior to its annual expiration.

- F. The Sale of Tobacco Products and accessories is prohibited in County owned structures and in any area of a structure leased by the County, wherever located.

#### **5.80.150 – Fees for Permit.**

- A. Tobacco Retailers shall pay all applicable fees at the rates set forth in section 5.64.070 of the San Mateo County ordinance code. Fees shall be used by the Director to administer and enforce this Chapter.

#### **5.80.160 – Enforcement.**

- A. The Director or the Director's designee shall enforce this Chapter consistent with the provisions herein.
- B. Violations of this Chapter may be criminally prosecuted as infraction(s) or misdemeanor(s) at the discretion of the prosecuting attorney as the interests of justice require.
- C. This Section shall not be interpreted to limit the applicable civil or administrative remedies available under law.

#### **5.80.170 – Public Nuisance.**

- A. Any violation of this Chapter is hereby declared a public nuisance, subject to all applicable civil, administrative, and criminal remedies and penalties according to the provisions and procedures of contained in this Ordinance Code and state law, including but not limited to, an action for abatement or injunctive relief.

#### **5.80.180 – Compliance Monitoring.**

- A. Compliance with this Chapter shall be monitored by the Director. In addition, any peace officer may enforce the provisions of this Chapter. The Director may designate additional persons to monitor and facilitate compliance with this Chapter.
- B. Individuals designated to enforce the provisions of this Chapter shall inspect each Tobacco Retailer at least two times during each twelve-month period to determine if the Tobacco Retailer is complying with all applicable laws. Compliance checks shall take place during normal business hours, with or without notice. If a violation has occurred, the Tobacco Retailer shall be inspected again within three months. All permitted premises must be open to inspection by designated persons during regular business hours.
- C. Nothing in this section shall create a right of action in any Tobacco Retailer or other person or entity against the County or its agents.

#### **5.80.190 – Suspension or Revocation of Permit.**

A. Grounds for Suspension or Revocation.

1. A Tobacco Retailer Permit may be suspended or revoked, as set forth below in subdivision (b), if any court of a competent jurisdiction determines, or the Director finds, based on a preponderance of the evidence after notice and opportunity for the Tobacco Retailer to be heard, that either of the following violations have occurred:
  - i. After the Permit was issued it is determined that the Application for the Permit is incomplete or inaccurate.
  - ii. The Tobacco Retailer or Tobacco Retailer's agent has violated any of the requirements, conditions, or prohibitions of this Chapter or any applicable local, state, or federal tobacco-related law.
2. Notwithstanding the foregoing, a Tobacco Retailer Permit shall be suspended or revoked, for the maximum time periods and as set forth in subdivision (b), if any court of competent jurisdiction determines, or the Director finds, based on a preponderance of evidence and after notice and opportunity for the Tobacco Retailer to be heard, that the Tobacco Retailer, or any agent or employee of the Tobacco Retailer, has Sold Tobacco Products to any Person(s) under the age of 21 years.

B. Time Period of Suspension of Permit.

1. Upon the first violation within any sixty (60) month period, the Permit to Sell Tobacco Products may be suspended for up to 30 days.
2. Upon the second violation within any sixty (60) month period, the Permit to Sell Tobacco Products may be suspended for up to 90 days.
3. Upon the third violation within any sixty (60) month period, the Permit to Sell Tobacco Products may be suspended for up to one year.
4. Upon the fourth violation within any sixty (60) month period, the Permit to Sell Tobacco Products shall be revoked. If a Permit is revoked, the Retailer shall not be eligible for a new Permit for a period of five (5) years after the effective date of revocation.

C. Effective Date of Suspension or Revocation.

Within ten (10) calendar days of the hearing, the Director shall issue written findings and an order regarding the suspension or revocation, which order will be effective ten (10) calendar days from the date such order was sent by certified mail to the Retailer, unless a timely appeal is filed in accordance with subsection (d).

D. Appeal of Suspension or Revocation.

The decision of the Director is appealable to the San Mateo County Licensing Board and the procedural rules of the San Mateo County Licensing Board shall govern hearings on all appeals of suspensions and revocations.

1. An appeal must be in writing, be addressed to the Director and be hand-delivered to the offices of the Division of Environmental Health.
2. An appeal must be received by the Director before the effective date of suspension or revocation provided by subsection (c) in order to be considered.
3. The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the San Mateo County Licensing Board.
4. The decision of the San Mateo County Licensing Board shall be a final administrative order, with no further administrative right of appeal.

