

**EXHIBIT A
(PROPOSED ORDINANCE)**

ORDINANCE NO. ___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING CODE AMENDMENT NO. A-027-2020, A ZONING TEXT AMENDMENT TO TITLE 9 OF THE GARDEN GROVE MUNICIPAL CODE PERTAINING TO THE REGULATION OF ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.

City Attorney Summary

This Ordinance approves zoning text amendments to Title 9 of the Garden Grove Municipal Code (Land Use Code) pertaining to the regulation of accessory dwelling units and junior accessory dwelling units to conform to changes in State law.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, Government Code Sections 65852.2 and 65852.22 authorize cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in a manner consistent with State law;

WHEREAS, in 2019, the California Legislature adopted, and the Governor signed, Senate Bill 13 (Chapter 653, Statutes of 2019), Assembly Bill 68 (Chapter 655, Statutes of 2019), Assembly Bill 587 (Chapter 657, Statutes of 2019), Assembly Bill 671 (Chapter 658), and Assembly Bill 881 (Chapter 659, Statutes of 2019) into law;

WHEREAS, among other things, these statutes amended Government Code Sections 65852.2 and 65852.22 to facilitate the production of ADUs and JADUs to address the State's housing shortage and to establish new requirements and limitations that local jurisdictions must comply with in order retain authority to continue to regulate ADUs in areas zoned to allow single-family and multiple-family dwelling residential use;

WHEREAS, as a result of these changes to State law, the City's existing regulations for ADUs are no longer consistent with Government Code Sections 65852.2 and 65852.22;

WHEREAS, the City wishes to amend the City's Land Use Code to repeal the existing regulations for ADUs and to adopt new regulations pertaining to ADUs and JADUs, which conform to existing State law;

WHEREAS, the Planning Commission of the City of Garden Grove held a duly noticed public hearing on July 16, 2020 and considered all oral and written testimony presented regarding the proposed zoning text amendment;

WHEREAS, on July 16, 2020, following the public hearing, the Planning Commission adopted Resolution No. 5995-20 recommending that the City Council find that the proposed zoning text amendment is exempt from review under the California Environmental Quality Act and approve Municipal Code Amendment No. A-027-2020 and a draft ordinance;

WHEREAS, a duly noticed public hearing regarding Amendment No. A-027-2020 was held by the City Council on August 25, 2020 and September 8, 2020, and all interested persons were given an opportunity to be heard;

WHEREAS, following conclusion of the public hearing on September 8, 2020, the City Council reviewed the recommended changes to the draft ordinance recommended by the Planning Commission and remanded a revised draft ordinance back to the Planning Commission for review and recommendation to the City Council.

WHEREAS, the Planning Commission has reviewed the changes to the draft ordinance recommended by the City Council, along with additional changes recommended by City staff on the basis of subsequent guidance and feedback provided by the California Department of Housing and Community Development (HCD).

WHEREAS, the Planning Commission of the City of Garden Grove held a duly noticed public hearing on January 21, 2021 and considered all oral and written testimony presented regarding the proposed zoning text amendment;

WHEREAS, on January 21, 2021, following the public hearing, the Planning Commission adopted Resolution No. 6015-21 recommending that the City Council find that the proposed zoning text amendment is exempt from review under the California Environmental Quality Act and approve Municipal Code Amendment No. A-027-2020 and a revised ordinance;

WHEREAS, a duly noticed public hearing regarding Amendment No. A-027-2020 was held by the City Council on February 23, 2021, and all interested persons were given an opportunity to be heard;

WHEREAS, the City Council gave due and careful consideration to the matter; and

WHEREAS, the City Council hereby makes the following findings regarding Amendment No. A-027-2020:

