ORDINANCE NO. 1046


WHEREAS, the City of San Juan Capistrano, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and,

WHEREAS, the Planning and Zoning Law authorizes cities to provide by ordinance for the creation of second units; and,

WHEREAS, to address California’s shortage of housing supply, the California Legislature approved, and the Governor signed into law, Assembly Bill 2299 (Bloom, Chapter 735, Stats. 2016), Senate Bill 1069 (Wieckowski, Chapter 720, Stats. 2016) and Assembly Bill 2406 (Thurmond, Chapter 755, Stats. 2016); and,

WHEREAS, Assembly Bill 2299 and Senate Bill 1069 are double jointing bills, which among other things, amend California Government Code Section 65852.2. These statutes impose new limitations on local authority to regulate second units, which are now referred to as “accessory dwelling units” (“ADU”); and,

WHEREAS, Assembly Bill 2299 became effective on January 1, 2017, and rendered all non-compliant local ordinances null and void on that date unless and until an agency adopts an ordinance that complies with Government Code Section 65852.2; and,

WHEREAS, the City desires to amend its local regulatory scheme for the construction of accessory dwelling units that fully complies with Assembly Bill 2299; and,

WHEREAS, among other things, the City desires to maintain its prohibition on tandem parking for ADUs because allowing tandem parking would create a situation in the City’s residential zones where the vehicle(s) belonging to the owner of a principle dwelling unit on a property may impede the vehicle(s) belonging to the owner or occupant of an ADU on the same property from being able to safely evacuate the property in an emergency, or vice versa; and,

WHEREAS, the latter issue is a particularly important life safety concern in the City because 90 percent of the City lies within either a Moderate, High or Very High Fire Hazard Severity Zone, as mapped by the Orange County Fire Authority, or within a Flood Zone, as mapped by the Federal Emergency Management Agency; and,
WHEREAS, approximately one-third of the southern portion of the City lies within the San Onofre Nuclear Generating Station's (SONGS) 10-mile Emergency Planning Zone. Though all fuel has been removed from the site, risk still remains to residents in the 10-mile Emergency Planning Zone from SONGS due to potential flooding or seismic impacts; and,

WHEREAS, a majority of the City’s residential districts were developed decades ago, and many residential driveways that lead from the garage to the street are narrow and non-conforming to today’s driveway width standards; and,

WHEREAS, at a regularly scheduled meeting on February 7, 2017, the City Council initiated an amendment to the City’s Land Use Code so that the City’s existing regulations that govern accessory dwelling units could be amended to comply with the new State regulations; and,

WHEREAS, the proposed project has been processed pursuant to Section 9-2.309, Amendment of the Land Use Code; and,

WHEREAS, the Environmental Administrator has determined the Land Use Code Amendment is statutorily exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to Section 21080.17 of the Public Resources Code; and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on February 28, 2017, pursuant to Title 9, Land Use Code, Section 9-2.302(g) to consider public testimony on the proposed project, considered all relevant public comments, and recommended that the City Council adopt Land Use Code Amendment 17-001.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

The City Council here incorporates and adopts the foregoing recitals and accompanying staff report as findings as though they were fully set forth herein.

Section 2. Compliance with the California Environmental Quality Act.

Based upon all the evidence presented in the administrative record, including but not limited to the staff report for the proposed Zoning Amendment, the City Council hereby finds and determines that the proposed Zoning Amendment is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code. The proposed ordinance relates to accessory dwelling units and implements the requirements of Government Code Section 65852.2. CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Government Code Section 65852.2.
Section 3. With regard to Code Amendment No. 17-001, the City Council finds as follows:

1. The proposed Zoning Amendment conforms with the goals and policies of the General Plan because it provides for the fulfilment of the General Plan’s goals and policies, including:

   A. Land Use Goal 7, which provides, "Enhance and maintain the character of neighborhoods," and Land Use Policy 7.2, which provides, "Ensure that new development is compatible with the physical characteristics of its site, surrounding land uses, and available public infrastructure." The proposed ordinance continues to only allow one ADU to be constructed on a parcel with an existing single family residential unit to ensure that single family residential zoning districts maintain a character of lower density. The proposed ordinance requires the development of the ADU to adhere to the base district’s zoning regulations, including height, setbacks, and lot coverage to maintain the base district’s characteristics.

