

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE REPEALING AND REPLACING SECTION 19.07.090 (SECOND UNITS) WITH SECTION 19.07.090 (ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS) AND MAKING CORRESPONDING AMENDMENTS TO TITLE 19 (ZONING) OF THE COMMERCE MUNICIPAL CODE TO COMPLY WITH RECENT CHANGES TO STATE LAW RELATED TO ACCESSORY DWELLING UNITS, IN ORDER TO ENCOURAGE BUILDING OF SUCH UNITS TO COMBAT THE HOUSING CRISIS IN THE STATE OF CALIFORNIA.

WHEREAS, pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the City Council has the authority to enact and enforce ordinances and resolutions for the public peace, morals, and welfare of the City and its residents; and

WHEREAS, consistent with such authority, the City enacted the Commerce Municipal Code ("CMC") and Commerce Zoning Code (Title 19 of the CMC) to, among other things, regulate the location and nature of land uses in the City; and

WHEREAS, the last comprehensive revision to the Zoning Ordinance was adopted by the City Council in August of 2000, and the last amendment to Section 19.070.090 (Second Units) was done in 2013; and

WHEREAS, on October 9, 2019, Governor Gavin Newsom signed Senate Bill ("SB") 13, Assembly Bill ("AB") 68, and AB 881 (collectively, the "Bills") into law, amending Government Code sections 65852.2 and 65852.22, and adding Health and Safety Code section 17980.12, and thereby enacting new Statewide requirements for accessory dwelling units ("ADUs") and junior accessory dwelling units (at times herein referred to as "Junior ADUs," and at others generally as "ADU"); and

WHEREAS, the Bills became effective on January 1, 2020, and preempt and invalidate inconsistent local ordinances regulating ADUs, including existing provisions of the Commerce Zoning Code, such that absent an amendment to the Commerce Zoning Code, the City's regulation of ADUs will be reduced to the default standards provided in State law which do not account for or, address the City's localized concerns, needs, or interests; and

WHEREAS, the City Council finds that the local regulation of ADUs furthers significant governmental interests of the local community, and that approval of ADUs based solely on the default State standards, without any clarifying local regulations, would, among other things, negatively impact traffic flow and pedestrian safety, threaten the adequacy of water and sewer services provided to residents, and create fire and safety hazards; and

WHEREAS, the Planning Commission held a public hearing on July 20, 2020, for the purpose of recommending that the City Council approve the subject Zoning

Ordinance text amendments to Title 19 of the Commerce Municipal Code related to Accessory Dwelling Units and Junior Accessory Dwelling Units; and

WHEREAS, the City Council has reviewed all facts concerning the subject request and has considered all evidence submitted at said public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1:

Section 19.070.090 of the Commerce Municipal Code, entitled "Second Units" is hereby repealed and replaced to read as follows (*Underlined portions indicate new language, strikethrough indicated deletion*):

~~19.07.090 - Second units.~~

~~To comply with amendments made in 2002, to state law § 65852.2, this section sets standards for the development of second dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhoods. A secondary housing unit means an additional dwelling unit constructed or adapted within, onto, or apart from an existing, or built concurrently with, a single-family dwelling in the single family residential (R-1) district. In acting to approve an application a second dwelling unit, the city shall impose the following conditions:~~

~~A. The second unit shall be attached to and located within the living area of the existing unit or shall be a detached unit located on the same lot.~~

~~B. There shall be no more than one second unit on a lot.~~

~~C. Either the primary unit or the second unit shall be occupied by the property owner.~~

~~D. The second unit shall not be for sale.~~

~~E. The street address shall have the suffix "S."~~

~~F. All construction shall conform to the height, setback, lot coverage, parking, and other requirements applicable to construction of primary dwelling units in the R-1 district.~~

~~G. If the entrance is separate from the existing unit, it shall not be visible from the street.~~

~~H. Any increase in the floor area of an attached second unit shall not exceed thirty percent of the existing living area of the primary unit.~~

