

**CITY OF WALNUT CREEK
ORDINANCE NO.**

Attachment 1

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WALNUT CREEK
AMENDING TITLE 10 (PLANNING AND ZONING) OF THE WALNUT CREEK MUNICIPAL
CODE PERTAINING TO THE REGULATION OF ACCESSORY DWELLING UNITS**

The City Council of the City of Walnut Creek does ordain as follows:

Section 1. Findings.

- a. A severe housing crisis exists in the state with the demand for housing outstripping supply.
- b. Accessory dwelling units (ADUs) provide housing opportunities in a manner that can be largely compatible with existing neighborhood development.
- c. On September 27, 2016, Governor Brown signed into law a pair of bills which are intended to increase the state's supply of affordable housing by facilitating the construction of ADUs (California Assembly Bill 2299 and California Senate Bill 1069). The new state law amends California Government Code Section 65852.2 and, among other limitations on local authority, requires cities, counties, and utility districts to further relax their regulation of ADUs by facilitating the conversion of existing buildings into ADUs without regard to setbacks; reducing, and in some cases removing altogether, the parking requirements for ADUs; and generally prohibiting the requirement for a separate utility connection for the ADU, or imposing a related connection fee or capacity charge. These amendments to California Government Code Section 65852.2 became effective January 1, 2017.
- d. California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of the new state law shall be null and void unless and until the local agency adopts a new ordinance complying with California Government Code Section 65852.2. In the absence of a valid local ordinance, the new state law instead provides a set of default standards governing local agencies' regulation and approval of ADUs.
- e. The default standards contained in the new state law provide no protections for steep hillside areas (including high risk areas), or for rock outcroppings or prominent ridgelines which visually define the City's public open spaces.
- f. The default standards contained in the new state law allow attached ADUs as large as 50% of the existing living area (up to a maximum of 1,200 sq. ft. in floor area for both attached and detached ADUs), a size inconsistent with the single-family nature of many of the City's neighborhoods and the goals and policies of the City's General Plan, and a size so large that it may limit the affordability of ADUs to low and moderate-income households.
- g. The default standards contained in the new state law would allow the construction of large new ADUs on properties which already exceed the thresholds of the City's Oversized Home Ordinance.
- h. The default standards contained in the new state law include none of the design standards contained in the Walnut Creek Zoning Ordinance which require that the ADU be designed to be architecturally consistent with the principle structure.
- i. The City receives multiple public inquiries on a daily basis from architects, developers, contractors, and homeowners regarding ADUs and the new state law, underscoring the need

for the City to update its regulatory scheme to bring it into compliance with the requirements of California Government Code Section 65852.2 which became effective January 1, 2017.

- j. On January 10, 2017, the City Council considered the following amendments to the Walnut Creek Zoning Ordinance for the purpose of amending its local regulatory scheme pertaining to ADUs in a manner that complies with the new state law and is consistent with California Government Code Section 65852.2, as amended.
- k. California Government Code Section 65858 authorizes a city to adopt an interim urgency measure by a four-fifths (4/5ths) vote where necessary to protect the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance.
- l. Any interim urgency measure adopted pursuant to Government Code Section 65858 shall be of no further force and effect forty-five (45) days from its date of adoption unless extended by the legislative body. During such time period, City staff intends to undertake further study and present its recommendations to the City Council regarding permanent revisions to the City's regulatory scheme pertaining to ADUs and consistent with the goals and policies of the City's General Plan, California Planning and Zoning Law, and the provisions of California Government Code Section 65858.

Section 2. CEQA Exemption.

The proposed amendments are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines (the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code).

Section 3. Second Family Residential Unit changed to Accessory Dwelling Unit

Title 10, Chapter 2 of the Walnut Creek Municipal Code is hereby amended to replace all instances of the terms "Second Family Unit" and "Second Family Residential Unit" with the term "Accessory Dwelling Unit", and to replace all instances of the terms "Second Family Units" and "Second Family Residential Units" with the term "Accessory Dwelling Units".

