

ORDINANCE NO. 2572

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER TO AUTHORIZE ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS CONSISTENT WITH STATE LAW REQUIREMENTS AND RELATED PARK FEES

WHEREAS, effective January 1, 2020 multiple new housing bills relating to accessory dwelling units (ADUs) became law, including AB 68, AB 881, SB 13, AB 587, and AB 670; and

WHEREAS, effective January 1, 2021, a new bill relating to ADUs, AB 3182, became effective law; and

WHEREAS, municipal regulations which are inconsistent with state law may be preempted; and

WHEREAS, to preserve what limited authority the City has remaining to regulate ADUs, it is desirable that the City update its laws;

WHEREAS, the city previously adopted Ordinance 2563 on an urgency basis to cause various revisions to the municipal code;

WHEREAS, the city intends the revisions caused by Ordinance 2563 to remain in place except as stated in this ordinance;

THE CITY COUNCIL OF THE CITY OF WESTMINSTER does ordain as follows:

**SECTION 1: General Plan Consistency.** Pursuant to Section 17.620.030 of the Westminster Municipal Code, the Mayor and City Council approve a Zone Text Amendment (Case No. 2021-0026) related to accessory dwelling units, based upon the following findings:

1. *The proposed amendment ensures and maintains internal consistency with the goals, policies, and strategies of all elements of the General Plan and will not create any inconsistencies with this Title, in the case of a Zoning Code amendment;*

The Zoning Text Amendment conforms to the City's General Plan because it facilitates the construction of ADUs (subject to limitations in terms of size, height, location, design, and parking standards) as a source of housing consistent with goals and policies of the General Plan Housing Element.

2. *The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;*

The proposed amendment, consistent with Government Code Section 65852.2 and 65852.22, ensures the character of the City's residential neighborhoods is preserved to the maximum extent possible. The new standards establish regulations upon height, size, location, and parking; which will ensure that ADUs will not create negative impacts and will be in harmony with the character of the community.

3. *The proposed amendment is in compliance with the provisions of CEQA.*

Pursuant to the California Environmental Quality Act (CEQA) and the City's CEQA guidelines, the project has been determined to be exempt from CEQA per Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which state the adoption of an ordinance regarding second dwelling units (ADUs) to implement the provision of Section 65852.2 of the Government Code are exempt from the requirements of CEQA.

**SECTION 2. Municipal Code Section 17.210.010.** The City Council confirms that Section 17.210.010 (Residential Zoning District Land Uses and Permit Requirements) of Chapter 17.210 (Residential Zoning Districts) of Title 17 of the Westminster Municipal Code be amended as follows (new text, as compared to the law before Ordinance 2563 was enacted is underlined and removed text is ~~strikethrough~~):

**17.210.010 Residential Zoning District Land Uses and Permit Requirements**

Table 2-2 Permitted Uses and Permit Requirements For Residential Zoning Districts						
<i>Land Use<sup>1</sup></i>	<i>Permit Requirements by District</i>					<i>See Specific Use Regulations</i>
	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5<sup>2</sup></i>	
<b>Residential</b>						
<u>Accessory dwelling units and junior accessory dwelling units</u> (in conjunction with a single-family or multifamily residence)	P	P	P	P	P	Section 17.400.135

**SECTION 3. Municipal Code Section 17.400.120.** The City Council confirms that Section 17.400.120 (Residential Uses--Single-Family Residential) of Chapter 17.400 (Standards for Specific Land Uses and Accessory Uses) of Title 17 of the Westminster Municipal Code is to be amended as follows (new text as compared to the law before Ordinance 2563 was enacted is underlined and removed text is ~~strikethrough~~):

**A. Purpose and Intent.** The purpose of this Section is to provide general development standards for single-family residences in any residential district unless noted otherwise.

**B. Development Standards.** A single-family dwelling unit and any expansion of such unit shall comply with the following criteria. The Director may require recordation of a covenant stipulating the conditions of approval for any project approved hereunder, whenever, in the judgment of the Director, such a covenant is necessary to provide constructive notice to any successor in interest on the subject property as to the nature of the approval conferred hereunder.

