

**ORDINANCE NO. 1679 (2020 SERIES)**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, AMENDING TITLE 17 (ZONING REGULATIONS) OF THE MUNICIPAL CODE ASSOCIATED WITH ACCESSORY DWELLING UNITS AND INTRODUCING JUNIOR ACCESSORY DWELLING UNITS**

**WHEREAS**, on October 9, 2019, the California legislature passed, and Governor Newsom signed SB 13, AB 68, AB 670, and AB 881 to encourage development of accessory dwelling units and junior accessory dwelling units; and

**WHEREAS**, the City of San Luis Obispo desires to update its Accessory Dwelling Unit section and introduce a Junior Accessory Dwelling Unit section of Title 17, consistent with current state law; and

**WHEREAS**, the Planning Commission of the City of San Luis Obispo conducted a public hearing in the Council Hearing Room of City Hall, 990 Palm Street, San Luis Obispo, California, on January 8, 2020, for the purpose of considering amendments to Title 17 (Zoning Regulations) of the Municipal Code regarding accessory dwelling units and junior accessory dwelling units and recommended approval of amendments to the Municipal Code with revisions; and

**WHEREAS**, the City Council of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on February 4, 2020, for the purpose of considering amendments to the Municipal Code related to the regulation of accessory dwelling units and junior accessory dwelling units (CODE-0821-2019); and

**WHEREAS**, the City Council of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on February 18, 2020, and provided substantive modifications to the amendments to the Municipal Code related to the regulation of accessory dwelling units and junior accessory dwelling units (CODE-0821-2019); and

**WHEREAS**, the City Council finds that the proposed text amendments are consistent with the General Plan, the purposes of the Zoning Regulations, and other applicable City ordinances; and

**WHEREAS**, notices of said public hearings were made at the time and in the manner required by law; and

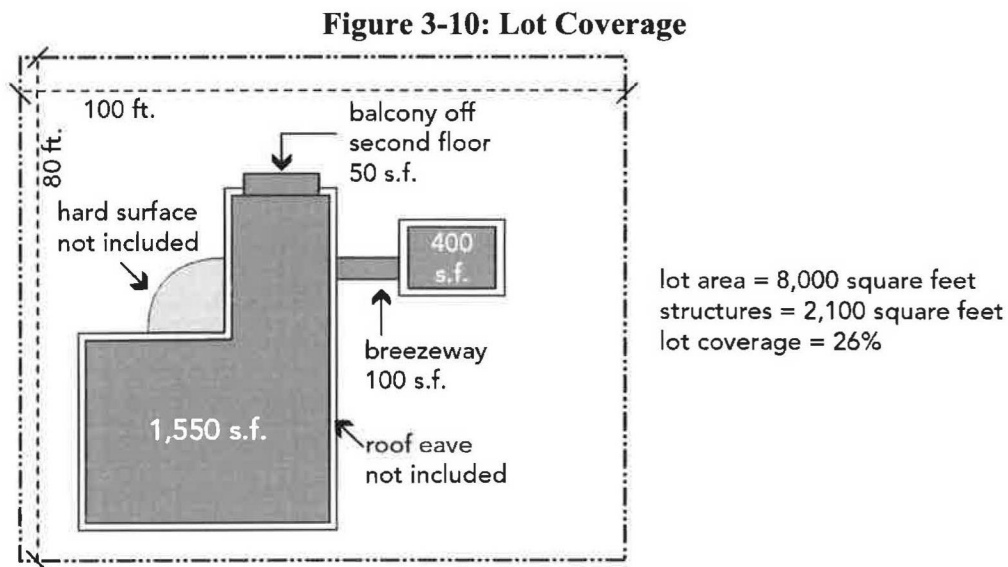
**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of San Luis Obispo as follows:

**SECTION 1.** Recitals. The above recitals are true and correct and are incorporated herein as the findings of the Council by this reference.