A. The proposed Land Use Code Amendment is internally consistent with the goals, policies, and elements of the General Plan. The proposed text amendments will bring the City's Land Use Code into conformance with recent changes to State law pertaining to accessory dwelling units (ADUs) and junior accessory units (JADUs). The intent of the changes to the State law is to continue to facilitate the housing production of ADUs and JADUs, which are considered as an essential affordable housing option to address the State's housing shortage. Pursuant to State law, ADUs and JADUs will be allowed in zones where single-family and multiple-family uses are permitted. Goal LU-2 and Policy LU-2.2 of the General Plan Land Use element encourage a diverse mix

of housing types in the City. In addition, the goal of the General Plan Housing Element is to encourage the development of affordable housing to meet the City's regional housing needs as well as to provide housing that encourages people of all economic levels to live in Garden Grove. ADUs and JADUs will provide for more housing opportunities in the City that will meet the City's regional housing needs.

B. The proposed Land Use Code Amendment will promote the public health, safety and welfare. The proposed text amendments will bring the City's Land Use Code into conformance with changes to State law relating to accessory dwelling units (ADUs) and junior accessory units (JADUs). The proposed text amendments are intended to be consistent with current State law, and will facilitate the housing production of ADUs and JADUs, which are an essential affordable housing option to meet the State's housing shortage. Nevertheless, to minimize impacts of ADUs and JADUs to existing residential neighborhoods, the Land Use Code will continue to contain reasonable development standards and regulations for ADUs and JADUs, as permitted by State law, including prohibiting the short-term rental of ADUs and JADUs and requiring owner-occupancy for properties developed with JADUs and the recordation of a corresponding deed restriction.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that the above recitals are true and correct.

SECTION 2. The City Council finds that the proposed amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17 (CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code) and CEQA Guidelines Section 15061(b)(3) (It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

SECTION 3. Municipal Code Amendment No. A-027-2020 is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 6015-21, a copy of which is on file in the Office of the City Clerk, and which is incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 4. The definition of "Accessory Dwelling Unit" set forth in Subsection C of Section 9.04.060 (Definitions) of Chapter 9.04 (General Provisions) of Title 9 (Land Use) of the Garden Grove Municipal Code is hereby amended to read as follows:

"Accessory dwelling unit" (also "ADU") shall have the same meaning as set forth in California Government Code Section 65852.2, as amended from time to time. Generally, an accessory dwelling unit is an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a

proposed or existing primary residential dwelling structure. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residential dwelling structure is or will be situated. An accessory dwelling unit also includes an "efficiency unit" as defined in California Health and Safety Code Section 17958.1 and a "manufactured home" as defined in California Health and Safety Code Section 18007. An accessory dwelling unit may be created through: (i) construction of a new detached structure; (ii) construction of a new attached structure or addition; or (iii) conversion of existing permitted interior space within an existing dwelling, attached or detached garage, or accessory structure.

SECTION 5. Subsection C of Section 9.04.060 (Definitions) of Chapter 9.04 (General Provisions) of Title 9 (Land Use) of the Garden Grove Municipal Code is hereby amended to add a definition for "Junior Accessory Dwelling Unit" to read as follows:

"Junior accessory dwelling unit" (also "JADU") shall have the same meaning as set forth in California Government Code Section 65852.22, as amended from time to time. Generally, a JADU is a residential dwelling unit that is no more than 500 square feet in size, is contained entirely within the living area of a single-family residence, provides a cooking facility with appliances, a food preparation counter and storage cabinets that are of reasonable size in relation to the unit, and has independent exterior access. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

SECTION 6. Table 1 (City of Garden Grove Land Use Matrix) in Subsection 9.08.020.030 (Uses Permitted) of Subsection 9.08.020 (Permitted Uses in the R-1 Zone) of Section 9.08.040 (Single-Family Residential Development Standards) of Chapter 9.08 (Single-Family Residential Development Standards) of Title 9 (Land Use) of the Garden Grove Municipal Code is hereby amended by deleting the row for "Accessory Dwelling Unit".

