

SUBJECT: ZONE TEXT AMENDMENT TO REVISE THE ACCESSORY DWELLING UNIT REGULATIONS TO CONFORM WITH STATE LAW

INITIATED BY: DEPARTMENT OF COMMUNITY DEVELOPMENT  
(John Keho, Interim Community Development Director)  
(Jerry Hittleman, Senior Contract Planner)



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**STATEMENT ON THE SUBJECT:**

On December 4, 2017, the City Council held a public hearing and directed staff to return with revised ordinance that incorporates minor changes into an amendment to the West Hollywood Municipal Code to adopt new policies regulating accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in residential zone districts in conformance with state law.

**RECOMMENDATION:**

Staff recommends that the City Council introduce on first reading

Ordinance No. 18-\_\_\_\_\_: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD AMENDING SECTIONS 19.06.030, 19.06.040, 19.06.050, 19.28.040, 19.36.310, AND 19.90.020 OF THE CITY'S MUNICIPAL CODE TO PROVIDE FOR ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONE DISTRICTS. (ATTACHMENT A)**

**BACKGROUND/ANALYSIS:**

**City Council Direction**

On December 4, 2017, the West Hollywood City Council held a public hearing regarding a Zoning Text Amendment (ZTA) to revise the City's regulation of ADUs in compliance with recently adopted state law. After discussing the proposed ZTA, Council directed staff to revise the draft ordinance as follows:

- Allow accessory dwelling units in the R1, R2, R3, and R4 Zones. ADUs were previously proposed to be allowed only in the R1 Zone.
- Replaced the term "sleeping quarter" with "bedroom" when describing the required configuration of a junior accessory dwelling unit.
- Eliminated the restriction on using natural or propane gas for kitchens in JADUs.
- Clarified that ADUs must be rented for long term tenancies.

The revised ADU Ordinance (Attachment A) incorporates all revisions as described above. A copy of the December 4, 2017, City Council staff report is attached (Attachment B) and includes a full analysis of the draft ADU ordinance as well as all of the attachments from the original report.

**PROPOSED ACCESSORY DWELLING UNIT ORDINANCE**

Key provisions of the proposed accessory dwelling unit ordinance are shown in the table below. Revisions to the proposed ordinance are in response to Council direction received at the December 4, 2017, Council meeting and are shown in underlined and strike-through text in the table below.

*Revised Draft City ADU Ordinance Specific Standards*

<b>Topic</b>	<b>Draft Accessory Dwelling Unit Ordinance (Includes JADUs)</b>
Allowed Zones	<ul style="list-style-type: none"> <li>• ADU: R1, <u>R2, R3, and R4</u> Zones (previously only allowed in R1 zone)</li> <li>• JADU: R1, R2, R3, and R4 Zones</li> </ul>
Parking	<ul style="list-style-type: none"> <li>• No parking required since all residential zones qualify for parking exemption due to location of public transit within one-half mile.</li> </ul>
Design Standards	<p>ADUs shall:</p> <ul style="list-style-type: none"> <li>• Be a maximum square footage of 1,200 square feet; not more than 50% of the primary residence floor area</li> <li>• Have exterior access independent from existing single family residence or accessory structure</li> <li>• Be architecturally compatible with the main dwelling unit.</li> <li>• Comply with height and setback requirements of the main dwelling.</li> <li>• Contain separate kitchen and bathroom facilities.</li> <li>• Comply with requirements for detached dwellings as appropriate in the Municipal Code (i.e. Floor Area Ratio, height, etc.).</li> <li>• Meet the approval of the local health officer where a private disposal system is being used, if required.</li> </ul> <p>JADUs shall:</p> <ul style="list-style-type: none"> <li>• Be a maximum 500 square feet.</li> <li>• Be constructed within the existing walls of the structure and require inclusion of <u>a sleeping quarter (previously required inclusion of a "bedroom")</u>.</li> <li>• Have a separate entrance from the main entrance to the structure, with an interior entry to the main living area.</li> <li>• Include an efficiency kitchen, which includes the following               <ul style="list-style-type: none"> <li>• A sink with a maximum waste line diameter of 1.5 inches</li> <li>• A cooking facility with appliances that do not require electrical service greater than 120 volts, <del>or natural or propane gas</del></li> <li>• A food preparation counter and storage cabinets</li> </ul> </li> </ul>

Topic	Draft Accessory Dwelling Unit Ordinance (Includes JADUs)
Sale/Rental Restrictions	<p>Recorded Agreement is required stating:</p> <ul style="list-style-type: none"> <li>• The ADU/JADU shall not be sold separately from primary residence</li> <li>• ADU/JADU shall be rented for <u>long term tenancies of a one year minimum (previously minimum 30-days)</u></li> <li>• JADU – the primary residence shall be owner-occupied per state law</li> </ul>

The revised provisions of the proposed ADU ordinance shown in the table above are analyzed below.

### Allowed Zones

The primary intent of the new state laws is to allow one ADU or JADU on lots containing one single family residential unit in certain residential zone districts. In accordance with state law, the revised proposed ordinance allows ADUs and JADUs in the R1, R2, R3, and R4 Zones on lots that contain an existing or proposed single family residence. This would allow a broader range of housing options for single family homeowners in multifamily zone districts.

### Design Standards

In the Design Standards section of the proposed ordinance for JADUs, the Council directed staff to use the term “sleeping quarter” instead of “bedroom” when describing the required configuration of a JADU. Councilmember D’Amico informed the Council that this would be more consistent with other sections of the Municipal Code that use the term “sleeping quarter” such as the Guest House definition in Section 19.90.020. This provision of the Code allows Guest Houses to have “sleeping quarters” without kitchen or cooking facilities.

The restriction on using natural or propane gas within JADUs has been eliminated. This provision was found to be too restrictive given the availability of natural gas to residences in West Hollywood.

### Rental Period for ADUs

The revised ADU Ordinance provides that ADUs may be rented; but that they shall be rented on a long-term basis. This means that the tenant (1) has entered into a written rental or lease agreement to occupy the unit for at least one year or 2) regardless of the term of occupancy, makes the unit his or her domicile. This provision has been revised to ensure that ADUs are not used as short-term vacation rental units. The longer lease term requirement is in conformance with one of the goals of the state bills, which is to increase the affordability and availability of ADUs to alleviate the shortage of long-term housing throughout the state.

## **Planning Commission Input**

On October 19, 2017, staff made a presentation to the West Hollywood Planning Commission regarding amendments to the West Hollywood Zoning Ordinance related to the regulation of accessory dwelling units. After receiving public input, the Planning Commission voted to recommend approval of the Zoning Ordinance amendments with no changes.

## **Public Comment & Correspondence**

The staff team presented the proposed accessory dwelling unit ordinance to the West Hollywood Chamber of Commerce Government Affairs Committee (GAC) meeting on October 10, 2017. The GAC had no formal comments; however, questions were asked regarding the potential effect of ADUs on historic residences and rent stabilization units. Staff explained that the provision of ADUs in association with single family residences would not have an effect on historic residences since the design and location of the ADU would need to comply with local, state, and federal guidelines for historic structures. In addition, ADUs would be subject to the City's Rent Stabilization regulations since they would be considered to be a second unit on the lot.

## **California Environmental Quality Act (CEQA)**

Under California Public Resources Code (CPRC) Section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city implementing the provisions of Section 65852.2 (accessory dwelling units) and 65852.22 (junior accessory dwelling units) of the Government Code, which are the State Accessory Dwelling Unit and Junior Accessory Dwelling Unit laws. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state accessory dwelling unit law.

## **CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:**

This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:

- PSG-1: Maintain the City's Unique Urban Balance with Emphasis on Residential Neighborhood Livability.
- PSG-2: Affordable Housing.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:

- LU-2: Maintain a balanced mix and distribution of land uses that encourages strategic development opportunities and mobility choices within the City.
- LU-5: Encourage a high level of quality in architecture and site design in all construction and renovation of buildings.

## **2013-2021 City of West Hollywood Housing Element**

The City's adopted 2013-2021, Housing Element Policy encourages the creation of accessory dwelling units for affordable workforce and family housing through the inclusion of the goals and policies listed below. Adoption of the City's ADU ordinance in compliance with state law will assist in implementing these goals/policies.

*Goal H-3:* Encourage a diverse housing stock to address the needs of all socioeconomic segments of the community.

*Intent:* To provide adequate housing to meet the diverse needs of the community, with due consideration for households with special needs.

- *Policy H-3.1* - Facilitate the development of a diverse range of housing options including, but not limited to, single-family homes, second/accessory units, multi-family rental housing, condominiums and townhomes, live/work units, housing in mixed use developments, and other flexible housing types.

*Goal H-4:* Provide for adequate opportunities for new construction of housing.

*Intent:* To provide adequate housing sites through appropriate land use and zoning designations to accommodate the City's diverse housing needs.

- *H-4.3* – Encourage the adaptive reuse of existing structures for residential purposes.

Workforce Housing, Family Housing, and Ownership Housing Opportunities:

- Explore creative housing types such as accessory dwelling units, co-op housing, micro units, and other flexible housing types to increase opportunities for affordable homeownership.

### **EVALUATION PROCESSES:**

City Staff closely monitored and reviewed laws related to the state, and local regulation of accessory dwelling units to determine the content of the draft accessory dwelling unit regulation.

A copy of draft ADU Ordinance was sent to the California Department of Housing and Community Development (HCD) for their review. At the time of this report only preliminary verbal comments were received from HCD. Their main concern was why ADUs are not allowed in the R2, R3, and R4 multi-family zone districts. As directed by the Council, ADUs will be allowed in all residential zones as described in this report and included in the revised ADU Ordinance (Attachment A).

**ENVIRONMENTAL SUSTAINABILITY AND HEALTH:**

N/A

**COMMUNITY ENGAGEMENT:**

Staff brought the draft ordinance to the Chamber of Commerce Government Affairs Committee for their review and comment as described above.

**OFFICE OF PRIMARY RESPONSIBILITY:**

COMMUNITY DEVELOPMENT DEPARTMENT / COMMUNITY DEVELOPMENT -  
ADMINISTRATION

**FISCAL IMPACT:**

There will be no fiscal impact related to adoption of the accessory dwelling unit ordinance.

**ATTACHMENTS:**

- A. Ordinance 17-\_\_\_\_\_
- B. City Council ADU Ordinance Staff Report, December 4, 2017

**ORDINANCE NO. 18-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD APPROVING AMENDMENTS TO THE WEST HOLLYWOOD ZONING ORDINANCE (TITLE 19) TO PROVIDE FOR ACCESSORY DWELLING UNITS IN SINGLE FAMILY RESIDENTIAL ZONES IN CONFORMANCE WITH STATE LAW.**

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

The City Council of the City of West Hollywood hereby finds, resolves, and orders as follows:

Section 1. Due to recent State legislation, staff has initiated this text amendment to replace the term “second unit” with “accessory dwelling unit” and amend the Zoning Ordinance to provide for accessory dwelling units in the R1, R2, R3, and R4 zones and junior accessory dwelling units in the R1, R2, R3, and R4 zones in conformance with state law.

