

**ORDINANCE NO. 1203**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BREA ADOPTING ZONING ORDINANCE AMENDMENT NO. ZOA 17-02, A PROPOSAL TO AMEND TITLE 20, CHAPTER 20.00, 20.08 AND ALL SINGLE FAMILY AND MULTIFAMILY ZONES CONTAINED IN CHAPTERS 20.20 OF THE BREA ZONING ORDINANCE TO UPDATE THE PROVISIONS PERTAINING TO ACCESSORY DWELLING UNITS IN SINGLE FAMILY AND MULTIFAMILY ZONES IN ACCORDANCE WITH NEW STATE LEGISLATION THAT AMENDED CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22.**

**A. Recitals.**

(i) On December 12, 2017, the Planning Commission of the City of Brea conducted a duly noticed public hearing concerning Zoning Amendment No. ZOA 17-02 (ZOA 17-02) and following the conclusion thereof, adopted its Resolution No. 17-03, recommending that the City Council adopt said Zoning Ordinance Amendment.

(ii) On February 6, 2018, the City Council of the City of Brea conducted and concluded a duly noticed public hearing concerning Zoning Ordinance Amendment No. ZOA 17-02, as set forth in this Ordinance. It is the intent of the City Council of the City of Brea in adopting this Ordinance to update current standards for Second Dwelling Units in Single-Family and Multifamily Residential zones pursuant to the authority set forth in California Government Code Section 65852.2 and to provide consistency with new State Law provisions, under which such units are now renamed Accessory Dwelling Units.

(iii) The City Council hereby finds and determines that the proposed amendment will not be materially injurious or detrimental to real property or improvements, nor will they have a significant adverse impact upon the environment. The proposed amendment is exempt from CEQA pursuant to CEQA Guidelines Section 15282(h), "The adoption of an Ordinance regarding Second Dwelling Units in a single family or multifamily residential zone by the city or county to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as forth in Section 21080.17 of the Public Resource Code", of the California Environmental Quality Act Guidelines.

(iv) Adoption of this Ordinance is consistent with the General Plan. Under California law, every city and county must prepare a General Plan that is comprehensive and long-term in perspective. State law further indicates that the General Plan is the primary document a jurisdiction must utilize to regulate land use. Consequently, the Zoning Ordinance must be consistent with General Plan goals, policies, and standards. As part of the Zoning Ordinance, a municipality must ensure its Ordinance maintains compliance with State and Federal law. Ongoing compliance is achieved by code amendments such as those proposed for adoption by ZOA 17-02. Therefore, having a General Plan and Zoning Ordinance that are consistent with State and Federal law, and current practices, allows Brea to continue establishing the fundamental framework to guide future decision-making about development, resource management, public safety, public services, and general community well-being. ZOA 17-02 also fulfills General Plan Housing Element Program 2.0 by assisting in the provision for adequate housing to meet the needs of the community, and establish a balanced approach to meeting housing needs that include the needs of both renter and owner households. The Ordinance also fulfills General Plan Housing Element Goal 4.0 and 5.0 by mitigating any governmental constraints to housing production and affordability and by promoting equal opportunity for all residents so that residents can reside in the housing of their choice.

(v) All legal prerequisites to the adoption of this Ordinance have occurred.

**B. Ordinance**

NOW, THEREFORE, the City Council of the City of Brea ordains as follows:

Section 1. The City Council finds that the facts set forth in the Recitals, Part A, of this Ordinance are true and correct.

Section 2. The definition of “Second Dwelling Unit” set forth in Section 20.00.070 of Chapter 20.00 of Title 20 of the Brea City Code is hereby deleted to the alphabetical listing of definitions and the term replaced with “Accessory Dwelling Unit” and updated to read as follows:

**“ACCESSORY DWELLING UNIT.** An attached or detached dwelling unit which provides complete, independent living facilities for one (1) or more persons and

shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the existing primary dwelling unit is situated. An Accessory Dwelling Unit also includes the following: An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.”

Section 3. Subsection “12” of Section 20.208.020(A) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“12. A maximum of one (1) Accessory Dwelling Unit per lot provided that:

- a. The lot contains one (1) existing or proposed primary dwelling unit.
- b. The occupant of either the existing dwelling unit or the Accessory Dwelling Unit shall be the owner of both units.
- c. The Accessory Dwelling Unit shall meet all development standards as set forth in Section 20.208.040 of this chapter.
- d. The Accessory Dwelling Unit shall not be constructed as to cause the existing dwelling to conflict with the minimum standards applicable to the zone on which it is located, including but not limited to, minimum dwelling area.”

