

**DATE:** September 15, 2015

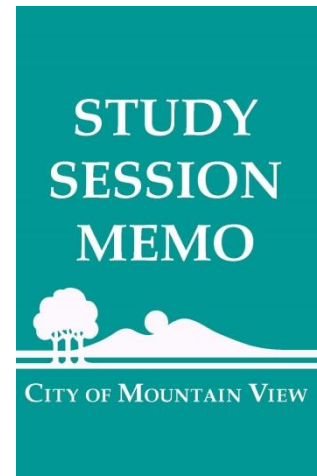
**TO:** Honorable Mayor and City Council

**FROM:** Diana Pancholi, Assistant Planner  
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**VIA:** Daniel H. Rich, City Manager

**TITLE:** **Companion Unit Regulations**

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## **PURPOSE**

The purpose of this item is for the City Council to discuss topics related to updating the City's Companion Unit regulations, which was identified by the City Council as a priority goal and is referenced in Program 4.3 of the recently adopted Housing Element (2015-2023).

If the Companion Unit standards are modified, additional Companion Units could potentially be built in the City. However, the number of potential new Companion Units is not expected to make a significant contribution to the overall number of housing units in the City or their affordability.

This discussion is not intended to fully explore any or all of the potential topics but to provide a starting point for further analysis. The report presents background information on a number of topics, and concludes with a general discussion of these topics and several key policy questions.

## **BACKGROUND**

A Companion Unit is a secondary living unit located on the same lot as a detached single-family dwelling unit. They are also sometimes referred to as a "Granny Unit," "In-Law Unit," "Accessory Dwelling Unit," or a "Secondary Residential Unit." State law uses the term "Second Unit." Companion Units typically contain a bathroom, kitchen, and a bedroom. A Companion Unit is different from an accessory structure, such as a detached office or garage, as accessory structures cannot be used as a separate dwelling unit and cannot include a kitchen. Companion Units can be detached structures or attached to the primary house with no shared interior doors.

## **State Law**

Government Code Section 65852.2, also known as the Second Unit Law, requires that the preparation, adoption, amendment, and implementation of local second-unit ordinances be carried out consistent with Government Code Section 65852.150:

The Legislature finds and declares that second units are a valuable form of housing in California. Companion Units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create second units benefit from added income, and an increased sense of security.

It is the intent of the Legislature that any Companion Unit ordinances adopted by local agencies have the effect of providing for the creation of Companion Units and that provisions in these ordinances relating to matters of size, parking, fees and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create Companion Units in zones in which they are authorized by local ordinance.

## **Benefits and Concerns**

Some common benefits of Companion Units are that they:

- Provide affordable housing;
- Provide extra living space for family or guests;
- Provide older homeowners additional income to offset costs associated with property taxes and maintenance of a property;
- Provide housing for college students, professionals, caregivers, or individuals with special needs;
- Provide additional income to help with the increased cost of a mortgage; and
- Make efficient use of existing infrastructure.

Common concerns regarding Companion Units are that they:

- Create higher density/overcrowding that may not be desirable in some locations;
- Increase parking demand;
- May impact the character of some residential neighborhoods.

### **Companion Unit Policy Background in Mountain View**

The City Council included as a priority goal (for Fiscal Years 2015-16/2016-17) a review of the Companion Unit regulations to increase the number of housing units in the City as identified in the City's Housing Element (2015-2023).

The adopted 2015-2023 Housing Element also identified Program 4.3, to review the Companion Unit ordinance, and study the options, benefits, and impacts of modifying the ordinance to remove constraints that may limit the construction of Companion Units. The Housing Element also states that the City will evaluate the Park Land Dedication In-Lieu Fee to determine if the current fee is appropriate to encourage Companion Unit development, or whether the City's fee constrains the development of Companion Units in any way.

### **City of Mountain View Companion Unit Regulations**

Companion Units are permitted on single-family properties located in the R1 (Single-Family Residential) Zoning District on lots which are at least 35 percent larger than the minimum lot size for the underlying zoning district. Companion Units are required to comply with the City's Companion Unit Regulations (See Table 2). Since the year 2000, 11 Companion Units have been approved and built in the City.

