

ORDINANCE NO. 2441

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, AMENDING ARTICLE VI, ARTICLE VIII, ARTICLE XII AND ARTICLE XIII OF CHAPTER 26 OF THE MUNICIPAL CODE TO AMEND ZONING REGULATIONS APPLICABLE TO ACCESSORY DWELLING UNITS

SECTION 1. Findings. The City Council finds as follows:

- A. This Code amendment would allow ministerial approval of accessory dwelling units in the residential agricultural zone (R-A) and the single-family residential zone (R-1) where the property is developed with a single-family unit subject to development standards and specific requirements.
- B. This ordinance is intended to provide compliance with Senate Bill 1069 and Assembly Bill 2299 which became effective on January 1, 2017, and with Senate Bill 229 and Assembly Bill 494 which became effective on January 1, 2018.
- C. As required by state law, under this ordinance accessory dwelling units will not be considered as exceeding the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use consistent with the existing general plan and zoning designation for the lot.
- D. The City Council intends to allow for the development of accessory dwelling units, while maintaining the residential character of existing communities.
- E. The existing residential character of the town is due, in large part, to regulations which ensure that lots are not overdeveloped.
- F. One of the best methods of ensuring that lots are not overdeveloped to ensure that lots are of at least a minimum size before allowing additional density on the lots.
- G. On the 12th day of December 2017, the Planning Commission initiated a code amendment to evaluate standards relating to accessory dwelling units and requirements established by the state legislature.
- H. The Planning Commission held study sessions on the 23rd day of January 2018 and on the 27th day of February 2018.
- I. The Planning Commission, upon giving required notice, did on the 8th day of May, 2018, conduct a duly advertised public hearing as prescribed by law, at which time the Planning Commission adopted Resolution No. 18-5947, recommending to the City Council approval of Code Amendment No. 17-03.

J. The City Council considered evidence presented by the Planning Commission, Planning Department, and other interested parties at a duly advertised public hearing on the 5th day of June, 2018.

SECTION 2. Municipal Code Amendments. The City Council hereby amends the following sections of Chapter 26 of the municipal code as follows:

Article VI – PROCEDURE, HEARINGS, NOTICES, FEES AND CASES

DIVISION 10. – SINGLE-FAMILY DWELLING UNITS-LARGE EXPANSION AND MAXIMUM UNIT SIZE EXCEPTION

Municipal Code Sec. 26-296.1100. - Definitions.

(a) *Large expansions* shall mean the expansion of the existing total gross floor area of a single-family dwelling unit by the following minimum square footage when either the floor area of the existing dwelling unit is expanded or when the existing dwelling unit is demolished and a new dwelling unit is constructed within five (5) years and results in a total gross floor area larger than existed at the time of demolition, but not resulting in a total gross floor area which exceeds the maximum permitted for a lot:

Lot Size (sq. ft.)	Large Expansion (sq. ft.)
Under 20,000	1,250
20,000—24,999	1,500
25,000—29,999	2,000
30,000—34,999	2,500
35,000—39,999	3,000
40,000+	3,500

Said large expansion includes the gross square footage of the main building and/or accessory uses when attached to the main building, (including, but not limited to a ~~guest house~~ **accessory habitable quarters**, ~~second unit~~, and garage), and detached garages, as set forth in subsection (d) of this section.

- (b) *Maximum unit size exception* shall mean an increase of the total gross square footage permitted for a unit as defined in section 26-401.5 by up to twenty-five (25) percent of the gross square footage of the main building, and/or attached accessory uses (including, but not limited to a ~~guest house~~ **accessory habitable quarter**, ~~second unit~~, or garage), and/or detached garages, as set forth in subsection (d) of this section.
- (c) *Timing of additions or expansions*. All additions or expansions occurring within one (1) year of the building permit final inspection approval of the previous addition or expansion shall be considered as a single expansion for the purpose of determining the large expansion calculation.
- (d) Detached garages legally constructed prior to October 21, 2004, shall be exempt from inclusion in the gross square footage calculation. Expansion of such garages after October 21, 2004, however, shall cause this exemption to be lost.

ARTICLE VIII – RESIDENTIAL AGRICULTURAL ZONE/SINGLE FAMILY ZONE

DIVISION 1. - GENERALLY

Municipal Code Sec. 26-391. - Permitted uses.

No building or improvement or portion thereof in the residential agricultural zone (R-A) or the single-family residential zone (R-1) shall be erected, constructed, converted, established, altered or enlarged nor shall any lot or premises be used except for one (1) or more of the following purposes:

- (1) *One single-family dwelling per lot*. Any additions or accessory buildings shall maintain architectural consistency with the house regarding roof profile and pitch, materials, colors, roofing, scale, exterior treatment and details.
- (2) *Accessory buildings*.
 - a. Accessory habitable quarters as allowed per section 26-391.5.
 - b. Accessory dwelling units as allowed per ~~section 26-391.5~~ **article XII, division 11 (26-685.30 et seq.)**.
 - 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.