SECTION 7. Subsection L (Accessory Dwelling Units) of Subsection 9.08.020.050 (Special Operating Conditions and Development Standards) of Section 9.08.020 (Permitted Uses in the R-1 Zone) of Chapter 9.08 (Single-Family Residential Development Standards) of Title 9 (Land Use) of the Garden Grove Municipal Code is hereby repealed.

SECTION 8. Chapter 9.54 (Accessory Dwelling Units and Junior Accessory Dwelling Units) is hereby added to of Title 9 (Land Use) of the Garden Grove Municipal Code to read as follows:

Chapter 9.54 ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

9.54.010. Purpose, Applicability, Definitions, Effect of Conforming, Interpretation.

A. Purpose. The purpose of this chapter is to provide for and regulate the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in a manner consistent with State law.

B. Applicability. Except as otherwise provided by State law, the standards and limitations set forth in this chapter apply to the development of new ADUs and JADUs in the City.

C. Definitions. As used in this chapter, the following terms shall have the following meanings:

1. The terms "accessory dwelling unit", "accessory structure", "efficiency unit", "living area", "nonconforming zoning condition", "passageway", "proposed dwelling", "public transit", and "tandem parking" all have the same meaning as that stated in Government Code section 65852.2 as that section may be amended time to time. The terms "accessory dwelling unit" and "ADU" shall have the same meaning.
2. The term "junior accessory dwelling unit" shall have the same meaning as that stated in Government Code section 65852.22(h)(1) as that section may be amended time to time. The terms "junior accessory dwelling unit" and "JADU" shall have the same meaning.
3. The term "attached ADU" means an ADU, other than a converted ADU, that is physically attached to a primary dwelling structure.
4. The term "detached ADU" means an ADU, other than a converted ADU, that is physically separated from, but located on the same lot as, a primary dwelling structure.
5. The term "converted ADU" means an ADU that is constructed within all or a portion of the permitted existing interior space of an accessory structure or within all or a portion of the permitted existing interior space of a dwelling structure, including bedrooms, attached garages, storage areas, or similar uses. A converted ADU also includes an ADU that is constructed in the same location and to the same dimensions as a permitted existing structure or portion of a permitted existing structure.
6. The term "Director" means the City of Garden Grove Director of Community and Economic Development, or his or her designee.

D. Effect of Conforming. An ADU that conforms to the provisions of this chapter shall:

1. Be deemed an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located;
 2. Be deemed a residential use that is consistent with the existing General Plan and zoning designation for the lot upon which it is located; and
 3. Not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- E. Interpretation. The provisions of this chapter shall be interpreted to be consistent with the provisions of Government Code sections 65852.2 and 65852.22 and shall be applied in a manner that is consistent with State law.

9.54.020. Locations Permitted.

- A. Permitted ADU Locations. ADUs conforming to the provisions in this chapter may be located on any lot in the City that is zoned to allow single-family or multiple-family residential uses and that includes a proposed or existing legally developed single-family or multiple-family dwelling.
- B. Permitted JADU Locations. JADUs conforming to the provisions in this chapter may be located within a proposed or existing legally developed single-family dwelling on any lot in the City that is zoned to allow single-family residential uses.

9.54.030. Number of ADUs and JADUs Permitted.

- A. Single-Family Lots. No more than one (1) ADU and/or one (1) JADU is permitted on a lot developed or proposed to be developed with a single-family dwelling.
- B. Multiple-Family Lots. Either (i) no more than two (2) detached ADUs pursuant to subsection B.1 or (ii) one or more converted ADUs pursuant to subsection B.2 are permitted on a lot developed or proposed to be developed with one or more multiple-family dwelling structures. Detached ADUs pursuant subsection B.1 may not be combined on the same lot with converted ADUs pursuant to subsection B.2.
1. No more than a total of two (2) detached ADUs may be constructed on a lot developed or proposed to be developed with one or more multiple-family dwelling structures. If two (2) detached ADUs are constructed, they may not be attached to one another as part of a single structure.

