

ORDINANCE NO. 3074

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
SECTION 19.58.022 OF THE CHULA VISTA MUNICIPAL
CODE, ADDING AND MODIFYING DEVELOPMENT
STANDARDS FOR ACCESSORY SECOND DWELLING
UNITS

WHEREAS, on January 28, 2003, the City Council of the City of Chula Vista adopted a local ordinance adding Section 19.58.022 to the Chula Vista Municipal Code to regulate accessory second dwelling units pursuant to California Government Code Section 65852.2; and

WHEREAS, on January 27, 2004, the City Council of the City of Chula Vista amended Section 19.58.022 increasing the maximum allowable floor area for an accessory second dwelling unit from 650 to 850 square-feet; increasing the number of parking spaces required for 3-bedroom units from one space to 2 spaces; and modifying other property development standards; and

WHEREAS, since the adoption and amendment of the local ordinance, the City has received over 108 building permit applications for accessory second dwelling units, some of which caused great concerns among neighbors; and

WHEREAS, upon hearing these concerns, the City Council of the City of Chula Vista directed a review of Section 19.58.022 to determine whether additional property development standards for the construction of accessory second dwelling units were necessary; and

WHEREAS, staff studied the units built in compliance with the existing City regulations, compared those regulations to other jurisdiction requirements, and conducted two Planning Commission workshop sessions that included public testimony on the adequacy of the adopted development standards for accessory second dwelling units; and

WHEREAS, as a result of this work the Planning Commission concluded that additions and modifications were appropriate to Section 19.58.022 and directed staff to prepare a draft ordinance amendment addressing building setbacks, building heights, maximum dwelling unit floor area, unit location, parking, design standards, and occupancy requirements; and

WHEREAS, the Environmental Review Coordinator has determined that the proposed ordinance amendment is exempt pursuant to Section 21080.17 of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, the Planning Commission held an advertised public hearing on the Code Amendment on March 14, 2007 and after hearing staff's presentation and public testimony, voted 5-1-1 to recommend the City Council adopt the proposed amendments, in accordance with the draft City Council Ordinance as amended; and

WHEREAS, a duly called and noticed public hearing was held before the City Council of the City of Chula Vista on May 1, 2007, on the ordinance amendment to receive the recommendations of the Planning Commission, and to hear public testimony; and

WHEREAS, the City Clerk set the time and place for a hearing on the ordinance amendment and notice of the hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City at least 10 days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised, namely 6:00 p.m. May 1, 2007, in the Council Chambers, 276 Fourth Avenue, before the City Council and the hearing was thereafter closed; and

WHEREAS, the City Council finds that well regulated accessory second dwelling units can assist the City of Chula Vista in achieving housing goals of the General Plan Housing Element and be of economic and social benefit to the community; and

WHEREAS, the City Council further finds that additional regulations are necessary to protect existing single-family neighborhoods and provide clarity to property owners wishing to add accessory second dwelling units to their property; and

WHEREAS, the City Council has remaining concerns as to the effectiveness of the new regulations and directs that within 12 and 18 months from the time the new regulations take effect staff return with a status report that has been reviewed by the Planning Commission on second unit production and issues.

NOW, THEREFORE, the City Council of the City of Chula Vista ordains as follows:

Section I – That Section 19.58.022 of the Municipal Code is amended to read as follows:

Section 19.58.022 – Accessory second dwelling units

A. The purpose of this Section is to provide regulations for the establishment of accessory second dwelling units in compliance with California Government Code Section 65852.2. Said units may be located in residential zone districts where adequate public facilities and services are available, and impacts upon the residential neighborhood directly affected would be minimized. Accessory second dwelling units are a potential source of affordable housing and shall not be considered in any calculation of allowable density of 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 second 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” as used in this section means an accessory second dwelling unit that is attached and built over a primary residence including an attached garage.

“Accessory second dwelling units” are independent living facilities of limited size that provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a single-family dwelling according to the provisions of CVMC Section 19.58.022.C.

“Attached” means that 50% of the accessory second dwelling unit’s wall, floor or ceiling will be shared with the primary residence on the property (Exhibit B.1).

“Basement” shall mean the same as defined in CVMC Section 19.04.026.

“Behind” shall mean an accessory second dwelling unit constructed either entirely between the rear of the primary dwelling and the rear property line, or to the side of the primary residence but set back from the front plane of the primary residence at least 50 % the distance between the front and back planes of the primary residence (Exhibit B.2).

“Buildable pad area” as used in this section means the level finish grade of the lot not including slopes greater than 50% grade. (Exhibit B.3).

“Detached” means an accessory second unit separated from the primary residence as specified in CVMC Section 19.58.022.C.5.d.