All nonhabitable accessory buildings of more than 120 square feet shall file a covenant defining the use of the building and stating that the building shall not be converted to any other use without city approval including an accessory dwelling unit.

DIVISION 2. - DEVELOPMENT STANDARDS

Municipal Code Sec. 26-408.5. - Accessory buildings.

Accessory buildings, or the sum of accessory buildings, except ~~guest-houses~~ **accessory dwelling units**, shall be a maximum of one thousand (1,000) square feet. Accessory buildings **which causes the total square footage of accessory buildings to** exceed greater than one thousand (1,000) square feet (**excepting accessory dwelling units**) may be granted subject to the approval of a large accessory building administrative use permit pursuant to the procedures outlined in article VI, division 5 of this chapter and to findings outlined in section 26-296.1300.

Article XII . - SPECIAL REGULATIONS FOR UNIQUE USES

DIVISION 11. - ~~SECOND~~ **ACCESSORY** DWELLING UNITS

Municipal Code 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 accessory** dwelling units on ~~existing~~ single-family lots.

Municipal Code Sec. 26-685.32. - Definitions.

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.

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

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 accessory dwelling** 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~~ **accessory** dwelling unit.

Municipal Code Sec. 26-685.34. - Development standards.

- (a) An accessory dwelling unit may be constructed or established only on a lot containing or which will contain a lawfully constructed primary unit located in a single-family residential zone.
- (b) An accessory dwelling unit shall have adequate water supply and sewer service.
- (c) An accessory dwelling unit review shall be obtained prior to the issuance of building permits for an accessory dwelling unit.
- (d) Only ~~an owner-occupant of a primary unit shall be eligible to~~ the owner of the property may file an application for an accessory dwelling unit on the lot of the primary unit, and only if the owner in which he or she resides or will reside on the property.
- (e) The ministerial development standards of the R-1 zone and the area district in which the 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) An accessory dwelling unit shall include permanent provisions for living, sleeping, cooking and sanitation.
- (g) Specific development standards:
 - (1) ~~Minimum site sizes for accessory dwelling unit lots shall be:~~ The lot shall be a lawful lot and be at least 12,000 square feet.

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) Prior to any certificate of occupancy being issued for the accessory dwelling unit, ~~The~~ lot shall contain a primary unit conforming to all regulations of the single-family zone.
- (3) An accessory dwelling unit shall comply with the minimum unit size requirements of the California Building Standards Code.

(4) **Maximum Floor Area**

- a. A detached accessory dwelling unit shall be in a structure that is a single story with a maximum dwelling area of eight hundred (800) square feet and limited to two bedrooms.
- (5) b. An accessory dwelling unit that is attached to the existing primary unit shall **only be located on the first story and** be limited to a maximum exterior expansion of fifty (50) percent of the dwelling area of the primary unit up to a maximum of eight hundred (800) square feet.

(6 5) **Parking.** In general, in addition to the parking required for the primary dwelling unit (section 26-402), an accessory dwelling unit shall require one (1) accessible off-street parking space (covered or uncovered) **if the accessory dwelling unit will have a bedroom.** 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. 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 one-half a mile to a **public** 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 **proposed or** 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 five hundred (500) feet of the accessory dwelling unit.
- f. **The accessory dwelling unit is solely created from existing habitable space within the primary residence.**

(7 6) **Garages.** 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. **If a garage is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, no setback is required for the portion of the garage which is converted. If a garage is converted to an accessory dwelling unit, the lot must still provide a garage for the single-family residence, per section 26-402.**

(8 7) ~~When an existing legal accessory building is converted, minimum setbacks are not required.~~

(98) Distance between structures. The distance between the primary unit and a detached accessory dwelling unit shall be no less than twenty-five **six** (256) feet.

(109) Rear yard.

- a. ~~A detached 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.~~ **Attached accessory dwelling units may be entirely within the primary residence of or attached to the back of the primary residence and shall have a required rear yard as provided in sections 26-406 and 26-407.**
 - b. ~~Detached Accessory~~ 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. **Detached accessory dwelling units shall comply with rear yard requirements provided in section 26-406.** For reversed corner lots where a house is facing and located fronting on a street side property line, 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.
- (1110) The entrance to an attached accessory dwelling unit shall be 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 accessory dwelling unit. If existing overhead utility lines are to be relocated or otherwise modified to permit construction of a **an accessory** 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 accessory dwelling unit being designated as "B."
 - c. Utility services to the 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 accessory dwelling unit shall be paid in accordance with section 26-204.
- (1211) The architectural style of the 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.
- (1312) An accessory dwelling unit shall not be allowed on a lot with an accessory habitable-quarters as allowed in section 26-391.5.
- (1413) 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 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.

