



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

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SECOND UNIT PERMIT FACT SHEET

DEFINITION

A residential second unit (second unit) consists of a second permanent dwelling that is accessory to a primary dwelling on the same property. A second unit provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, sanitation, and parking. Only one second unit is allowed per lot.

TIME FRAME FOR PROCESSING

The time frame for processing a Second Unit Permit application is dependent upon the submittal of a complete application by the project sponsor/property owner. A complete application generally takes 8 to 12 weeks to process. However, an incomplete application will take longer. Please carefully read through the Zoning/Development Application Submittal Guide to prepare your application submittal so that we may more efficiently process your application.

SECOND UNIT CRITERIA

In most cases, the Residential Second Unit Permit (Second Unit Permit) is a ministerial permit process. This means an approval for a second unit will be granted provided the criteria for a Second Unit Permit are met. Section 22.32.140 of the Marin County Code (attached) establishes criteria for new, existing, and legal-non-conforming second units. Instances where discretionary review may be required is discussed further below.

Permitted Geographical Areas

Second units are permitted everywhere in the County except in the Kentfield/Greenbrae (including Kent Woodlands) and Sleepy Hollow community plan areas, where the following exceptions apply:

- New second units are permitted on a ministerial basis within existing structures where they do not result in additional bedrooms on the property.
- New second units which result in additional bedrooms or which expand the cubical contents of existing development are only permitted on properties within ¼ mile of an established bus route and only subject to Design Review. In other words, properties further than a ¼ mile from a bus route may only add a second unit within an existing building that doesn't increase the number of bedrooms.

Discretionary Review

Although Second Unit Permits are usually a ministerial permit process, there are certain instances when discretionary review (e.g. Design Review, Coastal Permit, Variance, etc) may be required.

- A new second unit is proposed to be located on property governed by Planned District zoning, located in a Coastal zoning district, or other zoning that requires discretionary review (ex. R-1:B-LV).
- The property is subject to Stream Conservation Area (SCA) policies of the Countywide Plan.
- The construction of the second unit would result in a total building area on the site of more than 4,000 square feet or a structure which exceeds the height limit established by the governing zoning district.
- Discretionary review in the form of Design Review is also the process through which applicants can apply to vary from the following three second unit criteria: (1) minimum parcel size; (2) parking requirements; and, (3) architectural compatibility.

SECOND UNIT CRITERIA (cont.)

1. Legal Non-conforming Second Units

Second units which were constructed in conformity with the law and which became legal non-conforming as a result of subsequent changes to the zoning regulations may be registered with the Agency as a legal non-conforming second unit. In order for a Certificate of Registration to be granted for this purpose, the Community Development Agency Director (Director) shall find that the unit meets Uniform Housing Codes, has adequate water service for domestic and fire suppression, has adequate sanitary services, has a minimum habitable floor area of 150 square feet, and has sufficient parking (one additional off-street parking for a studio or one-bedroom second unit or two spaces for a two-or-more bedroom second unit). As a legal non-conforming use, the second unit may not be enlarged, extended, reconstructed, structurally altered, or moved and may not be rebuilt if destroyed, unless a Second Unit Permit is granted for said replacement.

2. Existing Second Units

A Second Unit Permit is required for second units which were not constructed in conformity with the law or were constructed after enactment of the County's Zoning Ordinance in 1938 (and did not subsequently become a legal, non-conforming use) and prior to March 27, 1987, when the County's first Second Unit Ordinance was passed (except for the following communities where resolutions providing for second units were adopted earlier, including Bolinas [September 29, 1983], Tamalpais Area [January 10, 1984], and Stinson Beach [June 25, 1985]). In order for a Second Unit to be granted, the owner must maintain either the primary or second unit on the property as a primary residence (except for the communities of Bolinas and Inverness), and the second unit must meet the development standards (including height, setbacks, floor area ratio) applicable to the underlying zoning district. Additionally, the second unit must meet the Uniform Housing Code requirements, have adequate water and sanitary services, and have sufficient parking (one additional off-street parking for a studio or one-bedroom second unit or two spaces for a two-or-more bedroom second unit). There are also community-specific limitations on lot size and floor area for the Tamalpais and Inverness communities.