“Gross floor area” as used in this section means those enclosed portions of the primary residence not including the garage or other attached accessory structures, such as covered but unenclosed patios, balconies, etc.

“Primary Residence” means the single-family dwelling constructed on a lot as the main permitted use by the zone on said parcel.

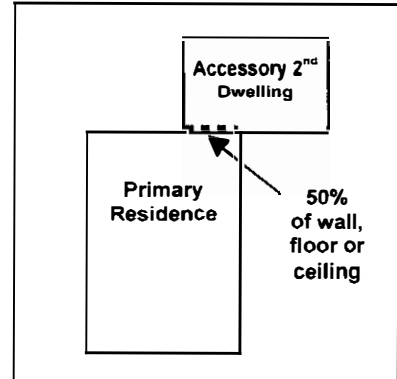


Exhibit B. 1 – “Attached”

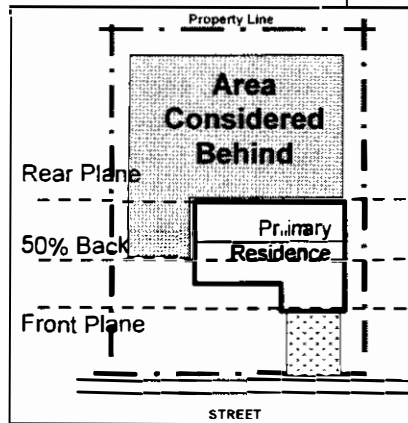


Exhibit B. 2 – “Behind”

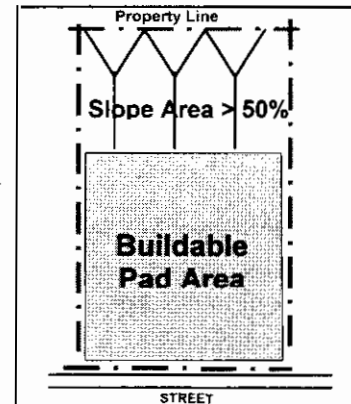


Exhibit B. 3 - “Buildable Pad Area”

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

1. Zones - Accessory second dwelling units must accompany an existing primary residence on an A, R-E, R-1, or PC zoned lot. However, construction of the primary residence can be in conjunction with the construction of an accessory second dwelling unit. Where a guesthouse, or other similar accessory living space exists, accessory second dwelling units are not permitted. The conversion of a guest house or other similar living areas into an accessory second dwelling unit is permitted provided they meet the intent and property development standards of CVMC Section 19.58.022, and all other applicable CVMC requirements. Accessory second 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 accessory second dwelling units on lots within the PUD. Accessory second dwelling units are precluded from R-2 and R-3 zoned lots.

2. Unit Size - The maximum size of an accessory dwelling unit on a given lot shall be determined by either the buildable pad area of the lot, or the size of the primary residence according to the following table, so long as the combined living spaces do not exceed the floor area ratio of the underlying zone. The original buildable pad area of a lot may not be increased by more than 20% through re-grading and/or the use of retaining walls or structures.

| <u>Buildable Pad Area</u> | <u>Maximum Gross Floor Area for ASDUs</u> |
|---------------------------|--|
| Less than 5,000 sq. ft. | Not permitted |
| 5,000 - 9,999 sq. ft. | 650 sq. ft. or 50% of primary residence, whichever is less |
| 10,000 sq. ft. or greater | 750 sq. ft. or 50% of primary residence, whichever is less |

3. Structure Relationships - The relationship of an accessory second dwelling unit to the primary residence shall be determined by the size of the buildable pad area as follows:

| <u>Buildable Pad Area</u> | <u>Location of Unit</u> |
|---------------------------|--|
| Less than 5,000 sq. ft. | Not permitted |
| 5,000 - 6,999 sq. ft. | Attached, above, or basement. (Detached not permitted) |
| 7,000 sq. ft. or greater | Attached, above, or basement; or Detached, behind and on the same buildable pad |

4. Structure Height - When attached, above, or in a basement of the primary residence, an accessory second dwelling unit is subject to the same height limitation as the primary residence. When detached from the primary residence, an accessory second dwelling unit is limited to a single story or 15ft., whichever is less. Height of an accessory second dwelling unit is measured according to the underlying zone.

5. Development Standard Exceptions - The accessory second dwelling units shall conform to the underlying zoning and land use development standard requirements in regards to the main or primary residence setbacks with the following exceptions:

- a. All second floor units shall be located a minimum of ten-feet from any interior side or rear lot lines.
- b. For lots with up slopes between the side or rear of the house and the interior side or rear property line, required yard setbacks are measured from the toe of slope.
- c. For lots with down-slopes between the side or rear of the house and the interior side or rear property line, required yard setbacks shall be measured from the top of slope.
- d. A detached accessory second dwelling unit shall be located a minimum of twelve feet from a primary residence.

