CITY of ALBUQUERQUE
TWENTY-FIRST COUNCIL

COUNCIL BILL NO. F/S O-14-20 ENACTMENT NO. ________________________

SPONSORED BY: Isaac Benton

ORDINANCE

AMENDING THE ZONING CODE TO ADD A DEFINITION FOR SECONDARY DWELLING UNITS, MAKE SECONDARY DWELLING UNITS A CONDITIONAL USE IN THE RO-1, RA-1 AND R-LT AND R-T ZONES, MAKE SECONDARY DWELLING UNITS A PERMISSIVE USE IN THE R-G AND R-2 ZONES, AND ESTABLISH DESIGN, SIZE, PARKING AND OCCUPANCY REGULATIONS.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

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

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

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

“(1) [Secondary Dwelling Unit, provided:

a. The Secondary Dwelling Unit is clearly located in a separate structure and incidental to the primary dwelling unit. In no case can the Secondary Dwelling Unit be larger than the primary dwelling unit.

b. There shall be no more than either one Secondary Dwelling Unit or one Accessory Living Quarters per premise. In no case shall both be allowed on one premise.

c. Occupancy: The property owner or beneficiary of an ownership trust described in a deed to the property must occupy either the primary or secondary dwelling unit. Upon request by the City, the property owner or beneficiary of an ownership trust shall provide proof of occupancy. A
current government-issued photo identification with an address matching the property shall constitute proof of residency for purposes of this ordinance.

d. If such use is approved, the property owner shall record the terms of the approved Conditional Use Permit, together with a signed acceptance of such terms, with the County Clerk prior to occupancy of the SDU.

e. Size. The footprint of a Secondary Dwelling Unit shall not exceed:

   i. Maximum 650 net square feet for lots 5,000 square feet or less.
   ii. Maximum 800 net square feet for lots greater than 5,000 square feet but not greater than 10,000 square feet.
   iii. Maximum 1,000 net square feet for lots greater than 10,000 square feet.
   iv. A garage or shed attached to the Secondary Dwelling Unit shall not count towards the square footage limitation. The garage or shed shall not exceed 50% of the size of the secondary dwelling unit.
   v. All accessory buildings, including Secondary Dwelling Units, must comply with the height and area requirements of § 14-16-3-3, with the exception of the additional height allowance as described in Section g.i. below.

f. Setbacks: Secondary dwelling units shall be located to the rear of the primary dwelling unit except on irregularly-shaped lots where side yards are larger than rear yards, in which case a secondary dwelling unit may be located in the side yard provided required setbacks are met. There shall be a minimum of 10 feet separation between the primary dwelling unit and the secondary dwelling unit. In addition to the building separation requirement, the following minimum setbacks from the property line shall apply:

   i. Side: 5 feet
   ii. Rear: 5 feet
   iii. On corner lots, the street side setback shall be a minimum of 10 feet.
g. **Height:** Secondary dwelling units shall not exceed one story and 18 feet in height, with the following exception:
   
   i. Where a property is accessed by an alley, a Secondary Dwelling Unit may be built over a garage, provided the garage is accessed only from the alley and the total height of the structure does not exceed 22 feet or the height of the primary dwelling unit, whichever is shorter.

h. **Parking:** One off-street space per unit.

i. **Design:** The design of the secondary dwelling unit shall relate to the design of the primary dwelling unit by use of similar exterior wall materials or finishes, architectural style and elements, including but not limited to roofing materials and roof pitch.+

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**SECTION 3.** Subsection 14-16-2-4 (B), the Conditional Uses of the RA-1 Residential Zone, is amended to add a new Section (2) and all other sections shall be renumbered accordingly. The new Section (2) shall read as follows:

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

a. The Secondary Dwelling Unit is clearly located in a separate structure and incidental to the primary dwelling unit. In no case can the Secondary Dwelling Unit be larger than the primary dwelling unit.

b. There shall be no more than either one Secondary Dwelling Unit or one Accessory Living Quarters per premise. In no case shall both be allowed on one premise.

