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# AFFORDABLE UNIT INTERIM POLICY FAQ

## WHAT IS AN UNPERMITTED ACCESSORY UNIT?

An unpermitted accessory unit, sometimes referred to as a secondary dwelling unit or granny flat, is a unit that was constructed without the benefit of a building permit. Most unpermitted units are illegally converted garages or outbuildings (e.g. garage was legally constructed, but later converted into habitable space without permits).

## WHY DO WE HAVE THIS POLICY?

The City recognizes that many unpermitted units provide affordable housing that may not otherwise be available. As such, the Affordable Unit Policy (AUP) was adopted by the City Council as a quid pro quo --- in exchange for waivers of certain zoning standards and legalization of the unit, the space must be brought into compliance with current building and fire codes and be rent restricted. See "What are the minimum requirements ...?" for more information.

## HOW DO I FIND OUT IF MY UNIT IS LEGAL?

If a County or City building permit was issued for the accessory unit, it's legal. To find out, contact the City of Encinitas Development Services Department at (760) 633-2710, where staff can investigate whether a building permit is on record, or if there is a County Assessor Residential Building Record, which also contains building permit documentation.

## WHAT ARE THE MINIMUM REQUIREMENTS FOR A UNIT TO QUALIFY FOR THE PROGRAM?

At a minimum, the unit must be brought into compliance with current building and fire codes and must conform to zoning development standards (i.e. parking, setbacks, etc.) to the extent practicable. This may require certain upgrades and improvements such as fire sprinklers, electrical and plumbing work and improvements necessary to comply with energy standards. There are other minimum requirements, but the City Council recently revised the compliance program with less restrictive, more preferential terms. The changes made, however, are only interim.

## WHAT ARE THE INTERIM CHANGES THAT HAVE BEEN MADE BY COUNCIL?

On November 19, 2014, the City Council revised the policy in hopes of encouraging more participation in the program. The revisions to the original requirements are as follows:

- The unit must have existed prior to January 1, 2004. This is a change from the regular policy that requires the unit to be in existence prior to incorporation (October 1, 1986).
- The unit can only be rented to families qualifying for "low" income. The rent restriction must stay in place for a period of 20 years. This is a change from the current policy that requires the affordability restriction in perpetuity.
- The standard AUP application fee of \$1,423 may be waived for property owners that qualify as low/very-low income.

The City Council reconsidered the AUP program on December 16, 2015, extending the interim provisions for another six months to June 16, 2016. The City Council subsequently extended the program several more times, most recently on June 9, 2021, for a period of five years. The extension allows more time to fully analyze the impacts of Senate Bill 1226 and the recently revised ADU/JADU laws as they relate to the AUP program.

## HOW LONG DO I HAVE TO APPLY UNDER THE INTERIM PROVISIONS?

To take advantage of these interim provisions, an AUP application must be submitted no later than June 16, 2026. Once approved, the property owner has six months to obtain building permits.

## WHAT HAPPENS IF I DO NOT APPLY BY JUNE 16, 2026?

After June 16, 2026, the provisions of the standing AUP adopted by Council on September 15, 1993 may once again be in effect, yet this may change based on future Council direction. See "What are the interim changes recently made by Council?" for an overview of the requirements.

## WHO QUALIFIES AS LOW OR VERY LOW INCOME HOUSEHOLDS?

The affordable dwelling unit shall be reserved and rented to an individual or household earning eighty percent (80%) or less of Area Median Income (AMI) for San Diego County, and adjusted for household size, as published periodically by the U.S. Department of Housing and Urban Development (HUD). To view current Income and Rent Schedules visit the [Housing](#) page.

### WHAT QUALIFIES AS AFFORDABLE RENT?

The maximum monthly rental rate to be charged for the affordable dwelling unit must be consistent with the Income and Rents Schedule published by the City and based on thirty percent (30%) of eighty percent (80%) of AMI, minus an allowance for tenant-paid utilities. To view current Income and Rent Schedules, as well as utility allowances visit our [Housing](#) page.

### WHAT TYPE OF DOCUMENTATION DO I NEED TO VERIFY THAT MY UNIT QUALIFIES FOR THE AUP?

The property owner may submit a variety of documentation or combination thereof to show that the unit existed prior to the qualifying date. Such documentation may include, but is not limited to:

- Aerial and standard photos
- Building plans
- Lease agreements and/or utility bills

Although it is not adequate as stand-alone documentation, eyewitness/written testimony can be used to support other documentation.

### WHAT ARE SOME OF THE MINIMUM BUILDING CODE REQUIREMENTS?

The unit must meet the minimum building code requirements, which includes, but is not limited to the following:

- A living room of not less than 220 sq. ft. for two occupants; plus 100 sq. ft. for each additional occupant;
- A separate closet;
- Kitchen sink, cooking appliances and refrigeration facilities;
- Ventilation, natural light and heating; and,
- Separate bathroom containing a toilet, sink and bathtub or shower.

### WHAT ARE THE REQUIRED FEES?

The fees vary depending upon the scale and scope of the improvements. The following is a breakdown of the typical fees collected for units under the AUP (this is an average only; actual fees may vary):

AUP Application:	\$1,495
Affordable Housing A&M:	\$2,387
Covenant Recording:	\$ 458
Building Permits:	\$3,200
<u>Sewer Connection:</u>	<u>\$2,400</u>
TOTAL:	\$9,940

### WHAT HAPPENS IF I DO NOT PARTICIPATE IN THE AUP PROGRAM?

The program is entirely voluntary --- the property owner only participates if they so choose. However, the City's Code Enforcement Office operates on a "complaint basis." Should the City receive (and confirm) a complaint of an illegal accessory unit, the property owner is required to address the infraction by either participating in the AUP program, converting the unit back to the originally permitted use or removing the structure altogether.

### WHERE CAN I LEARN MORE?

For more information on the Affordable Unit Policy process and submittal requirements, visit the [website](#) or contact Melinda Dacey, Senior Planner – Housing Services, at (760) 633-2711 or [mdacey@encinitasca.gov](mailto:mdacey@encinitasca.gov).

For more information on rent and income guidelines, contact Cindy Schubert, Management Analyst at (760) 633-2726 or [cschubert@encinitasca.gov](mailto:cschubert@encinitasca.gov).

