

SECONDARY DWELLING UNITS

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Purpose

The following handout describes the development regulations for secondary dwelling units (SDUs) in [Chapter 16.79 of the Zoning Ordinance](#), and answers some common questions that may arise for those considering building an SDU in the City of Menlo Park. Please review the information below before consulting a planner with preliminary designs in order to facilitate an efficient review. Please visit the Planning Division webpage (<https://www.menlopark.org/planning>) for more information.

Frequently Asked Questions (FAQs)

Q. What is the definition of a secondary dwelling unit?

- A. *16.04.295 Dwelling unit, secondary.* A "secondary dwelling unit" (which is referred to as an "accessory dwelling unit" in State law, or also called a "in-law unit") means a dwelling unit on a residential lot which provides complete independent living facilities for one or more persons, and shall include permanent provisions for living, sleeping, eating, cooking, and sanitation independent of the main dwelling existing on the residential lot. For purposes of a secondary dwelling unit, permanent provisions for eating and cooking include the following: (1) permanent range, (2) counters, (3) refrigerator, and (4) sink. There are two (2) types of secondary dwelling units: (1) units attached to the existing dwelling, including units located within the living area of an existing dwelling unit ("Attached Secondary Dwelling Units"); and (2) units detached from the existing dwelling unit and located on the same lot as the existing dwelling unit ("Detached Secondary Dwelling Units").

Q. What are the requirements for a secondary dwelling unit?

- A. The Secondary Dwelling Unit ordinance (Chapter 16.79) of the Zoning Ordinance establishes the development regulations and other criteria that must be met in order to construct an attached or detached secondary dwelling unit. Please see the end of this handout for a summary of the development standards. There is also a checklist of requirements that is required to be submitted with every SDU application, the checklist can be found at the following link: <https://www.menlopark.org/DocumentCenter/Home/View/14977>

Q. Where are secondary dwelling units allowed?

- A. SDUs are allowed in all single-family residential districts (R-E, R-E-S, R-1-S, R-1-S(FG), R-1-U, and R-1-U(LM)), subject to meeting the standards of Chapter 16.79. In addition, a secondary dwelling unit may be permitted in other zones that allow residential uses (R-2, R-3, R-3-A, R-3-C, R-4, R-4-S, R-L-U, R-MU, ECR/D-SP, C-2-B), provided that the parcel in question is occupied by a single-family residence, the SDU is converted from an existing building (versus new construction or additions for SDU use), and all other provisions of Chapter 16.79 are met. For example, an R-3 parcel that is over 6,000 square feet in size and currently contains only a single-family residence could potentially add an SDU by converting a portion of the existing structure. By contrast, an apartment building in the R-MU district could not apply the SDU provisions. Please see a planner if you have a proposal for a SDU in a non-single-family zoning district to verify conceptual compliance prior to submitting a building permit application.

Q. What permits are needed to build a secondary dwelling unit?

- A. In all cases, building permits are required prior to any construction. SDUs that are designed in compliance with the development regulations established in Chapter 16.79 of the Zoning Ordinance are not subject to discretionary review. However, certain projects that expand existing nonconforming structures may require use permit review. Please see the nonconforming structures handout (<http://www.menlopark.org/DocumentCenter/Home/View/248>) for more detail on how such projects are evaluated, and check with the Planning Division for specifics. Note that a survey may be required to determine whether an existing structure is conforming or not, and also that all use permit applications require a full site survey. In addition, modifications to the SDU development regulations (except the density and subdivision standards) may be granted through the use permit process by the Planning Commission.

