

ORDINANCE NO. 18-1021

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:

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:

- 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

P – Use Permitted¹					
MCUP – Minor Conditional Use Permit Required			CUP – Conditional Use Permit Required		
RI – Rehabilitation Incentives			— Use Not Allowed		
[Explanatory Notes Follow at the End of the Table]					
LAND USE ²	PERMIT REQUIRED BY ZONE				Specific Use Regulations
	R1	R2	R3	R4	
Accessory Dwelling units	P ¹	P ¹	P ¹	P ¹	19.36.310(A)
Junior Accessory Dwelling Units	P ¹	P ¹	P ¹	P ¹	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

Development Feature	Requirement by Zoning District	
	R3	R4
Residential Density	1 unit for each 1,210 sq. ft. of site area 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.	1 unit for each 872 sq. ft. of site area 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.

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

Zoning Map Symbol	Maximum Number of Dwelling Units Allowed ¹
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. 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 units are only allowed on a property with one single family dwelling.</p>
R2	<p>2 units per lot of less than 4,000 sq. ft.; 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.; plus 1 additional unit per lot, for each 2,000 sq. ft. or fraction thereof in excess of 9,999 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>

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]

Residential Land Use ¹	Required Parking Spaces
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.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 5th day of February, 2018 by the following vote:

AYES:	Councilmember:	D'Amico, Horvath, Meister, Mayor Tempore Duran, and Mayor Heilman.	Pro
NOES:	Councilmember:	None.	
ABSENT:	Councilmember:	None.	
ABSTAIN:	Councilmember:	None.	



JOHN HEILMAN, MAYOR

ATTEST:



YVONNE QUARKER, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST HOLLYWOOD)

I, YVONNE QUARKER, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 18-1021 was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 5th day of February, 2018, after having its first reading at the regular meeting of said City Council on the 16th day of January, 2018.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29th day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 6th DAY OF FEBRUARY, 2018.


YVONNE QUARKER, CITY CLERK