ORDINANCE NO. 9982 (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO STREAMLINE THE REGULATIONS REGARDING ACCESSORY DWELLING UNITS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that the following amendments will provide a necessary update to the Zoning Ordinance. Changes are being proposed in order to simplify the use regulations by reducing the number of accessory dwellings into two types: Second Dwelling Units and Guest Living Quarters. In short, a Second Dwelling Unit has all the accommodations as the primary structure with certain limitations such as structure size while the Guest Living Quarters is designed for the temporary use by guests or people employed on the premises. Guest Living Quarters do not have kitchen facilities or laundry facilities. Accessory Apartments and Accessory Living Quarters provisions are being repealed.

Section 2. Section 1110, DEFINITIONS (A) of the San Diego County Zoning Ordinance is hereby amended for the terms "Accessory Apartment" and "Accessory Living Quarters" to read as follows:

Accessory Apartment (Elderly/Handicapped/Family Member): A dwelling unit no greater than 640 square feet in floor area, located within or attached to a single detached dwelling, for occupancy by a maximum of two persons, one of whom shall be either 1) 60 years of age or older, 2) handicapped (as defined in the State Health and Safety Code) or 3) a member of the immediate family of the owner (related by blood, marriage or adoption) of the principal dwelling on the site. (Accessory Apartment provisions were repealed by Ord. No. 9982(N.S.), adopted 04-22-09).

Accessory Living Quarters: Living quarters, which may include kitchen facilities, within an accessory building or within the primary dwelling for the sole use of persons employed on the premises and not rented or otherwise used as a separate dwelling. (Accessory Living Quarters provisions were repealed by Ord. No.9982(N.S), adopted 04-22-09).

Section 3. Section 1110, DEFINITIONS (G) of the San Diego County Zoning Ordinance is hereby amended for the term "Guest Living Quarters" to read as follows:

Guest Living Quarters: Living quarters attached to a primary dwelling unit without interior access or within a detached accessory building, which are for the sole use of persons employed on the premises or for temporary use by guests of the occupants of premises. Individual guests may be accommodated for a period not to exceed thirty (30) calendar days in any calendar

year. Guest living quarters have neither kitchen facilities, wetbars nor laundry facilities and are not rented or otherwise used as a separate dwelling.

Section 4. Section 6156.k, RESIDENTIAL AND AGRICULTURAL USE TYPES of the San Diego County Zoning Ordinance is hereby amended to read as follows:

k. Guest Living Quarters. In the A70, A72, RR, S87, S90 and S92 Use Regulations, one guest living quarters is allowed on a legal lot. In the RS, RV, RU, RRO and S88 Use Regulations, one guest living quarters is allowed on a legal lot not less than 20,000 square feet in net area. One guest living quarters may be permitted in the RS, RV, RU, RRO and S88 Use Regulations upon issuance of an Administrative Permit on a legal lot which has a net area of less than 20,000 square feet. Guest living quarters are not permitted in other zones. Guest living quarters shall comply with all of the following requirements:

1. The total floor area of a guest living quarters shall not exceed thirty percent (30%) of the square footage of the primary dwelling up to a maximum of 600 square feet. Additional area, up to 50% of the square footage of the primary dwelling, may be permitted with the approval of an Administrative Permit.

2. Only one electric meter to serve both the main dwelling and guest living quarters will be allowed.

3. Guest living quarters shall not be allowed on a lot or parcel having a second dwelling unit, accessory apartment or accessory living quarters. Conversion of such a unit into guest living quarters is allowed provided all zoning and structural requirements are met. If said accessory unit was permitted by a discretionary permit, said permit shall be modified as required by the appropriate section of the Zoning Ordinance.

