

## ORDINANCE NO. 3116

AN ORDINANCE OF THE WHITTIER CITY COUNCIL AMENDING THE WHITTIER MUNICIPAL CODE, THE LINCOLN SPECIFIC PLAN, UPTOWN WHITTIER SPECIFIC PLAN, WHITTIER BOULEVARD SPECIFIC PLAN AND THE WHITTWOOD TOWN CENTER SPECIFIC PLAN TO BE CONSISTENT WITH CALIFORNIA LAW REGARDING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND TO FIND SUCH AMENDMENTS TO BE CATEGORICALLY AND STATUTORILY EXEMPT FROM CEQA

### RECITALS

- A. Effective January 1, 2020, multiple new housing bills relating to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) became law, including AB 68, AB 881, SB 13, AB 587, and AB 670;
- B. Municipal regulations which are inconsistent with state law may be preempted effective January 1, 2020;
- C. To preserve what authority the City has remaining to regulate ADUs and JADUs, it is desirable that the City update its ordinances consistent with the California laws as it went into effect on January 1, 2020;
- D. The Planning Commission considered Zoning Code Amendment No. ZCA20-0001, Specific Plan Amendment No. SPA20-0001 (Lincoln Specific Plan); Specific Plan Amendment No. SPA20-0002 (Uptown Whittier Specific Plan); Specific Plan Amendment No. SPA20-0003 (Whittier Boulevard Specific Plan); and, Specific Plan Amendment No. SPA20-0004 (Whittwood Town Center Specific Plan) on April 20, 2020, to amend their various provisions concerning accessory dwelling units to be consistent with current California law; and,
- E. On May 11, 2020, the City Council conducted a duly noticed public hearing on Zoning Code Amendment No. ZCA20-0001, Specific Plan Amendment No. SPA20-0001 (Lincoln Specific Plan); Specific Plan Amendment No. SPA20-0002 (Uptown Whittier Specific Plan); Specific Plan Amendment No. SPA20-0003 (Whittier Boulevard Specific Plan); and, Specific Plan Amendment No. SPA20-0004 (Whittwood Town Center Specific Plan) and subsequently approved the first reading on the City's accessory dwelling unit and junior accessory dwelling unit ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, DOES HEREBY ORDAIN THE FOLLOWING:

**SECTION 1. Recitals.** The above recitals are true and are a substantial part of this ordinance.

**SECTION 2. Municipal Code Definition.** Municipal Code section 18.06.007 is revised to provide as follows:

Accessory Dwelling Unit. "Accessory Dwelling Unit" shall have the same meaning as stated in Government Code 65852.2 as that section may be amended from time to time. For the sake of convenience only, currently Government Code 65852.2 defines "accessory dwelling unit as, "an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (A) An efficiency unit. (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code."

**SECTION 3. Municipal Code Definition.** Municipal Code section 18.06.136 is revised to provide as follows:

"Driveway" means the vehicular access from the street or alley to a legal parking space, which serves the lot upon which the parking space is located. A driveway shall not lose its status as a "driveway" if the parking space that it was serving was removed in conjunction with the creation of an accessory dwelling unit.

**SECTION 4. Whittier Blvd. Specific Plan Revisions.** Table 4-1, Allowable Uses and Permit Requirements, of the Whittier Boulevard Specific Plan (on page 4-8) is revised to add the following three rows (i.e., excluding the header) within, and at the end of the section entitled "Residential Uses":

| Land Use Type  | Gateway | Workplace | Workplace Residential Subarea Overlay | Shopping Cluster | Center | Neighborhood Spine | Reference        |
|--|---------|-----------|---------------------------------------|------------------|--------|--------------------|------------------|
| <b>Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)</b> |         |           |                                       |                  |        |                    |                  |
| Accessory Dwelling Units   | P       | ---       | P                                     | P                | P      | P                  | WMC 18.10.020(I) |
| Junior Accessory Dwelling Units  | P       | ---       | P                                     | P                | P      | P                  | WMC 18.10.020(I) |