   B. A "key opportunity" listed in the Housing Element is that the City has the "potential to better utilize the City’s available land, both vacant and already developed" as a housing strategy. Here, the proposed ordinance allows property owners to apply to the City in order to build an ADU on existing, developed parcels. The proposed ordinance allows property owners to rent out the principal dwelling or the ADU for long-term renters, which provides more affordable housing to residents.

   C. Program 8, "Accessory Units" of the Housing Element provides that the City has an objective to "apply zoning code provisions that allow accessory units...by right in all single family residential zones, in accordance with state law." The proposed ordinance continues to allow accessory dwelling units in all single family residential zones.

   D. Program 13, "Other Potential Constraints—Land Use Controls, Fees, and Exactions, Permit Streamlining and Parking" of the Housing Element provides that the City has an objective to "engage in a program to improve the efficiency of the development review process." Here, pursuant to State law, the proposed ordinance codifies a ministerial process to review ADU applications. In some instances, an ADU only requires a building permit prior to construction. The proposed ordinance expressly provides that the City will render a decision on an ADU application within 120 days of receiving a complete application. Moreover, the Program 13 Housing Element objective provides that the City will "continue to monitor its parking standards to insure that they do not constrain..."
the supply of affordable housing and its land use controls (especially impact development standards)." Here, in compliance with State law, certain ADUs do not need to provide additional off-street parking.

E. Housing Element Goal 1 states, “provide a broad range of housing opportunities with emphasis on providing housing which meets the special needs of the community.” Policy 1.1 provides, “consistent with the Land Use Element, provide a range of different housing types and unit sizes for varying income ranges and lifestyles.” Policy 1.4 provides, “facilitate the development of second dwelling units on single-family parcels.” The proposed ordinance allows ADUs to be built on parcels with existing single family units. Such ADUs are typically smaller than the principal dwelling (150 square feet to up to 1,200 square feet), and may be leased for long-term rentals. As such, the development of ADUs may provide a different housing type and unit size in the City.

F. Housing Element Goal 2 provides, “to the maximum extent feasible, encourage and provide housing opportunities for persons of lower and moderate incomes.” As note, ADUs are typically smaller than the principal dwelling (150 square feet to up to 1,200 square feet), and may be leased for long-term rentals. As such, the development of ADUs, which may be leased, may provide housing opportunities for persons of lower and moderate incomes.

G. Housing Goal 3 provides, “reduce or removal governmental constraints to the development, improvement, and maintenance of housing where feasible and legally permissible.” Policy 3.1 provides, “periodically review City regulations, ordinances, permitting processes, and residential fees to ensure that they do not constrain housing development and are consistent with State law.” Here, pursuant to State law, the proposed ordinance codifies a ministerial process to review ADU applications. In some instances, an ADU only requires a building permit prior to construction. The proposed ordinance expressly provides that the City will render a decision on an ADU application within 120 days of receiving a complete application.

H. Circulation Goal 2 provides, “promote an advanced public transportation network.” Policy 2.1 provides, “encourage the increased use and expansion of public transportation opportunities.” The proposed ordinance provides that among other things, when an ADU is developed within a half-mile of public transit, ADUs are not required to provide off-street parking. This requirement complies with State law and encourages ADU residents to use public transportation.
I. Safety Goal 1 provides, "reduce the risk to the community from hazards related to geologic conditions, seismic activity, wildfires, structural fires and flooding." Moreover, Safety Goal 4 provides, "Improve the ability of the City to respond effectively to natural and human-caused emergencies." Because of the City's unique, physical location in a moderate, high, or very high fire hazard severity zone, flood zone, or in the San Onofre Nuclear Generating Station's 10-mile Emergency Planning Zone, the proposed ordinance maintains that ADUs may not provide off-street parking as tandem parking spaces.

J. Noise Goal 1 provides, "minimize the effects of noise through proper land use planning." The proposed ordinance provides that ADUs must adhere to, among other things, the setback requirements in the base zoning district. Such land use regulation will help ensure that noise traveling from one parcel to another, which results from increased development, are minimized.

2. The proposed Land Use Code Amendment is necessary to implement the General Plan because the proposed amendment achieves the goals and policies of the General Plan for the reasons listed above. Moreover, the proposed Land Use Amendment provides for the public safety, convenience, and general welfare because, among other things, it will provide additional housing options for different types of people and income levels, and it will help increase the City's housing stock. Because of the City's unique regional, topographical features, as described in the recitals, the proposed ordinance continues to prohibit ADUs from providing tandem parking for off-street parking, except in certain circumstances.