~~I. The total area of floor space for a detached second unit shall not exceed nine hundred and fifty square feet.~~

~~J. The total area of floor space for a detached second unit shall not exceed the size of the primary unit.~~

~~K. One enclosed parking spaces for the second dwelling unit shall be provided in addition to any parking required for the primary unit.~~

~~L. The architectural treatment of the second dwelling unit shall match that of the primary dwelling unit.~~

~~M. The second dwelling unit shall comply with all applicable building, health and safety, and other city codes and ordinances.~~

~~N. A covenant shall be recorded on the property which indicates that the second dwelling housing unit is intended for use only as authorized by this section, and in which the owner agrees upon termination of its authorized use to remove or otherwise retrofit the unit or to seek other city approval to allow the unit to remain in conformance with the requirements of this zoning code.~~

~~O. Certification of compliance shall be obtained annually subject to an inspection of the unit and with fees charged according to the city's fee schedule.~~

19.07.090 Accessory Dwelling Units and Junior Accessory Dwelling Units.

A. Purpose. The purpose of this section is to establish regulations governing accessory dwelling units and junior accessory dwelling units, in compliance with California Government Code Sections 65852.2 and 65852.22, and to provide standards for the development of accessory dwelling units and junior accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that such units remain compatible with existing neighborhoods.

B. Development Standards. Under the provisions of this section, each accessory dwelling unit or junior accessory dwelling unit shall comply with local building codes, and all development standards contained in Chapter 19.07, except as otherwise specified herein:

1. Location. Accessory dwelling units are allowed on lots zoned for single-family residential which contain or are proposed to be developed with a single-family dwelling, or on lots zoned for multi-family residential or

mixed-use residential use which contain or are proposed to be developed with a multi-family dwelling. Subject to standards of this section, accessory dwelling units may be attached, detached, or located within an existing primary residence, or accessory structure. Junior accessory dwelling units shall only be allowed on lots zoned for single-family residential use, and which are contained or are proposed to be developed with a single-family dwelling.

2. Minimum Lot Size. Minimum lot size requirements shall not be applied to accessory dwelling units or junior accessory dwelling units.

3. Height of Structure; Access. Height of detached accessory dwelling unit shall not exceed sixteen (16) feet. Any external staircase for accessory dwelling units shall not be located at the front of a single-family or multi-family dwelling unit, as applicable.

4. Setbacks. An existing living area or accessory structure, or a structure constructed in the same location and to the same dimensions as an existing structure, that is converted to an accessory dwelling unit may maintain the existing setback. An accessory dwelling unit that is not a conversion from an existing structure, or that is not a new structure constructed in the same location and to the same dimensions as an existing structure, must maintain a four (4)-foot setback, including any eaves or overhangs, and all side and rear setbacks must comply with building and fire safety regulations.

5. Number of Dwelling Units.

a. Low Density Residential Zone (R-1). The number of accessory dwelling units or junior accessory units that may be located on any lot in the low density residential zone is limited to one (1) of the following options:

i. One (1) accessory dwelling unit may be located within the proposed space of a single-family dwelling, or the existing space of a single family dwelling or accessory structure, and the accessory dwelling unit conversion within an existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure only for the purpose of accommodating ingress and egress.

ii. One (1) detached or attached, new construction accessory dwelling unit may be located on lots which contain or are proposed to be developed with a single-family dwelling.

iii. One (1) junior accessory dwelling unit may be located within the proposed space of a single-family dwelling, or the existing space of a single-family dwelling.

iv. One (1) junior accessory dwelling unit under B.5.a.iii above, plus one (1) detached new construction accessory dwelling unit under subsection B.5.A.ii above, may be located on lots which contain or are proposed to be developed with a single-family dwelling; provided that the accessory dwelling unit shall be no more than eight hundred (800) square feet in floor area, no more than sixteen (16) feet in height, and have at least four (4) foot side and rear yard setbacks.