4. Notice of guest living quarters Administrative Permit applications shall be given as provided in Section 7060(c).

5. Before any Administrative Permit may be granted or modified, it shall be found:

   (a). That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:

      (i). Harmony in scale, bulk, and coverage;

      (ii). The harmful effect, if any, upon desirable neighborhood character;

      (iii). The suitability of the site for the type and intensity of use or development which is proposed; and to

      (iv). Any other relevant impact of the proposed use; and

(b). That the impacts, as described in paragraph "a" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan.

(c). That the requirements of the California Environmental Quality Act have been complied with.

See subsection ii. for an illustrative matrix comparing Second Dwelling Units and Guest Living Quarters.

Section 5. Subsection l. of Section 6156, RESIDENTIAL AND AGRICULTURAL USE TYPES of the San Diego County Zoning Ordinance is hereby repealed and amended to read as follows:

l. Accessory Living Quarters. Repealed.

Section 6. Subsection w. of Section 6156, RESIDENTIAL AND AGRICULTURAL USE TYPES of the San Diego County Zoning Ordinance is hereby repealed and amended to read as follows:

w. Accessory Apartments (Elderly/Handicapped/Family Member). Repealed.

Section 7. Section 6156.x, RESIDENTIAL AND AGRICULTURAL USE TYPES of the San Diego County Zoning Ordinance is hereby amended to read as follows:

x. Second Dwelling Units. In zones where the Family Residential use type is allowed by right, a second dwelling unit is allowed on a legal lot containing an existing single family detached residence, or to be constructed concurrently with a primary single family detached residence, provided the following requirements are complied with:

1. The second dwelling unit shall either be attached to the primary unit, wholly or partially integrated into the primary unit, or detached from the primary unit. The second unit may be attached to another permitted accessory building, except for those accessory units or other accessory buildings specified in paragraph 4, 5 or 6 below.

2. Applicable requirements of the building and other codes and of The Zoning Ordinance shall apply to second dwelling units. No Variances shall be granted in order to provide for the second unit.

3. A lot shall contain at least the minimum net area as required by the applicable zoning to qualify for a second dwelling; however, no second dwelling unit shall be permitted on a lot with a net area of less than 20,000 square feet, except pursuant to paragraph 12 below. If a legal lot is at least 1 net acre in size and

does not contain at least the minimum net area as required by the applicable zoning, a second dwelling unit may be permitted pursuant to paragraph 12 below.

However, if the lot proposed for a second dwelling is groundwater dependent the minimum size must be twice that required by the residential density controls of Section 67.722 A.1. of the County Groundwater Ordinance (Ord. 7994 N.S.) unless an exception is granted pursuant to Section 67.750 (c) of that Ordinance.

4. Second dwelling units shall not be allowed on a lot or parcel with a guest living quarter, accessory living quarter, or accessory apartment. Conversion of such quarters into a second dwelling unit is allowed provided all applicable zoning and other code requirements are met, and subject to the following procedures:

   i. Application for modification of the Administrative Permit or Minor Use Permit that authorized the accessory unit proposed for conversion to a second dwelling unit and application for any other applicable permits; or

   ii. If no Administrative or Minor Use Permit was required to authorize the accessory unit proposed for conversion (Guest Living Quarters in certain use regulations), by application for a building permit and any other applicable permits; or

   iii. If the accessory unit proposed for conversion was established illegally, by application pursuant to this subsection "4" as if a new second dwelling unit was being proposed.

5. Second dwelling units with a living area exceeding 640 square feet shall comply with the parking requirements for Family Residential under Section 6758. Second dwelling units with a living area not exceeding 640 square feet shall provide one additional off-street parking space. Said additional parking spaces shall not be in tandem with existing spaces. If establishment of the second dwelling unit involves a garage conversion, replacement covered off-street parking shall be provided concurrently. A garage or carport attached to the second dwelling unit shall not exceed 480 square feet of gross floor area. Additional garage area attached to the second dwelling unit may be permitted pursuant to paragraph 12 below. No other structures defined by Section 6156.b shall be attached to a second dwelling unit. No other structures defined by Section 6156.h shall be attached to a second dwelling unit unless approved pursuant to paragraph 12 below.