Section 2. The Zoning Ordinance text amendments are consistent with the goals, policies, and objectives of the General Plan because accessory dwelling units do not exceed the allowable density for the lot upon which they are located as specifically provided in state law and provide another housing opportunity to address the housing crisis in the region. Furthermore, amending the city’s existing accessory dwelling unit rules to provide for new provisions of state law does not impede the City’s ability to achieve its general plan goals. Adoption of the ADU ordinance would allow single family homeowners in West Hollywood to provide an affordable housing option to alleviate the housing shortage in the state and in the City.

Section 3. On December 4, 2017, the City Council conducted a duly noticed public hearing and accepted and considered all of the public testimony on the issue. Based on input from the Council the ADU Ordinance was revised and on January 16, 2018, the City Council accepted the revisions and introduced the ordinance for adoption.

Section 4. The City Council does hereby find and declare as follows:

**ATTACHMENT A**

- A. In the face of California's severe housing crisis, Assembly Bills ("AB") 2299 and 2406, and Senate Bill ("SB") 1069 collectively and significantly impact local authority to regulate accessory dwelling units and were drafted to apply a clear standard for the accessory dwelling unit permit review process, regardless of whether a local government has an adopted ordinance or not. Specifically, Government Code section 65852.150(b) states, "[i]t is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance."
- B. Signed by the Governor on September 27, 2016, AB 2299 and SB 1069 went into effect on January 1, 2017. Additionally, the Governor signed two accessory dwelling unit trailer bills AB 494 and SB 229. Pursuant to Government Code section 65852.2(a)(1), a local ordinance providing for the creation of accessory dwelling units in single-family and multifamily zones must comply with the provisions of Government Code section 65852.2, otherwise the ordinance is null and void.
- C. The City's current provisions regulating accessory dwelling units must be amended in order to conform to state law.

Section 5. Under California Public Resources Code (CPRC) 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 the State Accessory Dwelling Unit law. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state accessory dwelling unit law.

Section 6. The alphabetical list of land uses in Table 2-2 in Section 19.06.030 of Chapter 19.06 (Residential Zoning Districts) of Article 19-2 (Zoning Districts and Allowable Land Uses) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to amend the land use category for Second Residential units and add a new land use category for Junior Accessory Dwelling Units to read as follows:

**19.06.030 Residential Zoning District Land Uses and Permit Requirements.**

**TABLE 2-2  
ALLOWED USES AND PERMIT REQUIREMENTS FOR RESIDENTIAL ZONING  
DISTRICTS**

<b>P – Use Permitted<sup>1</sup></b>	
<b>MCUP – Minor Conditional Use Permit Required</b>	<b>CUP – Conditional Use Permit Required</b>
<b>RI – Rehabilitation Incentives</b>	<b>— Use Not Allowed</b>

[Explanatory Notes Follow at the End of the Table]

<b>LAND USE<sup>2</sup></b>	<b>PERMIT REQUIRED BY ZONE</b>				<b>Specific Use Regulations</b>
	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	
Accessory Dwelling units	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	19.36.310(A)
Junior Accessory Dwelling Units	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	19.36.310(B)

**Notes:**

- (1) Zone clearance, administrative permit or development permit may be required; see Chapter 19.42.

Section 7. The category for R3 and R4 in Table 2-3 of Section 19.06.040 of Chapter 19.06 (Residential Zoning District General Development Standards) of Article 19-2 (Zoning Districts and Allowable Land Uses) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.06.040 Residential Zoning District General Development Standards**

**TABLE 2-3  
RESIDENTIAL ZONING DISTRICT GENERAL DEVELOPMENT STANDARDS**

<b>Development Feature</b>	<b>Requirement by Zoning District</b>	
	<b>R3</b>	<b>R4</b>
<b>Residential Density</b>	1 unit for each 1,210 sq. ft. of site area 1 accessory dwelling	1 unit for each 872 sq. ft. of site area 1 accessory dwelling

	<p>unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</p>	<p>unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</p>
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**Section 8.** The category for R1-A, R1-B, R1-C, and R2 in Table 2-4 of Section 19.06.050 of Chapter 19.06 (Residential Zoning Districts) of Article 19-2 (Zoning Districts and Allowable Land Uses) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.06.050 Residential Density in R1 and R2 Zones.**

**TABLE 2-4  
MAXIMUM DENSITY IN R1 AND R2 ZONES**

<b>Zoning Map Symbol</b>	<b>Maximum Number of Dwelling Units Allowed<sup>1</sup></b>
R1-A	<p>1 unit per lot, and 1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</p>
R1-B	<p>2 units per lot of less than 8,499 sq. ft. 3 units per lot between 8,500 and 11,999 sq. ft. Plus 1 additional unit per lot, for each 3,500 sq. ft. or fraction thereof in excess of 11,999 sq. ft. 1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</p>
R1-C	<p>1 unit per lot and 1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling</p>

	units are only allowed on a property with one single family dwelling.
R2	<p>2 units per lot of less than 4,000 sq. ft.;</p> <p>3 units per lot between 4,000 sq. ft. and 7,999 sq. ft.; 4 units per lot between 8,000 sq. ft. and 9,999 sq. ft.;</p> <p>plus 1 additional unit per lot, for each 2,000 sq. ft. or fraction thereof in excess of 9,999 sq. ft.</p> <p>1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</p>

**Notes:**

- (1) Density limits may be exceeded to permit legalization of illegal dwelling units in accordance with Section 19.36.270.

**Section 9.** Subsection (B)(5) of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

**B. Expansion or Remodeling of Structure, or Change in Use.**

5. Additional parking spaces shall not be required for the following.

- d. An accessory dwelling unit which is: (1) located within one half mile of public transit; (2) located within an architecturally and historically significant historic district; (3) part of the existing primary residence or an existing accessory structure; or (4) located within one block of a car share vehicle.
- e. A junior accessory dwelling unit, as defined by the City's Zoning Ordinance.

**Section 10.** Subsection (C) of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

*C. Residential Additions.*

1. One or Two Units. Additions to structures on sites with one or two dwelling units are not required to provide additional parking, provided that no additional units are proposed. For the purposes of parking requirements, accessory dwelling units and junior accessory dwelling units shall not count as an additional unit.

Section 11. The land use category for Second residential units in Table 3-6 of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

TABLE 3-6  
PARKING REQUIREMENTS BY LAND USE  
1. RESIDENTIAL LAND USES

[Explanatory Notes Follow at the End of the Table]

<b>Residential Land Use<sup>1</sup></b>	<b>Required Parking Spaces</b>
Accessory dwelling units and junior accessory dwelling units	No parking spaces required.

Section 12. Section 19.36.310 of Chapter 19.36 (Standards for Specific Land Uses) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.36.310 Residential Uses – Accessory, and Junior Accessory, Dwelling Units.**

**A. Accessory Dwelling Units.**

1. *Applicability.* As provided under state law, an accessory dwelling unit in an existing single-family residence that conforms to this Section shall be deemed to be 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; and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designation for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy or program intended to limit residential growth. An accessory dwelling unit may be allowed in the R1, R2, R3, and R4 zoning

districts specified in Section 19.06.030 (Residential District Land Uses and Permit Requirements) subject to the requirements of this section.

2. *Applicant Eligibility.* Only the owner-occupant of the primary residence located on the residential lot shared by the accessory dwelling unit may apply for a permit under this section.
3. *Permit Application, Approval Process and Timelines.*
  - a. The Director, within 120 days of receipt of a complete application for a major zone clearance and building permit for an accessory dwelling unit, shall approve said application when all of the following requirements are met:
    - i. The accessory dwelling unit is located in conjunction with an existing or new single-family in residential zone;
    - ii. There is only one accessory dwelling unit per single-family lot, and the unit is contained within the existing space of either a single-family residence or accessory structure;
    - iii. The accessory dwelling unit has exterior access which is independent from the existing single-family residence or accessory structure; and
    - iv. The side and rear setbacks are sufficient for fire safety.

For the purposes of this section, a new or separate utility connection directly between the accessory dwelling unit and the utility or a related connection fee or capacity charge shall not be required.
  - b. Within 120 days of receipt of a complete application for an accessory dwelling unit which does not meet the criteria in subsection (A)(3)(a) above, the Director shall consider approval of said application ministerially. In order to deny a major zone clearance under this Section, the Director shall find that the accessory dwelling unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.
  - c. For an accessory dwelling unit which does not meet the criteria in subsection (A)(3)(a) above, the applicant must provide a new or separate utility connection directly between the accessory dwelling unit and the utility and pay required connection fees.
  - d. Each applicant for an accessory dwelling unit may be subject to the payment of certain planning and building permit fees to the City prior to the issuance of a permit under this section as established by the City Council.
4. *Site Requirements.* A parcel proposed for an accessory dwelling unit shall be developed with only one existing owner-occupied single-family dwelling.

5. *Design Standards.* An accessory dwelling unit shall comply with the following:

- a. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area of the primary single-family residence, with a maximum increase in floor area of 1,200 square feet. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 feet;
- b. Be architecturally compatible with the main dwelling unit and garage;
- c. Comply with height and setback requirements for the main dwelling and garage, and distances between buildings (Section 19.20.040); and
- d. Contain separate kitchen and bathroom facilities.
- e. Comply with the requirements for detached dwellings, as appropriate, per Section 19.36.
- f. May be allowed in an existing garage converted to an accessory dwelling unit or junior accessory dwelling unit that does not meet current setback requirements provided that the loss of parking is replaced in any lawful configuration on the site.

6. *Rental of Unit.* An accessory dwelling unit may be rented. In the event the unit is rented, it shall be rented on a long-term basis, which means that the tenant (1) has entered into a written rental or lease agreement to occupy the unit for at least one year or 2) regardless of the term of occupancy, makes the unit his or her domicile as defined in California Elections Code Section 349(b).

7. *Sale of Unit.* An accessory dwelling unit cannot be sold separately from the sale of the primary residence.