**Table 1: Companion Unit Minimum Lot Size Requirements**

<b>Zoning District</b>	<b>Minimum Lot Size (Square Feet)</b>	<b>Minimum Lot Size for Companion Unit (Square Feet)</b>
R1	6,000	8,100
R1-7	7,000	9,450
R1-8	8,000	10,800
R1-10	10,000	13,500

**Table 2: Companion Unit Development Standards**

Minimum lot area	Minimum 35% larger lot area than required by the applicable zone.	
Gross floor area	700 sq. ft. of habitable floor area, maximum, and 200 sq. ft. for a garage, maximum, provided the total floor area for the lot does not exceed the maximums in Sec. 36.10.25.	
Location of unit	Attached to a principal structure	Basement, ground level or above the garage with no internal access to the primary dwelling.
	Detached unit	Rear half of lot.
	Above a detached garage	Rear half of lot.
Site coverage, detached rear-yard units	30% of the rear yard, maximum, including any other accessory structures, and projections of the primary dwelling.	
Setbacks	Side	1-story detached structure: 5 ft. minimum, 12 ft. total.
		1-story attached (basement): comply with required setbacks of the main house. See Sec. 36.10.25.
		2-story over attached or detached garage: See Sec. 36.10.25 for 2nd story setbacks.
	Rear	1-story detached: 10 ft. minimum.
		1-story attached (basement): comply with required setbacks of the main house. See Sec. 36.10.25.
		2-story over attached or detached garage: See Sec. 36.10.25 for 2nd story setbacks.
Interior	10 ft. minimum, from primary dwelling or other structure, if detached.	
Height limit	1-story detached: 16 ft. maximum building height and 9 ft. at top of wall plate.	
	1-story attached: See Sec. 36.10.25 for height limits for principal structures.	
	2-story (over garage): 28 ft. maximum building height and 22 ft. at top of wall plate.	
Parking	Required Spaces	1 space per bedroom, which can be covered or uncovered.
	Shared Parking	A driveway, garage or carport may be shared with the primary dwelling unit if the companion unit has direct, unobstructed (or shared) access to the parking space(s).

## **Review Process**

Companion Units which meet the City's standards can be approved through a "ministerial" building permit process and are statutorily exempt from CEQA. No Conditional Use Permit or other planning permit is required.

## **DISCUSSION**

Staff has identified several topics of discussion for the Companion Unit regulations update. Council feedback on these topics, as well as Council direction on any other related topics that have not been identified, will guide the next phase of the update process.

General Plan policies (see Attachment 1) and existing City of Mountain View Companion Unit handouts (see Attachment 2) have been provided for reference to the current policies and regulations. Staff also included some preliminary research of second unit ordinances of neighboring cities (see Attachment 3). Various types of fees associated with new Companion Units are also summarized in Attachment 4.

### **Environmental Planning Commission Meeting – June 3, 2015**

On June 3, 2015, staff presented an introduction to the Environmental Planning Commission (EPC) on the Companion Unit Regulations Update (see Attachment 5– EPC Staff Report). A summary of EPC comments on each of these topics is summarized in the discussion report below.

Three members of the public spoke at the EPC meeting. Comments included supporting Companion Units because they provide affordable housing through second units and concerns related to changing the single-family development neighborhood character with increased density.

**Issue #1 – Required Minimum Lot Size:** The required minimum lot size is often seen as the most restrictive standard pertaining to a Companion Unit development. Refer to Table 1 and Table 2 for the minimum lot size requirements.

The current code requires a minimum lot size 35 percent larger than required by the applicable zone. Prior to 2000, the City's minimum lot size requirement for Companion Units was 50 percent larger than the minimum for the zone district, and at least 10,000 square feet. The minimum lot size requirement was later changed to 35 percent larger than the minimum for the applicable zoning district, so more lots would be eligible to apply for Companion Unit development.

Staff conducted preliminary analysis for the number of parcels that can qualify to have a Companion Unit based on different minimum lot size requirements (see Attachment 6–GIS Analysis of Minimum Lot Size). Table 3 below shows the summary of the percentage of R1-zoned parcels that would qualify under different minimum lot size requirements. The City has 7,595 R1-zoned parcels.

**Table 3: Minimum Lot Size GIS Analysis Summary**

<b>Minimum Lot Area for a New Companion Unit</b>	<b>R1 Qualifying Parcels (%)</b>	<b>Number of R1-Qualifying Parcels</b>
35% Over the Lot Area of the Applicable Zone	13	1,020
25% Over the Lot Area of the Applicable Zone	22	1,675
15% Over the Lot Area of the Applicable Zone	33	2,475
5% Over the Lot Area of the Applicable Zone	56	4,232

Note: Percentage of qualifying R1-zoned parcels is based on lot size requirement only.

The EPC directed staff to do further research on other cities’ minimum lot size requirements for Companion Units to help inform how the City’s regulations might be modified. If directed by Council, staff will conduct further research in the next phase of this study.

**Question #1:** Should the minimum lot size requirement be reduced to encourage more Companion Units?

**Issue #2–Parking Requirements:** The City requires one parking space (covered or uncovered) for each Companion Unit bedroom. Most Companion Units in Mountain View have one bedroom, though it may be possible to have two bedrooms in a unit.