b. Medium Density (R-2) and High Density (R-3) Zones. The number of accessory dwelling units that may be constructed on any lot in R-2 and R-3 Zones is limited as follows:

i. A maximum of two (2) detached accessory dwelling units may be constructed on lots which contain or are proposed to be developed with a multi-family dwelling unit, so long as the accessory dwelling unit is no more than sixteen (16) feet in height and has at least four (4) foot side and rear yards setbacks.

ii. Within an existing multifamily dwelling structure an accessory dwelling unit may be converted from areas not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages. At least one (1) such accessory dwelling unit conversion, and up to 25 percent of the existing units within the multifamily dwelling structure is permitted under this subsection, and all such units shall comply with applicable fire and building code requirements.

iii. Junior accessory dwelling units are not permitted in multi-family dwellings.

6. Number of Bedrooms. Accessory dwelling units can be either 1 or 2 bedrooms, and junior accessory dwelling units shall be limited to a maximum of one (1) bedroom.

7. Dwelling Size.

a. All newly constructed detached 1-bedroom accessory dwelling units shall not exceed 850 square feet, and 2-bedroom accessory dwelling units shall not exceed 1000 square feet.

b. The total floor area of any accessory dwelling unit or junior accessory dwelling unit shall be of a minimum of 150 square feet or as specified in Section 17958.1 of the California Health and Safety Code.

c. Accessory dwelling units located within existing multi-family dwellings shall not exceed 850 square feet and shall be larger than 500 square feet.

d. When an accessory dwelling unit is attached to an existing single-family dwelling, the maximum allowed size of the accessory dwelling unit shall be the smaller of: 50% of the existing primary dwelling, or 850 square feet.

e. Junior accessory dwelling units shall not exceed 500 square feet.

8. Off - Street Parking. One parking space per accessory dwelling unit shall be provided. These spaces may be provided as tandem parking on an existing driveway, or on a driveway, a side yard setback or a rear yard setback. Parking is limited to lawfully paved areas approved by the City. No additional parking for the accessory dwelling unit is required if any one (1) of the following conditions are met:

a. The unit is located within 1/ 2 mile of walking distance of public transit.

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

c. The unit is part of (i.e., contained within) the footprint of the primary residence or an accessory building.

d. When on-street parking permits are required but not offered to the occupant of the unit.

e. When there is a car share vehicle located within 1 block of the unit.

9. Location of Required Parking. Parking required for the accessory dwelling unit may be located in the following locations, as approved by the City, ordered from most preferred to least preferred:

a. A garage, carport, or covered space on a driveway, which complies with required setbacks for both primary and accessory structures.

b. An uncovered tandem space on a driveway.

c. Within the required street side yard setback.

d. Within the required rear yard setback.

e. Within the required front yard setback.

f. Notwithstanding the foregoing, parking in setbacks and tandem driveway parking may be denied if the Building Official determines that parking in those areas is unsafe due to site specific fire and /or life safety conditions.

g. If parking required for the unit is accommodated in any setback area as set forth above, then the required parking space shall be located and maintained in the specific location designated by the City.

10 Access. The accessory dwelling unit shall utilize the same vehicular access that serves the existing main dwelling unit, unless there is access from an alley contiguous to the lot. No passageway connecting the accessory dwelling unit to a street is required. Each accessory dwelling unit or junior accessory dwelling unit shall maintain independent exterior access from the existing residence.

11. Way Finding. Each unit shall display an address in compliance with the current California Residential Code.

12. Utilities. All utilities servicing the accessory dwelling unit or junior accessory dwelling unit may be metered in conjunction with the primary dwelling, in compliance with Government Code Section 65852.2(f).

13. Restricted Areas. Accessory dwelling units or junior accessory dwelling units shall not be allowed where roadways, public utilities and services are inadequate. The property owner shall provide evidence that adequate sewer, streets, and water are available for the unit as required by the City, in compliance with all current state and local building and fire codes, and the feasibility of sewer and water connection to the level of service adequate based upon applicable health and safety standards.

