STAFF REPORT TO: **AMADOR COUNTY PLANNING COMMISSION**
FOR MEETING OF: **DECEMBER 9, 2025**

ITEM 3: Zoning Ordinance Amendment ZOA-25;9-2. Review and possible recommendation to the Amador County Board of Supervisors regarding amendments to County Code Section 19.72.050, Accessory Dwelling Units, to incorporate statutory authority to allow separate conveyance of ADUs as condominiums when served by public utilities.

Applicant: County of Amador
Supervisorial Districts: All
Location: Amendment would be applicable to the unincorporated area of Amador County

A. Background: The California State Legislature, in 2024, added Government Code Section 66342 to authorize local agencies to adopt an ordinance to allow the separate conveyance of accessory dwelling units as condominiums. The conveyance of an ADU as a condominium is subject to the following statutory requirements:

1) ADU condos must be created per the David-Stirling Act, which is the legal framework for Common Interest Developments and Home Owners Associations;
2) The creation of an ADU condominium is regulated as a land division per the CA Subdivision Map Act, and requires the approval of a Parcel Map by the County;
3) ADU condos must have public water and public sewer connections to avoid capacity issues that may arise from shared wells and/or septic systems;
4) Written consent of lienholders is a requirement of an ADU condominium application;
5) Written consent of existing HOAs or Common Interest Development association is required.

B. Prior Committee Action: The Land Use Committee reviewed the amendment proposal on September 9, 2025, and recommended that the condominium option be allowed in cases where the ADU has separate public water and sewer service from the primary dwelling to avoid complications of shared wells and septic systems under single ownership.

C. Planning Commission Action: The Planning Commission, after taking public comment on the proposed ordinance amendments, may make any recommendations felt necessary regarding the proposed amendments. Recommendations will be forwarded to the Board of Supervisors for their consideration at a future public hearing. If the Commission moves to recommend approval of the amendment to the Board of Supervisors, the findings below are recommended for inclusion in the action.

D. Recommended Findings:

1. The adoption of amended Chapter 19.72.050 is Categorically Exempt from the California Environmental Quality Act per Sections 15061(b)(3), 15305, 15307, and 15308 of the CEQA Guidelines.

Projects under Section 15061(b)(3) are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Section 15305 includes minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density. ADUs have a State-wide exemption from density calculations.
Section 15307 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.
Section 15307 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

2. Following the Board of Supervisors adoption of the proposed ordinance amendment, a Notice of Exemption will filed with the County Recorder.

Proposed amendments to County Code Section 19.72.050, Accessory dwelling units, to adopt statutory authority to allow separate conveyance of ADUs as condominiums.

New text is displayed as **bold and underlined**; deleted text is displayed with a ~~strike through~~ it.

19.72.050 Accessory dwelling units and junior accessory dwelling unit regulations.

E. Separate conveyance of accessory dwelling units as condominiums.

The separate conveyance of an accessory dwelling unit or units as condominiums, subject to meeting all of the following requirements.

(1) The accessory dwelling unit must have individual public water, public sewer, and electric service connections separate from the primary dwelling. Accessory dwelling units served by wells or septic systems are not eligible for separate conveyance as condominiums.

(2) The condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

(3) The condominiums shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and all applicable requirements of County Code Title 17, Land Divisions.

(4) Before recordation of the condominium plan, a safety inspection of the accessory dwelling unit shall be conducted as evidenced either through a certificate of occupancy issued by the County or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.

(5) (a) Neither a subdivision map nor a condominium plan shall be recorded with the county recorder without each lienholder's consent. The following shall apply to the consent of a lienholder:

(i) A lienholder may refuse to give consent.

(ii) A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.

(b) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be

provided to the county recorder along with a signed statement from each lienholder that states as follows:

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

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

(i) The lienholder's signature.

(ii) The name of the record owner.

(iii) The legal description of the real property.

(iv) The identities of all parties with an interest in the real property as reflected in the real property records.

(d) The lienholder's consent shall be recorded in the office of the county recorder.

(6) The County shall include the following notice to consumers on any accessory dwelling or junior accessory dwelling unit submittal checklist or public information issued describing requirements and permitting for accessory dwelling units, including as standard condition of any accessory dwelling unit building permit or condominium plan approval:

"NOTICE: If you are considering establishing your accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

(a) Paying off your current lender. You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.

(b) Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.

(c) Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct."

(7) If an accessory dwelling unit is established as a condominium, the County shall require the homeowner to notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.

(8) (a) The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.

(b) For purposes of this subparagraph, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.

(9) An accessory dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined herein or pursuant to the Qualified Nonprofit Corporation rules of CA Government Code Section 65852.26.

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] *(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66342] *(Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 13. Accessory Dwelling Units [66310 - 66342] *(Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20.)*

ARTICLE 4. Accessory Dwelling Unit Sales [66340 - 66342] *(Article 4 added by Stats. 2024, Ch. 7, Sec. 20.)*

66342. In addition to the requirement that a local agency allow the separate sale or conveyance of an accessory dwelling unit pursuant to Section 66341, a local agency may also adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums. Any such ordinance shall include all of the following requirements:

(a) The condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

(b) The condominiums shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and all objective requirements of a local subdivision ordinance.

(c) Before recordation of the condominium plan, a safety inspection of the accessory dwelling unit shall be conducted as evidenced either through a certificate of occupancy from the local agency or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.

(d) (1) Neither a subdivision map nor a condominium plan shall be recorded with the county recorder in the county where the real property is located without each lienholder's consent. The following shall apply to the consent of a lienholder:

(A) A lienholder may refuse to give consent.

(B) A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.

(2) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows:

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

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

(A) The lienholder's signature.

(B) The name of the record owner or ground lessee.

(C) The legal description of the real property.

(D) The identities of all parties with an interest in the real property as reflected in the real property records.

(E) The lienholder's consent shall be recorded in the office of the county recorder of the county in which the real property is located.

(e) The local agency shall include the following notice to consumers on any accessory dwelling or junior accessory dwelling unit submittal checklist or public information issued describing requirements and permitting for accessory dwelling units, including as standard condition of any accessory dwelling unit building permit or condominium plan approval:

"NOTICE: If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

(a) Paying off your current lender.

You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.

(b) Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.

(c) Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the

consent above is true and correct."

(f) If an accessory dwelling unit is established as a condominium, the local government shall require the homeowner to notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.

(g) (1) The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.

(2) For purposes of this subdivision, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.

(h) An accessory dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this paragraph or pursuant to this article.
(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)