Section 4. Amending Parking Requirements for Accessory Dwelling Units

Rows A(7) and A(8) of Table A contained in Section 10-2.3.206 of the Walnut Creek Municipal Code are hereby amended and restated to read as follows:

LAND USE CLASSIFICATION	OFF STREET PARKING REQUIREMENTS	NOTES	LOADING SPACES REQUIRED (SEE TABLE B)
7. Accessory Dwelling Unit	<p>One space more than required for Single Family Residential (uncovered). Notwithstanding the foregoing, no additional parking is required in any of the following situations:</p> <ol style="list-style-type: none"> 1. The Accessory Dwelling Unit is contained entirely within the footprint of an existing building. 2. The Accessory Dwelling Unit is located on a parcel 	(6)	

	<p>which is within ½ mile from the closest point of the Walnut Creek or Pleasant Hill BART station property; or within ½ mile from a public bus stop. This distance shall be measured along street frontages using the most reasonably direct, legally permissible path. The determination of which developments meet this requirement shall rest with the City's Transportation Planning Manager.</p> <p>3. The Accessory Dwelling Unit is located within one block of a car share vehicle station.</p>		
8. Single Family Residential	<p>2 covered per dwelling unit. Notwithstanding the foregoing, if the required parking is converted to an Accessory Dwelling Unit, then the parking may be replaced by either covered or uncovered parking spaces located anywhere on the lot, including through the use of tandem spaces.</p>	(4)	

Section 5. Accessory Dwelling Unit Regulations

Title 10, Chapter 2, Part III, Article 5 of the Walnut Creek Municipal Code is hereby amended and restated to read as follows:

Article 5. Accessory Dwelling Units

Sec. 10-2.3.501. Purpose.

The Accessory Dwelling Units article of the Zoning Chapter authorizes, upon issuance of an Accessory Dwelling Unit Permit, the establishment of accessory dwelling units accessory to detached single family homes. The purpose of allowing accessory dwelling units on single family properties in all single family residential and multiple family residential zones is to provide the opportunity for the development of small rental housing units designed to meet the special housing needs of individuals and families, particularly those of low and moderate income. Furthermore, it is the purpose of this section to allow the more efficient use of the City's existing stock of dwellings, to provide economic support for resident families of limited income, to provide rental housing units for persons who are elderly or disabled, while protecting property values and the integrity and character of single family neighborhoods by ensuring that accessory dwelling units are architecturally compatible with the principle structure and neighborhood and are installed under such additional conditions as may be appropriate to further the purpose of this ordinance.

Sec. 10-2.3.502. Location.

Notwithstanding any other provisions of the Walnut Creek Municipal Code, accessory dwelling units shall be allowed with existing single family dwellings in Single Family Residential Districts (R), single family residential areas zoned Planned Development (P-D, SFH-PD1), Hillside Planned Development Districts (H-P-D), Duplex Residential District (D-3) and Multiple Family Residential Districts (M, PD), after the necessary approval is obtained under this article, except that:

A. Accessory dwelling units shall not be allowed where water supplies for fire protection and other public utility service is not adequate. In the absence of other evidence, water supplies for fire protection and other public utility service shall be deemed adequate when notice of the proposed accessory dwelling unit has been sent to the affected utility and fire protection agencies and no response has been received within ten days of such notice.

Sec. 10-2.3.503. Property Development Standards.

The following property development standards shall apply to all land and structures in the zones which permit accessory dwelling units:

A. Zoning Requirements. All yards, building height, distance between buildings, and lot coverage standards of the zone in which the property proposed for conversion is located shall apply, except as otherwise specified in this Article. In P-D and H-P-D zones where no standards are specified, and where additional building is allowed, the Planning Manager shall apply development standards based on the district that most closely matches existing development in regards to lot size.

Notwithstanding the foregoing, no yards are required for an existing building when it is converted to an accessory dwelling unit, however the accessory dwelling unit must still comply with all applicable provisions of Title 9 of this Code (Building Regulations).

B. Size. No accessory dwelling unit may have a gross floor area of conditioned space in excess of 700 square feet. Furthermore, accessory dwelling units attached to the main unit shall not exceed 50 percent of the living area of the main unit (the existing interior habitable area of the main unit, including basements and attics but not including a garage or any accessory structure).