1. The design of an addition shall be consistent with the design of the surrounding neighborhood and shall be compatible with the materials, color palette, architectural theme, and roof pitch of the existing dwelling unit.

2. Common interior access to all living, sleeping, eating, and food preparation areas shall be provided through common use areas or a common hallway, and the dwelling unit, including any additions, shall function as a single-family dwelling. No addition or modification to a single-family dwelling shall be permitted that facilitates subdividing the interior of the dwelling unit into separate areas that may be used as independent living space, or that subverts or violates the R1 zoning district regulations when a project is within an R1 district.

3. The second floor of the house shall not have a kitchen, a wet bar or the utilities available to facilitate the installation of kitchen facilities unless a second kitchen is approved pursuant to Section 17.400.135, Residential Uses—Accessory Dwelling Units.

~~4.3.~~ Each single-family dwelling shall have no more than one kitchen unless a second kitchen is approved pursuant to Section 17.400.135, Residential Uses—Accessory Dwelling Units.

~~5. 4-~~ Three enclosed garage spaces with minimum interior dimensions of 10 feet by 20 feet each and 3 open parking spaces with minimum dimensions of 9 feet by 19 feet each shall be provided if a single-family dwelling has 5 or more bedrooms, or rooms which by the virtue of their design, location, and means of access within the dwelling can reasonably be used primarily for sleeping purposes without structural modifications.

~~6. 5-~~ An exterior door from a bedroom shall not be permitted except under the following conditions:

a. Installation of the exterior bedroom door shall not facilitate subdivision of the interior of the dwelling unit into smaller, independent separate living or dwelling units.

b. The door shall be decorative in nature and the area of the door shall be at least 50 percent translucent, such as a sliding glass door or French doors.

c. The door shall provide access to an improved landscaped or recreational area, such as a garden, spa, or patio, in the rear or side yard.

If the exterior bedroom door opens onto a side yard, the side yard shall have a minimum dimension of 10 feet.

7. 6- If a wet bar is proposed, it shall be located in a common living space, such as a family room or living room, with open access to other areas of the home provided that the portion of the home containing the wet bar can comply with the standard outlined in Section 17.400.130.B.3.

8. 7- Exterior stairs to the second floor or balcony of a single-family dwelling shall not be permitted except under the following conditions:

a. Installation of the staircase shall not facilitate subdivision of the interior of the dwelling unit into smaller, independent living spaces or dwelling units including accessory dwelling units and junior accessory dwelling units.

b. The exterior door leading to the second-floor landing of the staircase shall be decorative in nature and the area of the door shall be at least 50 percent translucent, such as a sliding glass door or French doors.

~~c. The second floor of the house shall not have a kitchen, a wet bar or the utilities available to facilitate the installation of kitchen facilities unless a second kitchen is approved pursuant to Section 17.400.135, Residential Uses – Accessory Dwelling Units.~~

cd. The staircase shall provide access from the second floor to an improved landscaped or recreational area, such as a garden, spa, or patio.

de. The interior staircase of the dwelling shall be retained and shall be utilized as the primary means of access to the second floor of the dwelling.

ef. A deed restriction stipulating compliance with the above conditions shall be recorded on property in all cases where a second floor exterior staircase is approved.

9. 8- Each single-family dwelling shall provide an enclosed 2-car garage having a minimum interior dimension of 20 feet in width and 20 feet in depth, unless otherwise required by Section 17.400.120.B.4. A garage may have windows and may be finished with drywall provided that the garage shall not be used for habitable space and shall be available for storage of automobiles. The maximum size of a detached 2-car garage shall be 550 square feet, and the maximum size for a 3-car detached garage shall be 750 square feet. If the accessory dwelling unit's required parking space will be provided in a garage, the garage space for that parking space is exempt from the total maximum. Detached garages exceeding the established maximum size and attached garages exceeding 800 square feet in area are subject to an Administrative Use Permit, Chapter 17.550.

