SECOND READING AND ADOPTION

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA APPROVING AMENDMENTS TO CHULA VISTA MUNICIPAL CODE SECTIONS 19.58.022 (ACCESSORY DWELLING UNITS) AND 19.58.023 (JUNIOR ACCESSORY DWELLING UNITS)

WHEREAS, on January 1, 2023, State of California Senate Bill ("SB") 897 and Assembly Bill ("AB") 2221, established new standards for Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs"); and

WHEREAS, Chula Vista Municipal Code ("CVMC") Sections 19.58.022 and 19.58.023 are currently not in compliance with the new state laws, and are required to be brought into compliance through the proposed amendments; and

WHEREAS, Staff has identified the need to clarify text from previously adopted standards for ADUs and JADUs, necessary to help streamline their construction; and

WHEREAS, staff presented the draft CVMC amendments to the Development Oversight Committee on January 11, 2023, which recommended adoption; and

WHEREAS, the Director of Development Services reviewed the proposed legislative action for compliance with the California Environmental Quality Act ("CEQA") and determined that the action qualifies for the "common sense" exemption under State CEQA Guidelines Section 15061(b)(3). The action involves updates and modifications to the municipal code related to state law compliance and clarification of previously adopted text for ADUs and JADUs. The action of updating and modifying the municipal code will not result in a material intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies. Therefore, the amendments will not have a significant effect on the environment; and

WHEREAS City staff recommends that the City Council approve and adopt the Ordinance with the proposed changes to CVMC Sections 19.58.022 and 19.58.023; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the subject Ordinance and voted 4-0 to adopt Resolution No. 2023-08 and thereby recommends that the City Council adopt the Ordinance; and

WHEREAS, the City Council set the time and place for a hearing on the subject CVMC amendments and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, at least ten (10) days prior to the hearing; and

WHEREAS, after review and consideration of the Staff Report and related materials for this matter, the hearing was held to consider said CVMC amendments and Ordinance at the time and place as advertised in the Council Chambers, 276 Fourth Avenue, before the City Council and the hearing was thereafter closed.

NOW THEREFORE the City Council of the City of Chula Vista does hereby find and ordain as follows:

The City Council of the City of Chula Vista finds that the proposed amendments to the CVMC identified in this Ordinance qualifies for the "common sense" exemption under State CEQA Guidelines Section 15061(b)(3). The action involves updates and modifications the CVMC related to state law compliance and clarification of previously adopted text, regarding ADUs and JADUs. The action of updating and modifying the CVMC with these changes will not result in a intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC that are being updated. Therefore, the amendments will not have a significant effect on the environment.

Section I. The CVMC is hereby amended as follows:

19.58.022 Accessory dwelling units.

A. The purpose of this section is to provide regulations for the establishment of accessory dwelling units in compliance with, inter alia, California Government Code Section 65852.2. Said units may be located in areas zoned to allow single-family or multifamily dwelling residential use. Accessory dwelling units are a potential source of affordable housing and shall not be considered in any calculation of allowable density for the lot upon which they are located and shall also be deemed consistent with the General Plan and zoning designation of the lot as provided. Accessory dwelling units shall not be considered a separate dwelling unit for the purpose of subdividing the property into individual condominium or lot ownership.

B. For the purposes of this section, the following words are defined:

"Above" means an accessory dwelling unit that is attached to and built over a primary residence including an attached garage, or above a detached garage or accessory building.

"Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit shall have exterior access from the proposed or existing single-family dwelling. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Accessory structure" means a structure that is accessory and incidental to a dwelling unit located on the same lot.

"Attached" means a wall, floor, or ceiling of an accessory dwelling unit is shared with the primary residence on the property.

"Basement" means the same as defined in CVMC 19.04.026.

"Detached" means an accessory dwelling unit separated from the primary residence as specified in subsection (C)(6)(b) of this section.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

"Multifamily dwelling," for the purposes of this Section, is a structure with two or more attached dwellings on a single lot. Multiple, detached single-unit dwellings on the same lot are not considered multifamily.

"Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

"Objective Standard," for the purposes of this Section, is a standard that involves no personal or subjective judgment by a public official, and that is 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.

"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

"Primary residence(s)" means a proposed or existing single-family dwelling or existing multifamily dwellings constructed on a lot as the main permitted use by the zone on said parcel.

"Public street" means any public right-of-way designated for vehicular use.

"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.

"Tandem parking" means two or more vehicles parked on a driveway or in any other location on a lot, lined up behind one another.

"Walking distance" means the distance between the accessory dwelling unit and public transit as measured along a public street. The measurement shall proceed from the accessory dwelling unit in a continuous line to the closest property line of the public street, measured perpendicular to the public street. The measurement shall then continue

along the property lines of the public street fronts, and in a direct line across intersections along the shortest pedestrian route toward the public transit.

C. Accessory dwelling units shall be subject to the following requirements and development standards:

1. *Zones.* Accessory dwelling units can be created in areas zoned to allow single-family or multifamily dwelling residential use. A coastal development permit may be required for accessory dwelling units within the coastal zone. Construction of a primary residence can be in conjunction with the construction of an accessory dwelling unit.

2. *Number of Accessory Dwelling Units Permitted.*

a. An accessory dwelling unit is permitted on a lot with a proposed or existing single-family dwelling unit.

b. A minimum of one accessory dwelling unit, or up to 25 percent of the existing multifamily units, is permitted within an existing multifamily dwelling, as a result of the conversion of non-habitable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; or

c. Up to two detached accessory dwelling units shall be permitted on a lot with an existing multifamily dwelling.

3. *Unit Size.* Accessory dwelling units shall conform to the following size requirements:

a. The total floor area for an attached accessory dwelling unit shall not exceed 50 percent of the total floor area of the proposed or existing primary residence, or 850 square feet for a one-bedroom unit and 1,000 square feet for a unit with more than one-bedroom, whichever is greater.

b. An accessory dwelling unit of at least 800 square feet shall be permitted regardless of floor area ratio, lot coverage or open space requirements of the underlying zone.

c. The total floor area for a detached accessory dwelling shall not exceed 1,200 square feet.

d. An accessory dwelling unit within an existing accessory structure may be increased by a maximum of 150 square feet beyond the same physical dimensions as the existing accessory structure to accommodate ingress and egress.

4. *Unit Location.* Accessory dwelling units may be attached to or located within a proposed or existing primary residence or accessory structure (including attached garages, storage areas or similar structures). Accessory dwelling units may be detached from the primary residence.

5. *Height.* An accessory dwelling unit, as measured from the ground, shall not exceed the height limit for the primary residence in accordance with the underlying zone, or 16 feet, whichever is greater. However, a taller unit can be built based on the following exceptions:

a. *Detached*

i. Up to 18 feet on a lot with an existing or proposed single-family or multifamily dwelling if it is located within a half-mile of transit or high-quality transit corridor. The maximum can also be increased to 20 feet only if it is necessary to match the roof pitch of the ADU to that of the main house.

ii. Up to 18 feet on a on a lot with an existing or proposed multi-story multifamily dwelling, regardless of proximity to public transit.

b. *Attached*

i. Up to 25 feet high for either a primary single-family or multifamily dwelling, or as high the underlying zoning designation allows, whichever is lower. The ADU shall also be no greater than two stories.

6. *Development Standard Exceptions.* Accessory dwelling units shall conform to the underlying zoning and land use development requirements for primary residences with the following exceptions:

a. A new attached or detached accessory dwelling unit is allowed a setback of no less than four feet from the side and rear lot lines. In addition, an encroachment into the front yard setback is also allowed only if it is necessary to construct a minimum 800 square foot unit.

b. A new detached accessory dwelling unit shall be located a minimum of six feet from a primary residence.

c. No setback shall be required for an existing garage, living area, or accessory structure constructed in the same dimensions that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no less than four feet from the side and rear lot lines shall

be required for an accessory dwelling unit that is constructed above an accessory structure.

d. Correction of nonconforming zoning conditions and/or building code violations shall not be a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit.