3. The proposed Land Use Code Amendment conforms with the intent of the Development Code and is consistent with other applicable related provisions thereof because it provides, generally, that ADUs must continue to adhere to the base zoning district's land use standards including lot coverage, setbacks, and height restrictions. The proposed ordinance provides that new ADUs must provide additional off-street parking, unless statutorily exempt. It also provides that the design, materials, and overall ADU must be generally be consistent with the principal unit so that the ADU blends into the neighborhood. Further, it codifies the application review process and timeline that the City has already been using.

4. The proposed Land Use Code Amendment is reasonable and beneficial at this time because AB 2299—relating to ADUs—became effective on January 1, 2017, and supersedes the City's current ADU ordinance. As such, it is reasonable and beneficial for the City to adopt the proposed ordinance at this time in order to comply with State law.
Section 4. Subsection (c) of Section 9-3.501 of Chapter 3 of Article 5 of Title 9 of the San Juan Capistrano Municipal Code is hereby amended in its entirety and restated to read as provided in the attached Exhibit "A", which is incorporated herein by reference.

Section 5. The definition of "Accessory use" is hereby amended in its entirety in Appendix A, "Definitions" of Title 9 of the San Juan Capistrano Municipal Code to read as follows:

"Accessory use: A use customarily incidental to the primary use or approved conditional use on the same building site or lot, such as a permanent caretaker residence, accessory dwelling unit, and home business."

Section 6. The definition of "Second dwelling unit" is hereby amended in its entirety in Appendix A, "Definitions" of Title 9 of the San Juan Capistrano Municipal Code to read as follows:

"Accessory dwelling unit: A residential dwelling unit that is detached from, attached to, or located within the living area of an existing primary dwelling unit, and that provides independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation, for one or more persons. An accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code section 17958.1, and a manufactured home, as defined in California Health and Safety Code section 18007."

Section 7. The definition of "Single housekeeping unit" is hereby added to Appendix A, "Definitions" of Title 9 of the San Juan Capistrano Municipal Code to read as follows:

"Single housekeeping unit means that the residents of a dwelling unit satisfy each of the following criteria:

1. The persons residing in the single housekeeping unit have established ties and familiarity and interact with each other.
2. Membership in the single housekeeping unit is fairly stable as opposed to transient or temporary.
3. The persons residing in the single housekeeping unit meals, household activities, expenses, and responsibilities.
4. All adult residents have chosen to jointly occupy the entire premises of the dwelling unit; and they each have access to all common areas.
5. If the dwelling unit is rented, each adult resident is named on and is a party to a single written lease that gives each resident joint use and responsibility for the premises."
6. Membership of the household is determined by the residents of the unit, not by a landlord, property manager, or other third party.

7. The residential activities of the household are conducted on a nonprofit basis.

8. Residents do not have separate entrances or separate food-storage facilities, such as separate refrigerators, food-prep areas, or equipment."

Section 8. Severability. If any part of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision has no effect on the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted each part of this ordinance, irrespective of the fact that any other part or parts thereof might be declared invalid or unconstitutional.

Section 9. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of San Juan Capistrano, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with Government Code § 36933.

Section 10. Custodian of Records. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council’s findings and determinations are based are located at San Juan Capistrano City Hall, 32400 Paseo Adelanto, San Juan Capistrano, California 92675. The City Clerk is the custodian of the record of proceedings.

Section 11. Notice of Exemption. The City Council hereby directs City staff to prepare and file a Notice of Exemption with the County of Orange, County Clerk within five working days of the adoption of this Ordinance.

APPROVED AND ADOPTED this 18th day of April 2017.

[Signatures]
I, MARIA MORRIS, appointed City Clerk of the City of San Juan Capistrano, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1046 that was adopted and passed at the Regular Meeting of the City Council on the 18th day of April 2017, by the following vote, to wit:

AYE S: COUNCIL MEMBERS: Maryott, Reeve, And Farias
NOES: COUNCIL MEMBERS: Patterson and Mayor Ferguson
ABSENT: COUNCIL MEMBERS: None

[Signature]

MARIA MORRIS, CITY CLERK

STATE OF CALIFORNIA )
COUNTY OF ORANGE ) ss
CITY OF SAN JUAN CAPISTRANO)

I, MARIA MORRIS, declare as follows:

That I am the duly appointed and qualified City Clerk of the City of San Juan Capistrano; that in compliance with State laws, Government Code section 36933(1) of the State of California.