c. **Occupancy:** The property owner or beneficiary of an ownership trust described in a deed to the property must occupy either the primary or secondary dwelling unit. Upon request by the City, the property owner or beneficiary of an ownership trust shall provide proof of occupancy. A current government-issued photo identification with an address matching the property shall constitute proof of residency for purposes of this ordinance.

d. If such use is approved, the property owner shall record the terms of the approved Conditional Use Permit, together with a signed acceptance of such terms, with the County Clerk prior to occupancy of the SDU.

e. **Size.** The footprint of a Secondary Dwelling Unit shall not exceed:
i. Maximum 650 net square feet for lots 5,000 square feet or less.

ii. Maximum 800 net square feet for lots greater than 5,000 square feet but not greater than 10,000 square feet.

iii. Maximum 1,000 net square feet for lots greater than 10,000 square feet.

iv. A garage or shed attached to the Secondary Dwelling Unit shall not count towards the square footage limitation. The garage or shed shall not exceed 50% of the size of the secondary dwelling unit.

v. All accessory buildings, including Secondary Dwelling Units, must comply with the height and area requirements of § 14-16-3-3, with the exception of the additional height allowance as described in Section g.i. below.

f. Setbacks: Secondary dwelling units shall be located to the rear of the primary dwelling unit except on irregularly-shaped lots where side yards are larger than rear yards, in which case a secondary dwelling unit may be located in the side yard provided required setbacks are met. There shall be a minimum of 10 feet separation between the primary dwelling unit and the secondary dwelling unit. In addition to the building separation requirement, the following minimum setbacks from the property line shall apply:

   i. Side: 5 feet

   ii. Rear: 5 feet

   iii. On corner lots, the street side setback shall be a minimum of 10 feet.

g. Height: Secondary dwelling units shall not exceed one story and 18 feet in height, with the following exception:

   i. Where a property is accessed by an alley, a Secondary Dwelling Unit may be built over a garage, provided the garage is accessed only from the alley and the total height of the structure does not exceed 22 feet or the height of the primary dwelling unit, whichever is shorter.

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

SECTION 3. Subsection 14-16-2-8 (B), the Conditional Uses of the R-LT Residential Zone, is amended to add a new Section (2) and all other sections shall be renumbered accordingly. The new Section (2) shall read as follows:

“(2) [Secondary Dwelling Unit, provided:

j. The Secondary Dwelling Unit is clearly located in a separate structure and incidental to the primary dwelling unit. In no case can the Secondary Dwelling Unit be larger than the primary dwelling unit.

k. There shall be no more than either one Secondary Dwelling Unit or one Accessory Living Quarters per premise. In no case shall both be allowed on one premise.

l. Occupancy: The property owner or beneficiary of an ownership trust described in a deed to the property must occupy either the primary or secondary dwelling unit. Upon request by the City, the property owner or beneficiary of an ownership trust shall provide proof of occupancy. A current government-issued photo identification with an address matching the property shall constitute proof of residency for purposes of this ordinance.

m. If such use is approved, the property owner shall record the terms of the approved Conditional Use Permit, together with a signed acceptance of such terms, with the County Clerk prior to occupancy of the SDU.

n. Size. The footprint of a Secondary Dwelling Unit shall not exceed:

vi. Maximum 650 net square feet for lots 5,000 square feet or less.

vii. Maximum 800 net square feet for lots greater than 5,000 square feet but not greater than 10,000 square feet.

viii. Maximum 1,000 net square feet for lots greater than 10,000 square feet.

ix. A garage or shed attached to the Secondary Dwelling Unit shall not count towards the square footage limitation. The
garage or shed shall not exceed 50% of the size of the secondary dwelling unit.

x. All accessory buildings, including Secondary Dwelling Units, must comply with the height and area requirements of § 14-16-3-3, with the exception of the additional height allowance as described in Section g.i. below.

o. Setbacks: Secondary dwelling units shall be located to the rear of the primary dwelling unit except on irregularly-shaped lots where side yards are larger than rear yards, in which case a secondary dwelling unit may be located in the side yard provided required setbacks are met. There shall be a minimum of 10 feet separation between the primary dwelling unit and the secondary dwelling unit. In addition to the building separation requirement, the following minimum setbacks from the property line shall apply:

   iv. Side: 5 feet
   v. Rear: 5 feet
   vi. On corner lots, the street side setback shall be a minimum of 10 feet.

