

O R D I N A N C E N O. 2 3 1 6

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST
COVINA, CALIFORNIA, APPROVING CODE AMENDMENT NO. 17-01,
RELATED TO ACCESSORY DWELLING UNITS (FORMERLY SECOND
DWELLING UNITS)**

WHEREAS, on the 24th day of January, 2017, the Planning Commission initiated a code amendment to evaluate standards relating to accessory dwelling units and requirements established by the state legislature; and

WHEREAS, the Planning Commission held a study session on the 28th day of February, 2017; and

WHEREAS, the Planning Commission, upon giving required notice, did on the 28th day of March, 2017, conduct a duly advertised public hearing as prescribed by law, at which time the Planning Commission adopted Resolution No. 17-5860, recommending to the City Council approval of Code Amendment No. 17-01; and

WHEREAS, the City Council considered evidence presented by the Planning Commission, Planning Department, and other interested parties at a duly advertised public hearing on the 18th day of April, 2017; and

WHEREAS, studies and investigations made by the Planning Commission and on its behalf reveal the following facts:

1. The Municipal Code currently includes standards for accessory dwelling units (second units) and accessory living quarters in the City of West Covina.
2. The California State Legislature passed two bills in 2016 that took effect on January 1, 2017, regulating how cities can address second units: Senate Bill 1069 and Assembly Bill 2299. The bills render any city's second unit standards null and void if they conflict with the new standards.
3. The Planning Commission discussed the concept of allowing Junior Accessory Dwelling Units (JADU's) at their study session on February 28, 2017 and determined that it was not appropriate to adopt such standards at this time.
4. The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment because there are only a limited number of accessory dwelling units that will be constructed in the city, and the revisions

established by this ordinance will not have significant impacts on neighbors, community aesthetics, noise, or any other significant environmental impact.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:


SECTION NO. 1: The above recitals are true and correct and are incorporated herein as if set forth herein in full.

SECTION NO. 2: Based on the evidence presented and the findings set forth, Code Amendment No. 17-01 is hereby found to be consistent with the West Covina General Plan and the implementation thereof and that the public necessity, convenience, general welfare, and good zoning practices require Code Amendment No. 17-01.

SECTION NO. 3: Based on the evidence presented and the findings set forth, the Planning Commission of the City of West Covina hereby recommends to the City Council of the City of West Covina that it approves Code Amendment No. 17-01 to amend Chapter 26 (Zoning) of the West Covina Municipal Code to read as shown on Exhibit "A."

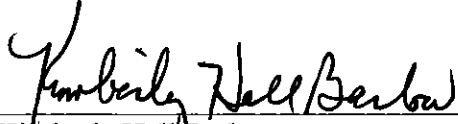
SECTION NO. 4: The City Clerk shall certify to the passage and adoption of this ordinance, causing it to be posted or published as required by law and it shall be effective thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED on this 2nd day of May, 2017.




Corey Warsaw
Mayor

APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

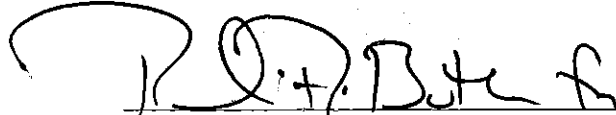
ATTEST:



Nickolas S. Lewis
City Clerk

I, NICKOLAS S. LEWIS, CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 18th day of April, 2017. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 2nd day of May, 2017, by the following vote:

AYES: Johnson, Spence, Toma, Wu, Warshaw
NOES: None
ABSENT: None
ABSTAIN: None



Nickolas S. Lewis
City Clerk

EXHIBIT A

Chapter 26 - Zoning

Article II – Definitions

SECTION 1. Section 26-63 of Article II of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

Sec. 26-63. - Definitions.

Accessory building or structure. A part or the whole of a building or structure, the use of which is subordinate and incidental to the main use and/or structure. Where fifty (50) percent or more of the wall of an accessory building or structure constitutes a common wall with the main building, or where less than fifty (50) percent of the wall of the accessory building or structure constitutes a common wall with the main building but in which wall there is contained an opening that permits direct pedestrian passage from one to the other, then such an accessory building or structure shall be considered a part of the main building.

Accessory ~~living-habitable~~ quarters. A permanently constructed ~~living-habitable~~ quarters, separate from the primary residence, and having no kitchen facilities, which is clearly subordinate or incidental to the primary residence on the same lot. The accessory ~~living habitable~~ quarters may include only a sleeping area, living area, and bathroom within an attached or detached accessory structure and for use by guests or occupants of the primary residence. The accessory ~~living habitable~~ quarters shall not be separately rented, leased or let (by direct or indirect compensation) or otherwise occupied separately from the primary residence.

