

AFFORDABLE UNIT INTERIM POLICY

CITY OF ENCINITAS
PLANNING AND BUILDING DEPARTMENT

505 South Vulcan Avenue

Encinitas, California 92024

(760) 633-2710 • planning@encinitasca.gov • www.encinitasca.gov

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. On December 16, 2015, the City Council extended the interim provisions for six months to June 16, 2016. On May 18, 2016, the Council again extended the interim provisions for a period of one year to June 16, 2017. 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, 2016 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.

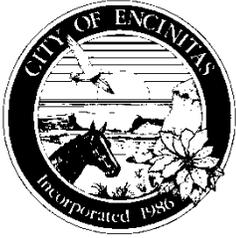
- e. Location, dimension and type of all known easements.
3. **Planning and Building Review:** The Planning and Building Department shall review the AUP application for compliance with development standards (setbacks, lot coverage, parking, etc.). The unit(s) shall be required to meet parking and other 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 pay check 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

CITY OF ENCINITAS
PLANNING AND BUILDING DEPARTMENT
505 South Vulcan Avenue
Encinitas, California 92024

(760) 633-2710 ▪ planning@encinitasca.gov ▪ www.encinitasca.gov

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: _____



CERTIFICATION

OWNER CERTIFICATION

I/We have read the information submitted above, and certify that the information is accurate and complete to my/our knowledge. I/We acknowledge and understand that a material misstatement fraudulently made in this affidavit or in any other statement made by me/us in connection with the affordability restriction recorded against this property will constitute a federal violation punishable by fine and abatement of use of subject property, which will be in addition to any criminal penalty imposed by law.

Signature

Date

TENANT CERTIFICATION

I, _____ (name) certify that I currently reside at _____ (address), and that my household's annual gross income is \$ _____ and my monthly rental payment is \$ _____. I/We have read the information submitted above, and certify that the information is accurate and complete to my/our knowledge. I/We acknowledge and understand that a material misstatement fraudulently made in this affidavit or in any other statement made by me/us in connection with the affordability restriction recorded against this property will constitute a federal violation punishable by fine and abatement of use of subject property, which will be in addition to any criminal penalty imposed by law.

Signature

Date

Signature

Date

2016 INCOME AND RENTAL LIMITS

The maximum allowable income and rental rates are based on the Area Median Income (AMI) levels for the County of San Diego, established by the Department of Housing and Urban Development (HUD). These levels are effective March 28, 2016, and are adjusted annually.

For 2016, the **household income** limits are:

For 2016, the **maximum rental** limits are:

Household Size	Maximum Gross Annual Household Income
	80% AMI (Low Income)
1	\$47,600
2	\$54,400
3	\$61,200
4	\$68,000
5	\$73,450
6	\$78,900

Unit Size	Maximum Rent*
	80% AMI (Low Income)
Studio	\$1,190
1-Bedroom	\$1,360
2-Bedroom	\$1,530

**Allowance for tenant-paid utilities must be deducted from rent. See the most recent Utility Allowance Schedule published by the Encinitas Housing Authority.*

PLEASE RETURN COMPLETED FORM TO:

City of Encinitas
Planning & Building Department
505 S. Vulcan Ave., Encinitas, CA 92024
Attn: Housing Division



**AFFORDABLE UNIT INTERIM POLICY (AUP) – FEE WAIVER
OWNER INCOME CERTIFICATION FORM
(Effective 11/19/2014 – 06/16/2016)**

On November 19, 2014 the Encinitas City Council approved a temporary fee waiver for the Affordable Unit Policy application for low-income homeowners through December 31, 2015 and on December 16, 2015 extended the fee waiver for six months. The fee waiver is only available to qualified low-income homeowners until June 16, 2016. The maximum allowable income limits are based on the Area Median Income (AMI) levels for the County of San Diego established by the Department of Housing and Urban Development (HUD) and adjusted annually. The following income limits, adjusted for household size are effective March 28, 2016.

Household Size	Maximum Gross Annual Household Income
	80% of AMI
1	\$47,600
2	\$54,400
3	\$61,200
4	\$68,000
5	\$73,450
6	\$78,900
7	\$84,350
8	\$89,800

If you feel you meet the income guidelines in order to qualify for the application fee waiver, please complete the form on the following page. Please note that you will be required to provide source documentation to verify your income.

PLEASE RETURN COMPLETED FORM TO:

City of Encinitas
Planning & Building Department
505 S. Vulcan Ave., Encinitas, CA 92024
Attn: Housing Division

If a fee waiver has been approved, the AUP application shall be submitted and approved by June 16, 2016 in order for the waiver to remain valid.