**B. Junior Accessory Dwelling Units.**

1. Junior Accessory Dwelling Units shall comply with the following requirements:

- a. Be constructed within the existing walls of the existing single-family dwelling and require the inclusion of an existing sleeping quarter. A restriction on the size and attributes of the junior accessory dwelling unit that conforms to this section shall be recorded with the County Recorder as set forth in subsection 2.b and 2.c below.
- b. Include a separate entrance from the main entrance to the structure, with an interior entry to the main living area;
- c. Include an efficiency kitchen, which shall include all of the following:
- d. A sink with a maximum waste line diameter of 1.5 inches;

- e. A cooking facility with appliances that do not require electrical service greater than 120 volts; and
  - f. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior unit.
2. Within 120 days of receipt of application for a major zone clearance and building permit, the Community Development Director shall approve an application for a junior accessory dwelling unit if all of the following requirements are met:
- a. No more than one (1) junior accessory dwelling unit per residential lot zoned for single-family residences with a single-family dwelling already built on the lot;
  - b. The single-family dwelling in which the junior accessory dwelling unit may be permitted must be owner-occupied. A covenant to this effect shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney. Owner-occupancy shall not be required if the owner is another government agency, land trust, or housing organization; and
  - c. Both the primary single-family dwelling and the junior unit shall permanently remain under one ownership. A deed restriction shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney and shall include a prohibition on the sale of the accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

Section 13. Chapter 19.42 (Zone Clearances) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.42.020 Applicability.**

- A. *When Required.* A zone clearance shall be required as part of department review of any construction permit, change in business tenant, or other authorization required by the Municipal Code for the proposed use. A zone clearance shall also be required to authorize:
- 1. A change of use that does not require more parking than the previous use;
  - 2. An addition to any structure other than a single-family home or duplex, or an addition to any detached accessory structure, that does not exceed 500 square feet, and maintains the same architectural character or theme, as limited by subsection (B);

3. An addition to the first floor of a single-family home or duplex that does not exceed 500 square feet and maintains the same architectural character or theme, as limited by subsection (B);
  4. An exterior alteration that maintains the same architectural character or theme (see Section 19.44.020, Administrative Permits – Applicability);
  5. An alteration solely for the purpose of increasing access for disabled persons or to comply with local, state, or federal regulations concerning handicapped accessibility;
  6. Reduction in the number of residential units;
  7. Any detached accessory structure serving a residential use that does not exceed 500 square feet and maintains the same architectural character or theme;
  8. Construction of a fence or any other structure that does not require a building permit or any other item regulated by the Zoning Ordinance;
  9. Solar energy systems, collectors and panels.
  10. Any Accessory Dwelling Unit or Junior Accessory Dwelling Unit, as authorized by 19.36.310.
- B. Limitation on Use of Zone Clearance. Only one zone clearance shall be allowed within any three-year time period for an expansion in floor area. The only exception is for expansions or alterations solely for the purpose of increasing access for disabled persons or to comply with local, state, or federal regulations concerning handicapped accessibility. Any additional expansion within three years shall require a development permit, in compliance with Chapter 19.48. Zone clearances for accessory dwelling units and junior accessory dwelling units shall not be subject to this subsection.

**19.42.040 Post-Approval Procedures.**

- A. Decisions of the Director may be appealed in compliance with Chapter 19.76 (Appeals). The procedures of Chapter 19.62 (Permit Implementation, Time Limits, and Extensions) shall apply after the issuance of a zone clearance.
- B. Construction Mitigation. Prior to receiving a Building Permit, the applicant shall submit a Minor Construction Mitigation Period Plan on a form provided by the Community Development Department, demonstrating compliance with the applicable construction mitigation standards in this code.
- C. Deed restriction. Prior to issuance of a certificate of occupancy for an accessory dwelling unit or junior accessory dwelling unit, a deed restriction shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney and shall include a prohibition on the sale of the accessory dwelling unit or junior accessory dwelling unit separate from the sale of the single-family

residence, including a statement that the deed restriction may be enforced against future purchasers.

Section 14. The alphabetical list of definitions in Section 19.90.020 of Chapter 19.90 (Definitions/Glossary) of Article 19-6 (Definitions) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended, to remove the definition of "Second Residential Units" and to add the following new definitions:

**19.90.020 Definitions of Specialized Terms and Phrases.**

**A. Definitions, A**

*Accessory Dwelling Unit.* An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residence (single family dwelling unit) is situated. An accessory dwelling unit also includes: (1) an efficiency unit, as defined in section 17958.1 of the Health and Safety Code; or (2) an efficiency unit, as defined in section 18007 of the Health and Safety Code.

**C. Definitions, C**

*"Car share vehicle"* means a motor vehicle that is operated as part of a regional fleet by a public or private car-sharing company or organization and provides hourly or daily service.

**E. Definitions, E**

*"Existing space"* means an allowable space that can be converted to an accessory dwelling unit within the four walls and roofline of any structure existing on or after January 1, 2017, that can be made safely habitable under the City's building codes at the determination of the City's building official.

**J. Definitions, J**

*"Junior accessory dwelling unit"* means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure and may include separate sanitation facilities or may share sanitation facilities with the existing structure. For the purposes of providing service for water, sewer, or power, or for fire or life protection, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

**L. Definitions, L**

*"Living area"* means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

**O. Definitions, O**

*Owner-occupant.* A resident of a property who is also the owner of that property.

**P. Definitions, P**

*"Passageway"* means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

*"Primary residence"* means a structure that contains the primary dwelling on the lot.

SUBJECT: ZONE TEXT AMENDMENT TO REVISE THE ACCESSORY DWELLING UNIT REGULATIONS TO CONFORM WITH STATE LAW

INITIATED BY: DEPARTMENT OF COMMUNITY DEVELOPMENT  
(John Keho, Interim Community Development Director)  
(Jerry Hittleman, Senior Contract Planner)



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**STATEMENT ON THE SUBJECT:**

The City Council will consider a request for an amendment to the West Hollywood Municipal Code to adopt new policies regulating accessory dwelling units in residential zone districts in conformance with state law.

**RECOMMENDATION**

Staff recommends that the City Council hold the public hearing, consider all pertinent testimony, and adopt the following:

Ordinance No. CC 17-\_\_\_\_\_: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD AMENDING SECTIONS 19.06.030, 19.06.050, 19.28.040, 19.36.310, AND 19.90.020 OF THE CITY'S MUNICIPAL CODE TO PROVIDE FOR ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONE DISTRICTS. (ATTACHMENT A)**

**BACKGROUND/ANALYSIS:**

**State Law - Accessory Dwelling Units**

California is facing a state-wide housing crisis, with rising housing costs, and a shortage of affordable housing options. One solution to this crisis is to encourage accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) as a method of increasing the housing supply. Junior accessory dwelling units (JADUs) are ADUs that are no more than 500 square feet and are located within an existing single-family residence. ADUs are defined as a secondary dwelling unit with complete independent living facilities for one or more persons and generally take three forms:

- Detached: The unit is separated from the primary structure
- Attached; the unit is attached to the primary structure
- Repurposed Existing Space: Space (e.g. master bedroom) within the primary residence is converted into an independent living unit.

**ATTACHMENT B**

To facilitate this approach, state law related to ADUs was amended in September 2016 by the state legislature through adoption of AB 2299, SB 1069, and AB 2406 (JADUs) making significant changes to the manner in which local municipalities are required to regulate such units. These laws were further refined through the adoption of AB 494 and SB 229 in October 2017. The goal of these new regulations is to make it easier for single family residence owners to add ADUs, by making local zoning codes more permissive.

The new state laws went into effect this year, and now supersede the City's existing "second unit" ordinance until the City adopts its own "accessory dwelling unit" ordinance.

The full text of the state law for ADUs (State of California Government Code Section 65852.2) is included as Attachment B and JADUs (State of California Government Code Section 65852.22) is included as Attachment C. The provisions of these state laws are summarized in the tables below.

**State Law - ADU Requirements**

<b>Topic</b>	<b>SB 1069/SB 229/AB 2299/AB 494 (Government Code Section 65852.2)</b>
Processing	Must be processed within 120 days of receiving application under a ministerial process or discretionary process if required by local ordinance
Floor Area	<ul style="list-style-type: none"> <li>Total area of an ADU shall not exceed 1,200 square feet or 50% of the existing floor area of the primary residence.</li> </ul>
Allowed Zones	The lot is zoned for single family or multi-family use
Location	Existing or newly constructed single family residence
Access to ADU	<ul style="list-style-type: none"> <li>No passageway shall be required in conjunction with the ADU</li> <li>ADU within an existing single residential unit or accessory structure require independent exterior access</li> </ul>
Setbacks	<ul style="list-style-type: none"> <li>No setback shall be required for a legally permitted existing garage or other accessory building that is converted to an ADU</li> <li>If an ADU is constructed above a new or existing garage, a setback of no more than 5 feet is required from interior lot lines</li> </ul>
Parking Exceptions	<p>A local government cannot impose parking standards for an ADU if:</p> <ul style="list-style-type: none"> <li>ADU is within ½ mile of public transit;</li> <li>ADU is located within an historic or architecturally significant district;</li> <li>ADU is contained entirely within the permitted floor area of the existing primary residential unit or an existing accessory building;</li> <li>ADU is in a Permit Parking Area where on-street parking permits are required but not offered to the occupant(s) of the ADU; or</li> <li>When there is a carshare vehicle located within a walking distance (approximately 1 block) of the ADU.</li> </ul>
Parking Location	<ul style="list-style-type: none"> <li>If parking is required, it shall not exceed one space per ADU or bedroom</li> </ul>

<b>Topic</b>	<b>SB 1069/SB 229/AB 2299/AB 484 (Government Code Section 65852.2)</b>
	<ul style="list-style-type: none"> <li>• Off-street parking may be permitted in setback areas in locations determined by the City or in a tandem configuration, unless specific findings are made that it is not feasible or permitted anywhere else in the City</li> <li>• If existing parking is demolished in conjunction with the ADU and off-street parking is required by the City, the replacement parking may be configured as covered or uncovered, in a tandem configuration, or in a mechanical lift</li> </ul>
Utility Fee Requirements	ADUs within the existing space of a single-family residence or accessory structure shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service. Other ADUs may require new or separate utility connections and may be subject to a connection fee or capacity charge that shall be proportionate to the ADU size or number of plumbing fixtures.
Fire Sprinklers	Not required if not required for primary residence
Sale/Rental Restriction	May not be sold separately from primary residence. May require owner occupancy of the main residence or ADU
Required Processing Timeframe	ADU will be processed through the major zone clearance and building permit process within a 120 day timeframe in accordance with state law

*State Law JADU Requirements*

<b>Topic</b>	<b>AB 2406 (Government Code Section 65852.22)</b>
Processing	Must be processed within 120 days of receiving application under a ministerial review process
Floor Area	Total area of a JADU shall not exceed 500 square feet
Allowed Zones	The lot is zoned for single family or multi-family use
Location	Inside the walls of an existing or newly constructed single family residence
Bathroom	May be separate or shared with main residence
Kitchen	Must have a sink and cooking facility and cooking preparation area
Access to JADU	Permitted from inside the main residence Access from outside the main residence is also required
Parking Exceptions	No parking shall be required
Utility Fee Requirements	JADUs are located within the existing space of a single-family residence and shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
Fire Sprinklers	Not required if not required for primary residence
Sale/Rental	May not be sold separately from the residence.

<b>Topic</b>	<b>AB 2406 (Government Code Section 65852.22)</b>
<b>Restriction</b>	Owner occupancy is required.
<b>Required Processing Timeframe</b>	ADU will be processed through the major zone clearance and building permit process within a 120 day timeframe in accordance with state law

These state laws allow local governments to take a variety of actions beyond these statutes that promote ADUs. This can be accomplished through the adoption of a local ordinance that imposes additional development standards provided they do not overly burden the overall development of ADUs. For instance, the City can impose reasonable development standards that further regulate parking, height, lot coverage, lot size, and maximum unit size, as it would for any land use – but it cannot regulate to the point where it would defeat the state law and discourage the creation of ADUs as additional housing stock for the region..

Since the new state ADU laws went into effect in January and October, 2017, the City has received four applications for accessory dwelling units. Two of the four applications have received Planning approval because they met the requirements of the state law.

### **PROPOSED ACCESSORY DWELLING UNIT ORDINANCE**

While recently amended state law largely restricts the ability of local municipalities to regulate accessory dwelling units, cities do have the ability to regulate certain aspects of ADUs as described above. Staff has proposed an ordinance that meets state requirements and adds some further specific standards. The key elements of the City's proposed accessory dwelling unit ordinance are shown in the table below.