(1514) Windows on side property lines. Windows on **detached** accessory dwelling unit are only allowed when the structure is located a minimum of ten (10) feet from a side property line.

(h) **Conversion of Existing Permitted Floor Area.** Notwithstanding any other provision of this section to the contrary, the city will approve an application for a building permit **for an accessory dwelling unit** 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 (1) accessory dwelling unit per single-family lot;

(2) The accessory dwelling unit is contained entirely within the existing space (**i.e. within four existing walls**) 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.~~ **All development standards in this division are met (except that the accessory dwelling unit need not comply with minimum lot size requirements, no parking need be provided for the accessory dwelling unit, the minimum distance requirements between structures does not apply, and minimum setbacks for existing lawful walls does not apply).**

(6) The structure being converted is not subject to any applicable covenant or other limitation which prohibits the structure from being converted to a single-family unit complies with all other applicable legal requirements.

(7) All other applicable legal requirements are met.

Municipal Code Sec. 26-685.38. - Conditions of approval for an accessory dwelling unit.

(a) The accessory dwelling unit may be rented but shall not be sold except in conjunction with the entire lot, **including** ~~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 accessory dwelling units.

(c) Adequate water and sewer services shall be available or supplied by the applicant for 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 **more than one family** ~~one (1) or more parties~~ unless the owner resides in either the accessory dwelling unit or the primary residence. A deed restriction shall be recorded to memorialize these requirements. A covenant running with the land shall be recorded by 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-~~6273~~(c)(3) of the Municipal Code (relating to rooming or boarding uses).
Municipal Code Sec. 26-685.39. - Review process.

The applicant shall submit an application for 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 accessory dwelling unit complies with the requirements of this section, the application shall be approved; otherwise the application shall be denied.

ARTICLE XIII. OVERLAY ZONES

DIVISION 6. ANIMAL KEEPING OVERLAY ZONE

Sec. 26-749.160. - Administrative use permit required.

- (a) Prior to the construction of any improvement in the lower pad area such as habitable structures (including ~~guest houses~~ **accessory habitable quarters and accessory dwelling units**), nonhabitable structures that require the issuance of a building permit, swimming pools, spas, sports courts, and similar uses (whether or not a building permit is required), an administrative use permit shall be required as specified in article VI, division 5 of this chapter 26.
- (b) Before an ~~applicant~~ for an administrative use permit for improvements in the lower pad area of the overlay zone may be granted, the following findings must be made:
 1. ~~That the~~ **The** proposed improvement at the particular location would not be detrimental to the current or future keeping of animals in the lower pad area of surrounding properties.
 2. The location and design of the improvement has given consideration to the separation of animal keeping areas from habitable space/recreational improvements.
 3. The location and design of the improvement **is** ~~shall not be~~ detrimental to the privacy of surrounding properties through the usage and placement of windows and doors, view-

obscuring walls and/or fences, retaining walls, trees and other buffering landscaping materials.

4. The development can be adequately served by existing and/or required infrastructure and services.

SECTION 3: ENVIRONMENTAL DETERMINATION. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and is found to be exempt pursuant to CEQA Guidelines Section 15061(b)(3), as this ordinance cannot create any significant effect on the environment and pursuant to 15282(h), which states that "the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code" relating to "granny" housing and "second unit ordinances" are exempt from the requirements of CEQA.

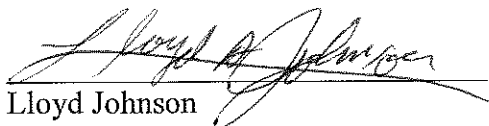
SECTION 4: INCONSISTENCIES. Any provision of the West Covina Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 5: SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.


SECTION 6: PUBLICATION. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in a newspaper of general circulation, printed and published in the City of West Covina or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

SECTION 7: COPY OF ORDINANCE TO HCD. The City Clerk shall cause a copy of this ordinance to be provided to the California Department of Housing and Community Development within 60 days of its final adoption.

PASSED, APPROVED AND ADOPTED this 19th day of June, 2018.

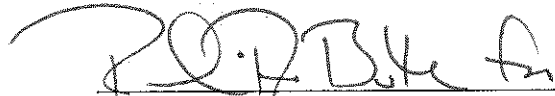

Lloyd Johnson
Mayor

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 5th day of June, 2018. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 19th day of June, 2018, by the following vote:

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

A handwritten signature in black ink, appearing to read "N. S. Lewis", written over a horizontal line.

Nickolas S. Lewis
City Clerk