3. New Second Units

A Second Unit Permit is required for all other second units that were constructed subsequent to the enactment of regulations governing second units on March 27, 1987 (except for the following communities where resolutions providing for second units were adopted earlier, including Bolinas [September 29, 1983], Tamalpais Area [January 10, 1984], and Stinson Beach [June 25, 1985]). In addition to the requirements for legalizing an existing second unit as set forth above, requirements for a new second unit include compliance with the minimum lot size required by the governing zoning district, a maximum size of 750 square feet, architectural compatibility, and minimum road width standards.

Exceptions to the criteria relating to minimum lot size, parking requirements, and architectural compatibility may be considered through the Design Review process.

OTHER HELPFUL TIPS AND CONSIDERATIONS

- Check with the Department of Public Works to determine whether your area is subject to a "Transportation Facilities Fee."
- Contact your local water and sanitary districts to inquire about connection and service fees that may be required in conjunction with a second unit application.

Section 22.32.140 of the Marin County Code - Residential Second Units

A. Purpose. This Section establishes a procedure to accomplish the following:

1. Meet the County's projected housing needs and provide affordable housing opportunities;
2. Provide needed income for homeowners;
3. Provide second units which are safe and built to code;
4. Provide second units which are compatible with the neighborhood and the environment; and
5. Comply with provisions of State law, including those contained in Section 65852.2 of the California Government Code.

B. Applicability:

1. General geographic areas. The provisions of this Section shall apply to single-family and multifamily residential zoning districts, including the R1, RA, RR, RE, RSP, C-R1, CRA, C-RSP, C-RSPS, A, A2, ARP, C-ARP, RMP, and C-RMP districts in the unincorporated portions of the County. Pursuant to Subsection G.1.b, below, second units may be permitted within certain geographical areas within the Kentfield/Greenbrae, Kent Woodlands, and Sleepy Hollow Community Plan areas. Nothing in this Section (22.32.140) shall supersede or alter Coastal Zone permit requirements and development standards pursuant to Article V of this Code.

2. Specific communities.

- a. The required criteria for the granting of a Residential Second Unit Permit for the communities of Bolinas, Tamalpais Planning Area, Stinson Beach, Inverness, Kentfield/Greenbrae, Kent Woodlands, and Sleepy Hollow, and incorporated into Subsections F.2 and G.1, shall remain in effect unless modified through the procedures described in Subsection B.2.b, below.
- b. Representatives of a community or neighborhood may petition the Board to modify the second unit criteria set forth in Subsections F.2 and G.1. Upon acceptance of this petition, the Board shall refer the petition to the Commission for a recommendation. This Section shall not be construed to allow a community or neighborhood to establish second unit criteria that are inconsistent with State law or prohibit second units in a manner that is inconsistent with State law.

3. Existing second units. Owners of second units existing anywhere in the unincorporated area of the County may obtain a certificate of registration in compliance with Subsection F (Registration/permit requirements for existing second units), below, if the Agency determines that the second unit has a legal, non-conforming status. Owners of second units which existed prior to March 27, 1987, or the effective dates of the resolutions establishing second unit standards for specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach) shall obtain a Residential Second Unit Permit, in compliance with Subsection F., if the Agency determines that the second unit was not established in compliance with applicable regulations.

C. Design Characteristics. A second residential unit shall be designed and constructed as a permanent residence, including: food preparation facilities which may include, but are not limited to, kitchen counters and cabinets, a stove, oven, hot plate, microwave, refrigerator, or sink; both a separate bathroom and separate entrance intended for the use of the occupants, as determined by the Director. A second unit may be established by:

1. The alteration of a single-family unit whereby food preparation facilities are not shared in common;
2. The conversion of an attic, basement, garage, or other previously uninhabited portion of a single-family unit;

3. The addition of a separate unit onto the existing single-family unit; or
4. The conversion or construction of a separate structure on the parcel in addition to the existing single-family unit.

