

# CITY of ALBUQUERQUE TWENTY-FIRST COUNCIL

COUNCIL BILL NO.     C/S  O-14-20     ENACTMENT NO. \_\_\_\_\_

SPONSORED BY:     Isaac Benton

1    ORDINANCE  
2    AMENDING THE ZONING CODE TO ADD A DEFINITION FOR SECONDARY  
3    DWELLING UNITS, MAKE SECONDARY DWELLING UNITS A CONDITIONAL  
4    USE IN THE R-1 AND RO-1 ZONES, MAKE SECONDARY DWELLING UNITS A  
5    PERMISSIVE USE IN THE R-G AND R-2 ZONES, AND ESTABLISH DESIGN,  
6    SIZE, PARKING AND OCCUPANCY REGULATIONS.  
7    BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
8    ALBUQUERQUE:

9        SECTION 1. Subsection 14-16-1-5(B), the Definitions section of the Zoning  
10     Code, is amended to add the following definitions in alphabetical order:

11        “**[+SECONDARY DWELLING UNIT. Living quarters within an accessory**  
12     **building containing a kitchen.+]”**

13        SECTION 2. Subsection 14-16-2-2 (B), the Conditional Uses of the R0-1  
14     Rural and Open Zone, is amended to add a new Section (1) and all other  
15     sections shall be renumbered accordingly starting with Accessory Living  
16     Quarters as Section (2). The new Section (1) shall read as follows:

17     “(1) **[+Secondary Dwelling Unit, provided:**

- 18        a. **The Secondary Dwelling Unit is clearly located in a separate structure**  
19        **and incidental to the primary dwelling unit. In no case can the**  
20        **Secondary Dwelling Unit be larger than the primary dwelling unit.**
- 21        b. **There shall be no more than either one Secondary Dwelling Unit or one**  
22        **Accessory Living Quarters per premise. In no case shall both be**  
23        **allowed on one premise.**
- 24        c. **Occupancy: The property owner or beneficiary of an ownership trust**  
25        **described in a deed to the property must occupy either the primary or**  
26        **secondary dwelling unit. Upon request by the City, the property owner**  
27        **or beneficiary of an ownership trust shall provide proof of occupancy. A**

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- 1 current government-issued photo identification with an address  
2 matching the property shall constitute proof of residency for purposes  
3 of this ordinance.
- 4 d. If such use is approved, the property owner shall record the terms of the  
5 approved Conditional Use Permit, together with a signed acceptance of  
6 such terms, with the County Clerk prior to occupancy of the SDU.
- 7 e. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
- 8 i. Maximum 650 net square feet for lots 5,000 square feet or less.  
9 ii. Maximum 800 net square feet for lots greater than 5,000  
10 square feet but not greater than 10,000 square feet.  
11 iii. Maximum 1,000 net square feet for lots greater than 10,000  
12 square feet.  
13 iv. A garage or shed attached to the Secondary Dwelling Unit  
14 shall not count towards the square footage limitation. The  
15 garage or shed shall not exceed 50% of the size of the  
16 secondary dwelling unit.  
17 v. All accessory buildings, including Secondary Dwelling Units,  
18 must comply with the height and area requirements of § 14-16-  
19 3-3, with the exception of the additional height allowance as  
20 described in Section g.i. below.
- 21 f. Setbacks: Secondary dwelling units shall be located to the rear of the  
22 primary dwelling unit except on irregularly-shaped lots where side yards  
23 are larger than rear yards, in which case a secondary dwelling unit may  
24 be located in the side yard provided required setbacks are met. There  
25 shall be a minimum of 10 feet separation between the primary dwelling  
26 unit and the secondary dwelling unit. In addition to the building  
27 separation requirement, the following minimum setbacks from the  
28 property line shall apply:
- 29 i. Side: 5 feet  
30 ii. Rear: 5 feet  
31 iii. On corner lots, the street side setback shall be a minimum of  
32 10 feet.

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- 1       g. Height: Secondary dwelling units shall not exceed one story and 18 feet  
2       in height, with the following exception:  
3           i. Where a property is accessed by an alley, a Secondary  
4           Dwelling Unit may be built over a garage, provided the garage  
5           is accessed only from the alley and the total height of the  
6           structure does not exceed 22 feet or the height of the primary  
7           dwelling unit, whichever is shorter.  
8       h. Parking: One off-street space per unit.  
9       i. Design: The design of the secondary dwelling unit shall relate to the  
10       design of the primary dwelling unit by use of similar exterior wall  
11       materials or finishes, architectural style and elements, including but not  
12       limited to roofing materials and roof pitch.+]”

13       SECTION 3. Subsection 14-16-2-6 (B), the Conditional Uses of the R-1  
14       Residential Zone, is amended to add a new Section (1) and all other sections  
15       shall be renumbered accordingly starting with Accessory Living Quarters as  
16       Section (2). The new Section (1) shall read as follows:

17       “(1) [+Secondary Dwelling Unit, provided:

- 18       a. The Secondary Dwelling Unit is clearly located in a separate structure  
19       and incidental to the primary dwelling unit. In no case can the  
20       Secondary Dwelling Unit be larger than the primary dwelling unit.  
21       b. There shall be no more than either one Secondary Dwelling Unit or one  
22       Accessory Living Quarters per premise. In no case shall both be  
23       allowed on one premise.  
24       c. Occupancy: The property owner or beneficiary of an ownership trust  
25       described in a deed to the property must occupy either the primary or  
26       secondary dwelling unit. Upon request by the City, the property owner  
27       or beneficiary of an ownership trust shall provide proof of occupancy. A  
28       current government-issued photo identification with an address  
29       matching the property shall constitute proof of residency for purposes  
30       of this ordinance.  
31       d. If such use is approved, the property owner shall record the terms of the  
32       approved Conditional Use Permit, together with a signed acceptance of  
33       such terms, with the County Clerk prior to occupancy of the SDU.

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- 1 e. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
- 2 i. Maximum 650 net square feet for lots 5,000 square feet or less.
- 3 ii. Maximum 800 net square feet for lots greater than 5,000
- 4 square feet but not greater than 10,000 square feet.
- 5 iii. Maximum 1,000 net square feet for lots greater than 10,000
- 6 square feet.
- 7 iv. A garage or shed attached to the Secondary Dwelling Unit
- 8 shall not count towards the square footage limitation. The
- 9 garage or shed shall not exceed 50% of the size of the
- 10 secondary dwelling unit.
- 11 v. All accessory buildings, including Secondary Dwelling Units,
- 12 must comply with the height and area requirements of § 14-16-
- 13 3-3, with the exception of the additional height allowance as
- 14 described in Section g.i. below.
- 15 f. Setbacks: Secondary dwelling units shall be located to the rear of the
- 16 primary dwelling unit except on irregularly-shaped lots where side yards
- 17 are larger than rear yards, in which case a secondary dwelling unit may
- 18 be located in the side yard provided required setbacks are met. There
- 19 shall be a minimum of 10 feet separation between the primary dwelling
- 20 unit and the secondary dwelling unit. In addition to the building
- 21 separation requirement, the following minimum setbacks from the
- 22 property line shall apply:
- 23 i. Side: 5 feet
- 24 ii. Rear: 5 feet
- 25 iii. On corner lots, the street side setback shall be a minimum of
- 26 10 feet.
- 27 g. Height: Secondary dwelling units shall not exceed one story and 18 feet
- 28 in height, with the following exception:
- 29 i. Where a property is accessed by an alley, a Secondary
- 30 Dwelling Unit may be built over a garage, provided the garage
- 31 is accessed only from the alley and the total height of the
- 32 structure does not exceed 22 feet or the height of the primary
- 33 dwelling unit, whichever is shorter.

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- 1 h. Parking: One off-street space per unit.
- 2 i. Design: The design of the secondary dwelling unit shall relate to the
- 3 design of the primary dwelling unit by use of similar exterior wall
- 4 materials or finishes, architectural style and elements, including but not
- 5 limited to roofing materials and roof pitch.+]

6 SECTION 4. Subsection 14-16-2-10 (A), the permissive uses of the R-G  
7 Residential Garden Apartment Zone, is amended to add a new Section (2) and  
8 all other sections shall be renumbered accordingly starting with Accessory  
9 Living Quarters as Section (3). The new Section (2) shall read as follows:

10 “(2) [Secondary Dwelling Unit, provided:

- 11 a. The Secondary Dwelling Unit is clearly located in a separate structure
- 12 and incidental to the primary dwelling unit. In no case can the
- 13 Secondary Dwelling Unit be larger than the primary dwelling unit.
- 14 b. There shall be no more than either one Secondary Dwelling Unit or one
- 15 Accessory Living Quarters per premise. In no case shall both be
- 16 allowed on one premise.
- 17 c. Occupancy: The property owner or beneficiary of an ownership trust
- 18 described in a deed to the property must occupy either the primary or
- 19 secondary dwelling unit. Upon request by the City, the property owner
- 20 or beneficiary of an ownership trust shall provide proof of occupancy. A
- 21 current government-issued photo identification with an address
- 22 matching the property shall constitute proof of residency for purposes
- 23 of this ordinance.
- 24 d. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
  - 25 i. Maximum 650 net square feet for lots 5,000 square feet or less.
  - 26 ii. Maximum 800 net square feet for lots greater than 5,000
  - 27 square feet but not greater than 10,000 square feet.
  - 28 iii. Maximum 1,000 net square feet for lots greater than 10,000
  - 29 square feet.
  - 30 iv. A garage or shed attached to the Secondary Dwelling Unit
  - 31 shall not count towards the square footage limitation. The
  - 32 garage or shed shall not exceed 50% of the size of the
  - 33 secondary dwelling unit.