6. Lot Coverage - Accessory second dwelling units and all other structures on the lot are limited to the maximum lot coverage permitted according to the underlying zone. A detached accessory second dwelling unit and all other detached accessory structures shall not occupy more than thirty percent of the required rear yard.

7. Access and Parking - Accessory second dwelling units and the primary residence shall adhere to the following access and parking regulations:

- a. Accessory second dwelling units shall be provided with one standard sized parking space for studio, one-bedroom, or two-bedroom units; or two standard sized parking spaces for units with three or more bedrooms.
- b. The required parking space(s) shall be on the same lot as the accessory second dwelling unit. This parking is in addition to the parking requirements for the primary residence as specified in Section 19.62.170.
- c. If the addition of an accessory second dwelling unit involves the conversion of an existing garage used by the primary residence, a replacement two-car garage, per CVMC Section 19.62.190, shall be provided prior to or concurrently with the conversion of the garage into the accessory second dwelling unit. If the existing driveway is no longer necessary for the access to the converted garage or other required parking, the paving for the driveway shall be removed and appropriate landscaping shall be installed in its place.
- d. The 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 second 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. An encroachment permit from the City Engineer shall be obtained for any new or widened curb cuts.
- f. The Zoning Administrator may approve the use of an existing driveway and curb cut if the primary residence driveway is 50 ft. feet deep or deeper as measured from the back of the public sidewalk to the front of the primary structure, and vehicular ingress and egress does not interfere with the normal use of the driveway for access to the primary residence's required parking.
- g. 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 Section 19.62.150.
- h. Tandem parking may be allowed to satisfy required parking for an accessory second dwelling unit if it is consistent with all other requirements of this section.
- i. Parking screening consisting of a decorative wall, fence, landscaping or other technique satisfactory to the Zoning Administrator, shall be provided to screen the required parking spaces from public view. If a gate is used to screen the required parking space(s) from public view, an automatic gate/door opener shall be provided and maintained for the duration of the use. Parking shall not be allowed in a location where an RV parking permit has been issued for the storage of a recreational vehicle.
- j. When a required parking space abuts a fence or wall on either side, the space shall be a minimum of 10 ft. wide. If this area also serves as the pedestrian access from an accessory second dwelling unit to the street, the paving shall be a minimum 12 feet wide.
- k. A required parking space or garage shall be kept clear for parking purpose only. This requirement shall be included in the land use agreement for the proposed accessory second dwelling unit.

8. Existing Nonconforming Situations – For the purpose of evaluating existing non-conforming structures or uses for compliance with CVMC Chapter 19.64, the addition of an accessory second dwelling unit shall be considered an addition to the primary residence. Required corrections of any nonconforming situations shall occur prior to or concurrent with the addition of the accessory second dwelling unit. In the event that the primary residence does not include a two-car garage, plans and permits for an accessory second dwelling unit shall include the construction of a two-car garage for the primary residence, per CVMC Section 19.62.170. The garage shall be conveniently located to serve the primary residence.

9. Utilities - The accessory second dwelling unit shall 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 second dwelling unit.

10. Waste and Recycling – In accordance with CVMC Chapters 8.24 and 8.25, the property owner shall establish and maintain a single refuse and recycling collection service account from the City or its solid waste and recycling contractor for both the primary residence and the accessory second dwelling unit.

11. Design Standards - The lot shall retain a single-family appearance by incorporating matching architectural design, building materials and colors of the primary dwelling with the proposed accessory second dwelling unit, and any other accessory structure built concurrently with the accessory second dwelling unit. However, the primary residence may be modified to match the new accessory second dwelling unit. Color photographs of the four sides of the primary residence shall be submitted as part of the accessory second dwelling unit building permit application. The accessory second dwelling unit shall be subject to the following development design standards:

- a. Matching architectural design components shall be provided between the primary residence, accessory second dwelling unit, and any other accessory structures. These shall include, but are not limited to: 1) window and door type, style, design and treatment; 2) roof style, pitch, color, material and texture; 3) roof overhang and fascia size and width; 4) attic vents color and style; 5) exterior finish colors, texture and materials.
- b. The main entrance to an attached accessory second dwelling unit and, if applicable, a stairway leading to the unit, shall not be located on the same side of the building as the primary residence's main entrance. For detached accessory second dwelling units, the entrance to the unit shall be strategically located to preserve the lots single-family character, and shall not be clearly visible from the street serving as the main entrance to the primary residence.
- c. A usable rear yard open space of a size at least equal to 50% 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.
- d. A useable open space that has a minimum dimension of six (6) feet, and an area not less than 60 square feet in area shall be provided contiguous to an accessory

second dwelling unit. A balcony or deck may satisfy this requirement for second story units.