#### *Draft City ADU Ordinance Specific Standards*

<b>Topic</b>	<b>Draft Accessory Dwelling Unit Ordinance (Includes JADUs)</b>
<b>Allowed Zones</b>	<ul style="list-style-type: none"> <li>• ADUs: R1-A, R1-B, and R1-C Zones</li> <li>• JADUs: R1, R2, R3 and R4 Zones</li> </ul>
<b>Parking</b>	<ul style="list-style-type: none"> <li>• No parking required since all residential zones qualify for parking exemption due to location of public transit within one-half mile.</li> </ul>
<b>Design Standards</b>	<p>ADUs shall:</p> <ul style="list-style-type: none"> <li>• Be a maximum square footage of 1,200 square feet; not more than 50% of the primary residence floor area</li> <li>• Have exterior access independent from existing single family residence or accessory structure</li> <li>• Be architecturally compatible with the main dwelling unit.</li> <li>• Comply with height and setback requirements of the main dwelling.</li> <li>• Contain separate kitchen and bathroom facilities.</li> <li>• Comply with requirements for detached dwellings as appropriate in the Municipal Code (i.e. Floor Area Ratio, height, etc.).</li> <li>• Meet the approval of the local health officer where a private</li> </ul>

Topic	Draft Accessory Dwelling Unit Ordinance (Includes JADUs)
	<p data-bbox="513 233 1094 264">disposal system is being used, if required.</p> <p data-bbox="456 302 639 333">JADUs shall:</p> <ul data-bbox="467 342 1430 709" style="list-style-type: none"> <li data-bbox="467 342 959 373">• Be a maximum 500 square feet.</li> <li data-bbox="467 380 1333 447">• Be constructed within the existing walls of the structure and require inclusion of a bedroom.</li> <li data-bbox="467 453 1430 520">• Have a separate entrance from the main entrance to the structure, with an interior entry to the main living area.</li> <li data-bbox="467 527 1308 558">• Include an efficiency kitchen, which includes the following</li> <li data-bbox="467 564 1297 596">• A sink with a maximum waste line diameter of 1.5 inches</li> <li data-bbox="467 602 1365 669">• A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural propane gas</li> <li data-bbox="467 676 1182 707">• A food preparation counter and storage cabinets</li> </ul>
Sale/Rental Restrictions	<p data-bbox="456 722 1019 753">Recorded Agreement is required stating:</p> <ul data-bbox="467 760 1419 928" style="list-style-type: none"> <li data-bbox="467 760 1305 827">• The ADU/JADU shall not be sold separately from primary residence</li> <li data-bbox="467 833 1235 865">• ADU/JADU shall be rented for not less than 30 days</li> <li data-bbox="467 871 1419 938">• JADU – the primary residence shall be owner-occupied per state law</li> </ul>

The provisions of the proposed ADU ordinance described in the table above are analyzed below.

**Allowed Zones**

The primary intent of the new state laws is to allow one ADU or JADU on lots containing one single family residential unit in certain residential zone districts. In accordance with state law, the proposed ordinance allows ADUs in the R1-A, R1-B, and R1-C Zones and JADUs on all R1 (R1A, R1B, and R1C), R2, R3 (R3A, R3B, and R3C), and R4 (R4A and R4B) zoned lots that contain an existing or proposed single family residence. Any residential zoned lot that currently consists of two residential units will not be permitted to construct an additional accessory dwelling unit. However, if one of the units was constructed without permits (i.e. garage conversion); the owner may apply to make the illegally constructed unit into a legal accessory dwelling unit if all required provisions for ADUs or JADUs in the proposed ordinance are met.

The R1 zone district encompasses certain neighborhoods throughout the western, central, and eastern parts of the City (see Attachment D). ADUs would be limited to the R1 zone since multi-family developments of a certain size in the R2, R3, and R4 zone districts are required to provide a range of affordable housing units under the City's Inclusionary Housing Program, which generally requires that 20 percent of the units in multi-unit residential projects be reserved for lower income, and moderate income households. Therefore, an equivalent, if not greater amount of affordable housing units would be provided by multi-family housing projects allowed in the multi-family zone districts.

## **Minimum and Maximum Floor Area**

In the proposed ADU ordinance the maximum floor area will be 1,200 square feet or 50 percent of the existing floor area, whichever is less. For JADUs, the maximum floor area is 500 square feet. Both standards are consistent with state law. The floor area of an attached or detached ADU will be counted toward the maximum allowable Floor Area Ratio in accordance with the zone district that the ADU is located.

In compliance with state law, the proposed ordinance states that a studio ADU or JADU would require a minimum of 150 square feet of livable floor area. The 150 square foot minimum is considered to be an efficiency unit, as defined in Section 17958.1 of the State Health and Safety Code.

## **Parking**

Accessory dwelling units would not be required to provide any parking spaces per the following state law parking exceptions:

- ADU is within one-half mile of public transit (all single family lots in the City are within one-half mile of public transit – see Attachment E).

Since all residentially zoned properties are within one-half mile of public transit lines and stops, no parking would be required for ADUs. JADUs do not require additional parking in accordance with state law. However, if a garage, carport, or other covered parking structure is converted to an ADU, or demolished in conjunction with the construction of an ADU, the displaced parking spaces would be required to be replaced on the same lot as the ADU in order to satisfy the automobile parking requirement of the primary residential unit. The replacement spaces could be covered, uncovered, in a tandem configuration, or provided in a mechanical lift.

## **Design Standards**

Detached and attached accessory dwelling unit design standards are provided to ensure that the ADU is an independent living space that is subordinate to the primary residence while being compatible with its overall design. Therefore, an ADU is limited to 1,200 square feet or 50 percent of the main residence square footage. Additionally, the ADU shall be architecturally compatible with the main dwelling unit and would need to be included in the Floor Area Ratio requirements per the Zoning Ordinance. Detached and attached ADUs would need to be compliant with the Norma Triangle Single Family Design Guidelines (2017) and West Hollywood West Design Guidelines (2014) for accessory structures. The design review would be ministerial and would be conducted concurrent with Zone Clearance and building permit review process.

## **Rental and Sale of ADUs**

The proposed ADU ordinance states that accessory dwelling units shall not be rented for a period of less than 30 days. This provision has been included in the ordinance to prohibit the use of ADUs as short-term vacation rental units or for home-sharing. This restriction is in conformance with state ADU law that whose purpose is to increase the affordability and availability of these units to alleviate the shortage of long-term housing throughout the state.

In accordance with state law, ADUs and JADUs would not be allowed to be sold separately from the sale of the primary residence. In addition, state law requires that for JADUs, the primary unit must be owner-occupied and a deed restriction be recorded with the City to ensure that this requirement can be enforced.

## **Approval Process**

Every proposed accessory dwelling unit would be required to apply for and receive a Major Zone Clearance and Building Permit from the Community Development Department prior to construction of the unit. In compliance with state law, a major zone clearance and building permit follow an administrative approval process that would take less than 120 days to complete, upon receipt of a complete application from the property owner.

## **Planning Commission Input**

On October 19, 2017, staff made a presentation to the West Hollywood Planning Commission regarding amendments to the West Hollywood Zoning Ordinance related to the regulation of accessory dwelling units. After receiving public input, the Planning Commission voted to recommend approval of the Zoning Ordinance amendments with no changes (Attachment F). The Planning Commission discussed the possible allowance of ADUs on lots with one single family residence in the multi-family zone districts; however, it was concluded that this would preclude development of multi-unit projects that would be required to provide affordable housing units in accordance with the Chapter 19.22 of the West Hollywood Municipal Code - Affordable Housing Requirements and Incentives.

## **Public Comment & Correspondence**

The staff team presented the proposed accessory dwelling unit ordinance to the West Hollywood Chamber of Commerce Government Affairs Committee (GAC) meeting on October 10, 2017. The GAC had no formal comments; however, questions were asked regarding the potential effect of ADUs on historic residences and rent stabilization units. Staff explained that the provision of ADUs in association with single family residences would not have an effect on historic residences since the design and location of the ADU would need to comply with local, state, and federal guidelines for historic structures. In addition, ADUs would be subject to the City's Rent Stabilization regulations since they would be considered to be a second unit on the lot.

## **California Environmental Quality Act (CEQA)**

Under California Public Resources Code (CPRC) Section 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city implementing the provisions of Section 65852.2 (accessory dwelling units) and 65852.22 (junior accessory dwelling units) of the Government Code, which are the State Accessory Dwelling Unit and Junior Accessory Dwelling Unit laws. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state accessory dwelling unit law.

## **CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:**

This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:

- PSG-1: Maintain the City's Unique Urban Balance with Emphasis on Residential Neighborhood Livability.
- PSG-2: Affordable Housing.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:

- LU-2: Maintain a balanced mix and distribution of land uses that encourages strategic development opportunities and mobility choices within the City.
- LU-5: Encourage a high level of quality in architecture and site design in all construction and renovation of buildings.

## **2013-2021 City of West Hollywood Housing Element**

The City's adopted 2013-2021, Housing Element Policy encourages the creation of accessory dwelling units for affordable workforce and family housing through the inclusion of the goals and policies listed below. Adoption of the City's ADU ordinance in compliance with state law will assist in implementing these goals/policies.

*Goal H-3:* Encourage a diverse housing stock to address the needs of all socioeconomic segments of the community.

*Intent:* To provide adequate housing to meet the diverse needs of the community, with due consideration for households with special needs.

- *Policy H-3.1* - Facilitate the development of a diverse range of housing options including, but not limited to, single-family homes, second/accessory units, multi-family rental housing, condominiums and townhomes, live/work units, housing in mixed use developments, and other flexible housing types.

**Goal H-4:** Provide for adequate opportunities for new construction of housing.  
**Intent:** To provide adequate housing sites through appropriate land use and zoning designations to accommodate the City's diverse housing needs.

- **H-4.3** – Encourage the adaptive reuse of existing structures for residential purposes.

**Workforce Housing, Family Housing, and Ownership Housing Opportunities:**

- Explore creative housing types such as accessory dwelling units, co-op housing, micro units, and other flexible housing types to increase opportunities for affordable homeownership.

**EVALUATION PROCESSES:**

City Staff closely monitored and reviewed laws related to the state, and local regulation of accessory dwelling units to determine the content of the draft accessory dwelling unit regulation.

A copy of draft ADU Ordinance was sent to the California Department of Housing and Community Development (HCD) for their review. At the time of this report only preliminary verbal comments were received from HCD. Their main concern was why ADUs are not allowed in the R2, R3, and R4 multi-family zone districts. As explained in the Planning Commission input section above, the allowance of ADUs in these zones could preclude development of multi-unit projects that would be required to provide affordable housing units in accordance with the Chapter 19.22 of the West Hollywood Municipal Code - Affordable Housing Requirements and Incentives. Further, by allowing ADUs in multi-family zones this may reduce the chance of single family homes being replaced by more market rate and affordable units in multi-unit projects.