If you have questions regarding the income guidelines or your household's eligibility, please contact Nicole Piano-Jones, Management Analyst at (760) 943-2237 or npiano@encinitasca.gov. For other questions related to the Affordable Unit Policy application, please contact the Planning and Building Department at (760) 633-2710.



**AFFORDABLE UNIT INTERIM POLICY (AUP) – FEE WAIVER
OWNER INCOME CERTIFICATION FORM**

Owner Name(s): _____ Date: _____
 Address: _____ Household Size: _____

Household income includes the combined gross income of each adult (over 18 years old) member of the household. Please check the applicable source documentation to verify household income.

Source Documentation (Check Applicable)

- Tax Return/W2's Social Security/Disability Income Bank Statements (3 months)
 Pay Stubs (3 months) Unemployment/Public Assistance Other: _____

HOUSEHOLD GROSS MONTHLY INCOME					
Check All That Apply	Income Source	Applicant (Monthly)	CO-Applicant (Monthly)	Other Household Member(s) (Monthly)	Total Monthly Income (Add all rows)
<input type="checkbox"/>	Employment Income	\$	\$	\$	\$
<input type="checkbox"/>	Social Security/Disability	\$	\$	\$	\$
<input type="checkbox"/>	Alimony/Child Support	\$	\$	\$	\$
<input type="checkbox"/>	Pension/Retirement	\$	\$	\$	\$
<input type="checkbox"/>	Rental Income	\$	\$	\$	\$
<input type="checkbox"/>	Unemployment	\$	\$	\$	\$
<input type="checkbox"/>	Other: _____	\$	\$	\$	\$
Total Monthly Income:					\$
Total Annual Income:					\$
INCOME FROM ASSETS					
Type of Asset (Checking, Savings, 401k, etc...)	Cash Value of Asset	Annual Income from Asset (Interest or Dividends)			
Totals:		\$	\$		
If Total Cash Value of Asset Exceeds \$5,000, Multiply Total by HUD Passbook Rate to Calculate Imputed Income		Passbook Rate X Currently 2.00%	= Imputed Income	\$	
Total Income From Assets (Add the greater of Actual Income or Imputed Income from Asset to the total income)					\$
Total Annual Household Income from all Sources					\$

OWNER CERTIFICATION

I, _____ (name(s)) certify that I/We currently reside at _____ (address), and that my household's annual gross income is \$ _____. I/We have read the information submitted above, and certify that the information is accurate and complete to my/our knowledge.

Signature _____ Date _____ Signature _____ Date _____



CITY OF ENCINITAS DISCLOSURE STATEMENT

APPLICANT'S STATEMENT OF DISCLOSURE OF CERTAIN OWNERSHIP INTERESTS ON ALL APPLICATIONS WHICH WILL REQUIRE DISCRETIONARY ACTION ON THE PART OF THE CITY COUNCIL, PLANNING COMMISSION, AND ALL OTHER OFFICIAL BODIES.

The following information must be disclosed:

1. List the names of all persons having a financial interest in the application.

List the names of all persons having any ownership interest in the property involved.

2. If any person identified pursuant to (1) above is a corporation or partnership, list the names of all individuals owning more than 10% of the shares in the corporation or owning any partnership interest in the partnership.

3. If any person identified pursuant to (1) above is a non-profit organization or a trust, list the names of any person serving as director of the non-profit organization as trustee or beneficiary or trustor of the trust.

4. Have you had more than \$250 worth of business transacted with any member of City staff, Boards, Commissions, Committees, and Council within the past twelve months? **Yes** **No** If yes, please indicate person(s).

PERSON is defined as: "Any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, this and any other county, city and county, city, municipality, district or other political subdivision, or any group or combination acting as a unit."

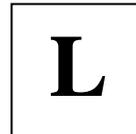
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(NOTE: Attach additional pages as necessary.)

Signature of Applicant

Date

Print or type name of applicant



PLANNING AND BUILDING DEPARTMENT

CITY OF ENCINITAS
505 South Vulcan Avenue
Encinitas, California 92024
(760) 633-2710

EVIDENCE OF LEGAL PARCEL

Applicant's Name _____ Telephone _____

Mailing Address _____

City _____ State _____ Zip _____

You are required to supply documentation that this property constitutes a legal parcel before the City can accept for filing any discretionary permits.

This form and associated evidence will be reviewed by the Planning and Building Department upon submittal of your application. A request for a Certificate of Compliance must be filed concurrently with or in advance of this application if the evidence presented is insufficient to determine this parcel as being a legal lot or determination will require substantial time to research.

If determined that the property is not a legal lot, no permit or other approval may be granted until corrective action has been completed.

Fees and deposits submitted with this application will be refunded only as provided for by the ordinances and regulations in effect at the time of the request.