D. Limitation on sale. A second unit may be rented but shall not be sold separately from the single-family unit.

E. Minimum standards for second units. All second units shall:

1. Meet the Uniform Housing Code for existing second units, and the Uniform Building Code for new second units, as adopted by the County;
2. Provide adequate sanitary services for the additional increment of effluent resulting from the second unit, in compliance with County and State regulations;
3. Provide an adequate quality and amount of water for domestic and fire suppression purposes in compliance with local and State regulations; and
4. Provide a minimum floor area of 150 square feet.

F. Registration/permit requirements for existing second units. Second units existing prior to March 27, 1987, or the effective dates of resolutions establishing second unit standards for specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach), shall either be registered or obtain Residential Second Unit Permit approval, as follows.

1. Registration process. At any time following the enactment of this Section, the owner of each existing second unit which was constructed in conformity with the law and which has become legally non-conforming by reason of later enactment of County ordinances, rules, or regulations, may register the unit with the Agency. Non-registration of these units does not change their legal non-conforming status.

a. Application for registration. The application for registration shall be made by the owner in writing and shall contain all information required by the Agency.

b. Issuance of certificates of registration. In order to grant a certificate of registration, the Director shall first find that the parcel on which the second unit is located shall have a minimum of one additional off-street parking space assigned to a studio or one-bedroom second unit or two additional off-street parking spaces assigned to a two-or-more-bedroom second unit.

In addition, certificates of registration may be issued with the conditions that the Director determines are required in order to find that the minimum standards established in Subsection E above have been satisfied.

c. Expiration date of certificates of registration. The certificates of registration shall have no expiration date unless, due to specific findings, the Director determines that the protection of property and public welfare require a specific review date.

2. Residential Second Unit Permit process for existing second units. The owner of each existing second unit that was not constructed in conformity with the law or was constructed after the enactment of the Zoning Ordinance in 1938 (and did not subsequently become a legal, non-conforming use), shall apply to the Director for a Residential Second Unit Permit.

In order to grant a Residential Second Unit Permit for a second unit existing prior to March 27, 1987, or the effective dates of resolutions establishing Second Unit Use Permit standards in specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach) the following criteria shall be met as determined by the Director:

- a. The existing second unit is located on the same parcel on which the owner of record maintains a primary residence.

***Community Plan Area Exceptions:** The owner-occupancy requirement does not apply to existing second units in the communities of Bolinas and Inverness. In the Tamalpais Area, a property owner of an existing second unit may request an exemption from the owner-occupancy requirement for a period of two years for good cause such as temporary job transfer or settlement of an estate that involves the property. Public notice shall be given prior to a decision of exemption. The exemption may be extended for up to two years at a time subject to new public noticing for each exemption. Exemptions may be granted without public hearing.*

- b. The existing second unit meets all current property development standards of this Development Code (e.g., height, setbacks, floor area ratio), for a dwelling unit in the residential zoning district in which it is located.
- c. The existing second unit is the only additional dwelling unit on the parcel.
- d. The existing second unit meets current Uniform Housing Code (UHC) requirements as adopted by the County.
- e. Adequate sanitary services exist for the wastewater flow resulting from the existing second unit, in compliance with County and State regulations, and with the requirements of the local sanitary district, if applicable.
- f. Adequate water supplies exist to serve the existing second unit in compliance with County and State regulations, and with the requirements of the local water district, if applicable.
- g. The parcel on which the existing second unit is located shall have a minimum of one off-street parking space assigned to a studio or one-bedroom second unit or two off-street parking spaces assigned to a two-or-more-bedroom second unit. Off-street parking spaces assigned to the second unit shall be independently accessible and shall be in addition to those required for the primary residence.

Additional Criteria Applicable to Existing Second Units in Specific Community Plan Areas:

- h. In the Tamalpais and Inverness areas, the parcel on which the existing second unit is located meets the minimum lot size requirement of the zoning or is at least 7,500 square feet in size.
- i. In the Tamalpais Area, the floor area of the existing second unit shall not exceed 750 square feet.