On the 20th day of April, I caused to be posted a certified copy of Ordinance No. 1046, adopted by the City Council on April 18, 2017, entitled:


This document was posted in the Office of the City Clerk

[Signature]

MARIA MORRIS, CITY CLERK
San Juan Capistrano, California
EXHIBIT “A”

Sec. 9-3.501. Accessory uses and structures.

(a) General requirements. Accessory uses and structures may be developed as permitted in this section provided such uses are located on the same lot or parcel of land as the principal use, and such uses are incidental to, and do not alter, the use of land as permitted within the specific district in which they are located.

(b) Accessory structures.

(1) Attached accessory structures. A fully-enclosed, attached accessory structure shall be made structurally a part of the main building and shall comply in all respects with the requirements of this chapter applicable to the principal structure. Open patio covers shall be regulated by subsection (d) of this section. Decks shall be regulated by subsection (f) of this section.

(2) Detached accessory structures. Detached accessory structures shall satisfy all of the following requirements:

(A) Shall not exceed the height of the principal structure on the building site;

(B) Shall conform to the front and side yard requirements of the applicable district;

(C) Shall maintain a minimum separation of six (6) feet between the detached accessory structure and the main building; and

(D) If less than 450 square feet in gross floor area, the structure shall be located a minimum distance from the parcel's rear property line equal to the height of the structure. However, if the structure is 450 square feet or more in gross floor area, the structure shall conform to the same rear yard setback requirement as required for main buildings in the applicable district.

(E) For detached fireplaces and landscape structures with a height less than six (6) feet, they shall maintain the minimum side yard setback for the district, and maintain a minimum five (5) foot rear yard setback. If the height is greater than six (6) feet, said structures shall comply with subsection (D) above.

(F) Recreational play structures including swings, playgrounds, etc., shall maintain the same side yard setback for the district, with a minimum five (5) foot rear yard setback.

(c) Accessory dwelling units.
(1) Purpose. The purpose of this subsection is to provide for the creation of one new accessory dwelling unit consistent with the General Plan, on lots intended for or already containing a legally-created single-family detached unit in all residential districts where permitted. Said units shall be exempt from the calculation of General Plan density.

(2) Types of accessory dwelling units. For purposes of this subparagraph (c), there are two types of accessory dwelling units:

(A) Standard accessory dwelling units.
   (i) A standard accessory dwelling unit is a unit that is detached from or attached to a principal dwelling, or is contained within the principal dwelling but does not meet the criteria in subparagraph (2)(B)(i) for "integrated accessory dwelling units".
   (ii) Standard accessory dwelling units must receive the approvals required by subparagraph (3)(A)(i) and meet the standards of subparagraph (4).

(B) Integrated accessory dwelling units.
   (i) An integrated accessory dwelling unit is a unit that:
      a. is on lot is zoned for single-family residential, which contains or, if constructed concurrently with the accessory dwelling unit, will contain one legally established single-family dwelling unit;
      b. is contained within the principal dwelling or contained within a legally established accessory structure;
      c. has independent exterior access form the primary residence; and
      d. has side and rear setbacks sufficient for fire safety.
   (ii) Integrated accessory dwelling units must receive the approvals required by subparagraph (3)(A)(ii) and meet the standards of subparagraph (5).

(3) Approval procedures.

   (A) Approvals required.
(i) Approvals for standard accessory dwelling units. To construct a standard accessory dwelling unit, as described in subparagraph (2)(A), the property owner must:

a. Obtain approval from the Director of Development Services, which the Director shall grant within 120 days of receiving the complete application if the proposed standard accessory dwelling unit conforms to the standards in subparagraph (4);

b. Record a deed restriction under subparagraph (3)(B); and

c. Obtain a building permit as required by the Building Code, as adopted and amended by Title 8, Chapter 2.

(ii) Approvals for integrated accessory dwelling units. To construct an integrated accessory dwelling unit, as described in subparagraph (2)(B), the property owner must:

a. Record a deed restriction under subparagraph (3)(B); and

b. Obtain a building permit as required by the Building Code, as adopted and amended by Title 8, Chapter 2.