**SECTION 2.** Section 17.70.120 of the San Luis Obispo Municipal Code, entitled Lot Coverage, is hereby amended to read as follows:

**17.70.120 – Lot Coverage**

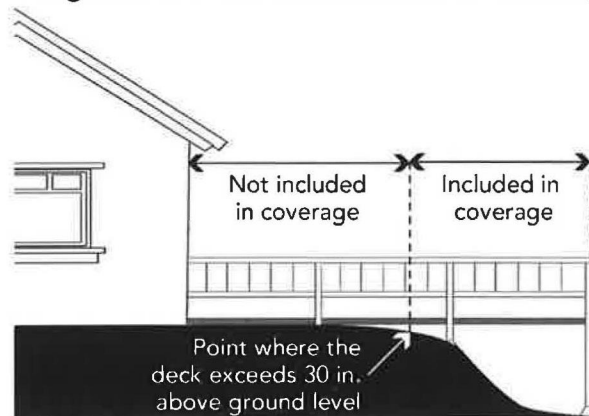
A. *Purpose and Application.* As defined in Chapter 17.158 (General Definitions), lot coverage is the ratio of the total area of a lot covered by the footprint of all structures to the net lot area, typically expressed as a percentage of the total lot area, including all buildings, decks, balconies, porches, accessory structures and accessory dwellings, and similar architectural features. Maximum coverage shall be as provided in the specific property development standards for the various zones in Chapters 17.12 through 17.64, inclusive.



B. Excluded from Lot Coverage. The following structures shall be excluded from the lot coverage calculation:

1. Uncovered decks, porches, landings, balconies, and stairways that are 30 inches or less in height, as measured from the adjacent existing grade.

**Figure 3-11: Decks Excluded from Coverage**



2. Roof eaves which project 30 inches or less from the structure are not included in the determination of coverage.
3. Swimming pools and hot tubs that are not enclosed in roofed structures or decks.
4. One small, non-habitable accessory structure under 120 square feet and under seven feet high. Any additional structures above quantity of one shall be included in lot coverage.
5. Up to 800 square feet of an accessory dwelling unit. Any additional square footage of an accessory dwelling unit shall be included in lot coverage.

**SECTION 3.** Section 17.86.020 of the San Luis Obispo Municipal Code, entitled Accessory dwelling units and guest quarters, is hereby amended to read as follows:

17.86.020 – Accessory dwelling units, and junior accessory dwelling units, and guest quarters.

A. *Purpose and Applicability.* The purpose of this chapter is to prescribe development and site regulations that apply, except where specifically stated, to accessory dwelling units, and junior accessory dwelling units, and guest quarters, as defined in Chapter 17.156 (Land Use Definitions).

B. *Accessory Dwelling Units.* The provisions in this subsection shall apply to accessory dwelling units as defined in Chapter 17.156 (Land Use Definitions) and where allowed in compliance with Chapter 17.10 (Use Regulations).

1. *Purpose.* The purpose of this chapter is to provide for the creation of accessory dwelling units in a manner that is consistent with requirements identified in Government Code Section 65852.2, as amended from time to time. Implementation of this section is meant to expand housing opportunities by increasing the number of smaller units available within existing neighborhoods.

2. *General Requirements.*

- a. *Application.* Where this section does not contain a particular type of standard or procedure, conventional zoning standards and procedures shall apply.

- b. *Areas Where Accessory Dwelling Units Are Allowed.* Upon meeting the requirements of this section, accessory dwelling units may be established in any zone that allows single-unit residential dwellings, multi-unit residential dwellings, or mixed-use development (per table 2.1), where a single-family structure, duplex or multifamily structure is existing or proposed. The existing or proposed residential dwelling is referred to as “primary unit” in this section. Accessory dwelling units that conforms to this section shall not be considered a dwelling unit for the purpose of calculating density.

- c. *No Subdivision of Property.* No subdivision of property shall be allowed where an accessory dwelling unit has been established and the resulting subdivision does not maintain the primary residence on the same lot as the accessory dwelling unit(s).

d. *Sale of Property.* This section shall apply to new owners of property where an accessory dwelling unit has been established. All conditions of director's action (if applicable), restrictive covenants and other contractual agreements with the city shall apply to the property and the new owners, except as allowed or prohibited by state law.

e. *Applicability of Building Codes.* Accessory dwelling units shall conform to all applicable building and construction codes.