**SECTION 4. Municipal Code Section 17.400.135.** The text of Municipal Code Section 17.400.135, entitled "Residential Uses – Accessory Dwelling Units" is deleted and replaced with the following:

**A. Accessory dwelling units and junior accessory dwelling units —Purpose, definitions, general plan consistency.**

1. **Purpose.** The intent of this Section is to ensure that ADUs and JADUs remain as an accessory use to a single-family residence, and multi-family residences, that the parcels are organized to accommodate an ADU and/or JADU, and that such dwelling units do not adversely impact surrounding residents or the community.
2. **Definitions.** For purposes of this section 17.400.135:
  - a. "Accessory dwelling unit" has the same meaning as that stated in Government Code section 65852.2 as that section may be amended time to time.
  - b. "ADU" means an accessory dwelling unit.
  - c. "Attached ADU" means an ADU, other than a converted ADU, that is physically attached to a primary dwelling. This includes an ADU that is created by converting an existing part of the primary dwelling and expanding the dwelling to create a new unit.
  - d. "Converted ADU" means an ADU that is constructed within all or a portion of the permitted existing interior space of an accessory structure or within all or a portion of the permitted existing interior space of a dwelling structure, including bedrooms, attached garages, and storage areas.
  - e. "Detached ADU" means an ADU that is physically separated from, but located on the same lot as, a primary dwelling structure.
  - f. Existing." A structure is "existing" if it was legally constructed and the construction has passed all required final inspections.
  - g. "JADU" means a junior accessory dwelling unit.
  - h. "Junior accessory dwelling unit" shall have same meaning as that stated in Government Code section 65852.22(h)(1) as that section may be amended time to time.
  - i. "Passageway" has the same meaning as that stated in Government Code section 65852.2 as that section may be amended time to time.
  - j. "Public transit", has the same meaning as that stated in Government Code section 65852.2 as that section may be amended time to time.
  - k. "Tandem parking" has the same meaning as that stated in Government Code section 65852.2 as that section may be amended time to time.

3. **General Plan Consistency.** In adopting these standards, the City recognizes that the approval of dwelling units may, in some instances, result in dwelling densities exceeding the maximum densities prescribed by the general plan. The City finds that this occurrence is consistent with the general plan, as allowed under state planning and zoning law applicable to ADUs, and that the amendment furthers the goals, objectives, and policies of the general plan housing element.

**B. Accessory dwelling units—Development standards.**

1. Residential Zone. Except as otherwise provided, ADUs shall conform to the development standards of the underlying zone, and are only permitted in zones that allow for residential development.
2. Location of ADUs. An ADU shall only be allowed on a lot within the City that contains or will be developed with a legal, single-family or multiple-family residence.
3. Number of ADUs per lot.
  - a. For lots with an existing or proposed single-family dwelling, one ADU may be on the lot.
  - b. For lots with an existing multi-family residential dwelling:
    - i. No more than twenty-five percent (25%) of the number of the existing units, but at least one (1) unit, shall be permitted as ADUs constructed within the non-livable space (e.g., storage rooms, boiler rooms, hallways, attics, basements, or garages) of the existing multifamily dwelling structure provided that applicable building codes are met; and
    - ii. Up to two (2) detached accessory units
  - c. For lots without an existing multi-family residential structure where a new multi-family residential structure is proposed, up to two (2) detached ADUs may be on the lot, provided that:
    - i. each ADUs complies with the development standards for ADUs in this subsection B (Accessory dwelling units – Development Standards);
    - ii. the property complies with all development standards applicable to multi-family dwellings in the underlying zoning district including, but not limited to, lot coverage, open space, parking, and landscaping requirements; and