(B) Deed restriction.

(i) Prior to issuance of a building permit for an accessory dwelling unit, a deed restriction shall be recorded against the title of the property in the County Recorder's office and a copy filed with the Department of Development Services.

(ii) The deed restriction shall provide that the accessory dwelling unit shall not be sold separately from the primary residence, the unit is restricted to the approved size and attributes of this Section, and the deed restriction runs with the land and may be enforced against future purchasers by the City.

(iii) Failure of the property owner to comply with the deed restrictions may result in legal action against the property owner, and the City shall be authorized to obtain any remedy available to it at law or equity, including but not limited to obtaining an injunction enjoining use of the accessory dwelling unit in violation of the recorded restrictions or abatement of the illegal unit.
(C) Effect of conformance. An accessory dwelling unit that conforms to this section shall:

(i) be deemed an accessory use or an accessory building;

(ii) be deemed a residential use that is consistent with the General Plan and the zoning designations for the lot;

(iii) not be considered to exceed the allowable density for the lot on which it is located;

(iv) not be considered in the application of any ordinance, policy, or program to limit residential growth.

(4) Standards for standard accessory dwelling units. Standard accessory dwelling units, as described in subparagraph (2)(A), must meet the following:

(A) Units per lot. A maximum of one accessory dwelling unit may be permitted per lot.

(B) Lot development. The lot containing the accessory dwelling unit must contain no more than one legally established single-family detached dwelling unit. An accessory dwelling unit may be constructed concurrently with one legally established single-family detached dwelling.

(C) Development standards. Accessory dwelling units shall conform to the development standards for the zoning district in which they are located, including, but not limited to, setbacks, height, lot coverage, and minimum open area.

(D) Unit size. Accessory dwelling units shall be no less than 300 square foot in gross floor area for all residential districts, unless it is an efficiency unit, as defined by statute in Health and Safety Code section 17958.1. The cumulative building square footage for the property, which includes the primary dwelling and the accessory dwelling unit, shall not exceed the maximum floor area ratio for the applicable district.

(i) Accessory dwelling units attached to a single-family dwelling unit shall be no more than 50 percent of the existing living area of the existing single-family detached dwelling unit, with a maximum increase of 1,000 square feet in gross floor area. “Living area” means the interior habitable area of a dwelling unit including basements and attics but excludes any garage or any accessory structure located on the same lot.
(ii) Accessory dwelling units detached from a single-family detached dwelling unit shall be no more than 1,000 square feet in gross floor area, except in the Residential/Agriculture (RA) District, where the maximum gross floor area shall not exceed 1,200 square feet of gross floor area, provided the cumulative building square footage for the property does not exceed the maximum floor area ratio for the applicable district.

(iii) No passageway shall be required during construction of an accessory dwelling unit. “Passageway” means a pathway that is unobstructed clear to the sky and extends from street to one entrance of the accessory dwelling unit.

(E) Parking.

(i) Except as provided in subparagraph (E)(ii), parking shall be provided as follows:

a. For accessory dwelling units that are studios, one off-street parking space shall be provided.

b. For accessory dwelling units with one or more bedroom(s), one off-street parking space shall be provided per bedroom.

c. Parking spaces shall be constructed on the same lot as the accessory dwelling unit in accordance with the standards set forth in Section 9-3.535, and parking for accessory dwelling units shall be in addition to those required for the principal unit. Parking spaces for principal and accessory dwelling units shall be independently usable, and the use of each space shall not interfere with access to any other space, except as provided in subparagraph (F)(ii) for garage conversions.

(ii) No parking space shall be required for an accessory dwelling unit if it can be demonstrated that any of the following criteria can be met:

a. the accessory dwelling unit is within a half-mile of public transit, including, without limitation, a bus stop, train station, or paratransit stop, as designated by a public agency;

b. the accessory dwelling unit is in an architecturally and historically significant district including the Low
Density Residential and Historic Residential districts identified in the Los Rios Specific Plan, as well as the MRD-4000 Residential Zoning District;

c. the accessory dwelling unit is contained within in the single-family dwelling unit;

d. when an on-street parking permit is required but not offered to the occupant of the accessory dwelling unit; or

e. when there is a car-sharing stop, as designated by a public agency, located within one block of the accessory dwelling unit.

(F) Garage Conversions.

