

# EXHIBIT “A”

The following are modifications to Article X of Chapter 16.12 (additions are in underlined red text and deletions are shown with ~~red and strikethrough~~):

## 16.12.360 - Accessory dwelling units.

- A. Purpose. The purpose of ~~these provisions is to establish procedures for permitting an accessory dwelling unit (ADU); to implement state law requiring consideration for such uses. this section is to expand the variety of housing opportunities in the City of Hesperia by implementing State Government Code 66310-66342 as they pertain to accessory dwelling units and junior accessory dwelling units.~~ Implementation of these regulations will ensure that accessory dwelling units and junior accessory dwelling units are located in areas where services are adequate to support them and that accessory dwelling units are designed and maintained as a compatible and integral part of the City’s residential zoning districts.
- B. Definitions.
- a. "Accessory dwelling unit" or "ADU" means an additional detached or attached dwelling unit which provides complete independent living facilities for one or more persons and is located on a lot with an existing or proposed primary residence. The unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary unit is situated. An accessory dwelling unit also includes the following:
    - i. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
    - ii. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
  - b. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
  - c. "Junior accessory dwelling unit" or “JADU” means a unit that is no more than 500 square feet in size and contained entirely within an existing or proposed single-family structure. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure. For the purposes of this section, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.
- C. Application Procedure—Accessory Dwelling Units. Application for a permit to construct an accessory dwelling unit shall be made ~~by~~ pursuant to the provisions and limitations of this article.
- a. The review procedure shall be administrative review without notice (ministerial), pursuant to the provisions of Section 16.12.005(A)(3).
  - b. The City shall act on the application to create an ADU or a Junior ADU within ~~120~~ 60 days from the date that the City receives a completed application, unless either:
    - (i) The Applicant requests for a delay, in which case the ~~120-60~~ day time period is tolled for the period of the requested delay, or

- (ii) An application of an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit is submitted with a permit application to create a new primary residence on the lot, the City may delay acting on the permit application for the Accessory Dwelling Unit or the Junior Accessory Dwelling ~~unit~~ Unit the City acts on the permit application to create the primary residence. The application of an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit is still considered ministerially without discretionary review or a public hearing.

~~6. Approval of a permit to construct an accessory dwelling unit shall be for a period not to exceed thirty-six (36) months.~~

D. ~~Requirements for Approval.~~ General Standards.

1. An accessory dwelling unit may only be permitted on lots that are zoned for agricultural, single family, multi-family, or mixed uses and that contain an existing or proposed single-family or multi-family dwelling.
2. A Junior Accessory Dwelling unit may only be permitted on lots that are zoned for agricultural or single family and that contain an existing or proposed single-family dwelling.
- ~~32.~~ Accessory dwelling units are exempt from the density limitations of the General Plan and subject to the following:
  - a. Lots with an existing or proposed single-family residence may be permitted one (1) accessory dwelling, and one (1) junior accessory dwelling unit (see Section 16.12.360 F for additional regulations pertaining to junior accessory dwelling units).
  - b. Lots with existing multi-family units may convert non-habitable space within an existing multi-family structure into accessory dwelling units. The number of these types of units shall be limited to ~~one~~ (1) accessory dwelling or up to 25 percent of the existing multi-family dwelling units, whichever is greater. In addition, no more than two (2) detached accessory dwelling units may be permitted. A detached accessory dwelling may be converted from non-habitable space, or newly constructed.
43. An accessory dwelling unit shall be located on the same lot as the proposed or existing primary dwelling.
54. The correction of a nonconforming zoning condition that would result in a physical improvement on the property shall not be a condition of approval for an accessory dwelling unit.
- ~~5. On lots with an existing or proposed single family residence, the primary dwelling unit or accessory dwelling unit on the property shall be owner-occupied. (This provision is suspended for all permits until January 1, 2025, unless otherwise amended by California Government Code 65852.2).~~
66. The accessory dwelling unit shall provide complete and independent living facilities.
77. The accessory dwelling unit shall not be used for a rental term of less than 30 consecutive days. ~~—sold separately and may be rented for periods of not less than 30 days.~~
8. The accessory dwelling unit may not be sold or conveyed separately from the primary dwelling unit unless all of the following apply:

- (i) The accessory dwelling unit was built or developed by a qualified nonprofit corporation. For the purposes of this section, a qualified nonprofit corporation means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the California Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.
- (ii) There is an enforceable restriction on the use of the land on which the ADU is located pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation. For the purposes of this section, a qualified buyer means very-low and low-income households as defined in Section 16.20.195.
- (iii) The property is held pursuant to a recorded tenancy in common agreement that includes an allocation to each qualified buyer of an undivided, unequal interest in the property based on the size of the dwelling that each qualified buyer occupies; a repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the accessory dwelling unit or primary dwelling if the buyer desires to sell or convey the property; a requirement that the qualified buyer occupy the property as the qualified buyer's principal residence; and affordability restrictions on the sale and conveyance of the property that ensures the property will be preserved for very-low income or low-income housing for 45 years for owner-occupied housing and will be sold or resold to a qualified buyer.
- (iv) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded with the County. A Preliminary Change of Ownership Report shall be filed concurrently with the grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
- (v) If requested by a utility providing service to the primary residence, the accessory dwelling unit has separate water, sewer, or electrical connection to that utility.

~~89.~~ The accessory dwelling unit shall have adequate water supply pursuant to specifications of the Uniform Plumbing Code.

~~109.~~ In compliance with the State of California Lahontan Regional Water Quality Control Board, lots that are not connected to sewer facilities shall be a minimum of one gross acre in size or install an approved Supplemental Treatment Septic System.

~~4011.~~ The design and construction of each ADU shall conform to all applicable provisions of the Building Code. The ADU shall comply with all provisions of the Code pertaining to the adequacy of water, sewer, electrical, drainage, and fire and emergency services to the property on which the ADU will be located as well as all applicable codes pertaining to building, fire, health, and/or safety.

E. Design and Development Standards—Accessory Dwelling Units.

1. The accessory dwelling unit may be either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling, including detached garages ~~or detached from an existing or proposed primary residence, or converted from an existing accessory building, garage, storage area, or other similar non-habitable area.~~ An accessory dwelling may be converted from non-habitable space within, or detached from, an existing or proposed multi-family structure.
2. A detached accessory unit shall not exceed one thousand two hundred (1,200) square feet of livable floor area (excludes garage and any accessory structure) on any parcel. Accessory dwelling units attached to the principal unit may be up to fifty (50) percent of the area of the principal unit, up to a maximum of one thousand (1,000) square feet, except that if the principal unit has a floor area of one thousand six hundred (1,600) square feet or less, an attached accessory dwelling unit shall conform to the provisions of Section 16.2012.360(E)(6), below. The area of an accessory dwelling unit is in addition to and shall not be considered as part of the allowable accessory building area authorized under Article X of Chapter 16.20. No accessory dwelling unit shall be less than one hundred and fifty (150) square feet in area. Further, a recreational vehicle, does not qualify for use as an accessory dwelling unit.
3. Independent access to an attached accessory dwelling unit is required and shall not be located on the same wall plane elevation as the access to the primary dwelling. The entrance to an attached accessory dwelling unit shall be separate from the entrance to the primary unit and structure; the separate entrance shall be located on the side or rear of the structure and whenever possible, located facing toward the interior yard areas.
4. For new attached or detached accessory dwelling units, a minimum four-foot side yard and four-foot rear yard setback is allowed. The front yard and street side yard standards for the primary unit shall apply to the accessory dwelling unit. ~~In addition, detached accessory dwelling units shall be located to the rear of the primary dwelling unit.~~
5. No setback shall be required for the conversion of existing living area, conversion of an existing accessory structure, or for a new structure that is constructed in the same location and to the same dimensions as an existing structure.
6. The accessory dwelling unit shall be constructed in accordance with minimum standards for single-family residential uses on individual lots as specified in Section 16.20.160, unless otherwise specified herein.
7. No provisions within this Section, including lot coverage or legal nonconformity, shall preclude either an attached or detached 800 square-foot accessory dwelling unit ~~that is at least sixteen (16) feet in height~~ with four-foot side yard and rear yard setbacks, and that is constructed in compliance with all other development standards
8. A detached accessory dwelling unit created on a lot with an existing or proposed single-family or multi-family dwelling may not exceed 16 feet in height. However, a detached accessory dwelling unit may be up to 18 feet in height if it is located within one-half mile walking distance of a major transit stop or a high-quality transit