7. *Parking.* Parking for an accessory dwelling unit is not required in any of the following instances:

a. The accessory dwelling unit is located within one-half mile walking distance of public transit.

b. The accessory dwelling unit is within an architecturally and historically significant historic district.

c. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

d. The accessory dwelling unit is in an area where on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit.

e. The accessory dwelling unit is located within one block of a car share area.

f. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

8. Accessory dwelling units not meeting any of the above requirements shall be subject to the following access and parking regulations:

a. *Parking.* Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. Parking spaces may be provided in tandem on a driveway; provided, that access to the garage for the primary residence is not obstructed. Off-street parking shall be permitted in setback areas or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

b. The required parking space(s) shall be on the same lot as the accessory dwelling unit. This parking is in addition to the parking requirements for the primary residence as specified in CVMC 19.62.170.

c. Notwithstanding CVMC 19.62.190, when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, or is converted to an accessory dwelling unit that was previously used by the primary residence, replacement parking is not required. If the existing driveway is no longer necessary for access to the converted garage or other required parking, said driveway may be used to satisfy the required parking for the accessory dwelling unit when not exempt from subsection (C)(7) of this section.

d. Access to all required parking shall be from a public street, alley or a recorded access easement. Access from a designated utility easement or similar condition shall not be permitted. For any lot proposing an accessory dwelling unit and served by a panhandle or easement access, the access must be a minimum 20 feet in width.

e. Curb cuts providing access from the public right-of-way to on-site parking spaces shall be acceptable to the City Engineer. A construction permit from the City Engineer shall be obtained for any new or widened curb cuts.

f. Required parking spaces or required maneuvering area shall be free of any utility poles, support wires, guard rails, standpipes or meters, and be in compliance with CVMC 19.62.150.

g. When a required parking space abuts a fence or wall on either side, the space shall be a minimum of 10 feet wide. If this area also serves as the pedestrian access from an accessory dwelling unit to the street, the paving shall be a minimum 12 feet wide.

9. *Utilities.* An accessory dwelling unit may be served by the same water and sewer lateral connections that serve the primary residence. A separate electric meter and address may be provided for the accessory dwelling unit.

10. *Design Standards.* Dwelling units on the lot should be complementary or compatible in appearance with each other by incorporating matching architectural design, building materials and colors of the primary residence with the accessory dwelling unit, and any other accessory structure built concurrently with the accessory dwelling unit. However, the primary residence may be modified to match the new accessory dwelling unit.

11. *Designated Historical Sites.* An accessory dwelling unit may be allowed on designated or historical sites, provided the location and design of the accessory dwelling unit meets corresponding historical preservation requirements in place at the time the accessory dwelling unit is built, and complies with the requirements of this section including the following:

a. The accessory dwelling unit shall be located behind a primary residence that is determined to be a historic resource.

b. The construction of the accessory dwelling unit shall not result in the removal of any other historically significant accessory structure, such as garages, outbuildings, stables or other similar structures.

c. The accessory dwelling unit shall be designed as to have a distinguishable architectural style and finished materials composition from the historic primary residence or structure.

d. Construction of an accessory dwelling unit shall not result in demolition, alteration or movement of any historic structures and any other on-site features that convey the historic significance of the structure and site.

e. If an historic house/site is under a Mills Act contract with the City, the contract shall be amended to authorize the introduction of the accessory dwelling unit on the site.