**SECTION 5. Lincoln Specific Plan Revisions.** The following row is added to the end of the “Residential Uses” section of Table 4-1A, Permitted and Conditionally Permitted Uses, on page 4-4 of the Lincoln Specific Plan:

| Land Use  | The Market | Heritage Court | Residential Areas |
|---|------------|----------------|-------------------|
| Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) which comply with all requirements of Section 18.10.020(I) of the Whittier Zoning Ordinance | P          | X              | P                 |

**SECTION 6. Uptown Whittier Specific Plan Revisions.** The following sections of the Uptown Whittier Specific plan are revised as follows:

- A. The last row within the “Residential” section of Table 4-1, “Allowed Land Uses and Permit Requirements for the Uptown Zones,” is revised to provide:

| Land Use Type                                     | U-CO | U-CT | U-G | U-E | Additional Regulations |
|---|------|------|-----|-----|------------------------|
| Accessory dwelling/junior accessory dwelling unit | P    | P    | P   | P   | WMC 18.10.020(I)       |

- B. Both references within Table 4-2, “Uptown Whittier Specific Plan Urban Standards”, to “accessory dwelling”, and the related references within those rows are deleted.

- C. The row with the heading “building types” within Table 4-2, “Uptown Whittier Specific Plan Urban Standards,” is revised to provide as follows:

|                |   |
|----------------|---|
| Building Types | Only the following building types are allowed within each zone. Accessory Dwelling Units and Junior Accessory Dwelling Units are allowed in each zone, provided each such unit(s) comply with Whittier Municipal Code section 18.10.020(I). |
|----------------|---|

- D. Subsection 3 of subsection C of section 4.3.3 “Uptown Core (U-CO)” is revised as follows:

Residential: 1.5 spaces/unit for studio/1 bedroom units  
 2.0 spaces/unit for 2 bedroom units  
 2.5 spaces/unit for 3+ bedroom units  
 0.25 spaces/unit for guest parking – may contribute toward parking within Park Once parking structures  
1.0 spaces/unit for accessory dwelling unit if required by WMC § 18.10.020(I)

Live/Work: 2 spaces / unit minimum

Non-Residential: Satisfied by Park-Once System

- E. Subsection 3 of subsection C of section 4.3.4 “Uptown Center (U-CT)” is revised as follows:

Residential: 1.5 spaces/unit for studio/1 bedroom units  
 2.0 spaces/unit for 2 bedroom units  
 2.5 spaces/unit for 3+ bedroom units  
 0.25 spaces/unit for guest parking - units within the Park Once district may contribute toward parking within Park Once parking structures  
1.0 spaces/unit for accessory dwelling unit if required by WMC § 18.10.020(I)

Live/Work: 2 spaces / unit minimum

Non-Residential: Satisfied by Park-Once system

Areas outside Park Once District: see page 4:63

- F. Subsection 3 of subsection C of section 4.3.5 “Uptown General (U-G)” is revised as follows:

Residential: 2.0 spaces/unit for Single House, ~~Accessory Dwelling,~~  
 Duplex/Triplex/Quadplex Building Types  
 1.5 spaces/unit for studio/1 bedroom units  
 2.0 spaces/unit for 2 bedroom units  
 2.5 spaces/unit for 3+ bedroom units  
 0.25 spaces/unit for guest parking - units within the Park Once district may contribute toward parking within Park Once parking structures



- 4.4.7
- 4.4.8
- 4.4.9
- 4.4.10

- L. A new paragraph is added immediately after the first paragraph in Section 4.4.2, “Accessory Dwelling” to provide as follows:

Notwithstanding anything else in this Specific Plan to the contrary, Accessory Dwelling Units and Junior Accessory Dwelling Units shall be allowed, provided they meet the requirements of WMC § 18.10.020(I), and any additional and more stringent requirements of this specific plan which are legally enforceable.

- M. The second row within the chart within subsection B of section 4.6 (relating to accessory dwelling units) is hereby replaced with the words, “Reserved.”