6. The living area of a second dwelling unit shall not exceed 30 percent of the living area of the existing unit, up to a maximum floor area of 1,200 square feet, except pursuant to paragraph 12 below. However, a second dwelling unit of up to 400 square feet is permitted (even if that figure exceeds 30 percent of the size of the primary dwelling). No other habitable space shall be attached to a detached second dwelling unit.

7. Applicants are required to provide evidence satisfactory to the Director of the following:

   i. Adequate sewer service or approval by the Department of Environmental Health for use of a septic system;

   ii. Adequate potable water supply; and

   iii. That applicable school district fees have been paid.

8. The architectural design, building materials, colors and, if provided, covered parking shall be substantially the same as those of the primary dwelling. Color photographs of the street-facing sides of the existing primary dwelling shall be submitted with the second unit application.

9. No entrance to the second dwelling unit shall face an abutting street unless the entrance is shielded so as not to be apparent when viewed from the abutting street. Plant materials shall not qualify for shielding purposes.

10. Separate sale or ownership of a second dwelling unit from the primary dwelling located on a single lot is prohibited, unless a subdivision is created pursuant to the County Subdivision Ordinance.

11. Application for and issuance of a discretionary permit for a second dwelling shall be limited to the owner-occupant of the primary dwelling or his/her authorized agent. Owner-occupancy of either the primary dwelling or the second dwelling is required for the duration of the use of the second unit for residential purposes, except both units may be rented or leased for a period of up to one year upon written request to, and approval of, the Director. Said request shall state the change in life circumstances of the owner which necessitates interruption of continuous owner occupancy. Rental or leasing of both units may be extended by the Director for one additional period not exceeding six months upon further request of the owner.

12. a. A second dwelling unit may be authorized upon the issuance of an Administrative Permit with all findings per 12.b. and with notice to property owners per 12.c, below, to allow the following:

   i. Location on a legal lot of less than 20,000 square feet in net area, but not less than the minimum net area required by the applicable zoning; or on a legal lot that is at least one net acre in size and does not meet the minimum net area required by the applicable zoning.

   ii. A living area greater than 30 percent of the living area of the primary dwelling, not to exceed 50 percent thereof or 1,200 square feet, whichever is less.

   iii. Conversion to a second dwelling unit of an existing legal accessory living unit, or legalization as a second dwelling unit of an illegal accessory living

unit which existed on July 1, 1994, when such existing living unit does not conform to one or more of the following requirements of this subsection x:

- minimum lot size: however, no conversion shall be permitted on a lot of less than the minimum net lot area required by the applicable zoning; except on a legal lot that is at least one net acre in size and does not meet the minimum net area required by the applicable zoning.

- maximum living area: however, a maximum living area of greater than 1200 square feet shall not be authorized;

- off-street parking;

- architectural design;

- location of entrance;

- height and/or setback: to the extent that a variance for height or setback was granted in connection with the establishment of a legal accessory living unit that existed on July 1, 1994, said variance shall be valid and applicable to the conversion of such accessory living unit to a second dwelling unit.

No other exceptions to this subsection or other provisions of this Ordinance shall be authorized by the Administrative Permit.

b. Before any Administrative Permit may be granted or modified, it shall be found:

i. That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:

(a). Harmony in scale, bulk, and coverage;

(b). The availability of public facilities, services and utilities;

(c). The harmful effect, if any, upon desirable neighborhood character;

(d). The generation of traffic and the capacity and physical character of surrounding streets;

(e). The suitability of the site for the type and intensity of use or development which is proposed; and to

(f). Any other relevant impact of the proposed use; and

ii. That the impacts, as described in paragraph "i" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan.

iii. That the requirements of the California Environmental Quality Act have been complied with.

c. Notice shall be given to owners of property within 300 feet of the exterior boundaries of the property proposing the second dwelling unit and a minimum of 20 different owners pursuant to Section 7060 c. No hearing is required unless requested by the applicant or other affected person pursuant to Section 7060 d.