3. *Requirements on Lots with a Proposed or Existing Single-Family Structure or Duplex.*

a. *Unit Types Allowed.* An accessory dwelling unit on a lot with a single-family structure or duplex may be either attached or detached from the primary unit.

i. Attached: An attached accessory dwelling unit shall be either connected to (by a minimum of one shared wall) or contained completely or partially within the existing footprint of a single-family structure or duplex.

ii. Detached: A detached accessory dwelling unit shall be either new or converted residential square footage that is not connected to the primary single-family structure or duplex.

b. *Size of Accessory Dwelling Unit.* The gross floor area of an attached or detached accessory dwelling unit shall be as follows:

i. Attached: The gross floor area of an attached accessory dwelling unit shall be no less than 150 square feet and shall not exceed the lesser of the following: 50 percent of an existing primary unit's living area, or; 850 square feet for a studio or one-bedroom unit, or; 1,000 square feet for a unit containing at least two bedrooms.

ii. Detached: The gross floor area of a detached accessory dwelling unit shall be no less than 150 square feet and shall not exceed 850 square feet for a studio or one-bedroom unit, or 1,000 square feet for a unit containing at least two bedrooms.

iii. An accessory dwelling unit that is entirely within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure shall be no less than 150 square feet. An expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure may be included if the expansion beyond the physical dimensions of the existing structure is limited to accommodating ingress and egress. This does not apply to duplexes.

c. *Limitation on Number.* Only one accessory dwelling unit is permitted per lot.



4. *Requirements on Lots with a Proposed or Existing Multifamily Structure Containing Three or More Units.*

a. *Unit Types Allowed.* An accessory dwelling unit on a lot with a multifamily structure may be converted from existing square footage, or as new units detached from the primary structure.

i. *Converted Square Footage Units:* Accessory dwelling units may be created within the portions of existing multifamily structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if compliant with state building standards for dwellings.

ii. *New Detached Units:* Accessory dwelling units may be created on a lot that has an existing or proposed multifamily structure and must be detached from the primary structure.

b. *Size of Accessory Dwelling Unit.* The gross floor area of an accessory dwelling unit on a lot with a multifamily structure shall be no less than 150 square feet.

c. *Limitation on Number.* The number of accessory dwelling units shall be limited to no more than 25 percent of the existing or proposed multifamily units but shall not be less than the following per lot: 1) one unit that is converted from existing square footage, or 2) two new detached units. No more than two detached units shall be allowed per lot.

d. *Lots with both a Multifamily Structure and Single-Family Structure or Duplex.* Provisions for accessory dwelling units on lots with multifamily structures cannot be combined with provisions for lots with single-family structures or duplexes, or vice versa.

5. *Performance Standards and Compatibility.*

a. *Design Standards.* Accessory dwelling units shall conform to all applicable development standards of the underlying zone, including but not limited to height, setback area, parking, and building coverage, unless otherwise stated in this section or prohibited by state law.

i. *No passageway,* defined as a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit, shall be required in conjunction with the construction of an accessory dwelling unit.

- iii. No setback shall be required for an existing permitted structure that is converted to an accessory dwelling unit, or for an accessory dwelling unit that is constructed in replacement of an existing permitted structure, provided it is in the same location and has the same dimensions.
  - iv. A setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit.
  - v. Accessory dwelling units that include the creation of new square footage shall be limited to 16 feet in height, with an exception for accessory dwellings units that are constructed above an existing garage, which shall be limited to 25 feet in height. Up to 150 square feet of new square footage may be exempted from this requirement in connection to a conversion of existing upper floor square footage, but only as needed to accommodate ingress and egress.
  - vi. Architectural style and form shall match the style and form of the primary residential structure(s) on the property.
  - vii. The materials of the accessory dwelling unit shall match the materials of the primary residential structure(s) on the property.
  - viii. Accessory dwelling units shall not be required to provide fire sprinklers if fire sprinklers are not required for the primary residence.
  - ix. No additional parking spaces shall be required for an accessory dwelling unit. If a garage or car port is converted or removed to accommodate an accessory dwelling unit, replacement parking is not required.
  - x. Exceptions to these design standards can be approved by the Director, through Directors Action, subject to required findings (section 17.108.040).
- b. *Historic Resources.* Accessory dwelling units on listed historic properties and in historic districts shall be found consistent with the historic preservation ordinance, including historic preservation guidelines and Secretary of the Interior standards for the treatment of historic properties.
- c. *Utility Connection Fees.* Where an accessory dwelling unit is created within an existing structure (primary or accessory), no new utility connection or payment of impact fees shall be required. For all other accessory dwelling units, a new utility connection for the accessory dwelling unit and payment of impact fees may be required if the accessory dwelling unit is 750 square feet or more.