Accessory use. A use of the land or building which is clearly incidental and subordinate to the principal use of the land or building (but which does not alter the main use), both of which uses are located on the same lot and/or within the same building.

Article VIII – Residential Agricultural Zone/Single Family Zone

Division 1 – Generally

SECTION 2. Subsection (2) of Section 26-391 of Article VIII of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

- (2) *Accessory buildings.*
- a. Accessory ~~living-habitable~~ quarters as allowed per section 26-391.5.
 - b. ~~Second~~ Accessory dwelling units as allowed per article XII, division 11.
 - c. Nonhabitable accessory buildings or structures, including, but not limited to the following:
 1. Garages;
 2. Carports;

3. Workshops;
4. Storage rooms or sheds;
5. Detached patio covers;
6. Pool bathroom or detached bathroom.

SECTION 3. Section 26-391.5 of Article VIII, Division 1 of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

Sec. 26-391.5. - Accessory buildings, habitable.

Purpose. The following regulations apply to habitable accessory buildings.

(1) *Accessory ~~living~~ habitable quarters as defined in section 26-63.* These structures are regulated by the underlying development standards of the particular zone and area district in addition to the specific regulations contained in this section. An accessory ~~living~~ habitable quarters may only be located on lots with a primary residence and may be attached or detached. One (1) such accessory use is permitted per lot and is allowed to be constructed above a garage except when said garage is located in the rear yard as per section 26-407. The placement of windows on second story accessory ~~living~~ habitable quarters shall be sensitive to the privacy of adjacent property owners. The following regulations are established:

- a. *Size.* An accessory ~~living~~ habitable quarters shall be a maximum size of six hundred forty (640) square feet.
- b. *Review process.* An administrative use permit shall be obtained prior to the issuance of building permits to construct an accessory ~~living~~ habitable quarters as specified in article VI, division 5 of this chapter.
- c. *Deed restriction.* The property owner shall be required to record a deed restriction limiting the use of the accessory ~~living~~ habitable quarters as stated in section 26-63 of the West Covina Municipal Code, allowing an annual inspection by city staff, and providing the property owner shall be liable for cost recovery of any city enforcement efforts necessary, as stated in section 2-408, if the accessory ~~living~~ habitable quarters has been illegally modified. Said deed restriction shall be provided to the planning department prior to the issuance of a building permit.
- d. *Interpretation.* Whenever any expansion or alteration to a building, garage or accessory ~~living~~ habitable quarters is designed with multiple hallway entrances, multiple toilet and bath facilities or bar sink installations, so that it can be easily divided into or used for separate apartments or accessory ~~living~~ habitable quarters, then the planning director may determine that it is an accessory ~~living~~ habitable quarters.
- e. *Parking requirement.* One (1) covered parking space shall be required for the accessory ~~living~~ habitable quarters, in addition to parking requirements for the

primary house. In addition, accessory living habitable quarters shall count toward parking requirements specified in section 26-402.

- f. *Distance between structures.* The distance between the house and a detached accessory living habitable quarters shall be no less than twenty-five (25) feet.
- g. *Rear setback.* An accessory living habitable quarters shall comply with the required twenty-five-foot rear setback as specified in section 26-407.
- h. *Windows on side property lines.* Windows on accessory living habitable quarters are only allowed when the structure is located a minimum of ten (10) feet from a side property line, per Subcommittee review and approval.
- i. *Architectural compatibility.* The architectural style of the accessory habitable quarters ~~guest house~~ in design features, such as but not limited to, materials, colors, roofing, scale, exterior treatment and details shall match the primary residence.
- j. *Floor plan.* The accessory habitable quarters ~~guest house~~ shall be limited to bedroom sleeping area, living area and one (1) bathroom.
- k. *Location.* Accessory living habitable quarters may only be located behind the primary residence and shall not be located within the area between the front property line and a line parallel to the back of the primary residence.