- 3. Replacement of legal nonconforming residential second units.** A legal nonconforming second unit is subject to the provisions of Chapter 22.112, (Nonconforming Structures, Uses, and Parcels). The unit may not be enlarged, extended, reconstructed, structurally altered, or moved unless the use is changed to a use allowed under the regulations of Article II (Zoning Districts and Allowable Land Uses) and in compliance with Subsection G below.

G. Residential Second Unit Permits for new residential second units. The applicant for a second unit established after March 27, 1987, or the effective dates of resolutions establishing second unit standards in specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach), shall apply to the Director for a Residential Second Unit Permit).

1. Required Second Unit Permit criteria. In order to grant a Residential Second Unit Permit for a new residential second unit, the following criteria shall be met as determined by the Director:

- a. The new second unit would be located on the same parcel on which the owner of record maintains a primary residence.

Community Plan Area Exceptions: The owner-occupancy requirement does not apply to new second units in the communities of Bolinas and Inverness. In the Tamalpais Area, a property owner of a new second unit may request an exemption from the owner-occupancy requirement for a period of two years for good cause such as temporary job transfer or settlement of an estate that involves the property. Public notice shall be given prior to a decision of exemption. The exemption may be extended for up to two years at a time subject to new public noticing for each exemption. Exemptions may be granted without public hearing.

- b. The new second unit complies with all of the current property development standards of this Development Code (e.g., height, setbacks, floor area ratio), for a dwelling unit in the residential zoning district in which it is located. A detached second unit shall comply with development standards required for detached structures within the residential zoning district in which it is located.

Community Plan Area Exceptions: Within the Kentfield/Greenbrae, Kent Woodlands, and Sleepy Hollow Community Plan areas, and nearby unincorporated communities within the Sir Francis Drake Boulevard traffic corridor that extend to the westerly limit of the City Centered corridor, the development of new second dwelling units shall be permitted on a ministerial basis within existing structures where they do not increase the number of existing bedrooms on the property. On properties within one-quarter mile of an established bus or other transit route operated by a public transportation agency, the development of new second units which result in additional bedrooms on the property, or which expand the cubical contents of existing development may be considered through a discretionary Design Review process pursuant to Chapter 22.42 (Design Review). New second units which result in additional bedrooms on the property, or which expand the cubical contents of existing development shall not be permitted on properties further than one-quarter mile from an established bus or other transit route.

- c. The new second unit would meet all applicable building codes adopted by the County.
- d. The new second unit would be the only additional dwelling unit on the parcel.
- e. Adequate sanitary services would be provided for the additional wastewater resulting from the new second unit, in compliance with County and State regulations, and with the requirements of the local sanitary district, if applicable.
- f. Adequate water supplies would be provided to serve the new second unit in compliance with County and State regulations, and with the requirements of the local water district, if applicable.

Community Plan Area Exceptions: In Bolinas, no new second units are permitted within the Bolinas Public Utility District (BPUD) service area until BPUD certifies that adequate water is available for new primary units within its boundaries.

- g. The parcel on which the new second unit would be located meets the minimum building site area requirements of the zoning district in which it is located. The slope ordinance shall apply in determining the minimum parcel size, where appropriate. The minimum building site area requirements of the governing zoning and the slope ordinance shall be waived in those cases where the second unit is created within the footprint of an existing structure on the site.

Community Plan Area Exceptions: In Stinson Beach, new detached second units are only permitted on lots of one acre or more, subject to Design Review. In Bolinas, the parcel must meet the minimum building site area requirements of the zoning district in which it is located unless it is ½ acre or larger. In Bolinas, there is no minimum lot size requirement if the new second unit is located within the existing residence. In the Tamalpais and Inverness areas, the lot must be at least 7,500 square feet in size.

