SECOND READING AND ADOPTION

ORDINANCE NO._____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE, SECTION 19.58.022 (ACCESSORY DWELLING UNITS); CHAPTER 19.26 (ONE AND TWO-FAMILY RESIDENCE ZONE); AND CHAPTER 19.28 (APARTMENT RESIDENTIAL ZONE); WITH REGARD TO ACCESSORY DWELLING UNITS

WHEREAS, in January 2017, the State of California enacted the following laws: Senate Bill 1069; Assembly Bill 2299; and Assembly Bill 2406; and in January 2018 Senate Bill 229; and Assembly Bill 494 to address the statewide affordable housing demand by requiring a ministerial approval process and limiting regulatory requirements for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs); and

WHEREAS, on April 24, 2018, the City Council adopted Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Ordinance No. 3423, regulating ADU and JADU development; and

WHEREAS, Chula Vista Municipal Code (CVMC) Section 19.58.022(C)(9) requires a separate water and sewer connection for new detached ADUs; and

WHEREAS, since the ADU Ordinance went into effect, staff has heard customer concerns regarding the separate water and sewer connection requirement stating that this is cost prohibitive to build a new detached ADU; and

WHEREAS, staff reviewed the recently passed State laws AB 494 and SB 229 and found that these laws do not preclude jurisdictions from requiring a separate water and sewer connection for new detached ADUs; and

WHEREAS, staff surveyed several municipalities in the State and found that these municipalities do not require a separate water and sewer connection; and

WHEREAS, staff agrees that the separate water and sewer connection requirement for new detached ADUs may be cost prohibitive for property owners; and

WHEREAS, the ADU Ordinance will retain compliance with State law with the removal of the separate water and sewer connection requirement; and

WHEREAS, staff made additional minor amendments to clarify content in certain sections in the ADU Ordinance; and

WHEREAS, staff found some minor grammatical errors in the ADU Ordinance that need to be corrected; and

WHEREAS, staff prepared said minor amendments to the ADU Ordinance; and

WHEREAS, on October 24, 2018 the City of Chula Vista Planning Commission held an advertised public hearing on the ADU Ordinance minor amendments and voted 5-0-0-2 to adopt Resolution No. MPA18-0010 and thereby recommended that the City Council adopt the ADU Ordinance minor amendments; and

WHEREAS, the City Council reviewed the proposed legislative action for compliance with the California Environmental Quality Act (CEQA) and determined that the action is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the action is not subject to CEQA. In addition, notwithstanding the foregoing, the City Council has also determined that the action qualifies for an Exemption pursuant to Section 15061(b)(3) of the State CEQA Guidelines 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. Therefore, no further environmental review is required; and

WHEREAS, the City Council set the time and place for a hearing on the subject ADU Ordinance minor 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 days prior to the hearing; and

WHEREAS, the City Council held a duly noticed public hearing on said ADU Ordinance minor amendments at a time and place as advertised in the Council Chambers located at 276 Fourth Avenue and said hearing was therefore closed.

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

Section I.

Section 19.58.022 Accessory Dwelling Units

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, inter alia, with California Government Code Section 65852.2. Said units may be located in residential zone districts where adequate public facilities and services are available. 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" shall mean an accessory dwelling unit that is attached, and built over a primary residence including an attached garage, or above a detached garage or similar building in the rear yard.

"Accessory dwelling unit" shall mean an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

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

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

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

"Basement" shall mean the same as defined in CVMC 19.04.026.

"Behind" shall mean an accessory dwelling unit constructed either entirely between the rear of the primary residence and the rear property line, or at the side of the primary residence, and set back from the front plane of the primary residence at least 50 percent of the distance between the front and back planes of the primary residence (Exhibit B.1).

"Buildable pad area" shall mean the level finish grade of the lot not including slopes greater than 50 percent grade (Exhibit B.2).

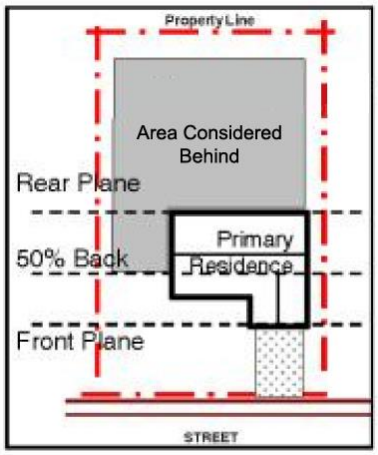

Exhibit B.1-"Behind"

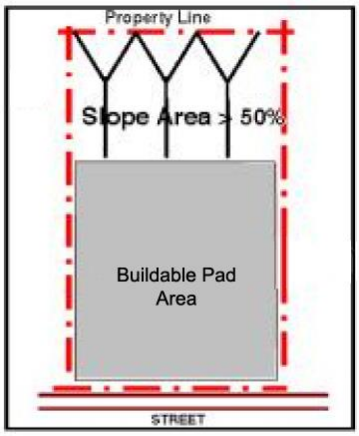

Exhibit B.2-"Buildable Pad Area"

"Detached" shall mean an accessory dwelling unit separated from the primary residence as specified in subsection (C)(5)(d) of this section.

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

"Primary residence" shall mean a proposed or existing single-family dwelling constructed on a lot as the main permitted use by the zone on said parcel.