Q. What are the Building Permit submittal requirements for a new SDU?

- A. The details required for the building permit plan set depend on the type of secondary dwelling unit and are described in Building Division handouts. Please see the relevant links below, based on the type of secondary dwelling unit proposed:
- A new detached secondary dwelling unit: <http://www.menlopark.org/DocumentCenter/Home/View/5425>

- Conversion of an existing accessory structure into a secondary dwelling unit with no new square footage: <http://www.menlopark.org/DocumentCenter/Home/View/107>
- A new secondary dwelling unit, less than 500 square feet in size, attached to the main residence or an existing accessory structure: <http://www.menlopark.org/DocumentCenter/Home/View/106>
- A new secondary dwelling unit, more than 500 square feet in size, attached to the main residence or an existing accessory structure: <http://www.menlopark.org/DocumentCenter/Home/View/5424>

As noted earlier, all SDU applications require the submittal of the SDU checklist

(<https://www.menlopark.org/DocumentCenter/Home/View/14977>). As specified in that document, submittal of the Historic Evaluation (<http://www.menlopark.org/DocumentCenter/Home/View/266>), MMRP (Mitigation Monitoring and Reporting Program) compliance form

(<https://www.menlopark.org/DocumentCenter/View/20485/Secondary-Dwelling-Unit---MMRP-Compliance-Form>), and tenancy acknowledgement form (<http://www.menlopark.org/DocumentCenter/Home/View/5223>) regarding tenancy shall also be submitted.

Q. What is the application review and approval process for secondary dwelling units designed in compliance with the development regulations (Chapter 16.79 of the Zoning Ordinance)?

A. The following are the steps in the review and approval process:

1. The applicant submits a complete building permit application and initial application fees for the secondary dwelling unit, including plans showing the details of the proposed secondary dwelling unit (please see next question), and the secondary dwelling unit checklist (<https://www.menlopark.org/DocumentCenter/Home/View/14977>) and all associated forms/documents;
2. The Community Development Director or his or her designee makes a determination of compliance; and
3. The application is either approved within 120 days after receipt of a substantially complete application, or the application is denied if the proposed secondary dwelling unit does not comply with all applicable requirements. Alternatively, the application may be approved subject to conditions that will bring the proposed secondary dwelling unit into compliance with the development standards.

Q. What fees are associated with a secondary dwelling unit?

A. The exact amount of fees varies depending on the specifics of the proposal. In addition, there are various services provided by other districts, such as fire, sanitary, water, and schools that may assess a fee. The City does not have control over these fees. The Building Division may be able to provide a fee quote. The City's transportation impact fee (TIF) is also applicable to a new secondary dwelling unit (whether new construction or conversion). The TIF for the 2018-19 fiscal year is \$751.39. The fee is adjusted annually on July 1 by the ENR Construction Cost Index percentage change for San Francisco.

Q. What should I do if I have a lot with an existing secondary dwelling unit, and I am not sure if it has the proper permits?

A. Contact the City of Menlo Park Planning or Building Divisions to assist you with your research on the property. The County of San Mateo Assessor's Office can also be a good resource for historical property information; homeowners can request the Assessor's Property report from the County Building at 555 County Center, Redwood City, CA for information about their property.

Q. Is a secondary dwelling unit an accessory building?

A. A secondary dwelling unit is not considered an accessory building. For more details about secondary dwelling unit regulations, please refer to Chapter 16.79 ("Secondary dwelling units") of the Zoning Ordinance. For more details about accessory building regulations, please refer to Chapter 16.68.030 ("Accessory buildings and accessory structures") of the Zoning Ordinance and the handout on accessory buildings and structures (<http://www.menlopark.org/DocumentCenter/Home/View/239>).

Q. Can I convert my accessory building into a secondary dwelling unit?

A. Potentially. An accessory building (including detached garages/carports) that received building permits and commenced construction prior to January 1, 2017 may be converted into a secondary dwelling unit so long as the following criteria are met:

1. A building permit or other supporting documentation is provided to show the structure was legally built,
2. The building can be upgraded to meet the Building Code requirements for a dwelling unit, and
3. The accessory building complies with the development regulations of a secondary dwelling unit, with the exception of:
 - a. Minimum yards;
 - b. Height;
 - c. Daylight plane; and
 - d. Parking.