Accessory living habitable quarters (previously called guest houses) in existence prior to August 1, 2014 that became legally nonconforming due to the adoption of this section may continue in existence and continue to be maintained and repaired. If such a legal nonconforming accessory living habitable quarters is partially or wholly destroyed by fire, explosion, or other casualty or act of God, it may be rebuilt to the same size, location and configuration as it existed on August 1, 2014. Any accessory living habitable quarters that is rebuilt shall comply with the window standards (no. 8) and architectural compatibility (no. 9) of this section, and shall be reviewed by the subcommittee prior to the issuance of a building permit. The intentional destruction or any addition to, or expansion of, such structures, however, shall cause the requirements of this section to apply to the renovation or reconstruction of such structure.

SECTION 4. Section 26-401.5 of Article VIII, Division 2 of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

Sec. 26-401.5. - Maximum unit size.

(a) The maximum size of units in developmental areas shall be governed by the following table:

Lot size (sq. ft.):	Maximum Unit Size (Gross Floor Area
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	in Sq. Ft.)
All lots within Area District-1A only	0.50 FAR for first 5,000 sq. ft. of lot area
	0.35 FAR for remaining lot area in excess of 5,000 sq. ft.
Under 20,000	.35 FAR or 3,999, whichever is less
20,000—24,999	4,000
25,000—29,999	5,000
30,000—34,999	6,000
35,000—39,999	7,000
40,000+	8,000

As these figures reflect the maximum allowable unit sizes, they shall not be regarded as an automatic right. Each proposal shall be reviewed on a case by case basis and requires approval of the planning director subject to the following findings:

- (i) The lot and proposed development is consistent with the general plan, zoning, and meets all other applicable code requirements.
- (ii) The development utilizes building materials, color schemes and a roof style which blend with the existing structure, if any, and results in a development which is harmonious in scale and mass with the surrounding residences.
- (iii) The development is sensitive and not detrimental to convenience and safety of circulation for pedestrians and vehicles.
- (iv) The development can be adequately served by existing or required infrastructure and services.
- (v) The design of the structure has given consideration to the privacy of surrounding properties through the usage and placement of windows and doors, cantilevers, decks, balconies, minimal retaining walls, trees and other buffering landscaping materials.
- (vi) The development is sensitive to the natural terrain, minimizes necessary grading, de-emphasizes vertical massing which could disrupt the profile of a natural slope, and does not impede any scenic vistas or views open to the public or surrounding properties.

The decision of the planning director is appealable to the planning commission subject to the procedures outlined in section 26-212.

- (b) Detached accessory structures shall not be included in the above maximum unit size figures. A large expansion to the main building (as defined in section 26-296.1100(a)) shall be subject to the approval of an administrative use permit pursuant to the procedures outlined in section 26-296.1200.
- (c) The above maximum unit sizes may be increased by up to twenty-five (25) percent subject to the approval of an administrative use permit pursuant to the procedures outlined in section 26-296.1200. Attached accessory structures, including but not limited to ~~guest-house~~ accessory habitable quarters, second-accessory dwelling units, and garages, shall be included in the twenty-five (25) percent figure.
- (d) An expansion of the above maximum unit sizes by more than twenty-five (25) percent may be granted subject to the approval of a conditional use permit (CUP) by the planning commission pursuant to the procedures outlined in sections 26-246 and 26-685.2000.
- (e) Any new second-story addition, or second-story addition to an existing two-story house shall be subject to the approval of an administrative use permit pursuant to the procedures outlined in Article VI, Division 5 of this Chapter 26, commencing at section 26-270 and to findings outlined in section 26-296.1300.
- (f) Section 26-401.5(a) through (d) shall not apply to residential development within a specific plan zone nor residential development which utilizes the density transfer provisions in section 26-703.

Article XII – Special Regulations for Unique Uses

Division 11 – Second Accessory Dwelling Units

SECTION 5. Section 26-685.30 of Article XII of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

Sec. 26-685.30. - Purpose.

The purpose of this division is to meet the need for new housing as declared by the state by reducing the barriers to the provision of affordable housing with the creation of second dwelling units on existing single-family lots.

SECTION 6. Section 26-685.32 of Article XII of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

Sec. 26-685.32. - Definitions.

Owner-occupant means or is that person, or persons, who demonstrates, to the satisfaction of the planning director, a fee-ownership interest in the subject property and, in addition thereto, resides in the existing single-family dwelling upon said property and is the applicant for a second unit.

Primary unit, hereafter referred to as "primary unit," means or is an existing or proposed to be built, dwelling unit that conforms to all regulations of this Code relating to section 26-391(a) prior to the addition of a second dwelling unit.

Second-unit-Accessory dwelling unit means or is a dwelling unit detached from, or attached to, a primary unit on a lot zoned for single-family residence. Such units do not affect the density designation of any specific or general plan.

