



## SECOND DWELLING UNITS

### Planning Division

City of San Rafael  
Community Development  
Department  
1400 5<sup>th</sup> Avenue  
San Rafael, CA 94901  
(415) 485-3085  
(415) 485-3184  
planning@cityofsanrafael.org  
www.cityofsanrafael.org

### What is a Second Dwelling Unit?

A Second Dwelling Unit (aka, “in-law” or “granny” unit) is an additional dwelling located on the same lot as a single-family residence which contains separate living/sleeping, sanitary, and cooking facilities. A second unit may be located within the principal dwelling or can be in a detached accessory building. The unit cannot be sold separately from the principal dwelling.

### What is the Review Process?

Second units are subject to **ministerial review** by the Planning Division prior to issuance of a building permit. Additional zoning entitlements may be required, as specified in San Rafael Municipal Code **Section 14.16.285**. A second unit review **fee** (\$\_\_\_\_) and **application** form along with project plans (\_\_\_\_ sets) must be submitted to the Planning Division which will verify whether the unit complies with the Second Unit Performance Standards. If building permit clearance is granted, a Second Unit deed restriction must be recorded for the property.

### Can an Existing (Unpermitted) Second Unit be legalized?

Yes. The unit must meet all requirements for a second unit, and obtain planning review of a Second Dwelling Unit. Building permit fees to legalize an existing unauthorized second unit will be **tripled** and planning fees will be **doubled**.

### What are the Rules for Legal Conforming or Non-conforming Second Dwelling Units?

An existing unit constructed and established prior to adoption of zoning regulations for second units may be protected under Section 14.16.060 (Conservation of Dwelling Units). To determine applicability, the owner must produce evidence that the unit was either legally established prior to 1950 (prior to adoption of the City’s first Zoning Code) or constructed prior to January 1, 1991. This may require submittal of documentation and a zoning determination request to the Planning Division. Typically, evidence is provided through building permit records. If such records do not exist, evidence could include documentation of the residential building record used for assessment purposes, which may be obtained from the County Assessor’s office.

### What are the Building Permit Requirements?

The unit must have a separate address and ‘path of travel’ to and from a public way. For an attached unit, there must be a “1-hour separation” between the unit and main residence. The unit must have a separate heating control system. A detached unit must have its own minimum 60 amp feed for power. All rooms must meet minimum standards for light and ventilation. All “sleeping rooms” must have direct access (window or door) to the outside.

Minimum dimensions for living units are as follows:

- Studio: 220 sq. ft. (not incl. closet and bathroom).
- One, plus bedrooms: Main room - 120 sq. ft. / 7 ft. min. dimension. Other rooms (except kitchens) - 70 sq. ft. / 7 ft. min. dimension.
- Ceiling height for habitable rooms is 7.5 ft., and kitchen, hallways, & bathroom is 7 ft.

A suitable kitchen facility must be separate from the bathroom and provide a sink, cooking facility (more than a hot plate or microwave), refrigeration and storage. A suitable bathroom facility must include a toilet, sink and bathing facilities.



