



Second Units Memo

Best Practices and Sample Housing Element Language
November 20, 2008

Overview

This memo provides ideas and direction for jurisdictions that want to update or improve their second unit ordinance and offers guidance for writing the second units section of the Housing Element. It is divided in two parts, with Section One concentrating on best practices and Section Two focusing on language for the Housing Element update. Please also see the report *Second Units in San Mateo County* for more information about affordability and use patterns, available at

<http://www.21elements.com/View-document-details/389-Affordability-of-Second-Units>

This memo provides best practices and sample Housing Element text. See HCD's Building Blocks Memo on Second Units for more information
<http://www.21elements.com/Download-document/104-Second-Units-HCD-Building-Blocks-Memo>

Section One – Best Practices

Possible New Ideas — Increased Marketing

Provide marketing and education assistance to homeowners — (a) emphasize the benefits of second units; (b) inform residents of the new second unit development standards and approval process; and (c) inform residents of the need for affordable housing in the community and the unique contribution of second units toward meeting this need and fulfilling state requirements.

Mechanisms include:

1. Mailings to all owners.
2. Website.
3. Newspaper.
4. Other media.
5. Community meetings.

Possible New Ideas — Technical Assistance

1. Provide technical assistance and technical advice, low-interest loans (tied to term of loan and affordability), and other incentives to encourage well-designed second units that meet standards.
2. Designate a staff person as a second unit coordinator to streamline process for owners and ensure that a maximum number of units are being considered and appropriately reviewed.
3. Provide tenant-matching services with schools, public safety departments, and local businesses.
4. Consider utilizing affordable housing funds to assist owners in making required upgrades in exchange for rental restriction.
5. Set-up “How To” workshops to provide training for homeowners, architects and builders.

Possible New Ideas — Incentives

1. Reduce per unit fees in recognition of their small size.
2. Reduce or waive development standards and/or fees in exchange for rent restriction agreement.
3. Differentiate level and/or number of variances or waivers for acceptance of Low and Very Low rent restrictions.
4. Utilize affordable housing funds to assist owners in making required upgrades in exchange for rental restriction.
5. Remove owner-occupancy requirement.
6. Allow for off-site or on-street parking, or tandem parking.
7. Work with other agencies to reduce hook-up or other fees for second units. (For example, the Marin Municipal Water District has allowed a 50% reduction in fees for second units when deemed affordable by a 10-year deed restriction.)

Possible New Ideas — Allow or Require New Second Units in New Subdivisions

In recent years, some developers in the Bay Area have included a percentage of second dwelling units in new single family subdivisions. When they are designed in with the subdivision, concerns about traffic, privacy, etc. are taken care of as part of the subdivision design. The Housing Element proposes that new subdivisions be encouraged to incorporate a substantial portion of new second units in future subdivisions over 10 units in size.

Possible New Ideas — Amnesty Program

“Amnesty Programs” permit owners of illegal second dwelling units to come forward during a certain time period and legalize their units. A handful of cities in California have implemented such programs.

The most successful program, in terms of legalizing and upgrading such units, was in Daly City. In this program, there was a conscientious effort to reduce and clearly define the standards which would need to be met and to find ways for the units to meet those standards (such as allowing required onsite parking to be located in widened driveway areas). The primary objective was to improve the health/safety conditions within these units where people were living, and nearly all units were upgraded. There was strong political support for the program and a major marketing effort — to inform people about the program and to convince them to come in. All owners were provided with a brochure that described the exact standards which would need to be met, and offered substantially reduced fees to voluntarily come in. There was also wide press coverage and door-to-door efforts by volunteers.

Other programs have had different objectives and have resulted in fewer units being legalized. In some cases, the amnesty program sets standards which either can't be met, or adds more restrictions, or requires the owner to obtain Use Permits — all of which may discourage owners from coming in voluntarily.

It is clear from Daly City's example that a high percentage of these units are likely to have health and safety violations that put tenants at risk. Amnesty Programs provide an opportunity to substantially reduce these problems and provide additional lower cost legal units in a tight housing market. Even without Amnesty Programs, illegal units are discovered routinely, and cities must deal with either legalizing these units or eliminating them. Providing standards and processes that make it easier for new small second units to be permitted would also make it easier for illegal units to be legalized and upgraded. (See website for an example of an amnesty program from Marin County.

<http://www.21elements.com/View-document-details/261-Amnesty-Program-for-Second-Units-Fact-Sheet>

Section Two – Sample Housing Element Language

Overview

A second dwelling unit is a small apartment unit located on the same lot as a single family home, often located in single family neighborhoods. Some examples include basement apartments, converted garages, au pair suites and small freestanding buildings.

To build on past successes, [Name of Jurisdiction] will make the following changes to our second units program. [Put in an overview here. Explain in more detail below.]