6. *Procedure Requirements.* An accessory dwelling unit that meets the standards contained in this section shall be subject to ministerial review (building permit) and approval without discretionary review (i.e., use permit, architectural review, etc.) or public hearing. Within sixty days of receiving a complete application, the city shall approve any such application which complies with all applicable requirements and development standards identified in this chapter. When an accessory dwelling unit is proposed with a new single-family, duplex, or multifamily structure, this sixty-day requirement shall not apply.

7. *No Short-Term Rental.* An accessory dwelling unit cannot be rented for a period of less than 30 days. Homestay use of an accessory dwelling unit is prohibited.

8. *Violations.* Violation of any of the provisions shall be subject to basic code enforcement action as provided in Title 1 of the Municipal Code.

9. *Exceptions.* The director may authorize an exception to the square footage standards to allow an accessory dwelling unit up to 1,200 square feet through the director's action process. No other exceptions to the provisions of this Section shall be approved, except as provided in subsection B.5.a.x.

C. *Junior Accessory Dwelling Units.* The provisions in this Subsection shall apply to junior accessory dwelling units as defined in Chapter 17.156 (Land Use Definitions) and where allowed in compliance with Chapter 17.10 (Use Regulations).

1. *Purpose.* The purpose of this Chapter is to provide for the creation of junior accessory dwelling units in a manner that is consistent with requirements identified in Government Code Section 65852.22, as amended from time to time. Implementation of this Section is meant to expand housing opportunities by increasing the number of smaller units available within existing neighborhoods.

2. *General Requirements.*

a. *Application.* Where this Section does not contain a particular type of standard or procedure, conventional zoning standards and procedures shall apply.

b. *Areas Where Junior Accessory Dwelling Units Are Allowed.* Upon meeting the requirements of this Section, junior accessory dwelling units may be established in any zone where the use of the property is a single-unit dwelling, either existing or proposed. A junior accessory dwelling unit may only be allowed on a lot with an accessory dwelling unit if the accessory dwelling unit is detached from the single-family structure.

c. *Sale of Property.* A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

d. *Location.* A junior accessory dwelling unit must be created within the walls of a proposed or existing primary dwelling. Conversion of an existing garage into a junior accessory dwelling unit is not permitted by this section.

i. An expansion of not more than 150 square feet beyond the same physical dimensions as the existing structure may be included if the expansion beyond the physical dimensions of the existing structure is limited to accommodating ingress and egress.

e. *Size of Junior Accessory Dwelling Unit.* The gross floor area of a junior accessory dwelling unit shall not exceed 500 square feet.

f. *Limitation on Number.* Only one junior accessory dwelling unit, may be located on any residentially zoned lot. A junior accessory dwelling unit may only be located on a lot which contains one permitted single-family structure or in connection to the construction of a single-family structure. One detached accessory dwelling unit may also be located on the lot.

g. *Applicability of Building Codes.* Junior accessory dwelling units shall conform to all applicable building and construction codes

3. *Performance Standards and Compatibility.*

a. *Design Standards.* Junior accessory dwelling units shall conform to all applicable development standards of the underlying zone, including but not limited to height, setback area, parking, and building coverage. A junior accessory dwelling unit that conforms to this Section shall not be considered a dwelling unit for the purpose of calculating density.

i. A separate exterior entry shall be provided to serve a junior accessory dwelling unit.

iii. The interior connection to the main living area may be maintained or removed.