- iii. The property is not relying on any exception within B.4 (for units of 800 square feet or less), listed immediately below.
4. ADUs of 800 square feet or less. All development standards (including setbacks, lot coverage, open space, and landscaping requirements) are reduced solely to the extent necessary to allow either of the following:
  - a. On a lot with a proposed or existing single family dwelling, one attached or detached ADU that is 800 square feet or less, with a height not exceeding sixteen (16) feet, with setbacks of at least four (4) feet from the side and rear yards and complies with applicable front yard setbacks.
  - b. On a lot with an existing multi-family dwelling, up to two (2) detached ADUs that are 800 square feet or less and which have a height not exceeding (16) feet, and which comply with setbacks of at least four feet from the side and rear yards, and which comply with front yard setbacks.
5. Separate Entrances. An ADU shall have a main entrance separate from the primary home.
6. Park Fees. Applicants shall pay all applicable development impact fees, if any (See Section 3.62.040, "Parks and recreation mitigation requirement").
7. City/public utilities.
  - a. All ADUs must be connected to public utilities, or their private equivalent, including water, electric, and sewer services. For example, if required by the building standards code, dwelling units that are proposed to be installed on a property with only septic tanks are prohibited.
  - b. Except for ADUs created solely by converting an existing single family dwelling or a single-family accessory structure, the city may require a separate utility connection.
8. Building Code / Minimum Size. All new ADUs must comply with Title 15 of the Municipal Code ("Buildings and Construction") and any other applicable provisions of the California Building Standards Code, including minimum permissible sizes for dwellings (typically 220 square feet) and requirements relating to solar panels. However, fire sprinklers shall not be required if they are not required for the primary residence.

9. Maximum Size. ADUs shall not exceed the size standards listed below:
  - a. Attached ADUs: The maximum floor area of an attached ADU shall be 1,200 square feet or 50% of the living area of the primary dwelling, whichever is greater.
  - b. Detached ADUs: 1,200 square feet of floor area.
  - c. Conversion. An ADU which is converted entirely from within a lawful existing structure is not subject to a maximum floor area requirement. The resultant primary dwelling does need not comply with the minimum floor area requirements of Municipal Code 17.210.015, although it must still comply with building standards code requirements relating to minimum floor areas.
10. Lot Coverage. In general, the lot coverage for all ADUs shall be subject to the lot coverage requirements of Section 17.210.015. However, ADUs which are 800 square feet or less are exempt from the total lot coverage calculation.
11. Setbacks.
  - a. Setbacks for Converted ADUs. No setbacks are required for either: (i) those portions of ADUs that are created by converting existing living area or existing accessory structures to new ADUs; or (ii) constructing new ADUs in the same location and to the same dimensions as an existing structure.
  - b. Setbacks for Non-Converted ADUs. For all other ADUs, there must be a minimum of four (4) feet of setbacks from side and rear lot lines and comply with all applicable front yard setbacks.
  - c. Distance Between Structures on a Single Family Lot. For a single-family zoned lot, for any detached ADU which is new construction, there must be at least six (6) feet between the ADU and the single family dwelling and all other detached accessory structures.
  - d. Distance Between Buildings on a lot with Multi-Family Zoning. For a lot in a multifamily zone, newly constructed detached ADUs must be at least ten (10) feet from any other dwelling units (other than detached ADUs that are attached to each other) on the property, and at least six (6) feet from accessory structures.
  - e. Public/Private Easements. No portion of an ADU (whether new construction or converted from existing space) may encroach into any public or private easement such as a utility easement unless the easement holder has provided written permission to construct the



ADU in the manner proposed. Roof eaves may not be eliminated to meet the easement requirements. To establish a rebuttable presumption of compliance with these easement requirements, applicants may provide to the city a written declaration, in a form acceptable to the City Attorney, affirming under penalty of perjury compliance with these requirements.

12. Open Space.

- a. Single Family. For lots with a single family development, there are no open space requirements for an ADU. However, if the primary dwelling requires open space for a reduced setback per Section 17.210.015, ADUs of 800 square feet or less may have such requirements reduced, as described in subsection B.4, above.
- b. Multifamily. For a lot which has an existing multifamily structure, there are no open space requirements for the ADU. However, all open space, lot coverage, open space standards for the primary dwelling shall apply except to the extent that such standards would prohibit up to two detached ADUs which do not exceed 800 square feet in size, which are no taller than sixteen feet in height and which comply with four foot rear and side yard setback per Section B.3.

13. Height. ADUs shall not exceed the height of 16' unless the units are within the existing space of a single-family dwelling, an accessory structure or multi-family dwelling. ADUs may be permitted on the upper floor of a newly constructed single family home.

14. Stairways. An ADU proposed within the second floor of an existing or proposed single-family dwelling shall not have exterior stairways.

15. Design Requirements for New Units. The exterior design features of the ADU shall be similar to and compatible with the primary dwelling. These features shall include, but are not limited to roofing material, roof design, roof pitch, exterior building finish/materials, and color. The color of the ADU shall match the color of the primary dwelling.