14. Architectural Compatibility. The accessory dwelling unit or junior accessory dwelling unit shall incorporate the same architectural features, building materials, and color as the main dwelling unit on the property. These features shall include, but are not limited to, roofing material, roof design, fascia, exterior building finish, color, exterior doors and windows including, but not limited to, ratios of window dimensions (i. e., width to height) and window area to wall area, garage door, and architectural enhancements. Fire sprinklers are not required for the accessory dwelling unit or junior accessory dwelling unit if they are not required for the primary residence or multi-family dwelling.

15. Ownership and Occupancy — Owner-Occupancy Required. One of the units on lots with a single-family dwelling shall be occupied as the primary residence of the owner of the lot. If the owner occupies neither unit, the accessory dwelling unit shall not be used as a dwelling unit, and shall not be rented. Notwithstanding the foregoing, an accessory dwelling unit that is approved after January 1 2020, but before January 1, 2025, is not subject to the owner-occupancy requirement.

16. Deed Restrictions for Accessory Dwelling Units. Before obtaining a building permit for an approved accessory dwelling unit, the property owner shall file with the County Recorder a declaration or agreement to restrictions, containing a reference to the deed under which the property was acquired by the owner and stating that:

a. The accessory dwelling unit cannot be sold separately from the primary residence;

b. The accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit, is occupied by the owner of record of the property; provided that, an accessory dwelling unit that is approved after January 1, 2020 but before January 1, 2025, is not subject to the owner-occupancy requirement;

c. Minimum rental term shall be no less than 30 days;

d. The restrictions shall be binding upon any successor in interest and ownership of the property and lack of compliance may result in legal action against the property owner to compel compliance with this section; and

e. If the accessory dwelling unit is modified such that it no longer complies with this section, the property owner shall return the lot and all improvements into a condition that complies fully with applicable land use and building standards set forth in this Code. The property owner shall apply for any and all permits necessary to complete the scope of work, as required under the City's building and fire codes.

17. Specific Junior Accessory Dwelling Units Requirements. The requirements and standards of this subsection shall apply to junior accessory dwelling units, notwithstanding anything contrary in this section.

a. The owner of the single-family lot shall occupy the single-family dwelling or the junior accessory dwelling unit.

b. Before obtaining a building permit for a junior accessory dwelling unit, the property owner shall file with the County Recorder a declaration or agreement to restrictions, containing a reference to the deed under which the property was acquired by the owner stating that:

1. The junior accessory dwelling unit cannot be sold separately from the primary residence;

2. The size and attributes of the junior accessory dwelling units shall conform at all times with the requirements of California Government Code section 65852.22 and the Commerce Municipal Code;

3. Minimum rental term shall be no less than 30 days; and

4. The restrictions shall be binding upon any successor in interest and ownership of the property and lack of compliance may result in legal action against the property owner to compel compliance with this section.

c. A junior accessory dwelling unit shall include: a separate entrance from the main entrance to the proposed or existing single-family residence; and an efficiency kitchen, which shall include a cooking facility with appliances, a food preparation counter or counters that total at least eight (8) square feet in area and food storage cabinets that total at least sixteen (16) square feet of shelf space.

C. Submittal Requirements and Application Processing. Any application for an accessory dwelling unit or junior accessory dwelling unit shall include a site plan, floor plan, and elevations substantiating and evidencing compliance with all applicable development standards. Where all requirements of this section and the Commerce Municipal Code appear to be met, the application shall be approved ministerially without discretionary review or public hearing within sixty (60) days of receiving the application. The City and applicant may agree to additional time with a written request from the applicant.