- N. The definition of “Accessory Dwelling (e.g. Carriage House)” in section 4.10.2 is revised as follows:

**Accessory Dwelling (e.g. Carriage House):** ~~An attached or detached residence which provides complete independent living facilities for one or more persons and which is located or established on the same lot on which a single-family residence is located. Such dwellings may contain permanent provisions for living, sleeping, eating, cooking and sanitation. This definition includes “granny flats.”~~

This has the same meaning as stated in Government Code 65852.2 as that section may be amended from time to time. For the sake of convenience only, currently Government Code 65852.2 defines “accessory dwelling unit as, “an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (A) An efficiency unit. (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

**SECTION 7. Whittwood Town Center Specific Plan Revisions.** The following revisions are made to the Whittwood Town Center Specific Plan:

- A. The following sentence is added to the end of the first paragraph of Subsection B of Section III:

Accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) are allowed in all districts, if such units comply with the requirements of WMC

§ 18.10.020(I), “Accessory Dwelling Units”, as that section may be amended from time to time.

B. The following row is added to the portion of Table 3, “Permitted Uses”, that is at the end of page III-4, under the heading, “Residential”

| Land Use   | Major Retail District | Whittier Boulevard District | Village Service District | Village Plaza District | Residential Village District |
|--|-----------------------|-----------------------------|--------------------------|------------------------|------------------------------|
| Accessory Dwelling Units and Junior Accessory Dwelling Units | P**                   | P**                         | P**                      | P**                    | P**                          |

C. The following shall be added within the very last row of Table 3, “Permitted Uses”, on page III-4

\*\*P – Permitted only if in compliance with WMC § 18.10.020(I)

**SECTION 8.** Chapter 18.10. Subsection (I) of Section 18.10.020 is hereby repealed and replaced in its entirety with the following text:

**18.10.020(I) Accessory Dwelling Units.** Accessory dwelling units shall be permitted in all specific plans and zones that allow residential uses, in accordance with the following regulations:

**1. Intent and Findings.**

A. **Intent.** The intent of this subsection (I) is to ensure that accessory dwelling units and junior accessory dwelling units remain as an accessory use to the residence(s) on site, that structures on parcels are organized to accommodate an accessory dwelling unit and/or junior accessory dwelling unit, and that such dwelling units will not adversely impact surrounding residents or the community. Notwithstanding any wording within this subsection (I), this subsection (I) should be interpreted to effect the requirements of Government Code sections 65852.2 and 65852.22, but to not authorize more than is legally required.

B. **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 accessory dwelling units and junior accessory dwelling units, and that the amendment furthers the goals, objectives, and policies of the general plan housing element.

- 2. Occupancy and Rental.** Except as otherwise authorized by law, accessory dwelling units and junior accessory dwelling units may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence. Rental periods shall not be less than 31 days.
- 3. Definitions.** For purposes of this subsection (l) only:
- A. The terms “accessory dwelling unit”, “passageway”, “public transit”, and “tandem parking” each have the same meaning as that stated in Government Code section 65852.2 as that section may be amended time to time. For the sake of convenience only, currently Government Code 65852.2 defines these terms as follows:
- i. “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (A) An efficiency unit. (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.”
  - ii. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
  - iii. “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
  - iv. “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.”
- B. “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 from time to time. For the sake of convenience only, currently Government Code 65852.22(h)(1) provides:
- i. “Junior accessory dwelling unit’ means a unit that is no more than 500 square feet in size and contained entirely within a single-family

residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.”

- C. A structure is considered “existing” if proper permits have been issued and finalized for at least one year or the structure has been in existence at least 50 years prior to the submittal of the application.

**4. Accessory dwelling units—Development standards.** Except for dwelling units approved pursuant to subsection 6 of this subsection (l), below, all accessory dwelling units shall comply with the requirements of this subsection 4. Except as otherwise provided in this subsection 4 or subsection 6, accessory dwelling units shall conform to the development standards of the underlying zone. Accessory dwelling units are only allowed in zones which allow residential uses.