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- Density/ Min. Lot Size** A minimum **5,000 square foot** lot size developed with a single-family residence is required in order to qualify for a second unit. Only one second unit (or junior unit) is allowed in addition to the main unit per lot.
- Owner Occupancy** The **property owner must reside** in either the principal or the second unit.
- Deed Restriction** A **deed restriction must be recorded** with the County Recorder so that future owners of the property will be aware of the requirements (such as owner occupancy). The sample format for the deed restriction is attached to this handout. Proof of recordation must be submitted to the Planning Division prior to issuance of a building permit or after Second Unit application has been processed.
- Size Limits** At no time shall the size of the second unit exceed **40% of the gross square footage** of the principal dwelling, excluding the garage, *except* that the floor area of a second unit may be a **minimum of 500 square feet**, regardless of the size of the house. The **maximum size of a second unit is 1,000 square feet** provided that any second unit **over 800 square feet** in size also requires Planning Commission Use Permit approval.
- Height** If the unit is added to a principal single-family dwelling, the height limit is **30 feet above grade**. If a unit is proposed as an accessory structure, the height limit is **15 feet**. (I.e., consistent with the underlying zoning district standards for height limits and measurement). Note that Use Permit and/or Design Review permits may be required for second units in accessory structures that exceed the height limit.
- Setbacks** Second dwelling units added or attached to the principal residence shall be subject to the setback requirements otherwise applicable to the principal residential structure. Second dwelling units constructed as a separate detached accessory building shall be subject to the setback requirements otherwise applicable to accessory structures. Note that Use Permit and/or Design Review permits may be required for second units in accessory structures that are located within the required setbacks.
- Design Review** Review and approval of a discretionary Environmental and Design Review Permit by the Planning Commission pursuant to Chapter 14.25 will be required for any second unit proposed as follows:
  - An upper story addition to the main residence that exceeds 500sf
  - A detached unit that is two-stories
  - A detached unit located within side or rear yard setbacks required for the main structure setbacks
  - New construction on a lot subject to the Hillside Overlay (-H) District Development regulations; if required for the addition per Chapter's 14.12 and 14.25Note: Upon application for review, the Community Development Directory may propose to downgrade review to the Zoning Administrator level, if a concurrent Use Permit is not required.
- Use Permit** Review and approval of a discretionary Use Permit by the Planning Commission is required for any second unit proposed as follows:
  - A detached unit that exceeds the 15 foot height limit and/or located within side or rear yard setbacks required for the main structure
  - A second unit that exceeds 800 square feet in size (up 1,000 square feet)
- Parking** Studio or 1-bedroom second unit: 1 space                      2 or more-bedroom second unit: 2 spaces  

Parking for the second unit may be uncovered. One parking space for the second unit may be in the front yard on a paved area between the driveway and the nearest side property line, parallel to the driveway. On parcels having frontage on a street with a paved width of at least 38 feet, one parking space for the second unit may be tandem (located behind a parking space for the principal dwelling), located on a driveway which is at least 18 feet in length behind the property line.
- Architectural Compatibility** Prior to approval a City planner will review the design plans (and visit the project site in the case of legalizing a second unit) to ensure that the second unit incorporates the same or similar exterior colors, architectural detailing, roof pitch same or similar and exterior materials, and window style, as the structure containing the principal residence.
- Entrance** The second unit must have a separate entrance from the principal dwelling. In order to maintain the appearance of a single-family residence, the entrances to the second unit and principal dwelling unit cannot be located on the same side (elevation) of the principal dwelling most parallel to the front property line.

RECORDED AT REQUEST OF  
CITY OF SAN RAFAEL

WHEN RECORDED RETURN TO:  
City of San Rafael  
Community Development Director  
P.O. Box 151560  
San Rafael, CA 94915-1560

**DECLARATION OF RESTRICTIONS**  
**RE: SECOND DWELLING UNIT**

Declarant(s) \_\_\_\_\_ and \_\_\_\_\_ is/are the fee title owner(s) of the property at \_\_\_\_\_, San Rafael (hereafter the "Property") also identified as Marin County Assessor's Parcel No. \_\_\_\_\_.

**RECITALS**

- A. Declarant(s) acquired title to the Property by Deed No(s). \_\_\_\_\_.
- B. Declarant(s) has/have applied to the City of San Rafael for approval of a Second Dwelling Unit on the Property.
- C. The purpose of this Declaration is to set forth as restrictions on the Property, and as covenants running with the land, those conditions which relate to the use of the two dwelling units on the Property.

**NOW THEREFORE**, based on the foregoing, Declarant(s), declares/declare as follows:

1. The Second Dwelling Unit on the Property shall not be sold separately from the primary residence on the Property.
2. The Second Dwelling Unit shall be restricted to the maximum size allowed per the development standards in San Rafael Municipal Code §14.16.285(C)(6).
3. The second dwelling shall be considered legal only so long as either the primary residence, or the Second Dwelling Unit, is occupied by the owner of record of the Property.
4. The restrictions shall be binding upon any successor in ownership of the Property and lack of compliance may subject the Property owner to enforcement action by the City.

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Owner \_\_\_\_\_  
(Print Name)

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Owner \_\_\_\_\_  
(Print Name)

[Attach Notary Certificates (Acknowledgements)]