16. Parking.

- a. In addition to the required parking for the primary unit, one parking space shall be provided unless the ADU has no bedrooms (e.g., a studio), in which case no parking space is required. The required parking space may be provided as:

- i. Tandem parking on an existing driveway in a manner that does not encroach onto a public sidewalk and otherwise complies with city parking requirements; or
    - ii. Within a setback area or as tandem parking unless the Director determines that parking in the setback or tandem parking is not feasible based upon specified site or regional topographical or fire and life safety conditions.
  - b. Notwithstanding the foregoing, no parking space shall be required for an ADU if:
    - i. It is located within one-half mile walking distance of public transit;
    - ii. It is located within an architecturally and historically significant district;
    - iii. It is part of a proposed or existing primary residence or accessory structure;
    - iv. When on-street parking permits are required but not offered to the occupant of the ADU; or
    - v. Where there is a car share vehicle located within one block of the ADU.
- 17. Corner Lot Driveways. Up to two driveways may be on one corner lot if the site is developed with an ADU, provided that each driveway is on different sides of the lot, and further provided that the proposed location for the driveway meets all applicable standards of the City's public works department. A second driveway may be installed regardless of whether the driveway leads to a garage.
- 18. Porches and Landings.
  - a. Raised landings. Raised landings and platforms shall only lead into an exterior entryway of an ADU and shall not exceed 50 inches in depth nor more than six inches in excess of the width of the adjoining doorway.
  - b. Porches and Patio Covers. If an unenclosed covered porch or covered area will be no more than 200 square feet, will be attached to a detached ADU, and an entrance to the ADU can be accessed through the porch/covered area, the covered porch/covered area shall not be required to meet the requirement of Municipal Code section 17.400.130.B.2.a to have at least 1,000 square feet of contiguous open space in the rear yard.

19. ADU within a New Single Family Residence.

- a. Within Single Family Dwelling. On a lot with a proposed single-family dwelling in a residential or mixed-use zone, up to one detached ADU may be constructed, or one ADU may be constructed within the single-family residence. If an ADU is to be constructed within a new single-family dwelling, such ADU is allowed only if the single-family dwelling complies with all applicable requirements for single-family residential dwellings including lot coverage, setbacks, etc.
- b. Second Story. If the ADU is located on the upper floor of the new single-family dwelling, or if the ADU contains a second floor, the ADU shall also comply with all applicable requirements for single family homes including setbacks, lot coverage, etc.

20. Conversion of Structures (Including Garages). For purposes of determining whether an ADU is allowed, the development standards for lot coverage, open space, and setbacks, contained in this Title do not apply to the following units if they are within a residential or mixed-use zone. Further, such units may be on any floor of an existing structure.

- a. Single Family Unit. On a lot with an existing single-family dwelling in a residential or mixed-use zone, up to one ADU may be constructed within the single-family residence or within an accessory structure. Such ADU must have exterior access and side and rear setbacks sufficient for fire safety. An expansion of to one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure to accommodate access to the ADU is allowed.
- b. Multifamily Unit. ADUs may be constructed within those portions of existing lawful multifamily structures that are not used as livable space (i.e., storage rooms, boiler rooms, passageways, attics, basements, or garages), provided the spaces meet state building standards for dwellings. The number of interior ADUs permitted on the lot shall not exceed twenty-five percent (25%) of the current number of units of the multi-family complex on the lot and at least one such unit shall be allowed.

21. Garage Conversions

- a. Parking. When a garage, carport, or covered parking structure is demolished for the purpose of allowing a new ADU, the off-street parking spaces do not have to be replaced.
- b. Demolition. No garage may be demolished without first having obtained a demolition permit.