- h. The addition of a second unit would incorporate materials, colors, and building forms that are compatible with the existing residence on the property.
- i. The floor area of a new second unit shall not exceed 750 square feet. In addition, the floor area of the primary and second unit combined shall not exceed the floor area ratio of the particular residential zoning district in which the parcel is located, if applicable. For new detached second units, the square footage of attached, potentially habitable storage or other accessory use areas (not including garage space) shall be counted toward the 750 square foot size limit.
- j. The parcel on which the new second unit would be located shall have a minimum of one off-street parking space assigned to a studio or one-bedroom second unit or two off-street parking spaces assigned to a two-or-more-bedroom second unit. Off-street parking spaces assigned to the second unit shall be independently accessible and shall be in addition to those required for the primary residence, in compliance with Title 24 standards.
- k. A second unit shall be allowed only where the street providing access to the site is of the minimum width necessary to allow for the safe passage of emergency vehicles, in compliance with Title 24 standards, as determined by the Department of Public Works.

Community Plan Area Exceptions: In Inverness, no new second units are permitted in the Paradise Ranch Estates Subdivision due to concerns regarding road safety and emergency access.

2. Design Review requirements for new residential second units. In addition to meeting the required criteria set forth in Section G.1 above, an application for a new second unit shall be subject to the standards and provisions of Chapter 22.42 (Design Review) if any of the following apply:

- a) The new second unit would be located on a property governed by Planned District zoning or other zoning district requiring Design Review;
- b) Regardless of the governing zoning, construction of the second unit would result in a total building area on the site of more than 4,000 square feet or a structure which exceeds a height of 30 feet (or 25 feet in the Coastal Zone); or
- c) Regardless of the governing zoning, the property is subject to the Streamside Conservation Area (SCA) policies of the Countywide Plan or LCP or contains identified wetland areas.

Notwithstanding Section 2.a and 2.c above, a new second unit proposed on a property subject to Planned District zoning or other zoning districts requiring Design Review or on a property in any zoning district subject to SCA policies, shall be exempt from Design Review if: 1) the unit is created within an existing authorized primary or accessory structure through the alteration of existing habitable area or the conversion of previously uninhabitable area (e.g., attic, basement, garage) without increasing the cubical contents of the structure (with the exception of minor dormers, bay windows, and stairwells); and 2) no site disturbance related to the provision of parking and access improvements or other construction encroaches into an SCA area or wetland.

H. Second Unit Permitting Procedure. Applications for Second Unit Permits that meet the second unit criteria contained in Subsections F and G, and are not otherwise subject to a discretionary review process pursuant to Subsections F or G or Title 22 of Marin County Code (e.g. Coastal Permit, Design Review, Variance) shall be approved ministerially without discretionary review or public hearing. Requests for exceptions to the criteria in Subsections F and G are limited to those related to parcel size, parking requirements, and architectural compatibility only and shall be considered through the Design Review process pursuant to Chapter 22.42 (Design Review).

I. Recordation of certificates of registration and Residential Second Unit Permits. Any certificate of registration or Residential Second Unit Permit granted in compliance with this Section shall be recorded in the County Recorder's Office as an informational document in reference to the title of the subject property.

J. Building Permits. A Building Permit shall be required:

1. In conjunction with the issuance of a certificate of registration in compliance with Section 22.32.140.F.1 (Registration/permit requirements for existing second units), above, if the second unit was created without the benefit of a Building Permit;
2. In conjunction with the issuance of a Residential Second Unit Permit in compliance with Section 22.32.140.F.2 (Registration/permit requirements for existing second units), above, if the second unit was created without the benefit of a Building Permit;
3. If repair or rehabilitation work was performed to convert the original structure as allowed, or if repair or rehabilitation work is necessary to comply with Section 22.32.140.F (Registration/permit requirements for existing second units), above; or
4. For a new second unit approved in compliance with Section 22.32.140.G.1 (Grant of Residential Second Unit Permit - Required findings), above.

K. Periodic report. The Agency shall periodically prepare a report to the Commission and Board on the status of this Section. The report shall include information about the number, size, type, and rent, as available, of each second unit by neighborhood. The report shall provide a basis for an evaluation of the effectiveness of this Section.