Section 4. Subsection “C” of Section 20.208.040 of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“C. *Dwelling unit density.* Not more than one (1) dwelling unit shall be permitted to be on any lot in the R-1 (Single Family Residential) Zone except that an Accessory Dwelling Unit may be permitted subject to the provisions set forth herein.”

Section 5. Subsection “7” of Section 20.208.040(E) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“7. *Location of Accessory Dwelling Units.*

- a. An Accessory Dwelling Unit that is detached or attached to the primary dwelling unit shall maintain a rear yard of not less than ten (10) feet, unless otherwise permitted under subparagraph (b), (c), and (d) below, and conform to the development standards set forth herein.

b. An Accessory Dwelling Unit constructed within existing square footage within the primary dwelling unit or within an existing accessory building on the property may be permitted ministerially, subject to the issuance of a building permit, if complying with Building and Safety codes, has independent exterior access from the existing residence and has sufficient side and rear setbacks for fire safety.

c. No additional building setback shall be required for an existing garage or an existing accessory building that is converted to an Accessory Dwelling Unit. Pursuant to the standards set forth in 20.08.040, the property is required to provide and maintain parking for the primary residence.

d. A setback of no more than five (5) feet from the side and rear lot lines shall be required for an Accessory Dwelling Unit that is constructed above or attached to a garage that is existing or proposed with the Accessory Dwelling Unit.”

Section 6. Subsection “2” of Section 20.208.040(H) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“2. A detached Accessory Dwelling Unit shall maintain a minimum separation of not less than ten (10) feet (regardless of openings in walls) from the external walls of the existing primary dwelling unit on the same lot. No additional distance shall be required for an existing garage or other accessory structure that is converted to an Accessory Dwelling Unit.”

Section 7. Subsection “2” of Section 20.208.040(I) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“2. Accessory Dwelling Units shall have a minimum floor area of not less than one hundred fifty (150) square feet.”

Section 8. Subsection “1” of Section 20.208.040(K) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“1. There shall be not less than two (2) off-street parking spaces within a garage for the primary dwelling unit. An Accessory Dwelling Unit shall provide one (1) additional off-street parking space in addition to the required parking for the

existing primary dwelling unit. This additional parking space may be covered or uncovered and shall meet all parking space location, dimension, and surfacing requirements for this title. The additional parking space may be provided as tandem parking on an existing driveway. If the existing two (2) garage spaces are converted to or displaced for an Accessory Dwelling Unit and one (1) additional parking space is provided for the Accessory Dwelling Unit, then the replacement parking spaces for the primary residence may be covered, uncovered, tandem, or spaces created by mechanical automobile parking lifts. Parking standards for an Accessory Dwelling Unit may be waived in any of the following instances:

- a. The Accessory Dwelling Unit is located within one-half (1/2) mile of public transit, including transit stations and bus stations. The one-half (1/2) mile distance shall be measured on actual walking routes between the Accessory Dwelling Unit and the public transit, rather than a straight line between points.
- b. The Accessory Dwelling Unit is located within an architecturally and historically significant district.
- c. The Accessory Dwelling Unit is part of the existing primary residence or an existing accessory structure.
- d. When on-street parking permits are required but not offered to the occupants of the Accessory Dwelling Unit.
- e. When there is a car share vehicle located within one (1) block of the Accessory Dwelling Unit.”

Section 9. Subsection “O” of Section 20.208.040 of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“O. *Accessory Dwelling Unit architecture.* Each Accessory Dwelling Unit shall be architecturally compatible with the existing dwelling unit.”

Section 10. Subsection “P” of Section 20.208.040 of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“P. *Accessory Dwelling Unit review.* The provisions of § 20.400.010 of this title shall apply to the development of an Accessory Dwelling Unit and conform to the development standards set forth herein, excepting subsection (2) of section 20.208.040(Q) below.”

Section 11. Section 20.208.040 of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to add Subsection Q to read as follows:

“Q. *Accessory Dwelling Unit size.*

1. The increase floor area of an Accessory Dwelling Unit shall not exceed fifty (50) percent of the existing living area of the primary residence, with a maximum total floor area of one thousand, two hundred (1,200) square feet.

2. Accessory Dwelling Unit may exceed the total floor area permitted ministerially with the approval of a Certificate of Compatibility set forth in Section 20.408.050.”