p. Height: Secondary dwelling units shall not exceed one story and 18 feet in height, with the following exception:

   ii. Where a property is accessed by an alley, a Secondary Dwelling Unit may be built over a garage, provided the garage is accessed only from the alley and the total height of the structure does not exceed 22 feet or the height of the primary dwelling unit, whichever is shorter.

q. Parking: One off-street space per unit.

r. Design: The design of the secondary dwelling unit shall relate to the design of the primary dwelling unit by use of similar exterior wall materials or finishes, architectural style and elements, including but not limited to roofing materials and roof pitch.+

SECTION 3. Subsection 14-16-2-9 (B), the Conditional Uses of the R-T Residential Zone, is amended to read as follows:

"[+(1) Uses conditional in the R-1 Zone.

"
(2) **Secondary Dwelling Unit, provided:**

s. The Secondary Dwelling Unit is clearly located in a separate structure and incidental to the primary dwelling unit. In no case can the Secondary Dwelling Unit be larger than the primary dwelling unit.

t. There shall be no more than either one Secondary Dwelling Unit or one Accessory Living Quarters per premise. In no case shall both be allowed on one premise.

u. **Occupancy:** The property owner or beneficiary of an ownership trust described in a deed to the property must occupy either the primary or secondary dwelling unit. Upon request by the City, the property owner or beneficiary of an ownership trust shall provide proof of occupancy. A current government-issued photo identification with an address matching the property shall constitute proof of residency for purposes of this ordinance.

v. If such use is approved, the property owner shall record the terms of the approved Conditional Use Permit, together with a signed acceptance of such terms, with the County Clerk prior to occupancy of the SDU.

w. **Size.** The footprint of a Secondary Dwelling Unit shall not exceed:

  xi. Maximum 650 net square feet for lots 5,000 square feet or less.
  xii. Maximum 800 net square feet for lots greater than 5,000 square feet but not greater than 10,000 square feet.
  xiii. Maximum 1,000 net square feet for lots greater than 10,000 square feet.
  xiv. A garage or shed attached to the Secondary Dwelling Unit shall not count towards the square footage limitation. The garage or shed shall not exceed 50% of the size of the secondary dwelling unit.
  xv. All accessory buildings, including Secondary Dwelling Units, must comply with the height and area requirements of § 14-16-3-3, with the exception of the additional height allowance as described in Section g.i. below.

x. **Setbacks:** Secondary dwelling units shall be located to the rear of the primary dwelling unit except on irregularly-shaped lots where side yards...
are larger than rear yards, in which case a secondary dwelling unit may be located in the side yard provided required setbacks are met. There shall be a minimum of 10 feet separation between the primary dwelling unit and the secondary dwelling unit. In addition to the building separation requirement, the following minimum setbacks from the property line shall apply:

vii. Side: 5 feet
viii. Rear: 5 feet
ix. On corner lots, the street side setback shall be a minimum of 10 feet.

y. Height: Secondary dwelling units shall not exceed one story and 18 feet in height, with the following exception:

iii. Where a property is accessed by an alley, a Secondary Dwelling Unit may be built over a garage, provided the garage is accessed only from the alley and the total height of the structure does not exceed 22 feet or the height of the primary dwelling unit, whichever is shorter.

z. Parking: One off-street space per unit.

aa. Design: The design of the secondary dwelling unit shall relate to the design of the primary dwelling unit by use of similar exterior wall materials or finishes, architectural style and elements, including but not limited to roofing materials and roof pitch.+

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

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

a. The Secondary Dwelling Unit is clearly located in a separate structure and incidental to the primary dwelling unit. In no case can the Secondary Dwelling Unit be larger than the primary dwelling unit.
b. There shall be no more than either one Secondary Dwelling Unit or one Accessory Living Quarters per premise. In no case shall both be allowed on one premise.
c. **Occupancy:** The property owner or beneficiary of an ownership trust described in a deed to the property must occupy either the primary or secondary dwelling unit. Upon request by the City, the property owner or beneficiary of an ownership trust shall provide proof of occupancy. A current government-issued photo identification with an address matching the property shall constitute proof of residency for purposes of this ordinance.