C. Design. The accessory dwelling unit shall be designed to be architecturally consistent with the principle structure, including form, exterior siding and/or trim, roof materials and window placement/type. Any new entrances to an attached accessory dwelling unit shall be located on the side or in the rear of the building.

D. Off-Street Parking. See Part III, **Article 2. Offstreet Parking and Loading Regulations.**

E. Limitations for All Accessory Dwelling Units. The following limitations shall apply to both conversion of existing structures and to construction of new structures.

1. On any one parcel of land, no more than one accessory dwelling unit shall be allowed.
2. Tenancy. In single family areas zoned R, P-D, SFH-PD1 and H-P-D, no more than one dwelling unit on the parcel shall be rented or leased. A deed restriction, approved by the City Attorney, shall be recorded setting forth this tenancy requirement.
3. If the addition of the second family unit requires Design Review through the oversize home ordinance (Sec. 10-2.4.1203) or the Hillside Performance Standards (Sec. 10-2.3.401), then the Accessory Dwelling Unit Permit shall not be approved unless the accessory dwelling unit is located entirely within the footprint of an existing building.

F. Limitations for Newly Constructed Accessory Dwelling Units. The following limitations shall apply only to the construction of new structures.

1. Accessory dwelling units shall be attached to the main unit or in the same building as the main unit except if the accessory dwelling unit meets all the zoning development standards of the primary unit and either:

a) The accessory dwelling unit is one-story with a maximum height of eighteen feet to the highest part of the structure; or

b) The accessory dwelling unit is a second story above an accessory structure other than a detached garage, providing the second story is setback a minimum of 10 feet from the side property line; or

c) The accessory dwelling unit is a second story above a detached garage, providing the second story is setback a minimum of 5 feet from the side property line, or that which is required for a single family dwelling, whichever is less.

Sec. 10-2.3.504. Accessory Dwelling Unit Permits.

An Accessory Dwelling Unit Permit must be obtained before an accessory dwelling unit can become a legal, conforming use. Accessory dwelling units constructed without a permit prior to adoption of this section must obtain an Accessory Dwelling Unit Permit to be considered a legal, conforming use. Notwithstanding other provisions of the law, units that receive an Accessory Dwelling Unit Permit under this article shall be deemed apartments for the purpose of meeting the requirements of the Subdivision Map Act.

In order to encourage the development of housing units for disabled individuals and persons with limited mobility, the Planning Manager may make a finding that reasonable deviation from the stated conditions is necessary to install features that facilitate access and mobility for disabled persons.

Accessory Dwelling Unit Permits will be considered upon application for a building permit. Section 10-2.4.201 and Section 10-2.4.202 regarding the need for written applications and applicable fees, shall apply to second family unit permits. Section 10-2.4.9 regarding the procedures for variances, shall not apply to second family unit permits. Accessory Dwelling Unit Permits shall be approved without a hearing if they meet the standards in this code. All interpretations by the Planning Manager shall be final.

Sec. 10-2.3.505. Application.

This article applies to any parcels of land on which (1) a principal structure has been constructed as a single family dwelling prior to the time of application for an accessory dwelling unit, or (2) a structure meeting the requirements for an accessory dwelling unit exists, and a new principal structure or addition is proposed, or (3) an accessory dwelling unit is proposed at the time of the original construction of the single family dwelling.

Section 6. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

Section 7. Urgency Findings.

The City Council finds and determines pursuant to California Government Code Section 65858 that adoption of this ordinance is necessary for the immediate preservation of the public health, safety, and welfare, and to prohibit uses in conflict with zoning regulations pertaining to ADUs currently being studied and contemplated by the City.

Section 8. Effective Date.

This urgency ordinance shall be effective immediately upon its adoption. And shall expire forty-five (45) days following its adoption unless otherwise extended in compliance with California Government Code Section 65858.

Section 9. Publication.

No later than fifteen (15) days following the adoption of this ordinance, the ordinance, or a summary thereof, along with the names of the City Council members voting for and against the ordinance, shall be published in a newspaper of general circulation in the City of Walnut Creek.