

Zoning Code Clean-Up – Item 10a	
Section 6156 – Accessory Dwelling Units	
Overview	The update will revise Second Dwelling Unit regulations to be consistent with new Accessory Dwelling Unit State Law (SB 1069, AB2299, AB2406, SB 229, and AB 494) requirements related to ministerial permit processing, total floor area, setbacks, parking requirements, and separate sale or ownership. The update will also add provisions that require owner occupancy of one of the dwelling, and prohibit renting of ADU for less than 30 days.
Strike-through Changes	
<p>[Section 6156 – Accessory Dwelling Units to be replaced by the text in the “Clean Version of New Ordinance” cell below]</p> <p>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:</p> <p>1. The second dwelling unit Shall be either 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.</p> <p>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.</p> <p>ii. If no Administrative Permit is required to establish a second dwelling unit, and an Administrative or Minor Use Permit was approved to authorize the accessory unit proposed for conversion to a second dwelling unit, a request to rescind the existing Administrative or Minor Use Permit may be submitted in addition to an application for building permit and any other applicable permits; or</p> <p>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.</p> <p>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 of the County Groundwater Ordinance unless an exception is granted pursuant to Section 67.750 (c) of that Ordinance.</p> <p>3.4. 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:</p> <p>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 (if an Administrative Permit is required to establish the Second Dwelling Unit pursuant to paragraph 12 below) and application for any other applicable permits; or</p>	

~~iii. 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~~

~~iv. 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.~~

~~4. 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.~~

~~Notice shall be provided 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.~~

Clean Version of New Ordinance

- x. An Accessory Dwelling Unit (ADU) means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated
1. The legal lot must have an existing single-family residence, or the ADU is to be constructed concurrently with a primary single-family residence.
 2. The ADU is either attached to an existing dwelling, or located within the living area of the existing dwelling or detached and on the same legal lot.
 3. ADU may be rented but is not intended for sale separate from the primary residence.
 4. Lot does not have an existing guest living quarters, accessory living quarters, or accessory apartment. A conversion of a guest living quarters, accessory living quarters, or accessory apartment into an ADU is potentially permitted and requires approval of a building permit.
 5. The total floor area of an attached ADU shall not exceed 50 percent of the floor area of the existing SFD, up to a maximum floor area of 1,200 square feet.
 6. The total floor area of a detached ADU shall not exceed 1,200 square feet, independent of the square footage of the living area of the existing SFD.
 7. The "floor area" measurements are taken from the exterior dimensions of the outside walls.
 8. Total floor area of a proposed garage attached to a detached ADU shall not exceed the allowable combined square footages per Section 6156.g.
 9. An ADU is allowed to be located within an existing and permitted accessory structure (garage, barn, shed, etc.) and a change in square footage to the building is proposed where the non-habitable portion would be larger than 480 square feet after redesign, approval of an Administrative Permit is required. If no square footage changes are proposed to the building, an Administrative Permit would not be required.
 10. No other rooms, additions, uses, etc. can be attached to the ADU, except a garage of 480 square feet or less, or unless authorized by an approved Administrative Permit.

11. ADU's must provide side and rear setbacks that are sufficient for fire safety & building code. Setbacks could be as small as 3' or up to 30' from property lines.
12. No setbacks are required if an existing and permitted garage is being converted into an ADU, except for Fire safety.
13. A setback of five feet from the side and rear lot lines is required for a 2-story ADU.
14. An ADU is limited to 24' in height.
15. For health, fire and life safety conditions, all ADU's must comply with the required front yard & exterior side yard setbacks.
16. An ADU attached to the primary residence must comply with the required main building setbacks.
17. A new ADU shall provide one parking space. The parking space for the ADU may be located in an existing driveway as tandem parking but must comply with the required front yard and/or exterior side yard setback(s). If establishment of the ADU involves a garage conversion, replacement off-street parking for the SFD shall be provided concurrently.
18. The applicant must provide evidence that there is sewer (or septic) service and water available, and that any applicable permits have been obtained and all applicable fees have been paid.
19. No Variances shall be granted for the construction of an ADU.
20. Separate sale or ownership of an ADU is prohibited, unless the lot is subdivided creating a separate lot for each dwelling.
21. Owner-occupancy of one of the dwellings is required for the duration of use of the ADU for residential purposes.
22. Before a building permit is issued, the owner of the property shall submit a notarized and recorded copy of an agreement stating that the owner understands and will abide by the requirements of the Zoning Ordinance.
23. The ADU shall not be rented for less than 30 days-