d. **Size.** The footprint of a Secondary Dwelling Unit shall not exceed:

i. Maximum 650 net square feet for lots 5,000 square feet or less.

ii. Maximum 800 net square feet for lots greater than 5,000 square feet but not greater than 10,000 square feet.

iii. Maximum 1,000 net square feet for lots greater than 10,000 square feet.

iv. A garage or shed attached to the Secondary Dwelling Unit shall not count towards the square footage limitation. The garage or shed shall not exceed 50% of the size of the secondary dwelling unit.

v. All accessory buildings, including Secondary Dwelling Units, must comply with the height and area requirements of § 14-16-3-3, with the exception of the additional height allowance as described in Section f.i. below.

e. **Setbacks:** Secondary dwelling units shall be located to the rear of the primary dwelling unit except on irregularly-shaped lots where side yards are larger than rear yards, in which case a secondary dwelling unit may be located in the side yard provided required setbacks are met. There shall be a minimum of 10 feet separation between the primary dwelling unit and the secondary dwelling unit. In addition to the building separation requirement, the following minimum setbacks from the property line shall apply:

i. Side: 5 feet

ii. Rear: 5 feet

iii. On corner lots, the street side setback shall be a minimum of 10 feet.
f. Height: Secondary dwelling units shall not exceed one story and 18 feet in height, with the following exception:
   i. Where a property is accessed by an alley, a Secondary Dwelling Unit may be built over a garage, provided the garage is accessed only from the alley and the total height of the structure does not exceed 22 feet or the height of the primary dwelling unit, whichever is shorter.

g. Parking: One off-street space per unit.

h. Design: The design of the secondary dwelling unit shall relate to the
design of the primary dwelling unit by use of similar exterior wall materials or finishes, architectural style and elements, including but not limited to roofing materials and roof pitch.+

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

a. The Secondary Dwelling Unit is clearly located in a separate structure and incidental to the primary dwelling unit. In no case can the Secondary Dwelling Unit be larger than the primary dwelling unit.

b. There shall be no more than either one Secondary Dwelling Unit or one Accessory Living Quarters per premise. In no case shall both be allowed on one premise.

c. Occupancy: The property owner or beneficiary of an ownership trust described in a deed to the property must occupy either the primary or secondary dwelling unit. Upon request by the City, the property owner or beneficiary of an ownership trust shall provide proof of occupancy. A current government-issued photo identification with an address matching the property shall constitute proof of residency for purposes of this ordinance.

d. Size. The footprint of a Secondary Dwelling Unit shall not exceed:
   i. Maximum 650 net square feet for lots 5,000 square feet or less.
ii. Maximum 800 net square feet for lots greater than 5,000 square feet but not greater than 10,000 square feet.

iii. Maximum 1,000 net square feet for lots greater than 10,000 square feet.

iv. A garage or shed attached to the Secondary Dwelling Unit shall not count towards the square footage limitation. The garage or shed shall not exceed 50% of the size of the secondary dwelling unit.

v. All accessory buildings, including Secondary Dwelling Units, must comply with the height and area requirements of § 14-16-3-3, with the exception of the additional height allowance as described in Section f.i. below.

e. Setbacks: Secondary dwelling units shall be located to the rear of the primary dwelling unit except on irregularly-shaped lots where side yards are larger than rear yards, in which case a secondary dwelling unit may be located in the side yard provided required setbacks are met. There shall be a minimum of 10 feet separation between the primary dwelling unit and the secondary dwelling unit. In addition to the building separation requirement, the following minimum setbacks from the property line shall apply:

   i. Side: 5 feet
   
   ii. Rear: 5 feet
   
   iii. On corner lots, the street side setback shall be a minimum of 10 feet.

f. Height: Secondary dwelling units shall not exceed one story and 18 feet in height, with the following exception:

   i. Where a property is accessed by an alley, a Secondary Dwelling Unit may be built over a garage, provided the garage is accessed only from the alley and the total height of the structure does not exceed 22 feet or the height of the primary dwelling unit, whichever is shorter.


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

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

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

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