- A. Legal lot/residence. An accessory dwelling unit 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.
- B. Distance. The distance between any detached accessory dwelling unit and the primary dwelling unit shall not be less than ten feet.
- C. Floor Area. Accessory dwelling units shall not exceed the size standards listed below:
- i. Attached accessory dwelling units: The maximum floor area of an attached accessory dwelling unit shall be the greater of:
    - a. 850 square feet for an accessory dwelling unit with 0-1 bedrooms or 1,000 square feet for an accessory dwelling unit with 2 or more bedrooms; or
    - b. If there is an existing primary single family dwelling, 50% of the square footage of the existing primary single family dwelling.
  - ii. Detached accessory dwelling units: 1,200 square feet. On lots of 20,000 square feet and greater, the maximum floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
- D. Zones of Insufficient Sewer or Water. New accessory dwelling units are prohibited if the Director determines the area has insufficient water or sewer service. The Director shall maintain a map showing the known areas in the City with insufficient water or sewer service; such map shall be promptly made available to the public upon request. The Director shall update the map periodically, and shall do so only after consulting with the

relevant water or sewer service provider if such service is not provided by the city.

E. Parking.

- i. In addition to the required parking for the primary unit, one parking space shall be provided for the accessory dwelling unit unless the accessory dwelling unit has no bedrooms (e.g., a studio), in which case no parking space is required. The required parking space may be provided as:
  - a. 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
  - b. Within a setback area or as tandem parking in locations determined feasible by the City for such use. Locations will be determined infeasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the City.
- ii. Notwithstanding the foregoing, no parking space shall be required for an accessory dwelling unit if:
  - a. It is located within one-half mile of public transit (purposes of this subsection, "public transit" has the same meaning as in Government Code 65852.2 as it may be amended from time to time);
  - b. It is located within an architecturally and historically significant district;
  - c. It is part of a proposed or existing primary residence or accessory building;
  - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
  - e. Where there is a car share vehicle located within one block of the accessory dwelling unit.
- iii. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the off-street parking spaces do not have to be replaced. However, all portions of any

existing driveway shall remain except to the extent that the driveway becomes blocked by a new habitable structure.

- F. Conversion of existing primary unit. An existing single-family dwelling may be converted to an accessory dwelling unit if it complies with all applicable requirements of this chapter when a new, larger primary residence is proposed to be constructed.

**5. Accessory dwelling and junior accessory units — Universal Standards.** All accessory dwelling units shall comply with the requirements of this subsection 5, plus either the requirements of subsection 4 or 6. Junior accessory dwelling units shall comply with the requirements of this subsection 5 in addition all other applicable requirements, including those listed in subsection 7.

A. Maximum Number of Dwelling Units.

- i. Single Family. For lots with a proposed or existing single-family residence, no more than one accessory dwelling unit and no more than one junior accessory dwelling unit may be on the lot. No new accessory living area may be constructed if an accessory dwelling unit or junior accessory dwelling unit will be on the property.
- ii. Multi-family. For lots with existing multi-family residential dwellings:
- a. No more than twenty-five percent (25%) of the number of the existing units, but at least one (1) unit, shall be permitted as accessory dwelling units 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 (including minimum floor area requirements) are met;
- b. No more than two detached accessory dwelling units, provided that no such unit shall be more than sixteen (16) feet in height, and each such unit complies with front yard and street side yard setbacks, and meets rear-yard and interior side yard setbacks of four feet. The maximum floor area footage of detached accessory dwelling units on lots with existing multi-family residential dwellings shall be 800 square feet.

B. Setback requirements.

- i. Consistent with subsection 6.A.ii, below, no setbacks are required for:

- a. Those portions of accessory dwelling units that are created by converting existing living area or existing accessory buildings to new accessory dwelling units; or
    - b. Construction of a new accessory dwelling unit in the same location and to the same dimensions as an existing lawful structure.
  - ii. For all other accessory dwelling units (including accessory dwelling units listed in subsections 6.A.ii, 6.B.i, 6.B.ii. and 6.B.iii, below), there must be a minimum four feet setbacks from interior side and rear lot lines the accessory dwelling unit must comply with all applicable front and street side yard setbacks.
- C. Building Code Compliance. All new accessory dwelling units must comply with Title 15 of the Municipal Code (“Buildings and Construction”) and any other applicable provisions of the California Building Standards Code, including all applicable sewer, utility, and water connection requirements, unless the requirements of the California State Historic Building Code apply, in which case those requirements shall apply. (See Municipal Code Chapter 18.84, Historic Resources). Notwithstanding the forgoing, in either instance, fire sprinklers shall not be required if sprinklers would not be required if the accessory dwelling unit or junior accessory dwelling unit were instead an addition to the primary residence.
- D. Easements. No accessory dwelling unit or junior accessory dwelling unit may be constructed in a location that would violate any easement unless approved in writing by the holder of the easement.
- E. Separate Utility Connections. In general, the city may require a new or separate utility connection between the utility on the one hand and any accessory dwelling unit(s) or junior accessory dwelling unit on the other. If, however, the accessory dwelling unit is constructed pursuant to subsection 6.A.i of this subsection (I) (*i.e.*, constructed within an existing single-family structure), then the city cannot require a separate utility connection unless the accessory dwelling unit is constructed with a new single-family home.
- F. Architectural Standards. The accessory dwelling unit shall be compatible in exterior appearance with the primary unit, and the existing dwellings in the vicinity of the lot or parcel on which it is proposed to be constructed, in accordance with code design standards and guidelines applicable to the zone. Junior accessory dwelling units may only be allowed in a primary dwelling that meets all requirements applicable to the primary dwelling.

- G. Historic Preservation. A proposed accessory dwelling or junior accessory dwelling unit shall comply with any applicable requirements of Chapter 18.84 (“Historic Resources”). For example, if an accessory dwelling unit is to be constructed on a parcel identified on any federal, state or local list of historic or eligible historic resources, the accessory dwelling unit shall not adversely impact the property’s integrity to convey its historic significance through the seven (7) aspects of integrity consisting of: setting, location, design, materials, workmanship, feeling and association, as described in National Register Bulletin 15. Likewise, the dwelling unit shall not be placed or constructed so as to result in a modification to any existing historic resource on the parcel or to a designated historic district, unless alterations to the existing historic resource(s) on the property or within a designated historic district conform to the United States Secretary of Interior’s Standards for Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating Restoring and Reconstructing historic buildings. In addition, any detached garages and structures that contribute to the historic significance of an on-site resource shall retain its exterior integrity and comply with the United States Secretary of the Interior’s Standards with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings. Certain accessory dwelling units and junior accessory dwelling units may be eligible for a waiver pursuant to the procedures of Chapter 18.84.
- H. Height. In general, an accessory dwelling unit shall not exceed one story and shall be no greater than sixteen feet in height, unless additional height is necessary to match the roof pitch of the primary structure; the height shall be measured from the top of the first floor top plate. However, an accessory dwelling unit may be built on a second floor if the accessory dwelling unit is solely above a garage or accessory building, and the following requirements are met:
- i. Accessory buildings with “habitable space”, as defined by the California Building Code, or which have bathing facilities, are considered accessory area and therefore must comply with the requirements of Section 18.10.030(H).
  - ii. If an accessory dwelling unit will be within an accessory building which is two stories, then the floor area of the second floor shall not exceed seventy-five percent of the footprint of the first floor of the accessory building.

- iii. The stairway access to a second floor shall be interior. However, exterior stairway access to the second floor may be permitted when it is not readily visible from the street. The location and the design of the stairway shall be architecturally integrated into the design of the accessory dwelling unit.
- I. Conversion of existing primary unit. An existing single-family dwelling may be converted to an accessory dwelling unit when all requirements of this section are met and a new, larger single family dwelling will be constructed in compliance with all requirements of this code.
- J. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- K. Nonconforming. Accessory dwelling units and junior accessory dwelling units shall not be required to correct legal nonconforming zoning conditions (e.g., physical development upon the property) as a precondition to obtaining authorization to construct an accessory dwelling unit or junior accessory dwelling unit. However, this authorization shall not be interpreted as allowing non-conforming use on a property (e.g., a single family dwelling in a commercial zone) to be expanded or intensified by allowing either a new accessory dwelling unit or new junior accessory dwelling unit on the property.
- L. Driveway Maintenance/Removal. If an existing garage for a single family dwelling is demolished or converted to allow an accessory dwelling unit, after creation of the accessory dwelling unit, either (1) the driveway must continue to operate in a manner that one or more cars can lawfully park on the driveway; or (2) at the applicant's sole cost, the driveway shall be removed, the curb cut and driveway apron removed, a replacement curb and gutter installed, and a parkway installed in a manner consistent with the immediate surroundings.