**ENVIRONMENTAL SUSTAINABILITY AND HEALTH:**

N/A

**COMMUNITY ENGAGEMENT:**

Staff brought the draft ordinance to the Chamber of Commerce Government Affairs Committee for their review and comment as described above.

**OFFICE OF PRIMARY RESPONSIBILITY:**

**COMMUNITY DEVELOPMENT DEPARTMENT / COMMUNITY DEVELOPMENT - ADMINISTRATION**

**FISCAL IMPACT:**

There will be no fiscal impact related to adoption of the accessory dwelling unit ordinance.

**ATTACHMENTS:**

- A. Ordinance 17-\_\_\_\_\_
- B. Section 65852.2 of the Government Code – Accessory Dwelling Units
- C. Section 65852.22 of the Government Code – Junior Accessory Dwelling Units
- D. City of West Hollywood Zoning Map
- E. Map Showing Location of Public Transit Lines and Stops in West Hollywood
- F. Planning Commission Resolution. October 19, 2017

**ORDINANCE NO. 17-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD APPROVING AMENDMENTS TO THE WEST HOLLYWOOD ZONING ORDINANCE (TITLE 19) TO PROVIDE FOR ACCESSORY DWELLING UNITS IN SINGLE FAMILY RESIDENTIAL ZONES IN CONFORMANCE WITH STATE LAW.**

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

The City Council of the City of West Hollywood hereby finds, resolves, and orders as follows:

Section 1. Due to recent State legislation, staff has initiated this text amendment to replace the term “second unit” with “accessory dwelling unit” and amend the Zoning Ordinance to provide for accessory dwelling units in the R1 zones and junior accessory dwelling units in the R1, R2, R3, and R4 zones in conformance with state law.

Section 2. The Zoning Ordinance text amendments are consistent with the goals, policies, and objectives of the General Plan because accessory dwelling units do not exceed the allowable density for the lot upon which they are located as specifically provided in state law and provide another housing opportunity to address the housing crisis in the region. Furthermore, amending the city’s existing accessory dwelling unit rules to provide for new provisions of state law does not impede the City’s ability to achieve its general plan goals. Adoption of the ADU ordinance would allow single family homeowners in West Hollywood to provide an affordable housing option to alleviate the housing shortage in the state and in the City.

Section 3. On December 4, 2017, the City Council conducted a duly noticed public hearing and accepted and considered all of the public testimony on the issue.

Section 4. The City Council does hereby find and declare as follows:

- A. In the face of California’s severe housing crisis, Assembly Bills (“AB”) 2299 and 2406, and Senate Bill (“SB”) 1069 collectively and significantly impact local authority to regulate accessory dwelling units and were drafted to apply a clear standard for the accessory dwelling unit permit

**ATTACHMENT A**

review process, regardless of whether a local government has an adopted ordinance or not. Specifically, Government Code section 65852.150(b) states, “[i]t is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.”

- B. Signed by the Governor on September 27, 2016, AB 2299 and SB 1069 went into effect on January 1, 2017. Additionally, the Governor signed two accessory dwelling unit trailer bills AB 494 and SB 229. Pursuant to Government Code section 65852.2(a)(1), a local ordinance providing for the creation of accessory dwelling units in single-family and multifamily zones must comply with the provisions of Government Code section 65852.2, otherwise the ordinance is null and void.
- C. The City’s current provisions regulating accessory dwelling units must be amended in order to conform to state law.

Section 5. Under California Public Resources Code (CPRC) 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 the State Accessory Dwelling Unit law. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state accessory dwelling unit law.

Section 6. The alphabetical list of land uses in Table 2-2 in Section 19.06.030 of Chapter 19.06 (Residential Zoning Districts) of Article 19-2 (Zoning Districts and Allowable Land Uses) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to amend the land use category for Second Residential units and add a new land use category for Junior Accessory Dwelling Units to read as follows:

**19.06.030 Residential Zoning District Land Uses and Permit Requirements.**

**TABLE 2-2  
ALLOWED USES AND PERMIT REQUIREMENTS FOR RESIDENTIAL ZONING  
DISTRICTS**

<b>P – Use Permitted<sup>1</sup></b>	
<b>MCUP – Minor Conditional Use Permit Required</b>	<b>CUP – Conditional Use Permit Required</b>
<b>RI – Rehabilitation Incentives</b>	<b>— Use Not Allowed</b>

[Explanatory Notes Follow at the End of the Table]

LAND USE <sup>2</sup>	PERMIT REQUIRED BY ZONE				Specific Use Regulations
	R1	R2	R3	R4	
Accessory Dwelling units	P <sup>1</sup>	—	—	—	19.36.310(A)
Junior Accessory Dwelling Units	P	P	P	P	19.36.310(B)

**Notes:**

- (1) Zone clearance, administrative permit or development permit may be required; see Chapter 19.42.

Section 7. The category for R1-A in Table 2-4 of Section 19.06.050 of Chapter 19.06 (Residential Zoning Districts) of Article 19-2 (Zoning Districts and Allowable Land Uses) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.06.050 Residential Density in R1 and R2 Zones.**

**TABLE 2-4  
MAXIMUM DENSITY IN R1 AND R2 ZONES**

Zoning Map Symbol	Maximum Number of Dwelling Units Allowed <sup>1</sup>
R1-A	1 unit per lot, and 1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.
R1-B	2 units per lot of less than 8,499 sq. ft.

	<p>3 units per lot between 8,500 and 11,999 sq. ft.</p> <p>Plus 1 additional unit per lot, for each 3,500 sq. ft. or fraction thereof in excess of 11,999 sq. ft.</p> <p>1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</p>
R1-C	<p>1 unit per lot and 1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)). Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</p>

**Notes:**

- (1) Density limits may be exceeded to permit legalization of illegal dwelling units in accordance with Section 19.36.270.

Section 8. Subsection (B)(5) of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

**B. Expansion or Remodeling of Structure, or Change in Use.**

- 5. Additional parking spaces shall not be required for the following.
  - d. An accessory dwelling unit which is: (1) located within one half mile of public transit; (2) located within an architecturally and historically significant historic district; (3) part of the existing primary residence or an existing accessory structure; or (4) located within one block of a car share vehicle.
  - e. A junior accessory dwelling unit, as defined by the City's Zoning Ordinance.

Section 9. Subsection (C) of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

*C. Residential Additions.*

- 1. One or Two Units. Additions to structures on sites with one or two dwelling units are not required to provide additional parking, provided that no additional units are proposed. For the purposes of parking requirements, accessory dwelling units and junior accessory dwelling units shall not count as an additional unit.

Section 10. The land use category for Second residential units in Table 3-6 of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

TABLE 3-6  
PARKING REQUIREMENTS BY LAND USE  
1. RESIDENTIAL LAND USES

[Explanatory Notes Follow at the End of the Table]

<b>Residential Land Use<sup>1</sup></b>	<b>Required Parking Spaces</b>
Accessory dwelling units and junior accessory dwelling units	No parking spaces required.

Section 11. Section 19.36.310 of Chapter 19.36 (Standards for Specific Land Uses) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.36.310 Residential Uses – Accessory, and Junior Accessory, Dwelling Units.**

**A. Accessory Dwelling Units.**

- 1. *Applicability.* As provided under state law, an accessory dwelling unit in an existing single-family residence that conforms to this Section shall be deemed to be 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; and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designation for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy or program intended to limit residential growth.

An accessory dwelling unit may be allowed in the R1-A, R1-B, and R1-C zoning districts specified in Section 19.06.030 (Residential District Land Uses and Permit Requirements) subject to the requirements of this section.

2. *Applicant Eligibility.* Only the owner-occupant of the primary residence located on the residential lot shared by the accessory dwelling unit may apply for a permit under this section.
3. *Permit Application, Approval Process and Timelines.*
  - a. The Director, within 120 days of receipt of a complete application for a major zone clearance and building permit for an accessory dwelling unit, shall approve said application when all of the following requirements are met:
    - i. The accessory dwelling unit is located in conjunction with an existing or new single-family in residential zone;
    - ii. There is only one accessory dwelling unit per single-family lot, and the unit is contained within the existing space of either a single-family residence or accessory structure;
    - iii. The accessory dwelling unit has exterior access which is independent from the existing single-family residence or accessory structure; and
    - iv. The side and rear setbacks are sufficient for fire safety.

For the purposes of this section, a new or separate utility connection directly between the accessory dwelling unit and the utility or a related connection fee or capacity charge shall not be required.
  - b. Within 120 days of receipt of a complete application for an accessory dwelling unit which does not meet the criteria in subsection (A)(3)(a) above, the Director shall consider approval of said application ministerially. In order to deny a major zone clearance under this Section, the Director shall find that the accessory dwelling unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.
  - c. For an accessory dwelling unit which does not meet the criteria in subsection (A)(3)(a) above, the applicant must provide a new or separate utility connection directly between the accessory dwelling unit and the utility and pay required connection fees.
  - d. Each applicant for an accessory dwelling unit may be subject to the payment of certain planning and building permit fees to the City prior to the issuance of a permit under this section as established by the City Council.

4. *Site Requirements.* A parcel proposed for an accessory dwelling unit shall be developed with only one existing owner-occupied single-family dwelling.
5. *Design Standards.* An accessory dwelling unit shall comply with the following:
  - a. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area of the primary single-family residence, with a maximum increase in floor area of 1,200 square feet. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 feet;
  - b. Be architecturally compatible with the main dwelling unit and garage;
  - c. Comply with height and setback requirements for the main dwelling and garage, and distances between buildings (Section 19.20.040); and
  - d. Contain separate kitchen and bathroom facilities.
  - e. Comply with the requirements for detached dwellings, as appropriate, per Section 19.36.
  - f. May be allowed in an existing garage converted to an accessory dwelling unit or junior accessory dwelling unit that does not meet current setback requirements provided that the loss of parking is replaced in any lawful configuration on the site.
6. *Rental of Unit.* An accessory dwelling unit may be rented. In the event the unit is rented, it shall be rented on a long-term basis and not for a period of less than 30 days and shall not be used for short-term rentals or home-sharing.
7. *Sale of Unit.* An accessory dwelling unit cannot be sold separately from the sale of the primary residence.