All or any portion of an accessory building that meets the above eligibility criteria may be demolished and reconstructed to meet building code requirements based on the change of occupancy at the time of conversion. The secondary dwelling unit that replaces the accessory building may retain the setbacks and the footprint of the legally constructed accessory building. If the lot is smaller than the required 6,000 square feet, or the proposed secondary dwelling unit exceeds the permitted unit size as described in the development regulations summary table on the last page of this handout, a use permit may be requested to deviate from one or both of these standards. A use permit is a discretionary process, which requires Planning Commission review and approval. If the accessory building is a garage/carport that provides parking for the main residence, replacement parking must be provided. However, the replacement parking can be allowed in any configuration on the same lot, including covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts. Uncovered replacement parking must meet the dimensional requirements of the Parking Stalls and Driveway Design Guidelines (<https://menlopark.org/DocumentCenter/View/250>), and may not extend onto the public right-of-way.

Q. Can I convert my attached garage/carport into a secondary dwelling unit?

- A.** Potentially. The garage/carport of an existing residence that received building permits and commenced construction prior to January 1, 2017 may be converted into a secondary dwelling unit as long as the lot size minimum and secondary dwelling unit maximum unit size requirements are met, and replacement parking is provided. The replacement parking can be allowed in any configuration on the same lot, including covered spaces, uncovered spaces, tandem spaces, or mechanical parking lifts. Uncovered replacement parking must meet the dimensional requirements of the Parking Stalls and Driveway Design Guidelines (<https://menlopark.org/DocumentCenter/View/250>), and may not extend onto the public right-of-way.

Q. Do I need to provide parking for my secondary dwelling unit?

- A.** In many cases, one off-street parking space is required pursuant to the regulations outlined in the development regulations summary table on the last page of this handout. However, no parking is required for the secondary dwelling unit if one or more of the following criteria are met:
1. The secondary dwelling unit is located within one-half mile of public transit as determined by the community development director, using distance and schedule information submitted by the applicant;
 2. The secondary dwelling unit is located within an architecturally and historically significant historic district;
 3. The secondary dwelling unit is existing and was permitted without additional parking;
 4. On-street parking permits are required but not offered to the occupant of the secondary dwelling unit;
 5. When a car share vehicle is located within one block of the secondary dwelling unit as determined by the community development director; or
 6. When the secondary dwelling unit is being converted out of a building that existed prior to January 1, 2017.
- Please note, the City does not currently include historic districts and residences in single-family homes may only purchase temporary permits for on-street overnight parking, so exceptions #2 and #4 are not currently applicable. If developing a secondary dwelling unit or converting an accessory structure into a secondary dwelling unit results in inadequate parking at your property for the additional people occupying the property, you will not be exempt from the overnight parking prohibition nor other parking restrictions and may need to limit the number of vehicles at the property.

Q. Can I rent out my secondary dwelling unit?

- A.** Yes, so long as the main dwelling unit is occupied by the property owner. Either the main dwelling or the secondary dwelling unit shall be occupied by the property owner when both units are occupied as dwelling units. Both the main dwelling unit and the secondary dwelling unit cannot be rented or used as a dwelling by persons other than the property owner unless the property owner has completed the non-tenancy status registration process or received a use permit. For more information about tenancy status related to properties with secondary dwelling units, please see Section 16.79.040(14) of the Zoning Ordinance. As part of the building permit application for either a new secondary dwelling unit or conversion into a secondary dwelling unit, the property owner acknowledgement form (<http://www.menlopark.org/DocumentCenter/Home/View/5223>) regarding tenancy must be completed.

Q. My neighbor has approved a reduced side yard and/or rear yard setback for my secondary dwelling unit. What documentation do I need?

- A.** Per Chapter 16.79.040(5)(B) of the Zoning Ordinance, an interior side or rear yard for a detached secondary dwelling unit may be reduced to 5 feet subject to written approval of the owner(s) of the contiguous property abutting the portion of the encroaching structure. Written documentation shall consist of the following items and must be submitted as part of the building permit application.
1. Completed statement letter (<http://www.menlopark.org/DocumentCenter/Home/View/5222>) from the contiguous property owner(s) acknowledging the approval of a reduced setback from the required zoning district standard for the main dwelling unit (indicate the setback requirement) to the agreed upon setback

(indicate the setback in feet, but cannot be less than five feet). The statement shall be notarized by the property owner(s) listed on the title of the property.

2. If neighbor approval of a reduced setback is contingent upon a specific site plan and/or other design feature, please include a specific reference to the plan in the statement letter. In addition, please attach the plan as an exhibit. The plan must be signed and dated by both the property owner(s) and the contiguous property owner(s).