2. On lots with no detached ADUs, one or more converted ADUs may be constructed within portions of existing multiple-family dwelling structures that are not used as livable space. No converted ADUs may be constructed within the existing livable space of a multiple-family structure. The number of ADUs permitted under this subsection shall not exceed twenty-five (25) percent of the existing multiple-family dwelling units on the lot. For the purpose of calculating the number of allowable accessory dwelling units: (a) previously approved ADUs shall not count towards the existing number of multiple-family dwelling units; and (b) fractions shall be rounded down to the next lower number of dwelling unit, except that at least one (1) converted ADU shall be allowed.

9.54.040. ADU Requirements.

- A. Development Standards. Except as modified by this section or as otherwise provided by State law, an ADU shall conform to the development standards applicable to the lot on which it is located as set forth in this Title and/or in an applicable specific plan or planned unit development ordinance or resolution. Pursuant to sections 9.12.040.030 and 9.18.110.040, lots located in multiple-family residential and mixed-use zoning districts that are improved with single-family residential uses are subject to certain single-family residential development standards. Notwithstanding the foregoing, when the application of a development standard related to floor area ratio, lot coverage, open-space, or minimum lot size would prohibit the construction of an attached or detached ADU of at least 800 square feet, such standard shall be waived to the extent necessary to allow construction of an ADU of up to 800 square feet.
- B. Unit Size.
 1. Minimum Size. An ADU shall be at least the following minimum sizes based on the number of bedrooms provided:
 - a. Studio or Efficiency Units: 220 square feet.
 - b. One bedroom: 500 square feet.
 - c. Two or more bedrooms: 700 square feet.
 2. Maximum Size.
 - a. Attached ADUs: The total floor area of an attached ADU shall not exceed the following:
 - i. Studio or One bedroom: 850 square feet or (ii) fifty (50) percent of the floor area of the primary dwelling unit, whichever is less; provided, however, that if the size of

the primary dwelling unit is less than 1,600 square feet, an attached ADU may have a total floor area of up to 800 square feet.

ii. Two or more bedrooms: 1,000 square feet or (ii) fifty (50) percent of the floor area of the primary dwelling unit, whichever is less, provided, however, that if the size of the primary dwelling unit is less than 1,600 square feet, an attached ADU may have a total floor area of up to 800 square feet.

b. Detached ADUs: The total floor area of a detached ADU shall not exceed the following:

i. Studio or One bedroom: 850 square feet.

ii. Two or more bedrooms: 1,000 square feet.

c. ADU and JADU on same site: ADUs may not exceed 800 square feet in size in cases where both an ADU and JADU are developed or proposed on a site.

d. Converted ADUs: The maximum size limitations set forth in this subsection do not apply to converted ADUs that do not increase the existing floor area of a structure. In addition, a converted ADU created within an existing accessory structure may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure to the extent necessary to accommodate ingress and egress.

3. Porches, Patios, and Garages.

a. An attached or detached ADU may include an attached covered patio and/or porch, which, if provided, shall be integrated into the design of the ADU and shall not exceed 80 square feet in size.

b. An attached or detached ADU may include an attached one-car garage, which, if provided, shall be integrated into the design of the ADU and shall not exceed 250 square feet in size.

c. In no event shall the total combined area of an ADU and attached porch, patio, and/or garage exceed 1,330 square feet.

C. Setbacks.

1. Front Yard Setbacks. New attached and detached ADUs are subject to the same minimum front yard setback requirements applicable to other structures on the lot on which the ADU is located.
2. Side and Rear Yard Setbacks. Minimum setbacks of no less than four (4) feet from the side and rear lot lines are required for new attached and detached ADUs.
3. Converted ADUs. No setbacks are required for converted ADUs, provided the side and rear yard setbacks of the existing converted structure are sufficient for fire and safety, as dictated by current applicable uniform building and fire codes.