- c. Driveway. The existing driveway leading to a garage may remain. The driveway may only be removed if it is replaced with landscaping or open space, and the curb cut and driveway apron are removed and replaced with a curb and gutter which meet City standards.
22. Conversion of Existing Primary Unit. When a new, larger primary residence is proposed to be constructed, the entirety of an existing single-family dwelling may be converted to an ADU if the lot is in a single family zone and the converted structure complies with all applicable requirements of this chapter applicable to single family homes.
23. Short Term Rentals Prohibited. ADUs may not be rented for periods shorter than 31 days.
24. Separate Sale Prohibited. Except as otherwise provided by law (e.g., Government Code section 65852.26), ADUs may not be sold or otherwise conveyed separate from the primary residence.
25. Nonconforming. ADUs shall not be required to correct legal nonconforming zoning conditions as a pre-condition to obtaining authorization to construct.
26. Affordability Information (RHNA). Applicants shall provide the city with all information reasonably requested by city to allow the city to attempt to cause each ADU to qualify as “low-income” housing for purposes of the Regional Housing Needs Assessment (RHNA).

**C. Junior Accessory Dwelling Units.**

1. Purposes. This section provides standards for the establishment of JADUs. JADUs will typically be smaller than an ADU, will be constructed within the walls of an existing or proposed single family residence, and requires owner occupancy in the single-family residence where the unit is located.
2. Number. No more than one JADU may be on a lot.
3. Size. A JADU shall not exceed 500 square feet in size. ADUs must comply with Title 15 of the Municipal Code (“Buildings and Construction”) and any other applicable provisions of the California Building Standards Code, including minimum permissible sizes for dwellings (typically 220 square feet).
4. Zone. A JADU must be within a residential or mixed-use zone.

5. Owner Occupancy: The owner of a parcel proposed for a JADU shall occupy as a primary residence either the primary dwelling or the junior accessory dwelling. Owner-occupancy is not required if the owner is a governmental agency, land trust, or "housing organization" as that term is defined in Government Code Section 65589.5(k)(2), as that section may be amended from time to time.
6. Sale Prohibited. A JADU shall not be sold independently of the primary dwelling on the parcel.
7. Short term rentals. The JADU shall not be rented for periods of less than 31 days.
8. Within Residence / Attached Garage. A JADU shall be entirely within a single-family residence or an attached garage. If a JADU is within an attached garage, the lost parking spaces need not be replaced.
9. Entrances/Restrooms. A JADU shall have an exterior entrance separate from the primary dwelling. However, it may share restroom facilities with the primary dwelling. Exterior entryways for JADUs shall follow the provisions for single family homes in subsection B.6 of Section 17.400.120, as that section may be amended from time to time.
10. Kitchen Requirements. The JADU shall include an efficiency kitchen, including a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
11. Parking. No additional parking is required beyond that already required for the primary dwelling.
12. Fire Protection; Utility Service. All JADUs must be connected to public utilities, or their private equivalent, including water, electric, and sewer services. For the purposes of any fire or life protection ordinance or regulation or for the purposes of providing service for water, sewer, or power, a JADU shall not be considered a separate or new unit, unless the JADU was constructed in conjunction with a new single-family dwelling. No separate connection between the JADU and the utility shall be required for units created within a single-family dwelling, unless the JADU is being constructed in connection with a new single-family dwelling.
13. Deed Restriction. Prior to the issuance of a building permit for a JADU, the owner shall record a deed restriction in a form approved by the city that includes a prohibition on the sale of the JADU separate from the sale of the single-family residence, requires owner-occupancy consistent with subsection (5) above, does not permit rentals for periods of less than 31 days, and restricts the size and attributes of the junior dwelling unit to those that conform with this section.

14. Nonconforming. JADUs shall not be required to correct legal nonconforming zoning conditions as a pre-condition to obtaining authorization to construct.

15. Affordability Information (RHNA). Applicants shall provide the city with all information reasonably requested by city to allow the city to attempt to cause each JADU to qualify as “low-income” housing for purposes of the Regional Housing Needs Assessment (RHNA).