(i) When off-street parking, as required by this Code and located in a garage, carport, or covered parking structure, is demolished in conjunction with the construction of an accessory dwelling unit, the required off-street parking spaces must be replaced on the same lot where the accessory dwelling unit is located.

(ii) Except as provided in subparagraph (F)(iii), the replacement parking spaces may be located in any configuration on the same lot including, but not limited to covered, uncovered spaces, or tandem parking

(iii) For accessory dwelling units described in subparagraph (E)(ii), the City may require replacement parking to be located in a garage, as required by Section 9-3.535.

(G) Appearance. The design, building, and roofing materials, colors, and overall appearance of the accessory dwelling unit shall be generally consistent with the principal unit.

(H) Ownership. Accessory dwelling units shall remain under the same ownership as that of the principal dwelling and shall not be sold or owned separately from the principal dwelling.

(I) Occupancy. The property owner shall occupy either the principal dwelling or accessory dwelling unit.

(J) Rentals. Accessory dwelling units may be rented, but shall not be used as a boarding or rooming house, as defined in Title 9, Appendix A.
Sprinklers. An accessory dwelling unit is required to have fire sprinklers if the principal dwelling is also required to have fire sprinklers.

Building Code Requirements. An accessory dwelling unit shall meet the requirements of the Building Code, as adopted and amended by Title 8, Chapter 2.

Standards integrated accessory dwelling units. Integrated accessory dwelling units described in subparagraph (2)(B) must meet the following:

Units per lot. A maximum of one accessory dwelling unit may be created per lot.

Lot development. The lot containing the accessory dwelling unit must contain only one legally established single-family dwelling unit. An accessory dwelling unit may be constructed concurrently with one legally established single-family detached dwelling.

Ownership. Accessory dwelling units shall remain under the same ownership as that of the principal dwelling and shall not be sold or owned separately from the principal dwelling.

Occupancy. The property owner shall occupy either the principal dwelling or accessory dwelling unit.

Rentals. Accessory dwelling units may be rented, but shall not be used as a boarding or rooming house, as defined in Title 9, Appendix A.

Sprinklers. An accessory dwelling unit is required to have fire sprinklers if the principal dwelling is also required to have fire sprinklers.

Building Code Requirements. An accessory dwelling unit shall meet the requirements of the Building Code, as adopted and amended by Title 8, Chapter 2.

Patio covers. Patio covers may be erected as accessory structures in conjunction with the principal use on the building site subject to the following requirements:

A wholly enclosed covered patio shall maintain the same yard requirements as set forth for the main structure.

An open patio cover may be erected within the required rear yard to a minimum of five (5) feet from the rear property line. Such structure shall maintain the same front and side yards as required for the principal structure on the building site.
(3) Patio covers located within the Planned Community (PC) District, Multiple Family (RM) District, or Affordable Family/Senior Housing (AF/SH) District where individual lots for each residential units are not created shall be permitted only upon the approval of a site plan and building designs by the Planning Commission. Issuance of building permits shall be approved upon a finding of consistency with the Planning Commission approved plans.

(e) Tennis courts. The tennis courts permitted in the Agri-Business (A), Residential/Agriculture (RA), Hillside Residential (HR), Single-Family-40,000 (RSE-40,000), Single-Family-20,000 (RSE-20,000), Single-Family-10,000 (RS-10,000), Single-Family-7,000 (RS-7,000), and Single-Family-4,000 (RS-4,000) districts shall conform to the following development standards:

(1) Location. No tennis court shall be permitted to encroach into the rear, side, or front yard setback. In addition, tennis courts shall be located no closer than forty (40) feet from any dwelling on an adjacent lot.

(2) Grading: The total depth of fill area shall not exceed four (4) feet in height. The use of retaining walls to support this fill is prohibited. The total depth of cut area shall not exceed twelve (12) feet in height, provided the cut slope or retaining wall is not visible from adjoining properties. Tennis courts shall not be located on areas where the natural slope is in excess of twenty-five (25) percent.

(3) Fences. The fencing around tennis courts shall not exceed twelve (12) feet in height and shall be screened, unless otherwise approved by the Environmental Administrator.

(4) Lighting. The maximum height for tennis court lighting (fixture and pole) shall not exceed eighteen (18) feet. All such lights shall be shielded so as to confine all direct rays to the subject property and minimize spillover outside of the tennis court area.