D. Building Separation.

1. A minimum separation of six (6) feet is required between a detached ADU and the primary dwelling unit.
2. A minimum separation of six (6) feet is required between attached or detached ADU and all other structures not attached to the ADU, including garages, on the property.
3. Building separation requirements do not apply to converted ADUs that do not include an expansion of the floor area of the existing structure.

E. Height.

1. New attached and detached ADUs shall be one story, constructed at ground level, and shall not be more than 16 feet in height measured from ground level to the highest point on the roof.
2. Converted ADUs are not subject to a height limitation.

F. Design.

1. The design, pitch, color, material, and texture of the roof and eave details of an attached or detached ADU shall be substantially the same as the primary unit.
2. The color, material, and texture of all building walls, windows, and doors of an attached or detached ADU shall be similar to and compatible with the primary unit.

3. The architectural style and scale of an attached or detached ADU shall match the primary unit.
4. In order to facilitate the development of ADUs in a manner that ensures reasonable consistency and compatibility of design, the Director is authorized to develop standard design plans and criteria for ADUs. ADUs developed in conformance with such standard plans and criteria shall be deemed to comply with this subsection.

G. Off-street Parking.

1. One off-street parking space must be provided for a new attached or detached ADU. The required parking space may be permitted in setback areas, or through tandem parking on a driveway, unless specific findings are made by the Director that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety concerns.
2. Parking for a new attached or detached ADU is in addition to the required parking for the primary unit. However, when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.
3. Off-street parking is not required in the following instances:
 - a. The ADU is located within one-half mile walking distance of public transit, including transit stations and bus stations;
 - b. The ADU is located within an architecturally and historically significant historic district;
 - c. The ADU is part of the primary residence or accessory structure (i.e., a converted ADU);
 - d. When on-street parking permits are required, but not offered to the occupant of the ADU; and/or
 - e. When there is a car-share vehicle located within one block of the ADU.

H. Exterior Access Required. An attached or converted ADU must have independent exterior access that is separate from the access to the proposed or existing primary dwelling.

- I. Passageway. No passageway shall be required in conjunction with the construction of an ADU.

9.54.050. JADU Requirements.

- A. Footprint. A JADU may only be constructed within the walls of a proposed or existing single-family dwelling, including an existing attached garage.
- B. Unit Size. A JADU shall not exceed 500 square feet in size.
- C. Separate Entrance. A JADU must include a separate entrance from the main entrance of the proposed or existing single-family residence in which it is located.
- D. Kitchen Requirements. A JADU must include an efficiency kitchen, including a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- E. Bathroom Facilities. A JADU may include separate sanitation facilities or may share sanitation facilities with the proposed or existing single-family dwelling in which it is located.
- F. Parking. No additional off-street parking is required for a JADU beyond that required at the time the existing primary dwelling was constructed. However, when an existing attached garage is converted to a JADU, any required off-street parking spaces for the primary dwelling that are eliminated as a result of the conversion shall be replaced. These replacement parking spaces may be located in any configuration on the same lot, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces.
- G. Fire Protection. For purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate or new dwelling unit.
- H. Utility Service. For purposes of providing service for water, sewer, or power, including a connection fee, a JADU shall not be considered a separate or new dwelling unit.
- I. Deed Restriction. Prior to the issuance of a building permit for a JADU, the owner of record of the property shall record a deed restriction against the title of the property in the County Recorder's office with a copy filed with the Director. The deed restriction shall run with the land and shall bind all future owners, heirs, successors, or assigns. The form of the deed restriction shall be provided by the City and shall provide that:

1. The property shall include no more than one JADU and/or ADU.
2. The JADU may not be sold, mortgaged, or transferred separately from the primary residence.
3. An owner of record of the lot upon which a JADU is located shall occupy either the JADU or the remaining portion of the primary single-family dwelling as his/her/their principal residence. In the event owner occupancy of the property ceases, the JADU shall automatically become un-habitable space, shall not be used as a separate dwelling unit, and shall not be separately rented or leased for any purpose.
4. The JADU may be rented, but may not be rented on a short-term basis of less than 30 days.
5. A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.
6. The deed restriction may not be modified or terminated without the prior written consent of the Director.