12. *Occupancy Requirement.* At the time of building permit submittal, and continuously thereafter, the property owner(s) shall reside on the lot on which the accessory dwelling unit is located or constructed. The Zoning Administrator shall have the authority to suspend this occupancy requirement for a period not to exceed five years when evidence has been submitted that one of the following situations exists:

a. The property owner's health requires them to temporarily live in an assisted living or nursing facility.

b. The property owner is required to live outside the San Diego region as a condition of employment or military service.

c. The property owner is required to live elsewhere to care for an immediate family member.

d. The property owner has received the property as the result of the settlement of an estate.

This subsection (C)(12) shall be held in abeyance until January 1, 2025.

13. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

14. An application for an accessory dwelling unit that is deemed complete by the City shall be considered and approved ministerially and without a hearing within 60 days if there is an existing single-family or multifamily dwelling on the lot. If the application is submitted with an application to create a new single-family dwelling on the lot, the application for the accessory dwelling unit shall be considered and approved within 60 days of approval of the new single-family dwelling.

If an ADU application is denied, a full set of comments, listing the specific items that are defective or deficient, shall be provided to the applicant. These comments must also describe how the application can be remedied by the applicant.

15. A demolition permit for a detached garage that is to be replaced with an ADU must be reviewed with the ADU application and issued at the same time.

16. Accessory dwelling units that are applied for after the effective date of the ordinance codified in this section, cannot be rented for less than 30 days.

17. Accessory dwelling units are exempt from the requirements of CVMC 12.24.030, Dedications – Required.

18. An application for an accessory dwelling unit on a private sewage disposal system shall require approval by the local health officer.

19.58.022 Junior Accessory Dwelling Units.

A. *Definition.* "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within the space of a proposed or existing single-family residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing residence.

B. In single-family residential zones, a junior accessory dwelling unit is permitted and shall meet all of the following:

1. One junior accessory dwelling unit per residential lot zoned for single-family residences, and only within an existing or proposed single-family residence.

2. One junior accessory dwelling unit and one accessory dwelling unit are allowed on a lot with a primary residence.

3. Owner-occupancy is required in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the residence or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

4. Recordation of a deed restriction is required, shall run with the land, and shall be filed with the permitting agency, and shall include both of the following:

a. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

b. A restriction on the size and attributes of the junior accessory dwelling unit that conforms to this section.

5. A permitted junior accessory dwelling unit shall be constructed within the existing walls of the single-family residence. This area also includes enclosed, non-habitable rooms and uses, including but not limited to attached garages and storage rooms.

6. A separate entrance from the main entrance to the primary structure is required. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

If a JADU shares a bathroom with the primary dwelling, the JADU is required to have an interior entry to the primary dwelling's "main living area," independent of the exterior entrances of the JADU and primary dwelling.

7. An efficiency kitchen for the junior accessory dwelling unit is required, and shall include:

a. A cooking facility with appliances.

b. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

C. Additional parking is not required for a junior accessory dwelling unit.

D. For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

E. Correction of nonconforming zoning conditions and/or building code violations shall not be a condition for ministerial approval of a permit application for the creation of a junior accessory dwelling unit.

F. An application for a junior accessory dwelling unit that is deemed complete by the City shall be considered and approved ministerially and without a hearing within 60 days if there is an existing single-family dwelling on the lot. If the application is submitted with an application to create a new single-family dwelling on the lot, the application for

the junior accessory dwelling unit shall be considered and approved within 60 days of approval of the new single-family dwelling.

If a JADU application is denied, a full set of comments, listing the specific items that are defective or deficient, shall be provided to the applicant. These comments must also describe how the application can be remedied by the applicant.

G. Junior accessory dwelling units are exempt from the requirements of CVMC 12.24.030, Dedications – Required.

Section XVII. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be, invalid, unenforceable or unconstitutional; by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section XVIII. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section XIX. Effective Date

This Ordinance shall take effect and be in force on the thirtieth (30^{th}) day after its final passage.

Section XX. Publication.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Laura C. Black, AICP
Director of Development Services

Approved as to form

By: _____
Jill D.S. Maland
Lounsbery Ferguson Altona & Peak
Acting City Attorney