**B. Junior Accessory Dwelling Units.**

1. Junior Accessory Dwelling Units shall comply with the following requirements:
  - a. Be constructed within the existing walls of the existing single-family dwelling and require the inclusion of an existing bedroom. A restriction on the size and attributes of the junior accessory dwelling unit that conforms to this section shall be recorded with the County Recorder as set forth in subsection 2.b and 2.c below.
  - b. Include a separate entrance from the main entrance to the structure, with an interior entry to the main living area;
  - c. Include an efficiency kitchen, which shall include all of the following:
  - d. A sink with a maximum waste line diameter of 1.5 inches;

- e. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas; and
  - f. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior unit.
2. Within 120 days of receipt of application for a major zone clearance and building permit, the Community Development Director shall approve an application for a junior accessory dwelling unit if all of the following requirements are met:
- a. No more than one (1) junior accessory dwelling unit per residential lot zoned for single-family residences with a single-family dwelling already built on the lot;
  - b. The single-family dwelling in which the junior accessory dwelling unit may be permitted must be owner-occupied. A covenant to this effect shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney. Owner-occupancy shall not be required if the owner is another government agency, land trust, or housing organization; and
  - c. Both the primary single-family dwelling and the junior unit shall permanently remain under one ownership. A deed restriction shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney and shall include a prohibition on the sale of the accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

Section 12. Chapter 19.42 (Zone Clearances) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.42.020 Applicability.**

- A. *When Required.* A zone clearance shall be required as part of department review of any construction permit, change in business tenant, or other authorization required by the Municipal Code for the proposed use. A zone clearance shall also be required to authorize:
1. A change of use that does not require more parking than the previous use;
  2. An addition to any structure other than a single-family home or duplex, or an addition to any detached accessory structure, that does not exceed 500 square feet, and maintains the same architectural character or theme, as limited by subsection (B);

3. An addition to the first floor of a single-family home or duplex that does not exceed 500 square feet and maintains the same architectural character or theme, as limited by subsection (B);
  4. An exterior alteration that maintains the same architectural character or theme (see Section 19.44.020, Administrative Permits – Applicability);
  5. An alteration solely for the purpose of increasing access for disabled persons or to comply with local, state, or federal regulations concerning handicapped accessibility;
  6. Reduction in the number of residential units;
  7. Any detached accessory structure serving a residential use that does not exceed 500 square feet and maintains the same architectural character or theme;
  8. Construction of a fence or any other structure that does not require a building permit or any other item regulated by the Zoning Ordinance;
  9. Solar energy systems, collectors and panels.
  10. Any Accessory Dwelling Unit or Junior Accessory Dwelling Unit, as authorized by 19.36.310.
- B. Limitation on Use of Zone Clearance. Only one zone clearance shall be allowed within any three-year time period for an expansion in floor area. The only exception is for expansions or alterations solely for the purpose of increasing access for disabled persons or to comply with local, state, or federal regulations concerning handicapped accessibility. Any additional expansion within three years shall require a development permit, in compliance with Chapter 19.48. Zone clearances for accessory dwelling units and junior accessory dwelling units shall not be subject to this subsection.

**19.42.040 Post-Approval Procedures.**

- A. Decisions of the Director may be appealed in compliance with Chapter 19.76 (Appeals). The procedures of Chapter 19.62 (Permit Implementation, Time Limits, and Extensions) shall apply after the issuance of a zone clearance.
- B. Construction Mitigation. Prior to receiving a Building Permit, the applicant shall submit a Minor Construction Mitigation Period Plan on a form provided by the Community Development Department, demonstrating compliance with the applicable construction mitigation standards in this code.
- C. Deed restriction. Prior to issuance of a certificate of occupancy for an accessory dwelling unit or junior accessory dwelling unit, a deed restriction shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney and shall include a prohibition on the sale of the accessory dwelling unit or junior accessory dwelling unit separate from the sale of the single-family

residence, including a statement that the deed restriction may be enforced against future purchasers.

Section 13. The alphabetical list of definitions in Section 19.90.020 of Chapter 19.90 (Definitions/Glossary) of Article 19-6 (Definitions) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended, to remove the definition of "Second Residential Units" and to add the following new definitions:

**19.90.020 Definitions of Specialized Terms and Phrases.**

**A. Definitions, A**

*Accessory Dwelling Unit.* An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residence (single family dwelling unit) is situated. An accessory dwelling unit also includes: (1) an efficiency unit, as defined in section 17958.1 of the Health and Safety Code; or (2) an efficiency unit, as defined in section 18007 of the Health and Safety Code.

**C. Definitions, C**

"*Car share vehicle*" means a motor vehicle that is operated as part of a regional fleet by a public or private car-sharing company or organization and provides hourly or daily service.

**E. Definitions, E**

"*Existing space*" means an allowable space that can be converted to an accessory dwelling unit within the four walls and roofline of any structure existing on or after January 1, 2017, that can be made safely habitable under the City's building codes at the determination of the City's building official.

**J. Definitions, J**

"*Junior accessory dwelling unit*" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure and may include separate sanitation facilities or may share sanitation facilities with the existing structure. For the purposes of providing service for water, sewer, or power, or for fire or life protection, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

**L. Definitions, L**

"*Living area*" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

**O. Definitions, O**

*Owner-occupant.* A resident of a property who is also the owner of that property.

**P. Definitions, P**

"*Passageway*" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

"*Primary residence*" means a structure that contains the primary dwelling on the lot.

PASSED, APPROVED, AND ADOPTED by the West Hollywood City Council at a regular meeting held this 4<sup>th</sup> day of December, 2017, by the following vote:

AYES: Councilmember:

NOES: Councilmember:

ABSENT: Councilmember:

ABSTAIN: Councilmember:

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John Heilman

ATTEST:

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City Clerk



**State of California**

**GOVERNMENT CODE**

**Section 65852.2**

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65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be 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, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(Amended by Stats. 2016, Ch. 735, Sec. 1.5. (AB 2299) Effective January 1, 2017.)



**State of California**

**GOVERNMENT CODE**

**Section 65852.22**

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65852.22. (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A sink with a maximum waste line diameter of 1.5 inches.

(B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

(C) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For the 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. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For the purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

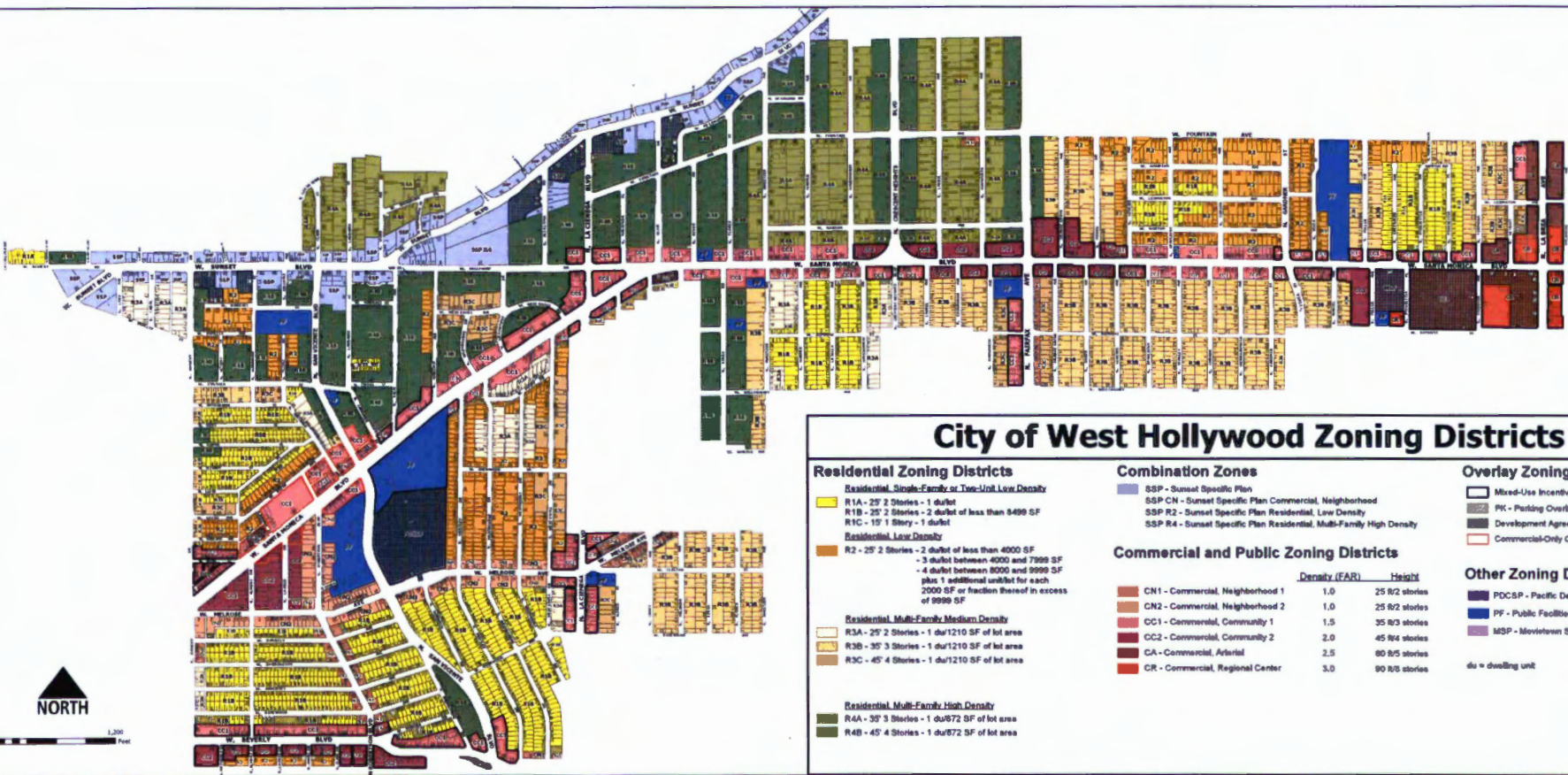
(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(Added by Stats. 2016, Ch. 755, Sec. 1. (AB 2406) Effective September 28, 2016.)



# City of West Hollywood Zoning Districts

**Residential Zoning Districts**

**Residential, Single-Family, Low-Density**

- R1A - 2<sup>nd</sup> - 2 Stories - 1 du/lot
- R1B - 2<sup>nd</sup> - 2 Stories - 2 du/lot of less than 8499 SF
- R1C - 1<sup>st</sup> - 1 Story - 1 du/lot

**Residential, Low-Density**

- R2 - 2<sup>nd</sup> - 2 Stories - 2 du/lot of less than 4000 SF
- 3 du/lot between 4000 and 7999 SF
- 4 du/lot between 8000 and 9999 SF
- plus 1 additional unit/lot for each 2000 SF or fraction thereof in excess of 9999 SF

**Residential, Multi-Family, Medium Density**

- R3A - 2<sup>nd</sup> - 2 Stories - 1 du/1210 SF of lot area
- R3B - 3<sup>rd</sup> - 3 Stories - 1 du/1210 SF of lot area
- R3C - 4<sup>th</sup> - 4 Stories - 1 du/1210 SF of lot area

**Residential, Multi-Family, High Density**

- R4A - 3<sup>rd</sup> - 3 Stories - 1 du/672 SF of lot area
- R4B - 4<sup>th</sup> - 4 Stories - 1 du/672 SF of lot area

**Combination Zones**

- SSP - Sunset Specific Plan
- SSP-CN - Sunset Specific Plan Commercial, Neighborhood
- SSP-R2 - Sunset Specific Plan Residential, Low Density
- SSP-R4 - Sunset Specific Plan Residential, Multi-Family High Density

**Commercial and Public Zoning Districts**

	Density (FAR)	Height
CN1 - Commercial, Neighborhood 1	1.0	25 R/2 stories
CN2 - Commercial, Neighborhood 2	1.0	25 R/2 stories
CC1 - Commercial, Community 1	1.5	35 R/3 stories
CC2 - Commercial, Community 2	2.0	45 R/4 stories
CA - Commercial, Arterial	2.5	60 R/5 stories
CR - Commercial, Regional Center	3.0	90 R/8 stories