**6. Accessory Dwelling Unit and Junior Accessory Dwelling Unit Exceptions.**

The following types of accessory dwelling units shall be approved regardless of whether the proposed accessory dwelling unit meet the requirements of subsection 4. However, accessory dwelling units approved via this subsection 6 must meet all other applicable requirements of this code, including those listed in subsection 5 above.

- A. On lot with a proposed or existing single-family dwelling within a zone that allows residential uses, either:
  - i. One accessory dwelling unit and/or one junior accessory dwelling unit per lot may be constructed within an existing or proposed single-family or accessory building, including the construction of up to a one hundred fifty (150) square foot expansion beyond the

same physical dimensions as the existing accessory building to accommodate ingress and egress. Any accessory dwelling unit and any junior accessory dwelling unit must have exterior access and side and rear setbacks sufficient for fire safety. If the unit is a junior accessory dwelling unit, it must also comply with the requirements of subsection 7 below (“Junior Accessory Dwelling Units”); or

- ii. One detached, new construction, accessory dwelling unit with setbacks of at least four feet from side and rear yards, no more than eight hundred (800) square feet floor area, and a height not exceeding sixteen (16) feet on a lot with an existing or proposed single family dwelling. A junior accessory dwelling unit may also be built within the existing or proposed single-family dwelling of such residence in connection with the accessory dwelling unit.
- B. On a lot with an existing multifamily dwelling within a zone that allows residential uses, one (and only one) of the following:
- i. Accessory dwelling units may be constructed within portions of “dwellings” 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 accessory dwelling units 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. For purposes of this subsection (i), a “dwelling” includes all lawful single-family dwellings and multi-family dwellings and all structures lawfully attached to the single-family dwellings and multi-family dwellings; accessory dwelling units and junior accessory dwelling units are excluded from this calculation; detached garages and other detached non-habitable structures are excluded from the definition of “dwelling” in this subsection (i); or
  - ii. Up to two (2) detached accessory dwelling units may be constructed, provided they are no taller than sixteen (16) feet, and they have at least four (4) feet of side and rear yard setbacks not to exceed (800) square feet in floor area. If the lot is entirely within a multifamily zone, as an alternative to one or both of the detached accessory dwelling units allowed under this subsection (ii), the detached accessory dwelling unit(s) may be two stories, provided that the height does not exceed 25 feet.
  - iii. One accessory dwelling unit that meets the requirements of subsection (i) of this subsection B and one accessory dwelling unit

that meets the requirements of subsection (ii) of this subsection B, for a total maximum number of accessory dwelling units of two.

## **7. Junior Accessory Dwelling Units.**

- A. Purposes: This section provides standards for the establishment of junior accessory dwelling units. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit, and will be constructed within the walls of an existing or proposed single family residence.
- B. Size: A junior accessory dwelling unit shall not exceed 500 square feet in size.
- C. Owner Occupancy: The owner of a parcel proposed for a junior accessory dwelling unit 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.
- D. Sale Prohibited: A junior accessory dwelling unit shall not be sold independent of the primary dwelling on the parcel.
- E. Short term rentals: The junior accessory dwelling unit shall not be rented for periods of less than 31 days.
- F. Location of Junior Accessory Dwelling Unit: A junior accessory dwelling unit shall be entirely within a legal single-family residence. As such, the structure in which the junior accessory dwelling unit is located (i.e., the primary dwelling) must be in a zone that allows single family dwellings, and must comply with all development requirements (e.g., architectural, historic preservation) otherwise applicable to the primary dwelling.
- G. Kitchen Requirements: The junior accessory dwelling unit 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 junior accessory dwelling unit.
- H. Parking. No additional parking is required beyond that already required for the primary dwelling.
- I. Fire Protection; Utility Service. 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 junior accessory dwelling unit shall not be considered a separate or new unit, unless the junior accessory dwelling unit was constructed in conjunction with a new single-family dwelling. No

separate connection between the junior accessory dwelling unit and the utility shall be required for units created within a single-family dwelling, unless the junior accessory dwelling unit is being constructed in connection with a new single-family dwelling.