corridor, as those terms are defined in Section 21155 of the Public Resources Code. Furthermore, a detached accessory dwelling unit may be up to two additional feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit. A detached accessory dwelling unit created on a lot with an existing or proposed multi-family dwelling that has more than one story above grade may not exceed 18 feet in height. An accessory dwelling unit that is attached to the primary dwelling may not exceed 25 feet in height or exceed two stories.

- ~~89.~~ ~~At least one covered or uncovered parking space for the accessory dwelling unit shall be provided by a minimum interior size of nine feet in width and nineteen (19) feet in depth. Parking can be tandem on an existing driveway. The City shall not impose parking standards for an accessory dwelling unit if the accessory dwelling unit is located within one-half mile of public transit, when the accessory dwelling unit is part of the proposed or existing primary residence or an existing accessory structure, when on-street parking permits are required but not offered to the occupant of the accessory dwelling unit, or when there is a care share vehicle located within one block of the accessory dwelling unit.~~ No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
- ~~910.~~ When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, those off-street parking spaces do not need to be replaced.
- ~~4011.~~ The accessory dwelling unit shall be architecturally compatible with the design of the primary unit ~~and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment and shall match with the same colors and materials of the primary unit.~~
- ~~4412.~~ The construction of an accessory dwelling unit shall not be considered when calculating minimum distance requirements for animal uses on the subject lot or on adjacent lots.

#### F. Junior Accessory Dwelling Units.

1. Purpose-This section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit, will be constructed within the walls of an existing single family residence, and requires owner occupancy of the single family residence where the unit is located.
2. Development Standards- Junior accessory dwelling units shall comply with the following standards:
  - a) Lots with an existing or proposed single family residence may be permitted one (1) accessory dwelling unit and one (1) junior accessory dwelling unit.
  - b) In compliance with the State of California Lahontan Regional Water Quality Control Board, lots that are not connected to sewer facilities shall be a minimum of one gross acre in size or install an approved Supplemental Treatment Septic System.

- c) A junior accessory dwelling unit shall not exceed 500 square feet in size and shall be contained entirely within a single family residence. ~~However, an additional 150 square foot expansion beyond the physical dimensions of the existing structure is permitted strictly to accommodate ingress and egress to the junior accessory dwelling unit.~~
- d) The junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single-family residence.
- e) The junior accessory dwelling unit must include an efficiency kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- f) The junior accessory dwelling unit may have a bathroom or share with the proposed or existing single family residence. If a permitted junior accessory dwelling unit does not include a separate bathroom, then an interior entry to the main living area shall be provided.
- g) Additional parking shall not be required.
- h) A deed restriction, in a form to be approved and provided by the City, must be recorded and filed with the City, and must include the following stipulations: i) prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single family residence; ii) restriction on the size and attributes of the junior accessory dwelling unit; iii) if the unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days; and iv) owner occupancy of one of the units on-site is required, unless the owner is a governmental agency, land trust, or housing organization. These restrictions shall run with the land.

(Ord. 2003-05 § 4 (part), 2003; Ord. 299 § 4 (Exh. A § 3 (part)), 2000; Ord. 250 (part), 1997; Ord. 192 Exh. A (§ 83.10.020), 1994)

(Ord. No. 2009-08, § 3(Exh. A), 10-20-09; Ord. No. 2012-14, § 3(Exh. A), 8-7-12; Ord. No. 2017-12, § 3(Exh. A), 6-20-17; Ord. No. 2020-04, § 3(Exh. A), 5-19-20; Ord. No. 2021-01, 3(Exh. A), 6-1-21; Ord. No. 2022-13, § 3(Exh. A), 9-6-2022)