Staff’s preliminary research on other second unit ordinances shows that most neighboring cities require one to two parking spaces (covered and/or uncovered) per Companion Unit and is not based on the number of bedrooms (see Attachment 3–Summary of Preliminary Research on Other Second Unit Ordinances).

The EPC acknowledged the current on-street parking issues in some residential neighborhoods and suggested that current Companion Unit parking requirements remain.

**Question #2:** Should alternative parking standards be explored?

**Issue #3—Gross Floor Area:** The current standards restrict the maximum habitable area to 700 square feet, regardless of lot size.

Some jurisdictions vary the amount of allowed floor area requirement based on the total lot size. For example, the County of Santa Clara allows a maximum of 640 square feet of habitable area for lots less than 10,000 square feet, and a maximum of 800 square feet of habitable area for lots over 10,000 square feet in urban residential zones.

The EPC did not reach a consensus on this topic. Some expressed an interest in increasing the allowed minimum unit size while others suggested no change in the current minimum unit size requirements. The EPC directed staff to do further research on this topic.

**Question #3:** Should the Council further explore allowing the maximum habitable area to vary based on lot size?

**Issue #4—Park Land Dedication In-Lieu Fee:** The Park Land Dedication In-Lieu Fee requirement is a regulation that adds to the cost of developing a new Companion Unit. Program 4.3 of the adopted 2015-2023 Housing Element requires the evaluation of the Park Land Dedication In-lieu Fee to determine if it constrains the development of Companion Units in any way.

New Companion Units pay a Park Land Dedication In-Lieu Fee for park or recreational purposes. This ranges between \$15,000 and \$30,000. The Park Land Dedication Fee is established based on the fair market value of a parcel. This fee is collected to purchase land to create new neighborhood parks and to renovate or improve existing parks and park facilities.

The Park Land Dedication In-Lieu Fee is calculated using the following formula:

$$\text{Required Park Land Dedication In-Lieu Fee} = A \times B \times C$$

Where,

**A** = equals the park land dedication acreage required per dwelling unit (DU) within the proposed residential development for park and recreational facilities.

**B** = equals the number of new dwelling units in the proposed residential development.

**C** = equals the fair market value per acre of land in the proposed residential development.

The following table is also used in calculating Park Land Dedication In-Lieu Fee requirements based on density:

**Table 4: Density Table**

Dwelling Density	DUs Per Acre	Density of Persons Per DU	Acreage Requirement Per DU Within Subdivision
Low	1-6	2.7	.0081
Medium-Low	7-12	2.3	.0069
Medium	13-25	2.0	.0060
Medium-High and High	26+	2.0	.0060
Mobile Homes	7-14	1.5	.0045

Staff applies a density of 2.7 persons per dwelling unit and a 0.0081 acreage requirement per dwelling unit for both a single-family residence and a Companion Unit, even though a Companion Unit will most likely house only one or two persons.

Staff notes that reducing the density factor for Companion Units to a mobile home (1.5 persons/dwelling unit) factor would reduce the overall Park Land Dedication In-Lieu Fee requirement by 55.5 percent.

For example, a recent Companion Unit paid a Park Land Dedication In-Lieu Fee of \$16,200 based on a density of 2.7 persons per dwelling unit. Applying a density of 1.5 persons per dwelling unit and an acreage requirement of 0.0045 per dwelling unit, the fee would be reduced to \$9,000.



The EPC suggested no change in the current Park Land Dedication In-Lieu Fee requirements for Companion Units because of general concerns over potential impacts to parks.

**Question #4:** Should staff further explore changes to the Park Land Dedication In-Lieu Fee to encourage more Companion Units?

**Issue #5 – Preserving Residential Neighborhood Character:** Modification of the Companion Unit standards like setbacks, height, location of the unit, and lot coverage requirements could result in impacts on the privacy, views, or access to light and air of neighboring properties.

The EPC acknowledged that preserving neighborhood character is very important and should be considered during this update process. Setback requirements, parking availability, and overall height were identified as some of the prime concerns.

**Question #5:** Should the Companion Unit update process consider modification to existing standards beyond lot size?

**Issue #6 – Rent-Restricted Units:** A rent-restricted policy is a strategy used by a limited number of cities to create affordable companion or second units. The EPC directed staff to further explore the details of such a program, including the operation and an enforcement mechanism involved in such a program. Staff did some limited research on the program and whether such a program might be appropriate for the City of Mountain View.