- J. Deed Restriction. Prior to the finalization of the building permit for a junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the city that includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, and restricts the size and attributes of the junior dwelling unit to those that conform with this section.

**SECTION 9.** Revise Chapter 18.10. The first sentence of Municipal Code Section 18.10.020(H) is hereby revised to provide as follows:

H. Accessory Living Area. One accessory living area may be permitted on lots in the H-R, R-E, and R-1 zones with not more than one dwelling unit, provided the lot will not have an or accessory dwelling unit, subject to the following:

**SECTION 10.** Revise Chapter 18.10. Municipal Code Section 18.10.060, subsection (C) is hereby repealed and replaced with the following text:

C. Any accessory dwelling unit ~~located in the R-E and R-1 zone and any junior accessory dwelling unit~~ shall be subject to the standards in Section 18.10.020 (I) – Accessory Dwelling Units.

**SECTION 11.** Revise Chapter 18.12. Municipal Code Section 18.12.020, subsection (C) is hereby added to provide:

C. Accessory dwelling units and junior accessory dwelling units in compliance with the requirements of Section 18.10.020(I) – Accessory Dwelling Units.

**SECTION 12.** Revise Chapter 18.14. Municipal Code Section 18.14.030, subsection (C) is hereby added to provide:

C. Accessory dwelling units and junior accessory dwelling units in compliance with the requirements of Section 18.10.020(I) – Accessory Dwelling Units.

**SECTION 13.** Revise Chapter 18.16. Municipal Code Section 18.16.030, subsection (C) is hereby added to provide:

C. Accessory dwelling units and junior accessory dwelling units in compliance with the requirements of Section 18.10.020(I) – Accessory Dwelling Units.

**SECTION 14.** Revise Chapter 18.48. The portion of Municipal Code section 18.48.020 entitled “Off-Street Parking Schedule” is hereby revised as follows:

The Land Use Classification cited in the fourth row shall be re-lettered as subsection F, (rather than A.2) and be placed in the row after existing subsection E (entitled “E. Congregate and assisted living facilities”) and shall be revised as follows:

Off-Street Parking Schedule

| Land Use Classification  | Parking Requirements  |
|--|---|
| <p>F. 2- Accessory Dwelling Units in the R-E and R-1 zones</p> | <p><u>Zero parking spaces for an accessory dwelling unit with no bedrooms, and one parking space for one or more bedrooms.</u><br/>                     (See Section 18.10.020 (I)(4)(E)(7)(C) for additional regulations).<br/> <del>One tandem parking space on an existing driveway or one non-tandem parking space that is either covered or uncovered when the accessory dwelling unit is 1,200 square feet or less. No additional curb cuts are permitted for an accessory dwelling unit unless approved by the Director of Public Works.</del><br/>                     for Accessory Dwellings Units not subject to these Parking Requirements per California Government Code 65852.2, as it may be amended from time to time.)</p> |

The fifth row of the Land use Classification shall be deleted as follows:

|  |   |
|--|---|
|  | <p><del>For secondary dwelling units that are over 1,200 square feet and built on a lot that is 20,000 square feet and greater, a minimum of two covered, non-tandem, on-site parking spaces shall be provided for the second unit.</del></p> |
|--|---|

**SECTION 15.** Revise Chapter 18.84. Municipal Code section 18.84.180 entitled “Certificate of appropriateness waiver” is hereby revised as follows:

When alterations, restorations, rehabilitations, remodeling and additions to historic resources are accomplished in substantial accord with the guidelines set forth in this section, as determined by the secretary, a certificate of appropriateness from the commission is not required prior to issuance of a building permit. Those alterations may include, but are not limited to, the following, if no significant change in appearance occurs or the proposed change restores period features:

- A. Roofing;
- B. Foundation;
- C. Chimney;
- D. Construction, demolition or alteration of side and rear yard fences;
- E. Demolition, alteration or reconstruction of front yard fences;
- F. Landscaping, unless the landmark designation specifically identifies the landscape, layout, features, or elements as having particular historical, architectural, or cultural merit;

G. ~~Accessory structures or additions under five hundred square feet, when not visible from a public right-of-way, if the new construction is accomplished in accordance with the historic preservation guidelines set forth in this section, and respective design guidelines and does not destroy any significant architectural features of the resource. If the new construction is accomplished in accordance with the historic preservation guidelines set forth in this section, and the respective design guidelines and do not destroy any significant architectural features of the resource, then the following are allowed: (1) demolition or alteration of non-contributing signs; (2) accessory structures or additions under five hundred square feet, when not visible from a public right-of-way; (3) conversion of any existing structure into an accessory dwelling unit or junior accessory dwelling unit if the conversion meets the requirements of Municipal Code section 18.10.020(l)(5)(G); and (4) accessory dwelling units of 800 square feet or less that are not visible from a public right-of-way if the conversion meets the requirements of Municipal Code section 18.10.020(l)(5)(G).~~

**SECTION 16.** Revise Municipal Code Section 18.56.045. Subsection A.10 is added to Municipal Code section 18.56.045, "Approval Authority", to provide:

10. Accessory dwelling units and junior accessory dwelling units, notwithstanding subsection B.1 of this subsection, below.

**SECTION 17.** Development Related Fees. City staff is directed continue to collect all development impact fees for accessory dwelling units and junior accessory dwelling units, but only to the extent allowed by Government Code § 65852.2 and other applicable law. If fees are limited by section 65852.2, staff shall collect only that portion of said fees that are lawful. The City Council may establish and update the relevant fees by resolution.

**SECTION 18.** CEQA. These amendments are in compliance with the provisions of the California Environmental Quality Act (CEQA). Under California Public Resources Code § 21080.17, the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code, which is the State accessory dwelling unit law. See also CEQA Guidelines §§ 15282(h) [statutory exemption for second unit ordinances]. Therefore, the proposed amendment to the City's accessory dwelling unit regulations is statutorily exempt from CEQA in that the proposed amendments consist of provisions that further implement the State accessory dwelling unit law. Furthermore, the amendment is not a "project" under CEQA pursuant to CEQA Guidelines Section 15378, which provides that CEQA applies to "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The amendment would additionally be subject to the "general rule" exemption pursuant to CEQA Guidelines Section 15061(b)(3), which provides that, "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not

subject to CEQA.” The ordinance is also exempt under CEQA Guidelines 15303 [new construction or small structures] and 15305 [minor alterations to land].

**SECTION 19. Ordinance vs. Resolutions.** Notwithstanding the general rule that a resolution may not amend an ordinance, nothing in this ordinance shall prohibit the City Council from further amending, by resolution, any of the specific plans affected by this ordinance.

**SECTION 20. Severability.** If any provision(s) of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, even though any one or more sections, subsections, clauses, phrases, parts or portions thereof was declared invalid or unconstitutional.

**SECTION 21. Attest.** The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published pursuant to State law after its adoption, and submitted to the Department of Housing and Community Development within 60 days after adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AND ADOPTED this 26th day of May 2020.

\_\_\_\_\_  
JOSEPH A. VINATIERI, Mayor

ATTEST:

\_\_\_\_\_  
RIGOBERTO GARCIA JR., City Clerk  
(seal)

Date: \_\_\_\_\_

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 3116 was introduced on the 12<sup>th</sup> day of May 2020, and was adopted by the City Council of the City of Whittier at the regular meeting held on the 26<sup>th</sup> day of May 2020, by the following vote:

|          |   |  |
|----------|---|--|
| AYES:    | 5 | Council Members: Vinatieri, Bouchot, Warner, Martinez, Dutra |
| NOES:    | 0 |  |
| ABSTAIN: | 0 |  |
| ABSENT:  | 0 |  |

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RIGOBERTO GARCIA JR., City Clerk  
(seal)