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

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

1. Zones. Accessory dwelling units may accompany a proposed or an existing primary residence in single family zones, on multifamily zoned lots developed with a single-family residence, or similarly zoned lots in the Planned Community (PC) zone. Accessory dwelling units or junior accessory dwelling units are not permitted on lots developed with condominiums, townhomes, apartments, or similar multifamily developments. Construction of a primary residence can be in conjunction with the construction of an accessory dwelling unit. Where a guesthouse or other similar accessory living space exists, accessory and junior accessory dwelling units are not permitted. The conversion of a guest house, other similar living areas, or other accessory structures into an accessory dwelling unit is permitted, provided the conversion meets the intent and property development standards of this section, and all other applicable CVMC requirements. Accessory dwelling units shall not be permitted on lots within a Planned Unit Development (PUD), unless an amendment to the PUD is approved and specific property development standards are adopted for the construction of said dwelling units for lots within the PUD.

2. Unit Size. The total floor space of an attached or detached accessory dwelling unit shall not exceed 50 percent of the living area of the primary residence or 1,200 square feet whichever is less. The original buildable pad area of a lot may be increased through regrading and/or use of retaining walls or structures as allowed for a specific lot.

3. Unit Location. Accessory dwelling units are prohibited in the required front setback.

4. 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.

5. 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. New detached single-story accessory dwelling units are allowed a setback of no less than five feet from the side and rear lot lines.

b. For lots with up-slopes between the property line and the side or rear of the house, required yard setbacks are measured from the toe of slope.

c. For lots with down-slopes between the property line and the side or rear of the house, required yard setbacks shall be measured from the top of slope.

d. A new detached accessory dwelling unit shall be located a minimum of 6 feet from a primary residence.

e. No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no less than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

6. Lot Coverage. Other than conversions of other structures, new accessory dwelling units and all other structures on the lot are limited to the maximum lot coverage permitted according to the underlying zone. Other than conversions of other structures, a new detached accessory dwelling unit and all other detached accessory structures combined, shall not occupy more than 30 percent of the required rear yard setback.

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

i. The accessory dwelling unit is within one-half mile from a public transit stop.
ii. The accessory dwelling unit is within an architecturally and historically significant historic district.
iii. The accessory dwelling unit is part of a proposed or existing primary residence or an existing accessory structure.
iv. 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.
v. The accessory dwelling unit is located within one block of a car share area.

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 an existing driveway, provided that access to the garage for the primary residence is not obstructed. Off-street parking shall be permitted in setback areas in locations 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 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 shall be provided prior to, or concurrently with, the conversion of the garage into the accessory dwelling unit. The replacement parking may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts. 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 CVMC 19.58.022(C)(7).

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, stand pipes 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.

h. All required parking spaces shall be kept clear for parking purposes only.

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. The lot shall retain a single-family appearance 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. The accessory dwelling unit shall be subject to the following development design standards:

a. Matching architectural design components shall be provided between the primary residence, accessory dwelling unit, and any other accessory structures. These shall include, but are not limited to:

i. Window and door type, style, design and treatment;
ii. Roof style, pitch, color, material and texture;
iii. Roof overhang and fascia size and width;
iv. Attic vents color and style;
v. Exterior finish colors, texture and materials

b. A useable rear yard open space of a size at least equal to 50 percent of the required rear yard area of the underlying zone shall be provided contiguous to the primary residence. Access to this open space shall be directly from a common floor space area of the primary residence such as living or dining rooms, kitchens or hallways, and without obstruction or narrow walkways.

c. A useable open space that has a minimum dimension of six feet and an area not less than 60 square feet in area shall be provided contiguous to an accessory dwelling unit. A balcony or deck may satisfy this requirement for second story units.

d. Windows on second story accessory dwelling units should be staggered and oriented away from adjacent residences closer than 10 feet. The location and orientation of balconies or decks shall also be oriented away from adjacent backyards and living space windows.

e. Trash and recycling containers must be stored between pick-up dates in an on-site location that is screened from public view and will not compromise any required open space areas.

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.

13. Land Use Agreement. Concurrent with the issuance of building permits for the construction of an accessory dwelling unit, the property owner shall sign and notarize a land use agreement which sets forth the occupancy and use limitations prescribed in this section. This agreement will be recorded with the County of San Diego Recorder on title to the subject property. This agreement shall run with the land, and inure to the benefit of the City of Chula Vista.

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

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

(a) A prohibition on the sale of the 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 accessory dwelling unit that conforms to this section.

19.58.023 Junior Accessory Dwelling Units.

A. Definition: "Junior accessory dwelling unit" shall mean a unit that is no more than 500 square feet in size and contained entirely within an 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 with a single-family residence already built, and no ADU or guest house exists on the lot.

2) 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.

3) 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.

4) A permitted junior accessory dwelling unit shall be constructed within the existing walls of the single-family residence and require the inclusion of an existing bedroom.

5) A separate entrance from the main entrance to the single-family residence is required, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

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

(a) A sink with a maximum waste line diameter of one and one-half inches.

(b) A cooking facility with appliances that do not require electrical service greater than 120 volts or natural or propane gas.

(c) 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.

Section II.

Chapter 19.26 R-2 – ONE- AND TWO-FAMILY RESIDENCE ZONE

19.26.030 Accessory uses and buildings.
The following are the accessory uses permitted in an R-2 zone:

G. Accessory dwelling units on lots developed with a proposed or existing single-family dwelling, subject to the provisions of CVMC 19.58.022;

Section III.

Chapter 19.28 R-3 – APARTMENT RESIDENTIAL ZONE

19.28.030 Accessory uses and buildings.
Accessory uses and buildings in the R-3 zone include:

H. Accessory dwelling units on lots developed with a proposed or existing single-family

dwelling, subject to the provisions of CVMC 19.58.022.

Section IV. 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 V. 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 VI. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section VII. 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:

Kelly G. Broughton, FASLA
Director of Developmental Services

Approved as to form by:

Glen R. Googins
City Attorney