Second-unit-Accessory dwelling unit lot means or is a lot containing a primary unit and a second unit, legally established in a single-family zone.

(Ord. No. 1606, § 1, 9-26-83; Ord. No. 2140, § 3, 7-19-05; Ord. No. 2271, § 3(Exh. A), 3-3-15)

SECTION 7. Section 26-685.34 of Article XII of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

Sec. 26-685.34. - Development standards.

- (a) ~~An second-unit~~ *accessory dwelling unit* may be constructed or established only on a lot containing a primary unit located in a single-family residential zone.
- (b) ~~An second-unit~~ *accessory dwelling unit* shall have adequate water supply and sewer service.
- (c) ~~An second-unit~~ *accessory dwelling unit* review shall be obtained prior to the issuance of building permits for a ~~an second-unit~~ *accessory dwelling unit*.
- (d) Only an owner-occupant of a primary unit shall be eligible to file an application for ~~an second-unit~~ *accessory dwelling unit* on the lot of the primary unit in which he or she resides.
- (e) The development standards of the R-1 zone and the area district in which the ~~second-unit~~ *accessory dwelling unit* is located shall apply (as specified in article VIII, division 2 of this chapter) unless this division specifically permits or prohibits otherwise.
- (f) ~~A second-unit~~ *An accessory dwelling unit* shall include permanent provisions for living, sleeping, cooking and sanitation.
- (g) Specific development standards:
 - (1) Minimum site sizes for ~~second-unit~~ *accessory dwelling unit* lots shall be:

Area District	Site Size (sq. ft.)
IA	12,000
I	13,500
II/IIA	15,450
III	20,400
IV	26,000
V	46,000

- (2) The lot shall contain a primary unit conforming to all regulations of the single-family zone.
- (3) ~~A second unit~~ An accessory dwelling unit shall have a minimum dwelling area of five hundred (500) square feet comply with the minimum unit size requirements of the California Building Standards Code.
- (4) A detached ~~second~~ accessory dwelling unit shall be in a structure that is a single story with a maximum dwelling area of ~~six hundred forty (640)~~ eight hundred (800) square feet and limited to two bedrooms ~~and limited to one bedroom.~~
- (5) ~~A second unit~~ An accessory dwelling unit that is attached to the existing primary unit shall be limited to a maximum exterior expansion of ~~thirty (30)~~ fifty (50) percent of the dwelling area of the primary unit up to a maximum of eight hundred (800) ~~square six hundred forty (640)~~ square feet.
- (6) ~~A second unit~~ In general, in addition to the parking required for the primary dwelling unit (Section 26-402), an accessory dwelling unit shall require one (1) covered accessible off-street parking space (covered or uncovered) per bedroom. The planning director may require that the covered parking space be enclosed on three (3) sides and roofed, if readily visible from the street. Garages and carports shall have a minimum clear length of twenty (20) feet and a width of ten (10) feet for each required space between columns or walls. (2) Parking spaces for accessory dwelling units shall be a minimum eight (8) feet by sixteen (16) feet. Access to such parking shall be paved, not less than twelve (12) feet in width, nor wider than the garage or carport for the primary dwelling unit, except as modified in section 26-402.5. These parking requirements are in addition to the required parking for main dwelling units as required in section 26-402. Said parking may be located in an existing driveway, in a required setback, or as a tandem

design, but shall not impede access to the required parking for the primary residence. However, no parking is required for accessory dwelling units in any of the following circumstances:

- a. Using city streets, from the accessory dwelling unit, a person would have to walk less no more than 1/2 a mile to a bus stop or train station.
 - b. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - e. When there is a car share vehicle located within 500 feet of the accessory dwelling unit. .
- (7) New or replacement Garages or carports opening towards a side street shall be set back a minimum of twenty-two (22) feet from the property line.
- (8) When an existing legal accessory building is converted, minimum setbacks are not required.
- ~~(8)~~(10) Distance between structures. The distance between the primary unit and a detached ~~second unit~~ accessory dwelling unit shall be no less than twenty-five (25) feet.
- ~~(9)~~(11) Rear yard.
- a. A detached ~~second unit~~ accessory dwelling unit shall have a required rear yard as provided in sections 26-406 and 26-407, except that no building other than one (1) two-car carport or garage shall be located in the required rear yard.
 - b. ~~Second units~~ accessory dwelling units may only be located behind the primary residence and shall not be located within the area between the front property line and a line parallel to the back of the primary residence. For reversed corner lots where a house is facing and located fronting on a street side property line, a ~~second dwelling unit~~ an accessory dwelling unit shall not be located within the area between the street side property line and a line parallel to the most distant part of the house from the street side property line.
- ~~(10)~~(12) The entrance to an attached ~~second unit~~ accessory dwelling unit shall be ~~installed in a manner as to negate an obvious indication of two (2) units in the same structure~~ separate from the entrance to the primary unit and shall not be prominently visible from the right of way.

