

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE SECTIONS 19.58.022
(ACCESSORY DWELLING UNITS) AND 19.58.023 (JUNIOR
ACCESSORY DWELLING UNITS) TO REMOVE THE OWNER
OCCUPANCY REQUIREMENT

WHEREAS, the State of California, in order to reduce barriers and create opportunities for residential property owners to build accessory dwelling units as affordable housing stock, enacted Senate Bill 13 (Accessory Dwelling Units), on October 9, 2019; and

WHEREAS, Senate Bill 13 prohibits local jurisdictions from requiring a property owner to live on the property that contains an accessory dwelling unit; and

WHEREAS, Senate Bill 13's prohibition of owner occupancy requirements is effective from January 1, 2020 until January 1, 2025; and

WHEREAS, Chula Vista Municipal Code Sections 19.58.022 (Accessory Dwelling Units) and 19.58.023 (Junior Accessory Dwelling Units) include owner occupancy requirements which must now be held in abeyance until January 1, 2025; and

WHEREAS, the proposed activity has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Notwithstanding the foregoing, it has also been determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

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

Section I. Substantive Action

Section 19.58.022(C)(12) of the Chula Vista Municipal Code is amended as follows:

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 Section 19.58.022(C)(12) shall be held in abeyance until January 1, 2025.

Section 19.58.023(B)(2) of the Chula Vista Municipal Code is amended as follows:

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 structure 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.

This Section 19.58.023(B)(2) shall be held in abeyance until January 1, 2025.

Section II. 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 III. 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 IV. Effective Date

This Ordinance shall take effect and be in force on January 1, 2020.

Section V. 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:

Approved as to form by:

Kelly G. Broughton, FASLA
Development Services Director

Glen R. Googins
City Attorney