Book _____ Page _____ Parcel _____

Signature of Applicant
(Please Print or Type Signatory's Name)

Date

AFFORDABLE UNIT INTERIM POLICY **COVENANT RESTRICTIONS**

1. The project is approved in compliance with the City's Interim AUP program; and OWNER(S) shall indemnify, defend and hold harmless the City of any legal challenges or liabilities related to the City's approval of the project and/or subject unit(s).
2. During the term of this covenant, the OWNER agrees to abide by all ordinances, statutes, and regulations applicable to the PROPERTY, except as allowed herein.
3. The units shall comply with health and safety standards as set out in EMC Chapters 10.04 (California Fire Code) and 23.12 (Uniform Codes for Construction), and shall be maintained as per the plans submitted and approved by the Building Division.
4. MANAGEMENT AND MAINTENANCE
 - A. Owner hereby agrees to maintain the property in a safe and usable condition and agrees not to enlarge, extend, or expand the AFFORDABLE DWELLING UNIT authorized under the Affordable Dwelling Unit Policy unless otherwise permitted by applicable regulations. OWNER shall be responsible for maintenance costs, including all repairs, corrections, and replacements necessary to maintain and preserve the AFFORDABLE DWELLING UNIT in a safe and sanitary condition for the duration of the term of this covenant. Upon written request by the CITY, the OWNER shall provide CITY or representative with access to inspect the AFFORDABLE DWELLING UNIT for compliance with this section.
 - B. Should OWNER fail to maintain the PROPERTY in a safe and usable condition, within 30 days notice from the CITY, OWNER shall bring the PROPERTY into full compliance with all of CITY's land use and building regulations, in effect at that time and applicable to the property, to include without limitation, density.
 - C. Should either the PROPERTY or the AFFORDABLE DWELLING UNIT be damaged to more than 75% of its value (as determined by the Planning and Building Department), OWNER shall bring the PROPERTY into full compliance with all of CITY's land use and building regulations, in effect at that time and applicable to the property, to include without limitation, density.
 - D. Any tenant selected to occupy the AFFORDABLE DWELLING UNIT shall enter into a written occupancy agreement or lease with the OWNER. OWNER shall use a standard lease form published by the California Apartment Association or other form approved by the CITY.
 - E. Leases and the landlord-tenant relationship shall be subject to California law and the terms of these covenant restrictions.
5. INCOME AND RENT RESTRICTIONS
 - A. For a period of twenty years, effective from the date of the Certificate of Occupancy approval, 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). Prior to occupancy, the proposed tenant's household income must be verified using

all applicable source documentation for all adult household members such as, paystubs, W2's, bank statements, public benefit statements, social security benefits, etc...

- B. The OWNER shall re-certify the tenant's household income status every twelve months. In the event that the household no longer qualifies as low-income, the OWNER shall terminate the tenancy in accordance with the applicable state law.
- C. OWNER shall make a good faith effort to expeditiously and continuously rent the AFFORDABLE DWELLING UNIT. Such effort shall include local public advertising. In the event that the AFFORDABLE DWELLING UNIT is vacant for a period of more than thirty (30) days, the OWNER shall notify the CITY. If available, CITY shall provide OWNER with a list of eligible households seeking rental housing.
- D. The maximum monthly rental rate to be charged for the AFFORDABLE DWELLING UNIT shall be consistent with Income and Rents Schedule published by CITY and based on thirty percent (30%) of eighty percent (80%) of AMI, minus an allowance for tenant-paid utilities. The CITY shall publish the Income and Rent Schedule and Utility Allowance Schedule annually and make available on the CITY's website and at the public counter of the Planning and Building Department. No extra charges/fees for facilities or services which normally and appropriately accrue to the unit (e.g., parking, key common facilities, etc.) will be assessed.

6. REPORTING REQUIREMENTS

The OWNER shall submit a report to the CITY immediately after initial lease-up of the AFFORDABLE DWELLING UNIT and annually thereafter, on a form prescribed by the CITY. The report shall include the information and income on the tenant(s) occupying the AFFORDABLE DWELLING UNIT, and the rent.

7. VIOLATION OF TERMS OR CONDITIONS OF THIS COVENANT BY OWNER

Failure of the property owner to abide by provisions of this agreement shall automatically incur the following penalties: Any charges, fees, etc. to tenants above levels set herein shall be reimbursed to the tenants. In addition, payment of an equal amount shall be made to the CITY, which the CITY shall deposit in a separate account to be used exclusively for the creation of subsidy for affordable housing opportunities in the City of Encinitas.

8. NON-DISCRIMINATION

OWNER shall not discriminate against any prospective or current tenant on the basis of race, color, religion, sex, national origin, familial status, disability or any other protected classes under State and Federal fair housing law.