

ORDINANCE NO. \_\_\_\_\_

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE CHAPTER 3.32 (RESIDENTIAL CONSTRUCTION TAX) TO EXEMPT ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS FROM THE RESIDENTIAL CONSTRUCTION TAX AND AMENDING CHAPTER 17.10 (PARKLANDS AND PUBLIC FACILITIES) TO WAIVE ASSESSMENT OF PARKLAND ACQUISITION AND DEVELOPMENT FEES FOR ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

WHEREAS, Chula Vista Municipal Code (CVMC) Chapter 3.32 requires that all residential development constructed in the City of Chula Vista be assessed a residential construction tax (RCT) to generate revenue to offset the burden imposed upon the public facilities and infrastructure of the City as a result of new residential development; and

WHEREAS, CVMC Section 3.32.050 provides for waiving the RCT for dwelling units in the City that would serve as housing for low- and moderate-income families with the recommendation of the Planning Commission; and

WHEREAS, CVMC Section 17.10.010 requires that new residential development dedicate land and develop improvements for park and recreation purposes; and

WHEREAS, CVMC Section 17.10.070 allows for the payment of in-lieu Parkland Acquisition and Development (PAD) fees for land dedication and park development improvements; and

WHEREAS, CVMC Section 17.10.070 provides for waiving PAD Fees by resolution of the City Council in the interests of stimulating the construction of housing for low- and moderate-income families; and

WHEREAS, in January 2017, the State of California enacted Senate Bill 1069, Assembly Bill 2299, and Assembly Bill 2406 to address the statewide affordable housing demand requiring a ministerial approval process for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs); and

WHEREAS, in conjunction with this item, the City Council is considering an ordinance that revises Title 19 "Planning and Zoning" of the CVMC to address amendments required by Senate Bill 1069 and Assembly Bill 2299; and

WHEREAS, the findings in Government Code Section 65852.150(b) as amended by Senate Bill 1069 indicate that ADUs are an essential component of California's housing supply and that the intent of the legislation is to ensure that fees among other local agency imposed

requirements are not arbitrary, excessive, or burdensome to unreasonably restrict the ability of homeowners to create ADUs in zones in which they are authorized; and

WHEREAS, waiving the RCT and PAD Fees assessed on building permits for ADUs and JADUs is in accordance with the stated intent in Government Code Section 65852.150; and

WHEREAS, the City Council has reviewed the proposed action for compliance with the California Environmental Quality Act (CEQA) and hereby finds and determines 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. Notwithstanding the foregoing, the City Council also hereby finds and determines that the action qualifies for an Exemption pursuant to Section 15061(b)(3) of the State CEQA Guidelines; therefore, no further environmental review is required.

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

**Section I.** The following paragraph is hereby added to the end of Section 3.32.030 “Definitions.”, part “A” of the CVMC:

The term “dwelling unit” for the purposes of this chapter excludes “Accessory Dwelling Units” or “Junior Accessory Dwelling Units” as defined in CVMC 19.58.022 and 19.58.022(a), respectively.

**Section II.** Section 3.32.050 “Waiver of tax requirements.” of the CVMC is hereby replaced in its entirety with the following:

Resolution of City Council. The City Council may, by resolution, waive this tax for any of the said dwelling-unit types listed hereinabove in this chapter to be constructed or converted within the already developed and previously subdivided urban core of the city or for any dwelling unit types constructed anywhere within the city that would serve as housing for low- or moderate-income families.

**Section III.** The following part “C” is hereby added to the end of Section 17.10.070 “In-lieu fees for dedication and/or park development improvements.” of the CVMC:

C. Land Uses Exempt from In-Lieu Fees. “Accessory Dwelling Units” and “Junior Accessory Dwelling Units” as defined in CVMC 19.58.022 and 19.58.022(a), respectively, are exempt from payment of in-lieu fees for park land dedication and park development as they offer lower cost housing supply to low- and moderate-income families.

**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:

Approved as to form by:

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Kelly G. Broughton, FASLA  
Director of Development Services

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Glen R. Googins  
City Attorney