- e. A minimum three (3) foot wide pedestrian walk that connects the accessory second dwelling unit with its required parking space and the public sidewalk shall be provided. The pedestrian walk shall be strategically located to provide the shortest walking distance to parking or the street.
 - f. Windows on second story accessory second dwelling units shall be staggered and oriented away from adjacent residences closer than ten feet. The location and orientation of balconies or decks shall also be oriented away from adjacent neighbors backyard and living space windows.
 - g. 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.
12. Designated Historical Sites – An accessory second dwelling unit may be allowed on designated or historical sites provided the location and design of the accessory second dwelling unit meets corresponding historical preservation requirements in place at the time the accessory second dwelling unit is built, and complies with the requirements of this Section including the following:
- a. Regardless of the lot size that qualifies the property for an accessory second dwelling unit, the accessory second dwelling unit shall be detached and located behind the primary residence or historic structure.
 - b. The construction of the accessory second 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 second dwelling unit shall be designed in substantially the same architectural style and finished materials composition as the primary residence or historic structure.
 - d. Construction of an accessory second dwelling unit shall not result in demolition, alteration or movement of the primary residence/historic house and any other on site features that convey the historic significance of the house and site.
 - e. If the historic house/site is under a Mills Act Contract with the City, the Contract shall be amended to authorize the introduction of the accessory second dwelling unit on the site.
13. Inspections – The addition of an accessory second dwelling unit to a property shall include two site inspections at the following times:
- f. Prior to the approval of the building permit, the Planning Division staff shall conduct a field inspection to verify the drawings submitted for the permit are accurate with regard to grading, on-site building location, primary residence design color and materials composition, location of adjacent structures, etc. Any discrepancies on the drawings must be corrected so that the subject property and resulting structures are in compliance with this section and other related sections of the CVMC.

- g. Prior to, or concurrent with the final inspection of the new accessory second dwelling unit and the issuance of an occupancy permit by the Building Official, Planning Division staff shall conduct an inspection of the lot to verify that that the accessory second dwelling unit has been constructed and the lot has been improved per the approved plans, and that the required land use agreement outlining the accessory second dwelling unit requirements has been filed and recorded and that all applicable provisions of that land use agreement have been satisfied prior to occupancy.

14. Occupancy Requirement - At the time a building permit is issued and continuously thereafter, the owner of the property shall reside on the lot on which the accessory second dwelling unit is located or constructed. The Zoning Administrator shall have the authority to suspend this occupancy requirement for a period not to exceed 5 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.
- c. The property owner is required to live elsewhere to care for an immediate family member.
- d. The current property owner has received the property as the result of the settlement of an estate.

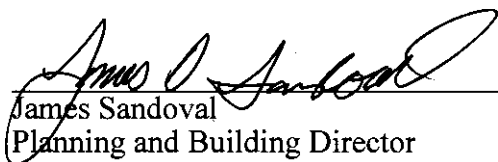
15. Land Use Agreement – Concurrent with the issuance of building permits for the construction of an accessory second dwelling unit, the property owner shall sign a Land Use Agreement prepared by the City which sets forth the occupancy and use limitations prescribed in this ordinance. This agreement will be recorded by the City Clerk 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.

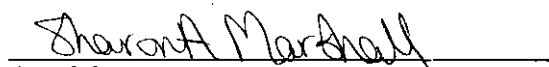
D. Annual Report – An annual report outlining the number of accessory second dwelling units, their size, number of bedrooms and number of parking spaces provided shall be prepared by the Zoning Administrator and presented to the Planning Commission in January of every year for the purpose of monitoring the construction of accessory second dwelling units. The Planning Commission may recommend to the City Council changes to this section based on their evaluation of the annual report.

SECTION II. This Ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Submitted by


Approved as to form by


James Sandoval
Planning and Building Director


Ann Moore
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 5th day of June 2007, by the following vote:

AYES: Councilmembers: Castaneda, McCann, Ramirez, Rindone, and Cox
NAYS: Councilmembers: None
ABSENT: Councilmembers: None



Cheryl Cox, Mayor

ATTEST:



Susan Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3074 had its first reading at a regular meeting held on the 1st day of May, 2007 and its second reading and adoption at a regular meeting of said City Council held on the 5th day of June 2007.

Executed this 5th day of June 2007.



Susan Bigelow, MMC, City Clerk