

Second Units

A second dwelling unit is a small unit in addition to the main unit on a single lot. Second units have the following benefits:

- (1) They provide flexibility for the owner of the main home (they can be used as a home office, an apartment for elderly parents, or a source of income);
- (2) When rented they help make home-ownership affordable for the owner of the home;
- (3) They can provide flexibility for seniors or other homeowners who rent their primary dwelling because they still want to live in the same neighborhood;
- (4) They provide lower cost housing because the units tend to be small and there are no extra land costs (surveys show that half of the units collect \$0 rents);
- (5) They are easier to fit in to existing neighborhoods since they are small and are often part of the main house.

In 1976, an ordinance was adopted which grandfathered several second units, most of which did not have adequate parking, and allowing new second units to be approved through a Use Permit provided that: (1) a unit is available in the neighborhood; (2) the owner of record is the primary resident; (3) the unit does not encroach into setbacks or exceed lot coverage unless variance is granted; (4) the unit meets applicable Codes (including Building codes); (5) a rent control agreement is entered into; and (6) the unit will not cause excessive noise, traffic, or parking.

For purposes of distributing second units throughout the Town, and not overly impacting any single area, the Town was divided into twenty-six (26) neighborhoods. Each neighborhood is assigned a certain number of second units for which a use permit must be obtained. Of the 276 second units which are permitted by the 1976 Ordinance, 233 second units have been approved, and openings are available for an additional 43 units in 15 neighborhoods. These neighborhoods include Barber, Butterfield Carrigan, Cedar-Crescent, Forbes, Hawthorn Hills, Hilldale, Indian Rock, Morningside, Rosenthal/Prosser, San Francisco, Seminary, Sir Francis Drake, The Alameda, and Yolanda.

Of the 232 approved second units, 167 are “registered” and 65 are approved via a Use Permit. Registered units constitute pre-existing second units which the Town Council, in 1976, allowed the owners to “register” as legal, non-conforming second units. These units are not subject to rent control. However, because these are the older second units in the Town, it is likely that many are providing low cost housing. Should a registered unit burn down, or be abandoned for more than 6 months, it loses its legal standing and cannot be reestablished unless a Use Permit is granted.

Owners have the option of converting a “registered” unit to a legal, conforming unit at any time by filing for, and being granted, a Use Permit. However, the requirements stated above, including rent limits, must be met.

SECOND UNITS BY NEIGHBORHOOD AND CATEGORY

Neighborhood	Number Permitted	Total Existing	Openings Available	With Use Permit	Registered
Ancho Vista	12	12	0	0	12
Barber	5	2	3	1	1
Bush	12	12	0	3	9
Butterfield	22	16	6	3	13
Carrigan	13	11	2	1	10
Cedar/Crescent	18	13	5	5	8
Elm	25	25	0	6	19
Forbes	2	1	1	1	0
Hawthorn ffills	9	6	3	4	2
Hilldale	2	1	1	1	0
Indian Rock	2	0	2	0	0
Landsdale/Scenic/Humbolt	20	21	0	2	19
Laurel	13	16	0	2	14
Lincoln	5	5	0	4	1
Morningsidc	18	13	5	7	6
Oak Springs	2	2	0	2	0
Redwood	7	7	0	1	6
Rosenthal/Prosser	12	11	1	4	7
San Francisco Blvd,	14	12	2	4	8
Seminary	23	11	12	2	9
Sequoia	5	6	0	2	4
Sir Francis Drake	10	7	3	3	4
Spring Grove	2	2	0	0	2
Terrace	4	4	0	0	4
The Alameda	10	8	2	2	6
Yolanda	9	8	1	5	3
TOTAL	276	232	49	65	167

Five additional registered units have been allowed above and beyond those allowed in 1976 based on evidence by property owners that they were pre-existing and should be grandfathered.

San Anselmo is one of the few Bay Area and the only Marin County community which has a rent control ordinance for second units. Rent and tenant income limits for second units are set at 65% of County median which is the midpoint in the "low income" range. Low income households are those with incomes 50 to 80% of the County median. Very low income households are those with incomes below 50% of County median. San Anselmo adjusts the second unit contract rent annually, based on the Consumer Price Index.

Income limits for tenants occupying use permitted second units cannot exceed 65% of County median. Some owners of second units have stated this is too restrictive and have asked that income limits be more flexible. Contacts with local housing agencies indicate they support income limits that apply to all potential tenants in the Low Income range (i.e., 80% of median and below).

Based on the above, adjusting rents to coincide with 30% of income for households earning 65% of median would permit slightly greater returns to landlords while maintaining affordability to very low and low income families. Adjustments to the income limits up to 80% of median would make second units available to a larger percentage of low-income households.

Through the years, Town officials have been alerted to a growing number of illegal or alleged illegal second units. These are units for which no Use Permit or building permit have been granted, and thus are not subject to the Second Unit Ordinance requirements. Based on citizen complaints and staff observations in the field, it is estimated there are over 200 alleged illegal second units in San Anselmo. The Town's process for pursuing code enforcement action on illegal second units includes the following steps: (1) Complaint filed; (2) letter sent to owner that complaint has been filed and inspection requested; (3) often letter is ignored and subsequent letter(s) sent; (4) if inspection permission is granted by owner and violation confirmed, owner asked to abate second unit or apply for legalization; and (5) if non-compliance persists, staff typically turns case over to Town Attorney.

The Ordinance states that the criterion for defining second units is the existence of separate cooking facilities, not merely the addition of bathrooms or bedrooms to a single family unit. Thus, abatement usually consists of removing cooking facilities, not a sink or refrigerator. Because of the ease of reestablishing cooking facilities, recordation of a single family deed restriction is often required to help ensure that future owners know that a second unit is not permitted.

Two important questions are: (1) why have illegal second units proliferated even though the Town permits second units with a Use Permit? and (2) now that they exist, how should the Town deal with them? Possible reasons for proliferation are: there are not enough openings in certain neighborhoods; the unit does not or cannot meet Zoning or Building codes (including parking); the owner does not want rent restrictions imposed; the owner is not aware of Town regulations; or the unit has been in existence for many years.

As mentioned earlier, there are over 200 alleged illegal second units even though 43 openings for legal second units exist in 15 neighborhoods. The number of alleged second units varies by neighborhood and in some, the number is nearly equivalent to the number of openings. In other neighborhoods there are more illegal units than the number originally permitted. Regardless, there is at least one alleged illegal second unit in 23 of the 26 neighborhoods.

Because inspections have not been made on the majority of illegal second units, it is not known whether they meet Code requirements. This is critical because violations of health and safety standards (such as electrical wiring, proper heating and ventilation) may be occurring. In addition, adequate parking (one clear space for a second unit) must be provided unless a Variance is granted. Most complaints on illegal second units are a result of inadequate parking and impacts on street parking. This is of particular concern from an emergency access standpoint in hillside neighborhoods and areas with narrow streets.

Legalizing illegal second units will not assist the Town in meeting ABAG projected housing needs requirements unless they were not counted in the 2000 U.S. Census or in the California Department of Finance Annual Population and Housing Estimates. The Department of Housing and Community Development only recognizes new affordable units as meeting target numbers. However, because illegal second units are not subject to rent control, there could be merit, from an affordable housing standpoint, in bringing them under the Town's second unit regulations. This would of course have to be balanced with meeting health and safety standards.