Alternatively, the Planning Commission has the authority to approve a use permit to reduce the required setback requirements for a secondary dwelling unit. Please contact the Planning Division to learn more about the use permit process.

Q. Is there a daylight plane requirement for secondary dwelling units?

- A.** Yes, a detached secondary dwelling unit has a separate daylight plane requirement that must be met, unless a use permit is approved to deviate from this secondary dwelling unit standard. The daylight plane for a detached secondary dwelling unit is established at a line three (3) feet from the side property lines. The daylight plane begins at a horizontal line 9 feet, 6 inches above the average grade with a slope inwards at a 45 degree angle. There are no permitted intrusions into this daylight plane. The daylight plane requirement for an attached secondary dwelling unit is the same as the daylight plane required for the primary residence.

Q. Will my property taxes increase with a secondary dwelling unit?

- A.** Property taxes are assessed by the County of San Mateo Assessor's Office, not by the City of Menlo Park. Like other development projects in the City, the County collects information from the City when building permits are issued to a property. Please contact the County Assessor's Office (<https://www.smcacre.org/>) for more information about how the information is used.

Summary of Secondary Dwelling Unit Regulations - Chapter 16.79 of the Zoning Ordinance		
Unit Type		Attached to main dwelling unit or detached
Minimum Lot Size		6,000 sf
Density		No more than 1 secondary dwelling unit per lot
Subdivision		Lot may not be subdivided in a manner that would allow the main dwelling and the secondary dwelling to be located on separate lots that do not meet the minimum lot area, width and/or depth for the zoning district
Minimum Yards	Attached	Comply with minimum yard requirements for zoning district
	Detached	Comply with minimum yard requirements for zoning district, except minimum rear yard requirement is 10 feet and interior side and rear yards may be reduced to five (5) feet, subject to written approval of the owner(s) of the contiguous property abutting the portion of the encroaching structure. If the contiguous interior side or rear property line is an alley, the minimum setback is five (5) feet. If the unit is constructed above an existing detached garage, the side and rear yard setback is five (5) feet.
Unit Size (including any garages or ancillary spaces that have direct connections to the SDU)	Attached	Not to exceed fifty percent (50%) of the existing living area, with a maximum increase in floor area of 640 sf, or 700 sf if the building complies with all aspects of disabled access requirements
	Detached	Maximum of 640 sf; may be increased up to 700 sf if the building complies with all aspects of disabled access requirements
Number of Bedrooms and Bathrooms		1 bedroom (maximum) 1 bathroom (maximum)
Required Living Accommodations		The SDU must contain living, sleeping, eating, cooking, and sanitation independent of the main dwelling existing on the residential lot. Permanent provisions for eating and cooking include the following: (1) permanent range, (2) counters, (3) refrigerator, and (4) sink. Sanitation requires a bathroom with a sink, toilet, and a shower and/or bathtub.
Height	Attached	Comply with the height requirement for the zoning district
	Detached	17 ft.
Daylight Plane	Attached	Comply with the daylight plane requirement for the main residence
	Detached	Daylight plane shall begin at a horizontal line 9 feet, 6 inches above the average natural grade at a line 3 feet from the side property lines, and slope inwards at a 45 degree angle
Parking		1 (covered or uncovered); tandem ok; permitted within required interior side yard and within the front yard if no more than 500 sf of the front yard is paved for motor vehicles and a minimum side setback of 18 inches is maintained No additional off-street parking required for the secondary dwelling unit if an existing building is converted into a secondary dwelling unit; other exceptions to the parking requirement may also apply. If the SDU is converted from an existing garage, replacement parking for the main residence may be located in any configuration (including covered spaces, uncovered spaces, tandem spaces), provided that such spaces meet dimensional requirements and do not extend into the public right-of-way.
Consistency		Comply with all applicable development regulations for the single-family zoning district and building code requirements
Aesthetics		Unit shall have the colors, materials and textures and architecture similar to main dwelling unit
Tenancy		Property owner shall occupy either the main or secondary dwelling unit, unless a non-tenancy registration or use permit is approved