**SECTION 5. Municipal Code Section 17.515.010.** The City Council confirms that Section 17.515.010 (Applicability) of Chapter 17.515 (Zoning Clearance) of Title 17 of the Westminster Municipal Code is to be amended as follows (new text as compared to the law before Ordinance 2563 was enacted is underlined and removed text is ~~strikethrough~~):

**17.515.010 Applicability**

- A. General Applicability. Zoning Clearance shall be required in conjunction with Division review of any building or grading permit, business tax certificate (business license), or other authorization required by the WMC or this Title or for any new use or change of use. Where no other authorization is required, (e.g., Building Permit) Zoning Clearance shall be obtained from the Division before the commencement of any business or land use activity. The Director has the discretion on a case-by-case basis to determine that an application is subject to Development Review and require noticing and/or defer the action to the Commission based on criteria including traffic, parking demand, building shade, shadow, scale, design and other potential impacts.
- B. ADUs and JADUs. Any application for an ADU or JADU that meets the requirements of 17.400.135 shall be approved ministerially.

**SECTION 6. Municipal Code Section 17.520.010.** The City Council confirms that Subsection C of Section 17.520.010 (Applicability) of Chapter 17.520 (Development Review) of Title 17 of the Westminster Municipal Code is to be amended as follows (new text as compared to the law before Ordinance 2563 was enacted is underlined and removed text is ~~strikethrough~~):

**17.520.010 Applicability**

- C. **Exempt from Development Review.** The following projects are exempt from Development Review but are subject to Zoning Clearance except subsection (3):
  - 1. Any construction, addition, or alteration to an individual single-family or two-family dwelling or appurtenant structure, or 2 single-family dwellings on a single parcel or an accessory dwelling unit or junior accessory dwelling unit.

**SECTION 7. Municipal Code Section 17.700.010.** The City Council confirms that the definition of “accessory dwelling unit” in Section 17.700.010 (Definitions of Specialized Terms and Phrases) of Chapter 17.700 (Definitions of Specialized Terms) of Title 17 of the Westminster Municipal Code is to be amended as follows (new text as compared to the law before Ordinance 2563 was enacted is underlined and removed text is ~~strikethrough~~):

### **17.700.010 Definitions of Specialized Terms and Phrases**

~~Accessory Dwelling Unit. See Government Code section 65852.2.—An attached or detached 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 an existing dwelling unit is situated. An accessory dwelling unit may also include an efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code and a manufactured home, as defined in Section 18007 of the Health and Safety Code. An accessory dwelling unit may be established through: (i) construction of a new detached structure; (ii) construction of an addition to an existing single-family dwelling; (iii) conversion of existing space in an existing single-family dwelling; or (iv) conversion of an existing garage or other accessory structure on a lot containing an existing single-family dwelling, provided it is set back at a distance sufficient for fire safety.~~

### **SECTION 8. Municipal Code Section 3.62.040.**

Section 3.62.040 of the Municipal Code (Parks and recreation mitigation requirement) is revised as follows (new text as compared to the law before Ordinance 2563 was enacted is underlined and removed text is ~~strikethrough~~):

### **3.62.040 Parks and recreation mitigation requirement**

Except as provided in Section 3.62.050, the developer of a project shall pay a parks and recreation development impact fee in accordance with the following:

- A. Parks and Recreation Development Impact Fee. Fees shall be computed as follows:
  1. For single-family residential development projects that result in the addition of a dwelling unit:
    - a. \$13,760 per single-family dwelling unit. (This amount is updated annually per section 3.62.080).
    - b. For an accessory dwelling unit on a single-family property, the maximum fee allowed by law, but in no event more than the amount authorized by subsection A.1.a, above. See California Government Code § 65852.2(f).

2. For multi-family residential development projects that result in the addition of a dwelling unit:

- a. \$10,158 per multi-family dwelling unit. (This amount is updated annually per section 3.62.080).
- b. For an accessory dwelling unit on a multi-family property, the maximum fee allowed by law, but in no event more than the amount authorized by subsection A.2.a. See California Government Code § 65852.2(f).

3. The land use categories identified in subsections (A)(1) and (A)(2) of this section shall have the following meanings:

- a. Single-family residential shall include single-family.
- b. Multi-family residential shall include: senior housing and multi-family.

4. The amount of legally permitted dwelling unit(s) to be demolished in an existing building or structure as a part of a project shall be a credit in the calculation of the parks and recreation development impact fee.

**B. Timing of Fee Payment.**

1. The project applicant shall pay fees according to the schedule of fees in place on the date the fees are paid, except that the applicant for a vesting tentative map for a development project shall pay the fees in effect on the date the application for the vesting tentative map is deemed complete, as automatically adjusted.