**Overlay Zoning Districts**

- Mixed-Use Incentive Overlay Zone
- PK - Parking Overlay
- Development Agreement Overlay
- Commercial-Only Overlay Zone

**Other Zoning Districts**

- PDCSP - Pacific Design Center Specific Plan
- PF - Public Facilities
- MSP - Movietown Specific Plan

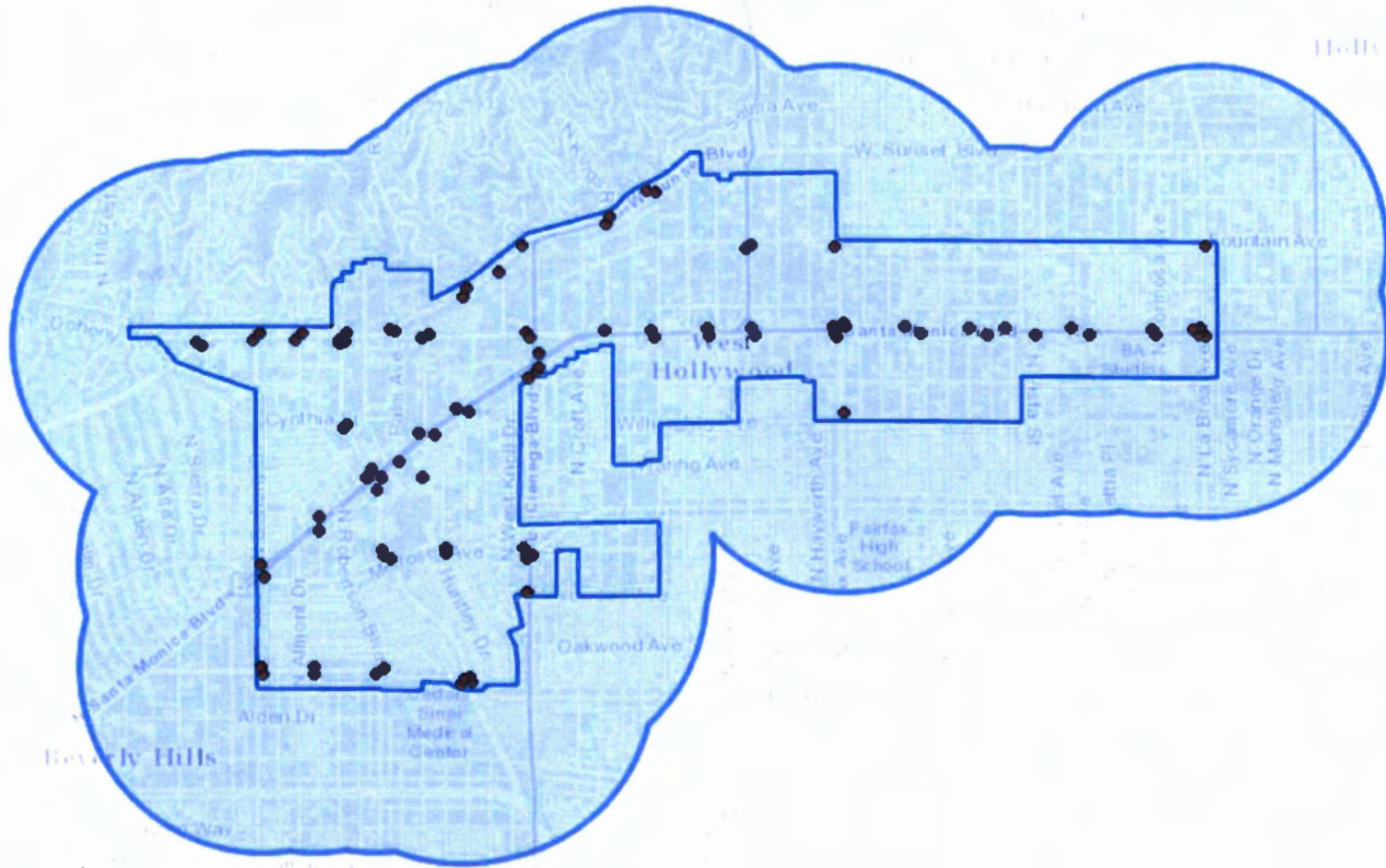
du = dwelling unit



0 1,200 Feet



# ATTACHMENT E - LOCATION OF AREAS IN WEST HOLLYWOOD WITHIN 1/2 MILE OF PUBLIC TRANSIT STOPS



## RESOLUTION NO. PC 17-1223

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD RECOMMENDING THAT THE CITY COUNCIL APPROVE A ZONE TEXT AMENDMENT AND ORDINANCE AMENDING THE WEST HOLLYWOOD ZONING ORDINANCE (TITLE 19) TO PROVIDE FOR ACCESSORY DWELLING UNITS IN SINGLE FAMILY RESIDENTIAL ZONES IN CONFORMANCE WITH STATE LAW, WEST HOLLYWOOD, CALIFORNIA.**

The Planning Commission of the City of West Hollywood does hereby resolve as follows:

SECTION 1. Due to recent State legislation, staff has initiated this text amendment to replace the term "second unit" with "accessory dwelling unit" and amend the Zoning Ordinance to provide for accessory dwelling units in the R1 zones and junior accessory dwelling units in the R1, R2, R3, and R4 zones in conformance with state law.

SECTION 2. The Zoning Ordinance text amendments are consistent with the goals, policies, and objectives of the General Plan because accessory dwelling units do not exceed the allowable density for the lot upon which they are located as specifically provided in state law and provide another housing opportunity to address the housing crisis in the region. Furthermore, amending the city's existing accessory dwelling unit rules to provide for new provisions of state law does not impede the City's ability to achieve its general plan goals. Adoption of the ADU ordinance would allow single family homeowners in West Hollywood to provide an affordable housing option to alleviate the housing shortage in the state and in the City.

SECTION 3. On October 19, 2017, the Planning Commission conducted a duly noticed public hearing and accepted and considered all of the public testimony on the issue.

SECTION 4. The Planning Commission does hereby find and declare as follows:

- a. In the face of California's severe housing crisis, Assembly Bills ("AB") 2299 and 2406, and Senate Bill ("SB") 1069 collectively and significantly impact local authority to regulate accessory dwelling units and were drafted to apply a clear standard for the accessory dwelling unit permit review process, regardless of whether a local government has an adopted ordinance or not. Specifically, Government Code section 65852.150(b) states, "[i]t is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably

restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.”

- b. Signed by the Governor on September 27, 2016, AB 2299 and SB 1069 went into effect on January 1, 2017. Additionally, the Governor signed two accessory dwelling unit trailer bills AB 494 and SB 229. Pursuant to Government Code section 65852.2(a)(1), a local ordinance providing for the creation of accessory dwelling units in single-family and multifamily zones must comply with the provisions of Government Code section 65852.2, otherwise the ordinance is null and void.
- c. The City’s current provisions regulating accessory dwelling units must be amended in order to conform to state law.

SECTION 5. Under California Public Resources Code (CPRC) 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 the State Accessory Dwelling Unit law. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the state accessory dwelling unit law.

SECTION 6. Based on the foregoing, the Planning Commission of the City of West Hollywood hereby recommends that the City Council approve Zoning Text Amendment 17-0012, attached hereto as Attachment A.

**PASSED, APPROVED AND ADOPTED** by the Planning Commission of the City of West Hollywood at a regular meeting held this 19<sup>th</sup> day of October, 2017 by the following vote:

**AYES:** Commissioner: Aghaei, Altschul, Bass, Carvalheiro, Hoopingarner, Vice-Chair Jones, Chair Buckner.

**NOES:** Commissioner: None.

**ABSENT:** Commissioner: None.

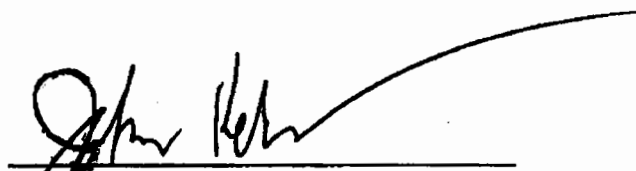
**ABSTAIN:** Commissioner: None.



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SUE BUCKNER, CHAIRPERSON

**ATTEST:**



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JOHN KEHO, INTERIM DIRECTOR  
COMMUNITY DEVELOPMENT DEPARTMENT  
CURRENT & HISTORIC PRESERVATION PLANNING

*Decisions of the Planning Commission are subject to appeal in accordance with the procedures set forth in West Hollywood Municipal Code Chapter 19.76. Any action to challenge the final decision of the City of West Hollywood made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section §1094.6.*

# ATTACHMENT A

(New text indicated with underlining, deleted text with strikethrough)

Section 1. The alphabetical list of land uses in Table 2-2 in Section 19.06.030 of Chapter 19.06 (Residential Zoning Districts) of Article 19-2 (Zoning Districts and Allowable Land Uses) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to amend the land use category for Second Residential units and add a new land use category for Junior Accessory Dwelling Units to read as follows:

## 19.06.030 Residential Zoning District Land Uses and Permit Requirements.

TABLE 2-2  
ALLOWED USES AND PERMIT REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS

<b>P – Use Permitted<sup>1</sup></b>	
<b>MCUP – Minor Conditional Use Permit Required</b>	<b>CUP – Conditional Use Permit Required</b>
<b>RI – Rehabilitation Incentives</b>	<b>— Use Not Allowed</b>

[Explanatory Notes Follow at the End of the Table]

LAND USE <sup>2</sup>	PERMIT REQUIRED BY ZONE				Specific Use Regulations
	R1	R2	R3	R4	
<del>Second residential</del> <u>Accessory Dwelling units</u>	p <sup>1, 6</sup>	—	—	—	19.36.310(A)
<u>Junior Accessory Dwelling Units</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	19.36.310(B)

**Notes:**

- (1) Zone clearance, administrative permit or development permit may be required; see Chapters 19.42, ~~19.44, 19.48 and 19.54.~~
- (6) Allowed in R-1-A zoning district only.

Section 2. The category for R1-A in Table 2-4 of Section 19.06.050 of Chapter 19.06 (Residential Zoning Districts) of Article 19-2 (Zoning Districts and Allowable Land Uses) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.06.050 Residential Density in R1 and R2 Zones.**

TABLE 2-4  
MAXIMUM DENSITY IN R1 AND R2 ZONES

Zoning Map Symbol	Maximum Number of Dwelling Units Allowed <sup>1</sup>
R1-A	1 unit per lot, and 1 <u>accessory dwelling <del>second residential</del> unit</u> where allowed by Section 19.36.310(A). <u>No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)).</u> <u>Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</u>
R1-B	2 units per lot of less than 8,499 sq. ft. 3 units per lot between 8,500 and 11,999 sq. ft. Plus 1 additional unit per lot, for each 3,500 sq. ft. or fraction thereof in excess of 11,999 sq. ft. <u>1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)).</u> <u>Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</u>
R1-C	<u>1 unit per lot and 1 accessory dwelling unit where allowed by Section 19.36.310(A). No more than one junior accessory dwelling unit per residential lot with an existing single-family dwelling (see Section 19.36.310(B)).</u> <u>Accessory dwelling units and junior accessory dwelling units are only allowed on a property with one single family dwelling.</u>

**Notes:**

- (1) Density limits may be exceeded to permit legalization of illegal dwelling units in accordance with Section 19.36.270.