- a. No overhead utility lines are permitted to service the ~~second-unit~~ accessory dwelling unit. If existing overhead utility lines are to be relocated or otherwise modified to permit construction of a second unit, such lines shall be converted to underground services.
- b. The numerical street address of the lot shall remain as one (1) number with the primary unit being designated as "A" and the ~~second-unit~~ accessory dwelling unit being designated as "B."
- c. Utility services to the ~~second-unit~~ accessory dwelling unit may remain and are encouraged through single source points except where not permitted by the utility company.
- d. Park development fees for the ~~second-unit~~ accessory dwelling unit shall be paid in accordance with section 26-204.

~~(11)~~(13) The architectural style of the ~~second-unit~~ accessory dwelling unit in design features, such as, but not limited to, materials, colors, roofing, scale, exterior treatment and details shall match the primary unit.

~~(12)~~(14) ~~A second-unit~~ An accessory dwelling unit shall not be allowed on a lot with an accessory ~~living~~ habitable quarters (guest houses) as allowed in section 26-391.5.

~~(13)~~(15) A six-foot-high wall or solid fence shall be provided and maintained on the rear yard boundary of any lot containing an accessory dwelling ~~second~~ unit. Said wall or solid fence shall be in compliance with this Code in relation to height and location as approved by the planning director.

~~(14)~~(16) Windows on side property lines. Windows on ~~second-units~~ accessory dwelling unit are only allowed when the structure is located a minimum of ten (10) feet from a side property line.

(h) Notwithstanding any other provision of this section to the contrary, the city will approve an application for a building permit if all of the following apply:

(1) the application is to create within either the Residential Agricultural (RA) zone or the Single Family (R1) zone one accessory dwelling unit per single family lot;

(2) the accessory dwelling unit is contained entirely within the existing space of a legal single-family residence or a legal accessory structure (excluding garages);

(3) the unit has independent exterior access from the existing residence;

(4) the side and rear setbacks are sufficient for fire safety; and

(5) the structure complies with all other applicable legal requirements.

SECTION 8. Section 26-685.38 of Article XII of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

Sec. 26-685.38. - Conditions of approval for an ~~second-unit~~ accessory dwelling unit.

- (a) The ~~second-unit~~ accessory dwelling unit may be rented but shall not be sold except in conjunction with the entire lot and the primary unit.
- (b) Chapter 7 of this Code and all applicable building codes adopted by the city which apply to additions and construction of single-family dwellings shall apply to ~~second-units~~ accessory dwelling units.
- (c) Adequate water and sewer services shall be available or supplied by the applicant for a ~~second-unit~~ an accessory dwelling unit.
- (d) The accessory dwelling unit shall not be sold separate from the primary residence, but may be rented. The accessory dwelling unit and the primary residence cannot simultaneously be used by one or more parties unless the owner resides in either the accessory dwelling unit or the primary residence. One (1) unit shall be occupied by the owner of the lot as long as the second-unit exists. A deed restriction shall be recorded to memorialize these requirements this effect. A covenant running with the land shall be recorded by a ~~second-unit~~ an accessory dwelling unit applicant, permitting the city to enforce these provisions at the cost of the owner. Proof of recordation shall be sent to the planning director and kept on file.
- (e) Nothing in this section is intended to authorize circumvention of section 26-273(c)(3) of the Municipal Code (relating to rooming or boarding uses). ~~Letting (renting or leasing) of rooms is prohibited in both units of a second-unit lot.~~

SECTION 9. Section 26-685.39 of Article XII of Chapter 26 of the West Covina Municipal Code, Notices, is amended to read as follows:

Sec. 26-685.39. - Review process.

The applicant shall submit an application for a ~~second-unit~~ an accessory dwelling unit review by the planning director for compliance with the provisions of this section. If it is determined that the application and evidence submitted show that the ~~second-unit~~ accessory dwelling unit complies with the requirements of this section, the application shall be approved; otherwise the application shall be denied.