2. No building permit for any project shall be issued unless the fees have been paid, except where state law requires payment before final inspection or the issuance of certificate of occupancy, whichever comes first. If state law applies, a contract to pay the fees shall be executed with the city, in which case, no final inspection shall be approved until the fees have been paid. If a residential development project contains more than one dwelling unit and is approved for development in phases, the developer shall pay the fees in installments based on the phasing of the residential development project. Each fee installment shall be paid at the time when the first dwelling unit within each phase of development is ready to be issued a building permit.

**SECTION 9. Reaffirming Chapter 3.62**

The City Council affirms the applicability of all of Municipal Code Chapter 3.62 to this ordinance, including sections 3.62.100 and 3.62.110, which provide:



### **3.62.100 Fee revisions by resolution.**

The amount of the parks and recreation development impact fees and the formula for the automatic annual adjustment established by this chapter may be reviewed and revised periodically by resolution of the city council. This chapter shall be considered enabling and directive in this regard.

### **3.62.110 Regulations.**

The city manager, or designee, is authorized to adopt written administrative regulations or guidelines that are consistent with and that further the terms and requirements set forth within this chapter.

**SECTION 10. Compliance with CEQA.** Adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under Public Resources Code § 21080.17 [statutory exemption for second unit ordinances]; CEQA Guidelines §§ 15282(h) [statutory exemption for second unit ordinances]; 15303 [new construction or small structures] and 15305 [minor alterations to land]. This ordinance is also exempt under CEQA Guidelines section 15061, because this ordinance will not have a significant effect on the environment, because ADUs will largely constitute infill housing which is exempt from CEQA.

**SECTION 11. Inconsistencies.** Any provision of this ordinance which is inconsistent with state law shall be interpreted in a manner to be consistent with state law. If any provision of the Westminster Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance. This applies specifically to Urgency Ordinance 2563 as this Ordinance is intended to repeal such ordinance, and to cause this ordinance to apply in its place to the extent that there are any differences between this ordinance and the Urgency Ordinance.

**SECTION 12. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Westminster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 13. Certification.** The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

**SECTION 14. Transmit Ordinance to HCD.** The City Clerk is directed to send a copy of this ordinance to the Department of Housing and Community Development within 60 days of the adoption of this ordinance.

**SECTION 15. Processing Existing Applications.** For applications which involve ADUs and/or JADUs which were officially submitted to the City as of the effective date of this ordinance (i.e., city staff issued a building permit number or case number), the portions of the applications that apply to ADUs and JADUs shall be processed subject to the requirements of this ordinance. All other applications which involve ADUs and/or JADUs shall be processed pursuant to the requirements of Urgency Ordinance No. 2563.


**SECTION 16.** The City Clerk shall certify to the passage and adoption of this ordinance and cause the same to be published in the manner required by law. This ordinance shall become effective thirty (30) days from and after its passage.

Approved for introduction at a regular meeting on the 24th day of March 2021 by the following vote:

AYES:	COUNCIL MEMBERS:	TA, DO, HO, MANZO
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NGUYEN

PASSED, APPROVED, AND ADOPTED this 14<sup>th</sup> day of April 2021 by the following vote:

AYES:	COUNCIL MEMBERS:	TA, NGUYEN, DO, HO, MANZO
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE

  
\_\_\_\_\_  
TRI TA, MAYOR

ATTEST:

  
\_\_\_\_\_  
CHRISTINE CORDON, CITY CLERK

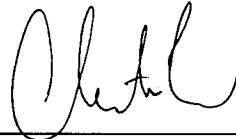
APPROVED AS TO FORM:



CHRISTIAN L. BETTENHAUSEN,  
CITY ATTORNEY

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss.  
CITY OF WESTMINSTER )

I, CHRISTINE CORDON, City Clerk of Westminster, do hereby certify that the foregoing ordinance was introduced on the 24th day of March 2021, was regularly adopted at a meeting thereof on the 14<sup>th</sup> day of April 2021 and was published/posted pursuant to law.



Christine Cordon,  
City Clerk

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