Section 12. Subsection 9 of Section 20.200.020(B) of Chapter 20.200 of Title 20 of the Brea City Code is hereby amended to remove Subsection 9 as follows:

“9. The placement of one (1) second dwelling unit per lot subject to provisions of Sections 20.208.020 and 20.208.040, of this title, excepting paragraph P of section 20.208.040.”

Section 13. Subsection A of Section 20.200.020 of Chapter 20.000 of Title 20 of the Brea City Code is hereby amended to add Subsection 10 to read as follows:

“10. Accessory Dwelling Units, subject to the regulations contained in Section 20.208.020 and 20.208.040 of this title, and state law.”

Section 14. Subsection 2 of Section 20.206.040(A) of Chapter 20.206 of Title 20 of the Brea City Code is hereby amended to read as follows:

“2. Accessory Dwelling Units, subject to the regulations contained in Section 20.208.20 and 20.208.040 of this title, and state law.”

Section 15. Subsection J of Section 20.206.050 of Chapter 20.206 of Title 20 of the Brea City Code is hereby amended to read as follows:

J. For applications involving one (1) single-family dwelling unit residence on an existing lot, architectural and landscaping treatment materials shall be provided consistent with the requirements for a certificate of compatibility, as set forth in Section 20.408.050. Accessory Dwelling Units shall be subject to the regulations contained in Section 20.208.020 and 20.208.040 of this title, and state law.”

Section 16. Subsection 11 of Section 20.212.020(A) of Chapter 20.212 of Title 20 of the Brea City Code is hereby amended to read as follows:

“11. Accessory Dwelling Units, subject to the regulations contained in Section 20.208.20 and 20.208.040 of this title, and state law.”

Section 17. Subsection A of Section 20.216.020 of Chapter 20.216 of Title 20 of the Brea City Code is hereby amended to add Subsection 12 to read as follows:

“12. Accessory Dwelling Units, subject to the regulations contained in Section 20.208.020 and 20.208.040 of this title, and state law.”

Section 18. Subsection A of Section 20.220.020 of Chapter 20.220 of Title 20 of the Brea City Code is hereby amended to add Subsection 13 to read as follows:

“13. Accessory Dwelling Units, subject to the regulations contained in Section 20.208.020 and 20.208.040 of this title, and state law.”

Section 19. Subsection 3 of Section 20.08.040(C)(2)(c) of Chapter 20.08 of Title 20 of the Brea City Code is hereby amended to read as follows:

(3) Required off-street parking in residential zones shall not be provided in areas required for ingress and egress to other parking spaces; no tandem parking is permitted, except with properties associated with an Accessory Dwelling Unit pursuant to the standards as set forth in Section 20.208.040 of this title.

Section 20. The provisions of this Ordinance, insofar as they are substantially the same as provisions of Ordinances previously adopted by the City relating to the same matter, shall be construed as restatements and continuations of the earlier enactment,

and not as new enactments. The adoption of this Ordinance does not affect the following matters:

- a. Actions and proceedings that began before the effective date of this Ordinance.
- b. Prosecution for Ordinance violations committed before the effective date of this Ordinance.
- c. Licenses and penalties due and unpaid at the effective date of this Ordinance.
- d. Collection of licenses and penalties due and unpaid at the effective date of this Ordinance.
- e. Bonds and cash deposits required to be posted, filed, or deposited pursuant to any ordinance, resolution, or regulation.
- f. Matters of record that refer to or are connected with an Ordinance previously adopted by the City the substance of which is amended by this Ordinance. Such references shall be construed to apply to the corresponding provisions of this Ordinance.

Section 8. CEQA. This Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15282(h), “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 Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resource Code” of the California Environmental Quality Act Guidelines.

Section 9. Severability. If any section, subsection, subdivision, 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 hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision,



sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 10. Effective Date. This Ordinance shall become effective thirty (30) days after its adoption in accordance with the provisions of California law.

Section 11. Certification. The City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within fifteen (15) days after adoption in a newspaper of general circulation, printed and published in \_\_\_\_\_, California.

**PASSED, APPROVED, AND ADOPTED**, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Glen Parker  
Mayor

ATTEST:

\_\_\_\_\_  
Lillian Harris-Neal  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss.  
CITY OF \_\_\_\_\_ )

I, Lillian Harris- Neal, City Clerk of the City of Brea, do hereby certify that foregoing Ordinance No. 1203 was duly and regularly adopted by the City Council of the City of Brea at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2018, and that the same was passed and adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lillian Harris-Neal  
City Clerk