The City of Piedmont adopted a rent-restricted second unit ordinance in 2012 as a part of their Housing Element update in an effort to provide affordable housing. As a result of the *Palmer* case, the program is entirely voluntary and does not limit a property owner's right to develop a second unit that meets the applicable development standards or require these units be affordable. This rent-restriction program permits exceptions to the parking and unit size standards in exchange for a deeded rent restriction. The rent-restricted second unit is permitted through a discretionary Second Unit Permit. The property owner is required to record a declaration of rent restriction with the County for a 10-year period. For the program enforcement, the property owner is required to submit an annual self-certification to the City certifying occupancy status, rent charged, utility cost, gross household income of second unit household, etc.

The City of Piedmont consists predominantly of single-family residential uses. It is completely built out and has limited land availability and local housing funds to support new affordable housing projects. Therefore, their rent-restricted second unit

program is a key strategy for achieving their Regional Housing Needs Allocation (RHNA) goals.

Mountain View is a very different community with better/additional options for meeting affordable housing goals. The City has been progressive in adopting affordable housing fees and programs that support a significant production of affordable units. Five new affordable housing projects have been completed in the last 10 years.

Adoption and enforcement of such an ordinance would require further study and analysis. Recording a declaration of rent restrictions with the County and allowing homeowners to self-certify they are following the rent limits may not be an effective method for ensuring compliance. This program allows a City to count the units toward RHNA goals, but may not result in an equal number of actual affordable units. It is possible some homeowners could find themselves in difficult positions, such as a major drop in their household income that compels them to increase rents or renting to over-income individuals that are willing to rent the Companion Unit at a higher rate. Alternative enforcement efforts could require additional resources.

The development and implementation of such a policy for Companion Units would be a substantial work item. For these reasons, staff is not recommending further consideration of a rent-restricted second unit program for Mountain View at this time. If the City Council is interested in exploring this topic further, staff recommends it be added in the future as a separate work item.

**Question #6:** Does the Council want to explore rent-restricted Companion Units?

**Issue #7—Amnesty Program for Nonpermitted Units:** A Companion Unit amnesty program is a strategy used by some cities as a way to legalize nonpermitted Companion Units. An amnesty program could include fee reductions or waivers to incentivize property owners to legalize nonpermitted units during a specific time period. An amnesty program can also ensure that nonpermitted Companion Units are safe and habitable.

The EPC asked for further information on this topic to understand the benefits and potential issues related to how an amnesty program could apply to Mountain View. The EPC noted that enforcement of such a program could be challenging.

The City has not received a significant number of complaints for nonpermitted Companion Units. When complaints are received, they are investigated by Code Enforcement staff. It is hard to quantify how many illegal Companion Units exist in the

City today. The number of complaints is very low. The development of an amnesty program for nonpermitted Companion Units would be a substantial work item beyond the scope of the current Companion Unit regulations update. If the City Council is interested in exploring this topic further, staff recommends it be considered in the future as a separate work item.

**Question #7:** Does the Council want to consider an amnesty program for Companion Units?

**Question #8:** Does the City Council have any other comments or direction regarding Companion Units?

### **RECOMMENDATION**

Staff recommends the City Council provide direction for further staff analysis regarding the issues noted in this report.

### **NEXT STEPS**

The following is a summary of key elements of the proposed work plan for this item:

- **EPC Study Session** (June 3, 2015)  
Initial discussion of Companion Unit topics.
- **City Council Study Session** (September 15, 2015)  
Initial review of policy considerations regarding Companion Units.
- **Background Research and Analysis** (Fall 2015)  
Further background research to support the policy discussion regarding Companion Unit regulations.
- **Public Outreach** (Fall 2015/Winter 2016)  
Community outreach meeting to solicit public input on policy considerations.
- **Draft Zoning Text Amendment and Environmental Review** (Spring 2016)  
Draft zoning text amendments will be prepared.
- **EPC and City Council Public Hearings** (Fall 2016)  
Public hearings for review of proposed zoning text and adoption hearings.

## **PUBLIC NOTICING**

The Council's agenda is advertised on Channel 26, and the agenda and Council report are posted on the City's website at <http://www.mountainview.gov>. Courtesy notices of this meeting were mailed to the City's Housing Element interested parties list. Staff will send a separate notification of future EPC and City Council meetings regarding this item.

DP-MA-TB-RT/7/CAM  
807-09-15-15SS-E

- Attachments:
1. List of General Plan and Other Adopted Policies
  2. Existing City Companion Unit Handouts
  3. Summary of Preliminary Research on Second Unit Ordinances
  4. Permit Fee Estimates for a Typical 700 Square Foot Companion Unit
  5. EPC Study Session Staff Report
  6. GIS Analysis of Minimum Lot Size Options