**5.80.200 – Administrative Fine.**

- A. Grounds for Fine. A fine shall be imposed on a Tobacco Retailer upon findings made by the Director, based on a preponderance of the evidence, that any Tobacco Retailer, or any agent or employee of the Tobacco Retailer, has violated any of the requirements, conditions, or prohibitions of this Chapter. A fine shall be imposed in the maximum amounts set forth in subsection (b) of this section upon findings made by the Director that the Tobacco Retailer, or any agent or employee of the Tobacco Retailer, has Sold any Tobacco Product to any Person(s) under the age of 21 years. Any administrative fine shall be imposed solely against the Tobacco Retailer, not the Tobacco Retailer's employees or agents.
- B. Amount of Fine. Upon written findings made by the Director under subsection (a), the person or entity holding the Tobacco Retailer Permit shall be subject to an administrative fine for each such violation as follows:
  1. A fine not exceeding five hundred dollars (\$500) for a first violation within a sixty (60) month period; and
  2. A fine not exceeding one thousand dollars (\$1,000) for each subsequent violation within a sixty (60) month period.
- C. Each day that Tobacco Products are Sold or offered for Sale without a Permit or otherwise in violation of this Chapter shall constitute a separate violation. A finding of "offered for Sale" in violation of this Chapter will be made if Tobacco Products are either actually Sold and/or displayed in the retail establishment, or if advertisements offering to Sell Tobacco Products are visible to customers.

- D. Fine Procedures. Notice of the fine shall be served on the Tobacco Retailer by certified mail. The notice shall contain a description of the facts upon which the asserted violation is based and an advisement of the right to request a hearing before the Director contesting the imposition of the fine. Said hearing must be requested within ten calendar days of the date appearing on the notice of the fine. The decision of the Director shall be a final administrative order, with no administrative right of appeal.
- E. Failure to Pay Fine. If a fine imposed pursuant to this Chapter is not paid within 30 calendar days from the date appearing on the notice of the fine or of the notice of determination of the Director after the review provided for under subdivision (c) of this Section, the fine may be referred to a collection agency within or external to the County. In addition, any outstanding fines must be paid prior to the issuance of any new Permit or renewal of a Permit.

#### **5.80.210 – Enforcement of this Chapter in Cities.**

The Director is authorized to administer and enforce the provisions of this Chapter 5.80 on behalf of the City of East Palo Alto as provided in the San Mateo County ordinance code at section 4.98.310(a).



# **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** December 5, 2023  
**TO:** Honorable Mayor and Members of the City Council  
**VIA:** Melvin E. Gaines, City Manager  
**BY:** James Colin, City Clerk  
**SUBJECT:** Commission Appointments

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## **Recommendation**

Interview the applicants for the Rent Stabilization Board and the Senior Advisory Committee; and appoint applicants for Regular or Alternate Seats for both bodies.

## **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

Priority No. 1: Promote Housing, Economic and Workforce Development  
Priority No. 3: Promote Health & Public Safety  
Priority No. 4: Ensure Our Financial and Organizational Health

## **Background**

The City Council of the City of East Palo Alto is seeking candidates to make the following appointments:

## **POLICY AND ACTION ITEM 9.3**

### **Rent Stabilization Board appointments for the following terms:**

Regular Seat No. 1: From May 18, 2021, through May 31, 2024 (Due to resignation)

Regular Seat No. 4: From May 18, 2021, through May 31, 2024 (Due to resignation)

### **Senior Advisory Committee appointments:**

Regular Seat No. 1: From May 31, 2023, through May 5, 2026

Regular Seat No. 4: From May 31, 2023, through May 5, 2026

Alternate Seat: From May 31, 2023, through May 5, 2026

The application period was initially open from April 27 through May 12, 2023, and was later extended due to a lack of applicants. The City accepted applications electronically via the SurveyMonkey platform. The City conducted outreach through its social media outlets in hopes of attracting more applicants, and additionally, engaged in in-person outreach efforts to ensure a comprehensive approach to the outreach process. These outlets included various newsletters disseminated to over 4,000 residents, Facebook ads, and the City website.

### **Selection Process**

In order to ensure an efficient and transparent Brown Act compliant selection process, the procedure for review is as follows:

1. City Council will review the applications attached to the December 5, 2023, agenda.
2. City Council will be provided an electronic voting form at the beginning of the agenda item from the City Clerk.
3. City Council will conduct interviews.
4. City Council will make its selections by motion.

### **Attachments**

1. Senior Advisory Committee Applications
2. Rent Stabilization Board Applications

#5

COMPLETE

Collector: Web Link 1 (Web Link)  
Started: Monday, November 27, 2023 1:36:06 PM  
Last Modified: Monday, November 27, 2023 2:04:43 PM  
Time Spent: 00:28:36  
IP Address: [REDACTED]

Page 1: Rent Stabilization Board Application

Q1

Name  
  
Karl Magnus Larsson

Q2

Home Address  
  
[REDACTED]

Q3

City  
  
EAST PALO ALTO

Q4

E-mail Address  
  
[REDACTED]

Q5

Phone Number  
  
[REDACTED]

Q6 Yes  
  
Are you available to attend regular Board meetings  
scheduled for the second Wednesday of every month at  
7:00 pm?

**Q7**

Why would you like to serve on the Rent Stabilization Board?

I have been living as a tenant in East Palo Alto for over 10 years and have been very interested in housing issues. I believe strong tenant rights are at the core of a healthy relationship between tenants and landlords.