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- 1 v. All accessory buildings, including Secondary Dwelling Units,  
2 must comply with the height and area requirements of § 14-16-  
3 3-3, with the exception of the additional height allowance as  
4 described in Section f.i. below.
- 5 e. Setbacks: Secondary dwelling units shall be located to the rear of the  
6 primary dwelling unit except on irregularly-shaped lots where side yards  
7 are larger than rear yards, in which case a secondary dwelling unit may  
8 be located in the side yard provided required setbacks are met. There  
9 shall be a minimum of 10 feet separation between the primary dwelling  
10 unit and the secondary dwelling unit. In addition to the building  
11 separation requirement, the following minimum setbacks from the  
12 property line shall apply:
- 13 i. Side: 5 feet  
14 ii. Rear: 5 feet  
15 iii. On corner lots, the street side setback shall be a minimum of  
16 10 feet.
- 17 f. Height: Secondary dwelling units shall not exceed one story and 18 feet  
18 in height, with the following exception:
- 19 i. Where a property is accessed by an alley, a Secondary  
20 Dwelling Unit may be built over a garage, provided the garage  
21 is accessed only from the alley and the total height of the  
22 structure does not exceed 22 feet or the height of the primary  
23 dwelling unit, whichever is shorter.
- 24 g. Parking: One off-street space per unit.
- 25 h. Design: The design of the secondary dwelling unit shall relate to the  
26 design of the primary dwelling unit by use of similar exterior wall  
27 materials or finishes, architectural style and elements, including but not  
28 limited to roofing materials and roof pitch.+]

29 SECTION 5. Subsection 14-16-2-11 (A), the permissive uses of the R-2  
30 Residential Zone, is amended to add a new Section (2) and all other sections  
31 shall be renumbered accordingly starting with Accessory Living Quarters as  
32 Section (3). The new Section (2) shall read as follows:

33 “(2) [+Secondary Dwelling Unit, provided:

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- 1 a. The Secondary Dwelling Unit is clearly located in a separate structure  
2 and incidental to the primary dwelling unit. In no case can the  
3 Secondary Dwelling Unit be larger than the primary dwelling unit.
- 4 b. There shall be no more than either one Secondary Dwelling Unit or one  
5 Accessory Living Quarters per premise. In no case shall both be  
6 allowed on one premise.
- 7 c. Occupancy: The property owner or beneficiary of an ownership trust  
8 described in a deed to the property must occupy either the primary or  
9 secondary dwelling unit. Upon request by the City, the property owner  
10 or beneficiary of an ownership trust shall provide proof of occupancy. A  
11 current government-issued photo identification with an address  
12 matching the property shall constitute proof of residency for purposes  
13 of this ordinance.
- 14 d. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
- 15 i. Maximum 650 net square feet for lots 5,000 square feet or less.
- 16 ii. Maximum 800 net square feet for lots greater than 5,000  
17 square feet but not greater than 10,000 square feet.
- 18 iii. Maximum 1,000 net square feet for lots greater than 10,000  
19 square feet.
- 20 iv. A garage or shed attached to the Secondary Dwelling Unit  
21 shall not count towards the square footage limitation. The  
22 garage or shed shall not exceed 50% of the size of the  
23 secondary dwelling unit.
- 24 v. All accessory buildings, including Secondary Dwelling Units,  
25 must comply with the height and area requirements of § 14-16-  
26 3-3, with the exception of the additional height allowance as  
27 described in Section f.i. below.
- 28 e. Setbacks: Secondary dwelling units shall be located to the rear of the  
29 primary dwelling unit except on irregularly-shaped lots where side yards  
30 are larger than rear yards, in which case a secondary dwelling unit may  
31 be located in the side yard provided required setbacks are met. There  
32 shall be a minimum of 10 feet separation between the primary dwelling  
33 unit and the secondary dwelling unit. In addition to the building

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- 1           separation requirement, the following minimum setbacks from the
- 2           property line shall apply:
- 3           i.    Side: 5 feet
- 4           ii. Rear: 5 feet
- 5           iii. On corner lots, the street side setback shall be a minimum of
- 6                    10 feet.
- 7        f. Height: Secondary dwelling units shall not exceed one story and 18 feet
- 8           in height, with the following exception:
- 9           i.    Where a property is accessed by an alley, a Secondary
- 10                   Dwelling Unit may be built over a garage, provided the garage
- 11                   is accessed only from the alley and the total height of the
- 12                   structure does not exceed 22 feet or the height of the primary
- 13                   dwelling unit, whichever is shorter.
- 14        g. Parking: One off-street space per unit.
- 15        h. Design: The design of the secondary dwelling unit shall relate to the
- 16           design of the primary dwelling unit by use of similar exterior wall
- 17           materials or finishes, architectural style and elements, including but not
- 18           limited to roofing materials and roof pitch.+]

19        **SECTION 6. SEVERABILITY CLAUSE.** If any section, paragraph, sentence,  
20 clause, word or phrase of this ordinance is for any reason held to be invalid or  
21 unenforceable by any court of competent jurisdiction, such decision shall not  
22 affect the validity of the remaining provisions of this ordinance. The Council  
23 hereby declares that it would have passed this ordinance and each section,  
24 paragraph, sentence, clause, word or phrase thereof irrespective of any  
25 provision being declared unconstitutional or otherwise invalid.

26        **SECTION 7. COMPILATION.** This ordinance shall be incorporated in and  
27 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

28        **SECTION 8. EFFECTIVE DATE.** This ordinance shall take effect five days  
29 after publication by title and general summary.

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