



CITY OF ENCINITAS
Development Services Department
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AFFORDABLE UNIT INTERIM POLICY

PROCEDURES AND APPLICATION

The City Council adopted the Affordable Unit Policy (AUP) on September 15, 1993, and adopted interim provisions on November 19, 2014 in effect through December 31, 2015. The City Council subsequently extended the program several times, most recently on June 9, 2021, for a period of five years. The purpose of this interim policy is to allow illegally established dwelling units (built or converted without required permits before January 1, 2004), which have been continuously maintained as dwelling units since the time of conversion, to apply for legalization provided the units are brought into compliance with the California Building Code (CBC) and California Fire Code (CFC). It is recognized that many illegal units which were constructed prior to January 1, 2004 provide affordable housing that may not otherwise be available. Additionally, displacement of the tenants and finding alternate affordable housing may result in a hardship. This policy allows the illegal units to continue to exist in perpetuity provided:

- a. the units comply with health and safety standards;
- b. the units meet the minimum dwelling unit size standards;
- c. the units are maintained as and rented to only “low” income households for a period of twenty years; and
- d. the property owner agrees and complies with the terms and conditions of the covenant.

The Fees: Reference the current Planning Department Fee Schedule for the required application fee. Additional Building fees, Engineering fees, Sewer Connection fees, Fire Prevention and/or School fees as well as impact fees may apply.

Based on the interim policy, the AUP application fee may be waived for property owners that qualify as low income households. To request a fee waiver, the AUP owner income certification form along with all required source documentation shall be submitted. The owner income certification shall be completed and approved prior to submittal of the AUP application; otherwise the required fee shall be paid in association with the AUP application submittal. If a fee waiver has been approved, the AUP application shall be submitted and approved prior to June 16, 2026, for the waiver to remain valid. (See attached Owner Income Certification Form.)

The Process:

1. **Verify the Unit Existed Prior to January 1, 2004:** Applicant must first check with the Planning and Building Department to determine if the unit existed prior to January 1, 2004. Any unit constructed after January 1, 2004, cannot take advantage of this policy, and must be abated unless the unit can meet all development standards required for accessory units.
2. **Application Submittal:** Once it has been determined the unit existed prior to January 1, 2004, the attached application including the tenant income and rent certification form, the owner income certification form (if applicable), disclosure statement and evidence of legal parcel, a copy of the grant deed, a copy of the residential building record, a floor plan of the unit and a site plan of the property must be submitted to the Planning and Building Department for review. The site plan must include the following:
 - a. All property lines and setbacks from property lines, correctly scaled and dimensioned.
 - b. Location of all existing buildings and structures relative to each other and to the site boundaries. Indicate extensions of roof lines beyond building walls.
 - c. Location, dimensions, surface materials and percent of slope of driveways, access roads, curb cuts, and off-street parking areas.
 - d. Location, height, and material type of all walls and fences on the project site.
 - e. Location, dimension and type of all known easements.

3. **Planning and Building Review:** The Planning and Building Department shall review the AUP application for compliance with development standards (setbacks, lot coverage, parking, etc.). The unit(s) shall be required to meet parking and other development standards to the extent practicable. The number of illegal units that may be legalized per lot will be reviewed on a case-by-case basis and depend upon the extent to which they comply with existing development standards as determined by the Planning and Building Director. Upon approval of the AUP application, a Notice of Decision will be prepared which sets forth the conditions of approval.
4. **Income Restrictions**
 - a. **Units restricted to “Low” Income Households - Covenant:** Prior to building permit issuance, a covenant shall be recorded guaranteeing that the units be reserved as affordable housing for “low” income households (80% of the Regional Median Household Income - see attached chart) for a period of twenty (20) years. The Planning and Building Department shall prepare and record the signed covenant at the property owner’s expense. (See attached Affordable Unit Interim Policy Covenant Restrictions.)
 - b. **Tenant Income Verification:** Prior to issuing a Certificate of Occupancy, the property owner must submit tenant income verification, by providing either the tenant's last year's income tax form or two to three paycheck stubs. (See attached Tenant Income Certification Form.)
5. **Construction Plans Submitted for Building Permit:** Once the AUP application is approved and the Notice of Decision issued, a building permit application with complete construction drawings and site plans must be submitted for review to obtain a building permit. The Policy requires that the units comply with the building and fire codes applicable at the time of building permit application submittal. This may require upgrading the existing units to meet these codes. A registered architect or engineer may be required to verify in writing that field construction conforms to the applicable building and fire codes and approved as-built drawings.
6. **Minimum Size of a Dwelling Unit:** The unit must meet the minimum requirements of the City’s currently adopted building code for an efficiency dwelling unit, which includes, but is not limited to:
 - a. A living room of not less than 220 square feet for two occupants; plus 100 square feet for each additional occupant.
 - b. A separate closet.
 - c. A kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front.
 - d. Ventilation, natural light and heating.
 - e. Separate bathroom containing a toilet, sink and bathtub or shower.

Final Inspection: Final Inspection is granted after inspections are conducted to ensure compliance with the approved plans, recordation of the rent restricted covenant and with any other conditions or fees imposed by other City departments.

Note: The policy provides a six-month period to process your request, obtain permits, and final occupancy. Failure to meet this time frame may result in enforcement action to abate the illegal unit.

Attachments:

- Affordable Unit Interim Policy Application
- Tenant Income and Rent Certification Form
- Owner Income Certification Form
- Disclosure Statement (Form D)
- Evidence of Legal Parcel (Form L)
- Affordable Unit Interim Policy Covenant Restrictions

AFFORDABLE UNIT INTERIM POLICY

Application No. _____ Date: _____ Community: _____

PROPERTY:

Street Address: _____ APN: _____

PROPERTY OWNER: (Check box for contact preference: email, home phone, etc.)

Company Name: _____ Business Phone: _____

Name: First: _____ Middle: _____ Last: _____

Email: _____ Home Phone: _____ Mobile Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

APPLICANT: Same as PROPERTY OWNER (Check box for contact preference: email, home phone, etc.)

Company Name: _____ Business Phone: _____

Name: First: _____ Middle: _____ Last: _____

Email: _____ Home Phone: _____ Mobile Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Project description: (Describe what you are requesting):

Existing conditions (i.e. Describe topography, road access, vegetation, structures, fencing, easements):

Total number of illegal units: _____ Dates units were constructed: _____

Square footage of each unit: _____ Floor area ratio: _____

Lot size (square footage): _____ Lot coverage: _____

Related Code Enforcement, Planning or Building Cases:

CASHIER'S USE ONLY: Affordable Unit Interim Policy.....PZ ID \$990.00

Receipt: _____ Check: _____ Date: _____ Cashier: _____ Total Paid: _____