iv. At a minimum, junior accessory dwelling units shall include an efficiency kitchen, which shall contain a cooking facility, food preparation counter, and storage cabinets.

v. Junior accessory dwelling units shall not be required to provide fire sprinklers if fire sprinklers are not required for the primary residence.

vi. No additional parking spaces shall be required for a junior accessory dwelling unit.

b. *Utility Connection Fees.* Where a junior accessory dwelling unit is created no new utility connection or payment of impact fees shall be required.

c. *Fire and Life Protection.* For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

4. *Procedure Requirements.* A junior accessory dwelling unit that meets the standards contained in this Section shall be subject to ministerial review (building permit) and approval without discretionary review (i.e., Use Permit, Architectural Review, etc.) or public hearing. Within sixty days of receiving a complete application, the City shall approve any such application which complies with all applicable requirements of this Section.

5. *Owner-Occupancy.* The owner of the property shall occupy either the primary residence or the junior accessory dwelling unit.

6. *Covenant Agreement.* Prior to the issuance of building permits for a junior accessory dwelling unit, a covenant agreement shall be recorded which discloses the structure's approved floor plan and status as an "junior accessory dwelling unit" and agreeing that the owner of the property will occupy either the primary residence or the junior accessory dwelling unit. This agreement shall be recorded in the office of the County Recorder to provide constructive notice to all future owners of the property.

7. *No Short-Term Rental.* A junior accessory dwelling unit cannot be rented for a period of less than 30 days. Homestay use of a junior accessory dwelling unit is prohibited.

8. *Violations.* Violation of any of the provisions shall be subject to basic code enforcement action as provided in Title 1 of the Municipal Code.

#### D. *Guest Quarters.*

1. *Purpose and Intent.* The purpose of this section is to establish regulations for the development of guest quarters as an approved accessory use to a primary residential unit.

2. *Applicability.* This section does not apply to legally established dwellings or accessory dwelling units, or accessory structures which are separately defined in Chapter 17.158 (General Definitions).

3. *General Requirements.* Guest quarters shall conform to all applicable zoning regulations such as height, yards, parking, building coverage, etc., and shall be subject to the following provisions:

a. *Accessory to Primary Residence.* Guest quarters may only be used in conjunction with a primary residence that contains a kitchen and may consist of detached structures or additions to primary structures.

b. *Size.* Guest quarters shall be no larger than four hundred fifty square feet.

c. *Density and Development Standards.* Guest quarters shall be consistent with density provisions and development standards of the underlying zone. For the purposes of calculating density in multi-unit residential zones, guest quarters will be considered an additional bedroom, accessory to the primary unit. The structure may not exceed four hundred fifty square feet and shall remain in an open floor plan (studio configuration).

d. *Zones in Which Guest Quarters May Be Allowed.* Upon meeting the requirements in this section, guest quarters may be established in the following zones: R-1, R-2, R-3, R-4, and O, when the primary use on the site is a single-unit residential dwelling.

e. *Areas Prohibited.* Guest quarters shall not be allowed on nonconforming lots. Guest quarters shall not be established in any condominium or planned development project unless specifically addressed in the planned development ordinance as adopted or amended, or any mobile home subdivision or trailer park. Guest quarters shall not be allowed on lots with an existing accessory dwelling unit.

f. *Owner Occupancy.* The property must be occupied by the property owner as the owner's primary place of residence. If a property can no longer be occupied as the owner's primary place of residence, the guest quarters may continue to be used as habitable space (e.g., office, pool house, art studio) but can no longer be used as overnight sleeping quarters.

g. *No Separate Rental.* Guest quarters may not be rented separately from the primary dwelling unit.

h. *No Kitchen Facilities.* No facilities meeting the definition of a "kitchen" as defined in Chapter 17.158 (General Definitions) may be installed and plumbing shall be provided for bathroom use only. No plumbing may be provided to "wet bars," dishwashers, or any features that could be used for a kitchen. Plans approved for construction of guest quarters shall not include countertops or plumbing designed for subsequent installation of sinks, dishwashers, garbage disposals, or any other features consistent with the definition of a "kitchen."