9.54.060. Other Requirements.

- A. No Separate Conveyance. Except as otherwise provided in Government Code section 65852.26 or by other applicable law, an ADU or JADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence, and a lot shall not be subdivided in any manner which would authorize such separate sale or ownership.
- B. No Short-Term Rental Permitted. An ADU or JADU that is rented shall be rented for a term that is longer than thirty (30) days. Short-term rental (i.e., 30 days or less) of an ADU or a JADU is prohibited.
- C. Owner Occupancy Requirements.
 1. ADUs. Owner occupancy of a primary dwelling or ADU is not required.
 2. JADUs. An owner of record of the lot upon which a JADU is located must occupy either the JADU or the remaining portion of the primary single-family dwelling as his/her/their principal residence. Notwithstanding the foregoing, owner-occupancy is not required if the owner is another governmental agency, land trust, or housing organization.

9.54.070. Permit Application and Review Procedures.

- A. **Building Permit Required.** A building permit is required prior to construction of an ADU or JADU. Except as otherwise provided in this chapter or by State law, all building, fire, and related code requirements applicable to habitable dwellings apply to ADUs and JADUs. However, fire sprinklers shall not be required if they are not required for the primary dwelling.
- B. **Application.** Prior to the issuance of a building permit for an ADU or JADU, the applicant shall submit an application on a form prepared by the City, along with all information and materials prescribed by such form. No application shall be accepted unless it is completed as prescribed and is accompanied by payment for all applicable fees.
- C. **Review.** The Director shall consider and approve or disapprove a complete application for an ADU or JADU ministerially without discretionary review or public hearing within sixty (60) days from the date the City receives a complete application. Review is limited to whether the proposed ADU or JADU complies with the requirements of this chapter. If an applicant requests a delay, the time period for the City to review of an application shall be tolled for the period of the requested delay. If the application to create an ADU or a JADU unit is submitted with an application to create a new single-family dwelling on the lot, the Director may delay acting on the application for the ADU or the JADU until the City acts on the application to create the new single-family dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- D. **Zoning Conformity.** The City shall not require the correction of nonconforming zoning conditions as a condition of approval of a permit application for the creation of an ADU or JADU.
- E. **Conformity with State Law.** The City shall not apply any requirement or development standard provided for in this chapter to an ADU or a JADU to the extent prohibited by any provision of State law, including, but not limited to, subdivision (e)(1) of Government Code section 65852.2.

9.54.080. Utilities.

- A. **ADUs.** Unless otherwise mandated by applicable law or the utility provider or determined by the City's Public Works Director to be necessary, an ADU may be served by the same water, sewer, and other utility connections serving the primary dwelling on the property, and the installation of a new or separate utility connection directly between an ADU and a utility is not required. However, separate utility connections and meters for ADUs may be installed at the property owner's option, when permitted by the utility provider, and subject to the payment of all applicable fees.

- B. JADUs. A JADU shall be served by the same water, sewer, and other utility connections serving the primary single-family dwelling in which it is located, and no separate utility meters shall be permitted for a JADU.

9.54.090. Impact Fees.

- A. Construction of an ADU is subject to applicable development impact fees adopted by the City pursuant to California Government Code, Title 7, Division 1, Chapter 5 (commencing with § 66000) and Chapter 7 (commencing with § 66012).
- B. No impact fee as required by this Code is required for an ADU that is less than 750 square feet in size.
- C. Any impact fee that is required for an ADU that is 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling.
- D. For purposes of this section, "impact fee" does not include any connection fee, capacity charge for water or sewer service, planning application fee, plan check fee, or building permit fee.

SECTION 9: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 10: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.