(5) Required review. All tennis courts not requiring a conditional use permit shall be reviewed by the Environmental Administrator to determine compliance with the standards set forth in this subsection and to set conditions to minimize adverse impacts of tennis courts on nearby properties. Such conditions of approval may include such items as screening and landscaping.

(f) Decks. For purposes of this subsection, “decks” shall mean any platform construction more than thirty (30) inches above finished grade. Decks may be erected as accessory structures in conjunction with the principal use on the building site subject to the following requirements:
(1) Attached decks.

(A) Setbacks:

(i) Front yard setback. Attached decks shall conform to the front yard requirements of the applicable district.

(ii) Side yard setback. If an attached deck is 450 square feet or more in gross floor area, the deck shall conform with the side yard requirement of the applicable district. If the attached deck is less than 450 square feet in gross floor area, the deck may extend into a side yard not more than forty (40) percent of the applicable district requirement or three (3) feet, whichever is greater.

(iii) Rear yard setback. If an attached deck is less than 450 square feet in gross floor area, the deck may be located a minimum distance from the rear property line equal to the height of the structure from finish grade or a minimum of five (5) feet, whichever is greater. However, if the deck is 450 square feet or more in gross floor area, the deck shall conform to the same rear yard setback requirement as required for the principal structure in the applicable district.

(B) Attached decks over six (6) feet in height measured from finished grade shall not exceed forty (40) percent of the total length of the main building elevation to which it is attached.

(2) Detached decks. Detached decks shall comply with the requirements for detached accessory structures in subsection (b)(2) of this section.

(g) Additional development standards for accessory structures in residential districts. Accessory structures located in the Hillside Residential (HR), Single-Family-40,000 (RSE-40,000), Single-Family-20,000 (RSE-20,000), Single-Family-10,000 (RS-10,000), Single-Family-7,000 (RS-7,000), Single-Family-4,000 (RS-4,000), Residential Garden-7,000 (RG-7,000), Residential Garden-4,000 (RG-4,000), Multiple-Family (RM), Affordable Family/Senior Housing (AF/SH), and Planning Community (PC) districts shall be subject to the development standards for that district, as well as the following requirements:

(1) Exterior sides which are to enclose the structure shall be finished with wood, stucco, masonry, or other material of similar texture and durability.

(2) The roof material shall be wood shingle or shake, slate, tile, asphalt shingle, or other material of similar appearance, texture, substance, and durability.
(3) Roof eaves and gables shall be no less than twelve (12) inches, measured from the vertical side of the unit, unless otherwise approved by the Planning Director or, upon referral, the Planning Commission.

(4) Exterior finish colors for accessory structures shall be the same as the principal structure.

(5) Prohibited materials. The following building materials shall not be used in the construction and finish of an accessory structure:

   (A) Exterior sides of accessory structures shall not use metal siding and/or exposed metal supports, cloth, canvas, plastic sheeting, corrugated fiberglass, or corrugated metal.

   (B) Roofs of accessory structures shall not use cloth, canvas, plastic sheeting, corrugated fiberglass, or corrugated metal.

   (C) The use of the above finish materials may be used upon review by the Planning Director and confirmation by the Planning Commission if it is determined that the material will have a finish appearance of either wood, stucco or masonry, or is used in such a manner that it is not visible from any off-site properties.

   (D) Accessory structures listed on the inventory of historic and cultural landmarks and/or located in designated historic districts. Existing accessory structures located in a designated historic district or listed on the City's inventory of historic and cultural landmarks shall be subject to all provisions of this section with the exception of prohibited building materials where said material is used as a finish material on an existing structure.

(h) Exempted structures. An "exempted structure" shall be subject to the following requirements:

   (1) Prefabricated sheds. Prefabricated sheds with a projected roof area of one hundred twenty (120) square feet or less are exempt from the provisions of this section.

   (2) Awnings. Awnings that use prohibited materials shall be permitted if they meet the following provisions:

       (A) In all residential districts where the awning is structurally attached to the principal permitted structure and does not extend more than fifty-four (54) inches from the wall surface to which it is attached.
(B) In all nonresidential districts where the awning is structurally attached to the principal permitted structure shall be subject to review and approval by the Planning Commission and/or Planning Director per applicable provisions of this title.

(i) Accessory structures with prohibited materials. Any existing legal nonconforming accessory structure with prohibited materials shall be subject to Section 9-3.533 Nonconforming uses, Lots, and Structures.