I have seen and personally experienced the positive effects of the updated rent stabilization ordinance of 2010 and took a small part in the campaign for Measure J that modified the ordinance and Measure O that has generated funds that helped the City fund the RV safe parking program. I also had a minor role in the Measure L ballot measure campaign.

At this point I have followed the work on the rent stabilization board for many years and if I would be selected to serve my hope is to make contributions that will ensure a faithful implementation of the RSO to the benefit of all residents of East Palo Alto.

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#6

COMPLETE

Collector: Web Link 1 (Web Link)  
Started: Wednesday, November 29, 2023 12:04:39 PM  
Last Modified: Wednesday, November 29, 2023 12:08:21 PM  
Time Spent: 00:03:42  
IP Address: [REDACTED]

Page 1: Rent Stabilization Board Application

Q1

Name

Julian A. Garcia

Q2

Home Address

[REDACTED]

Q3

City

East Palo Alto

Q4

E-mail Address

[REDACTED]

Q5

Phone Number

[REDACTED]

Q6 Yes

Are you available to attend regular Board meetings  
scheduled for the second Wednesday of every month at  
7:00 pm?

**Q7**

Why would you like to serve on the Rent Stabilization Board?

I am a resident of the west side of East Palo Alto and would like to help my tenant community by serving on the rent board.

---

#7

COMPLETE

Collector: Web Link 1 (Web Link)  
Started: Friday, December 01, 2023 4:51:22 PM  
Last Modified: Friday, December 01, 2023 4:58:32 PM  
Time Spent: 00:07:10  
IP Address: [REDACTED]

Page 1: Rent Stabilization Board Application

Q1

Name

Imelda Rodriguez

Q2

Home Address

[REDACTED]

Q3

City

East Palo Alto

Q4

E-mail Address

[REDACTED]

Q5

Phone Number

[REDACTED]

Q6 Yes

Are you available to attend regular Board meetings  
scheduled for the second Wednesday of every month at  
7:00 pm?

**Q7**

Why would you like to serve on the Rent Stabilization Board?

I rent a property in East Palo Alto and this year I got a rent increase of \$200. I already pay 5,200 for a house here in East Palo Alto and I'm afraid my landlord will increase the rent again in 2024. If my landlord continues to increase I know I will be displaced from my community that I currently serve as a coordinator for a Food Recovery Program to feed our people in East Palo Alto. I want to continue this work in my community as I am currently doing a graduate program sponsor by the USDA. My ultimate goal is to potentially help our community of East Palo Alto tackle our food insecurity issues. I know with my experience I can bring knowledge and different perspectives to help advocate for community members who are here making change for the better of our community. I want to stay and I can only stay with the help of this board to help me with rent stabilization and making landlords more accountable to take care of the land I live in.

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#8

COMPLETE

Collector: Web Link 1 (Web Link)  
Started: Friday, December 01, 2023 5:09:03 PM  
Last Modified: Friday, December 01, 2023 5:12:41 PM  
Time Spent: 00:03:38  
IP Address: [REDACTED]

Page 1: Rent Stabilization Board Application

Q1

Name

Armando soria

Q2

Home Address

[REDACTED]

Q3

City

East palo alto

Q4

E-mail Address

[REDACTED]

Q5

Phone Number

6505262747

Q6 Yes

Are you available to attend regular Board meetings  
scheduled for the second Wednesday of every month at  
7:00 pm?

**Q7**

Why would you like to serve on the Rent Stabilization Board?

Serving on a rent stabilization board can be a way for me to contribute to their community and address issues related to housing affordability and stability. It can be a way to advocate for fair and reasonable rent policies, protect tenants' rights, and ensure that housing remains affordable for residents. Growing up in East Palo Alto, CA, I have firsthand experience with the challenges and importance of affordable housing, which could be a motivating factor for wanting to serve on a rent stabilization board.

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#1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, November 13, 2023 9:51:45 AM  
**Last Modified:** Monday, November 13, 2023 10:28:02 AM  
**Time Spent:** 00:36:17  
**IP Address:** [REDACTED]

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Page 1: Senior Advisory Committee Application

**Q1**

Name

Donna Rutherford

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**Q2**

Home Address

[REDACTED]

---

**Q3**

City

East Palo Alto

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**Q4**

E-mail Address

[REDACTED]

---

**Q5**

Phone Number

[REDACTED]

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**Q6**

Yes

Are you available to attend regular Committee meetings  
scheduled for the first Wednesday of each month?

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**Q7**

Why would you like to serve on the Senior Advisory Committee?

I have lived in East Palo Alto for over 50 years. I have been actively working to make residents of all ages enjoy their best life in EPA. I served my community as a young girl, lady, mature lady and now as a legacy lady. I know the issues that affect seniors for example in the area of health, finances, housing, food insecurities to name a few.

I would be honored to serve on the Senior Advisory Committee. I have the time, commitment, energy and positive attitude and life experience.

Thank you for your consideration and all that you do.

Donna Rutherford

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