SECTION 2: Table 19.07.020 A of the Commerce Municipal Code, entitled “Permitted and Conditional Uses – Residential Zones” is hereby repealed and replaced to read as follows (*Underlined portions indicate new language, strikethrough indicated deletion*):

Table 19.07.020 A

**Permitted and Conditional Uses – Residential Zone
Development Standards—Public Facility Zone**

Use	R-1	R-2	R-3
Accessory Buildings	A	A	A
Balconies, with restrictions (see Table 19.07.040A)	A	A	A
Child Care Large Family	C*	C*	C*
Child Care Center	X	C*	C*
Clubs, Private and Fraternities/Sororities	X	X	C
Community Care Facilities	X	X	C
Dwelling, Duplex	X	P	P
Dwelling, Multifamily	X	X	P
Dwelling, Single-Family	P	P	P
Dwelling, Single-Family; new construction and additions where the total floor area of all structures is greater than 2,300 square feet	C	C	C
<u>Dwelling Unit, Accessory</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Dwelling Unit, Junior Accessory</u>	<u>P</u>		

Greenhouses	A	A	A
Home Occupations (see Chapter 19.39 , Div. 12)	A*	A*	A*
Lodging Houses	X	X	C
Mobile Homes	P	P	P
Mobile Home Parks	X	X	X
Nursing Homes/Rest Homes	X	X	C
Parking Lots, associated with nonresidential use	X	X	C
Pets, Household (up to 3 adult dogs/cats)	A	A	A
Pets, Household, other than dog/cat	C	C	C
Public or Quasi-public Uses of Educational/Recreational Nature	C	C	C
Public or Quasi-public Uses of Religious, Cultural, Public Service Nature	C	C	C
Second Dwelling Units	P		
Supportive Housing	P	P	P

Swimming Pools, Private	A	A	A
Transitional Housing	P	P	P

SECTION 3: The proposed zone text amendments are both categorically and statutorily exempt from CEQA. Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates Junior ADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law. In addition to being statutorily exempt from CEQA, the proposed ordinance is also categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts from CEQA, among other things, the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists the construction of appurtenant accessory structures and garages as examples of activity that expressly falls within this exemption. Here, the ordinance is categorically exempt under the Class 3 exemption because the ordinance regulates the conversion of existing structures into, and the new construction of, ADUs and Junior ADUs, which are, by definition, structures that are accessory to a primary dwelling on the lot and which are limited in size.

SECTION 4: The City Council finds as follows:

- 1. That the proposed change of zone or zoning ordinance text amendment is consistent with the goals, policies, and objectives of the General Plan.** *The proposed text amendment is consistent with the City of Commerce General Plan, as it would help to further the following policies, goals and objectives of the Plan.*

The proposed amendment would not only provide for consistency with State law as it relates to Accessory Dwelling Units and Junior Accessory Dwelling Units, but it would allow for the city to count these units towards the Regional Housing Needs Assessment numbers for the city as identified in the Housing Element and contribute to the housing shorting in the area in general.

- 2. That the proposed change of zone or zoning ordinance text amendment will not adversely affect surrounding properties.** The text amendments specify the need for the owners to confirm compliance with building and fire regulations and

required infrastructure prior to construction. *Therefore, the amendments will not adversely affect surrounding properties.*

- 3. That the proposed change of zone or zoning ordinance text amendment promotes public health, safety, and general welfare and serves the goals and purposes of this Title 19.** *The subject text amendment would bring the city's ADU and JADU regulations in compliance with state law thus, would promote public health, safety and general welfare and serves the goals of this Title 19.*

SECTION 5: Severability. The City Council declares that should any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

SECTION 6: The City Clerk of the City of Commerce shall certify to the passage of the Ordinance and shall cause the same to be posted in the manner required by law.

SECTION 7: This Ordinance shall take effect on the thirty-first (31st) day after its adoption.

PASSED, APPROVED AND ADOPTED this 4th day of August, 2020.

Ivan Altamirano
Mayor

ATTEST:

Lena Shumway
City Clerk