Section 3. Subsection (B)(5) of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

B. *Expansion or Remodeling of Structure, or Change in Use.*

5. Additional parking spaces shall not be required for the following.

- d. An accessory dwelling unit which is: (1) located within one half mile of public transit; (2) located within an architecturally and historically significant historic district; (3) part of the existing primary residence or

an existing accessory structure; or (4) located within one block of a car share vehicle.

e. A junior accessory dwelling unit, as defined by the City's Zoning Ordinance.

**Section 4.** Subsection (C) of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

*C. Residential Additions.*

1. One or Two Units. Additions to structures on sites with one or two dwelling units are not required to provide additional parking, provided that no additional units are proposed. For the purposes of parking requirements, accessory dwelling units and junior accessory dwelling units shall not count as an additional unit.

**Section 5.** The land use category for Second residential units in Table 3-6 of Section 19.28.040 of Chapter 19.28 (Off-Street Parking and Loading Standards) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.28.040 Number of Parking Spaces Required.**

TABLE 3-6  
PARKING REQUIREMENTS BY LAND USE  
1. RESIDENTIAL LAND USES

[Explanatory Notes Follow at the End of the Table]

<b>Residential Land Use<sup>1</sup></b>	<b>Required Parking Spaces</b>
<u>Second residential Accessory dwelling units and junior accessory dwelling units</u>	<u>No parking spaces required. 1 space in addition to that required for the primary single-family dwelling.</u>

**Section 6.** Section 19.36.310 of Chapter 19.36 (Standards for Specific Land Uses) of Article 19-3 (Site Planning and General Development Standards) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is amended to read as follows:

**19.36.310 Residential Uses – ~~Second Residential~~ Accessory, and Junior Accessory, Dwelling Units.**

**A. Accessory Dwelling Units.**

1. Applicability. As provided under state law, an accessory dwelling unit in an existing single-family residence that conforms to this Section shall be deemed to be 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; and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designation for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy or program intended to limit residential growth.  
~~An second residential accessory dwelling unit may be allowed in the R1-A, R1-B, and R1-C zoning districts specified in Section 19.06.030 (Residential District Land Uses and Permit Requirements) subject to the requirements of this section. More than one dwelling unit may be allowed on individual residentially zoned parcels as provided by Section 19.06.050 (Residential Density in R1 and R2 Zones).~~
2. Applicant Eligibility. Only the owner-occupant of the primary residence located on the residential lot shared by the accessory dwelling unit may apply for a permit under this section. The building permit applicant shall be the owner and resident of the primary dwelling.  
~~the owner and resident of the primary dwelling.~~
3. Permit Application, Approval Process and Timelines. Number of Secondary Units Allowed. Only one second residential unit shall be allowed on a single-family parcel.  
~~Only one second residential unit shall be allowed on a single-family parcel.~~
  - a. The Director, within 120 days of receipt of a complete application for a major zone clearance and building permit for an accessory dwelling unit, shall approve said application when all of the following requirements are met:
    - i. The accessory dwelling unit is located in conjunction with an existing or new single-family in residential zone;
    - ii. There is only one accessory dwelling unit per single-family lot, and the unit is contained within the existing space of either a single-family residence or accessory structure;
    - iii. The accessory dwelling unit has exterior access which is independent from the existing single-family residence or accessory structure; and
    - iv. The side and rear setbacks are sufficient for fire safety.

For the purposes of this section, a new or separate utility connection directly between the accessory dwelling unit and the

utility or a related connection fee or capacity charge shall not be required.

b. Within 120 days of receipt of a complete application for an accessory dwelling unit which does not meet the criteria in subsection (A)(3)(a) above, the Director shall consider approval of said application ministerially. In order to deny a major zone clearance under this Section, the Director shall find that the accessory dwelling unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.

c. For an accessory dwelling unit which does not meet the criteria in subsection (A)(3)(a) above, the applicant must provide a new or separate utility connection directly between the accessory dwelling unit and the utility and pay required connection fees.

d. Each applicant for an accessory dwelling unit may be subject to the payment of certain planning and building permit fees to the City prior to the issuance of a permit under this section as established by the City Council.

4. *Site Requirements.* A parcel proposed for an accessory dwelling ~~second residential~~ unit shall be developed with only one existing owner-occupied single-family dwelling.

5. *Design Standards.* An accessory dwelling ~~second residential~~ unit shall comply with the following:

- a. Have a floor area not exceeding 750 square feet. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area of the primary single-family residence, with a maximum increase in floor area of 1,200 square feet. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 feet;
- b. Be architecturally compatible with the main dwelling unit and garage;
- c. Comply with height and setback requirements for the main dwelling and garage, and distances between buildings (Section 19.20.040); and
- d. Contain separate kitchen and bathroom facilities ~~and have a separate entrance from the main dwelling.~~

- e. Comply with the requirements for detached dwellings, as appropriate, per Section 19.36.
  - f. May be allowed in an existing garage converted to an accessory dwelling unit or junior accessory dwelling unit that does not meet current setback requirements provided that the loss of parking is replaced in any lawful configuration on the site.
  - g. When an accessory dwelling unit is located within an existing garage or eliminates any required parking for the single-family residence, replacement parking must be provided on-site and may be configured as covered or uncovered, in a tandem configuration, or in a mechanical lift.
6. Rental of Unit. An accessory dwelling ~~second residential~~ unit may be rented. In the event the unit is rented, it shall be rented on a long-term basis and not for a period of less than 30 days and shall not be used for short-term rentals or home-sharing.
7. Sale of Unit. An accessory dwelling unit cannot be sold separately from the sale of the primary residence.

**B. Junior Accessory Dwelling Units.**

1. Junior Accessory Dwelling Units shall comply with the following requirements:
- a. Be constructed within the existing walls of the existing single-family dwelling and require the inclusion of an existing bedroom. A restriction on the size and attributes of the junior accessory dwelling unit that conforms to this section shall be recorded with the County Recorder as set forth in subsection 2.b and 2.c below.
  - b. Include a separate entrance from the main entrance to the structure, with an interior entry to the main living area;
  - c. Include an efficiency kitchen, which shall include all of the following:
  - d. A sink with a maximum waste line diameter of 1.5 inches;
  - e. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas; and
  - f. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior unit.

2. Within 120 days of receipt of application for a major zone clearance and building permit, the Community Development Director shall approve an application for a junior accessory dwelling unit if all of the following requirements are met:
  - a. No more than one (1) junior accessory dwelling unit per residential lot zoned for single-family residences with a single-family dwelling already built on the lot;
  - b. The single-family dwelling in which the junior accessory dwelling unit may be permitted must be owner-occupied. A covenant to this effect shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney. Owner-occupancy shall not be required if the owner is another government agency, land trust, or housing organization; and
  - c. Both the primary single-family dwelling and the junior unit shall permanently remain under one ownership. A deed restriction shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney and shall include a prohibition on the sale of the accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

Section 6. Chapter 19.42 (Zone Clearances) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended to read as follows:

**19.42.020 Applicability.**

- A. *When Required.* A zone clearance shall be required as part of department review of any construction permit, change in business tenant, or other authorization required by the Municipal Code for the proposed use. A zone clearance shall also be required to authorize:
  1. A change of use that does not require more parking than the previous use;
  2. An addition to any structure other than a single-family home or duplex, or an addition to any detached accessory structure, that does not exceed 500 square feet, and maintains the same architectural character or theme, as limited by subsection (B);
  3. An addition to the first floor of a single-family home or duplex that does not exceed 500 square feet and maintains the same architectural character or theme, as limited by subsection (B);
  4. An exterior alteration that maintains the same architectural character or theme (see Section 19.44.020, Administrative Permits – Applicability);

5. An alteration solely for the purpose of increasing access for disabled persons or to comply with local, state, or federal regulations concerning handicapped accessibility;
  6. Reduction in the number of residential units;
  7. Any detached accessory structure serving a residential use that does not exceed 500 square feet and maintains the same architectural character or theme;
  8. Construction of a fence or any other structure that does not require a building permit or any other item regulated by the Zoning Ordinance;
  9. Solar energy systems, collectors and panels.
  10. Any Accessory Dwelling Unit or Junior Accessory Dwelling Unit, as authorized by 19.36.310.
- B. Limitation on Use of Zone Clearance. Only one zone clearance shall be allowed within any three-year time period for an expansion in floor area. The only exception is for expansions or alterations solely for the purpose of increasing access for disabled persons or to comply with local, state, or federal regulations concerning handicapped accessibility. Any additional expansion within three years shall require a development permit, in compliance with Chapter 19.48. Zone clearances for accessory dwelling units and junior accessory dwelling units shall not be subject to this subsection.

#### **19.42.040 Post-Approval Procedures.**

- A. Decisions of the Director may be appealed in compliance with Chapter 19.76 (Appeals). The procedures of Chapter 19.62 (Permit Implementation, Time Limits, and Extensions) shall apply after the issuance of a zone clearance.
- B. Construction Mitigation. Prior to receiving a Building Permit, the applicant shall submit a Minor Construction Mitigation Period Plan on a form provided by the Community Development Department, demonstrating compliance with the applicable construction mitigation standards in this code.
- C. Deed restriction. Prior to issuance of a certificate of occupancy for an accessory dwelling unit or junior accessory dwelling unit, a deed restriction shall be recorded with the County Recorder's Office in a form acceptable to the City Attorney and shall include a prohibition on the sale of the accessory dwelling unit or junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

**Section 7.** The alphabetical list of definitions in Section 19.90.020 of Chapter 19.90 (Definitions/Glossary) of Article 19-6 (Definitions) of Title 19 (Zoning Ordinance) of the West Hollywood Municipal Code is hereby amended, to remove the definition of "Second Residential Units" and to add the following new definitions:

## **19.90.020 Definitions of Specialized Terms and Phrases.**

### **A. Definitions, A**

Accessory Dwelling Unit. An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residence (single family dwelling unit) is situated. An accessory dwelling unit also includes: (1) an efficiency unit, as defined in section 17958.1 of the Health and Safety Code; or (2) an efficiency unit, as defined in section 18007 of the Health and Safety Code.

### **C. Definitions, C**

"Car share vehicle" means a motor vehicle that is operated as part of a regional fleet by a public or private car-sharing company or organization and provides hourly or daily service

### **E. Definitions, E**

"Existing space" means an allowable space that can be converted to an accessory dwelling unit within the four walls and roofline of any structure existing on or after January 1, 2017, that can be made safely habitable under the City's building codes at the determination of the City's building official.

### **J. Definitions, J**

"Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure and may include separate sanitation facilities or may share sanitation facilities with the existing structure. For the purposes of providing service for water, sewer, or power, or for fire or life protection, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

#### L. Definitions, L

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

#### O. Definitions, O

Owner-occupant. A resident of a property who is also the owner of that property.

#### P. Definitions, P

"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

"Primary residence" means a structure that contains the primary dwelling on the lot.

#### S. Definitions, S

~~**Second Residential Units.** A second permanent dwelling that is accessory to a primary dwelling on the same site. A secondary residential unit provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, sanitation, and parking.~~