4. *Procedure Requirements.* Prior to filing building plans with the city building division, the following shall be met:

a. *Architectural Review Required.* All requests shall be reviewed for consistency with the city's community design guidelines and this section. The director shall determine, upon receiving a complete application, whether the project shall be forwarded to the architectural review commission for review. All new development projects within historic districts or within properties that contain designated historic structures shall be referred to the cultural heritage committee to be reviewed for consistency with Secretary of the Interior standards for treatment of a historic property.



b. *Application Contents.* A guest quarters permit shall be approved by the director prior to the submittal of documents requesting construction approval. No additional application fees for architectural review shall be required.

c. *Owner's Agreement with the City.* Prior to the issuance of construction permits, a covenant agreement shall be recorded that discloses the structure's approved floor plan and status as "guest quarters," which cannot be used as an independent dwelling unit, and may only be used in conjunction with the primary residence that contains a kitchen. This agreement shall be recorded in the office of the county recorder to provide constructive notice to all future owners of the property. The covenant agreement also may contain authorization for annual inspections, and to allow the city upon reasonable time and notice to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and Health and Safety Codes. If a property can no longer be occupied as the owner's primary place of residence, the guest quarters may continue to be used as habitable space (e.g., office, pool house, art studio) but shall no longer be used as overnight sleeping quarters.

5. *Conversion of Guest Quarters to an Accessory Dwelling Unit.* A legally established guest quarters may either be retained in its configuration or be converted to an accessory dwelling unit in compliance with the provisions of this chapter; however, only one accessory dwelling unit or guest quarters is allowed per property. (Ord. 1657 § 17, 2019; Ord. 1650 § 3 (Exh. B), 2018)

**SECTION 4.** Section 17.156.004 of the San Luis Obispo Municipal Code, entitled A Definitions, is hereby amended to read as follows:

**17.156.004 – A Definitions**

*Accessory Dwelling Unit (ADU).* An attached or detached dwelling unit that is no more than 1,200 square feet in size, provides complete independent living facilities for one or more persons, and is located on a lot with a proposed or existing primary residence. An ADU includes permanent provisions for living, sleeping, eating, cooking and sanitation on the same lot as a single-family or multifamily structure is or will be situated. An ADU may be structured as one efficiency unit, as defined in of the Health and Safety Code Section 17958.1, and/or (2) a manufactured home, as defined in of the Health and Safety Code Section 18007, among other formats.

**SECTION 5.** Section 17.156.022 of the San Luis Obispo Municipal Code, entitled J Definitions, is hereby amended to read as follows:

**17.156.022 – J Definitions**

*Junior Accessory Dwelling Unit (JADU).* A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.

**SECTION 6. Severability.** If any subdivision, paragraph, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this ordinance, or any other provisions of the City's rules and regulations. It is the City's express intent that each remaining portion would have been adopted irrespective of

the fact that any one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

**SECTION 7. Environmental Determination.** The ordinance is exempt under Public Resources Code Section 21080.17 that applies to local ordinances implementing State regulations related to accessory dwelling units.

**SECTION 8.** Ordinance Number 1657 (2019 Series) is hereby amended and superseded to the extent inconsistent herewith.


**SECTION 9.** A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage, in The New Times, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

**INTRODUCED** on the 18<sup>th</sup> day of February 2020, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the 3<sup>rd</sup> day of March, 2020, on the following vote:

AYES:	Council Member Christianson, Pease, Stewart, Vice Mayor Gomez and Mayor Harmon
NOES:	None
ABSENT:	None

  
\_\_\_\_\_  
Mayor Heidi Harmon

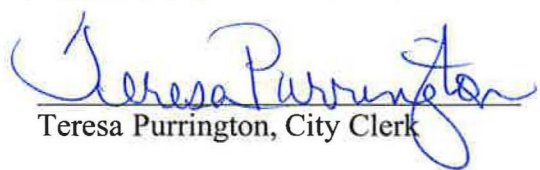
ATTEST:

  
\_\_\_\_\_  
Teresa Purrington  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
J. Christine Dietrick  
City Attorney

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, this 19<sup>th</sup> day of March, 2020.

  
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Teresa Purrington, City Clerk