13. Prior to issuance of a building permit for a second dwelling unit, the owner of the property upon which the second dwelling unit is to be located shall submit a notarized and recorded copy of an agreement between the owner and the County of San Diego on a form supplied by the Department. Said agreement shall state that the owner understands and will abide by the requirements of this subsection, other applicable provisions of this Ordinance, and that said agreement is binding on all successors in interest to the subject property as long as the second dwelling unit is used or maintained for use as a separate dwelling unit.

See subsection ii. for an illustrative matrix comparing Second Dwelling Units and Guest Living Quarters.

Section 8. Subsection ii. is hereby added to Section 6156, RESIDENTIAL AND AGRICULTURAL USE TYPES of the San Diego County Zoning Ordinance to read as follows:

ii. The following matrix compares Guest Living Quarters and Second Dwelling Unit provisions. Complete regulations can be found in subsections k. and x.

Accessory Use Regulations

This Table is a summary only. For complete regulations see appropriate sections of the Zoning Ordinance. In case of conflict between the provisions graphically represented in this table and the provisions set forth in the text of the Zoning Ordinance, the provisions of the Zoning Ordinance text shall apply.		Guest Living Quarters (6156.k.)	Second Dwelling Unit (6156.x.)
LOCATION AND SIZE			
Applicable Use Types	Residential	■	■
	Commercial	-	-
	Industrial	-	-
	Agriculture	■	■
	Special Purpose	■	■
Net Lot Size Restrictions[1]	Must meet minimum required by zoning	-	■
	Must be 20,000 sf or larger	■	■
	Administrative Permit Exceptions		
	May be less than 20,000 sf	■	■
	Minimum zoning not met[2] but 1 acre or larger	-	■
Unit Size Restrictions	Must be equal or greater than 400 sf[3]	-	■
	May not exceed 30% of primary dwelling[3]	■	■
	May not exceed 600 sf[3]	■	-
	May not exceed 1,200 sf[3]	-	■
	Administrative Permit Exceptions		
	Up to 50% of primary dwelling allowed	■	■
	May not exceed 1,200 sf	-	■
DESIGN AND USE			
Allowed Facilities	Kitchen	-	■
	Wetbar	-	■
	Laundry	-	■
Occupancy	Employee	■	■
	Guests up to 30 days	■	■
	Guest more than 30 days	-	■
	Rental	-	■
Attachment to Other Structures	Primary Dwelling	■	■
	Detached garage/carport 480 sf or less	■	■
	Detached garage/carport greater than 480 sf	■	-
	Other habitable space	■	-
	Barn/agricultural storage building	■	-
	Administrative Permit Exceptions		
	Detached garage/carport greater than 480 sf	■	■
	Barn/agricultural storage building	-	■
Electric Metering	Separate Meter Allowed	-	■
PARKING			
Off-Street Parking Requirements[4]	1 space for units less than 640 sf	-	■
	2 spaces for units equal or greater than 640 sf	-	■

■ Applicable
\- Not Applicable

Footnotes:

1. If lot is Groundwater dependent, the lot must be twice the minimum size required per Groundwater Ordinance Section 67.722 A.1.
2. Lot must have met the minimum net area required by zoning at the time the lot was legally created, pursuant to Policy G-3.
3. Ministerially approved, provided all criteria of DPLU (including Zoning/Building/Fire) and other County Departments are met.
4. Required spaces may not be in tandem with required spaces for primary dwelling. May not encroach into front or exterior side setbacks.

Section 9. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY _____
SENIOR DEPUTY 4/8/09

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 22nd day of April, 2009.

DIANNE JACOB
Chairwoman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Slater-Price, Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 22nd day of April, 2009.

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By _____
Catherine Santos, Deputy

Ordinance No. 9982 (N.S.)
Meeting Date: 4/22/09 (2)