[New policy/program 1]

[New policy/program 2]

[New policy/program 3]

We believe these changes will make it easier for homeowners to add second units, and therefore increase their supply/quality.

[Name of Jurisdiction] anticipates that second units will meet some [all] of our housing need. Second units provide valuable diversity to our housing stock, and are encouraged in [Name of Jurisdiction]. Based on recent trends and surveys conducted throughout the county, [Name of Jurisdiction] believes we will create the following units:

Chart xxx. Number of Units

Extremely Low In- come
Very Low Income
Low Income
Moderate Income
Above Moderate In- come
Total

As provided for in Government Code Section 65583.1, [Name of Jurisdiction] is applying these second units towards its adequate sites requirement.

This sample text is intended as a starting point. There are numerous opportunities for jurisdictions to customize and improve what is provided, and jurisdictions are strongly encouraged to do this. The use of brackets [] highlight material that may need attention/customization. It may be helpful to do a "find" for the bracket symbol to make sure you catch all of the notes. A good starting point is to do a find/replace for [Name of Jurisdiction] and put in your jurisdiction's name.

Add in personalized introduction material as appropriate.

Advantages of Second Units

Second units are a valuable addition to [Name of Jurisdiction]'s housing stock, adding flexibility, affordability, and diversity. They are a sustainable way to add to the housing options without using additional land or infrastructure. Some of the advantageous of second units include:

- **Affordable rentals** – because they are small and because there are no land costs, second units typically provide affordable rental units.
- **Assistance for homeowners** – The additional rental income can help owners buy and stay in homes.
- **Housing for seniors** – Many seniors like second units, because they provide independent living with less upkeep. Some seniors choose to move into a second unit and live off the income from renting the main house.
- **Multigenerational accommodations** – Second units can provide housing for multi-generational living – parents, adult children, etc., and caregivers.
- **Increased property values** – Second units can increase the value of a home.
- **Workforce housing** – If second units are occupied by household workers or local employees, they will reduce the number of commuters on the road, a plus for sustainability.
- **Preserved neighborhood character** – Because they are small and often attached to a house, second units are easy to fit in to existing neighborhoods.

Legal Context

State Law sets standards regarding second unit regulation. AB 1866 (Wright) (Gov. Code Section 65852.2) provided that after July 1, 2003, the permit process for second units must be ministerial, which means without a public hearing or discretionary approval. Local governments are required to implement a process for second units (like the process for obtaining a permit for a room addition, for example) in which the applicant is entitled to the permit if he or she complies with local standards — eliminating the need for time-consuming, contentious, costly public hearings.

[Name of Jurisdiction] second unit regulations conform to State law. Typical approval time for second units in [Name of Jurisdiction] is [xxx] weeks. Applications are not subject to a public hearing, public comment, or any discretionary decision-making process. There is no local legislative, quasi-legislative or discretionary consideration of the application, except provisions for authorizing an administrative appeal of a decision.

Add in information about the legal context in your jurisdiction. For instance, when you changed laws or created programs. Ensure that the sample language applies in your jurisdiction. Ensure that the list of regulations is accurate in your jurisdiction.

Community Need for Second Units

Second units meet an important need in [Name of Jurisdiction], including providing affordable housing, options for seniors, and workforce housing.

Affordability

Based on a study by the 21 Elements Project, we conclude that many new units will be affordable to lower income individuals (see chart xxx). Some units are made available free of charge to employees or relatives, helping meet the need for extremely low income households. In other cases, second units are rented, often below the market price for typical larger apartments.

The assumptions in this report are based on the 21 Elements report Second Units in San Mateo County. That report looked at recent surveys from Woodside, Portola Valley, Los Altos Hills, as well as the US Census, American Community Survey, Real Facts, Craigslist and other sources, in order to draw conclusions about second unit characteristics.

Add in information about the specific needs in your community. Why are second units important in your community? Are they popular and/or well-received?

See <http://www.21elements.com/View-document-details/389-Affordability-of-Second-Units> for help with assumptions about affordability.

Chart xxx. Affordability of Units

Extremely Low Income	%
Very Low Income	%
Low Income	%
Moderate Income	%
Above Moderate Income	%

Sources: Second Units in San Mateo County, produced by 21 Elements Project, 2008.

Diverse Housing Needs

Second units meet an important need in the community. Surveys in Woodside and Los Altos Hills showed that second units are occupied by people of all ages.

Chart xxx. Age of Occupants

	Los Altos Hills	Woodside
Less than 16	3%	13%
16-30	21%	18%
31-55	46%	55%
55+	29%	14%

Although second units tend to be smaller than single family homes, they are more diverse than one might think. According to three sources, Craigslist, Woodside and Los Alto Hills, approximately twenty percent of second units are two bedrooms.

Chart xxx. Size of Second Units

	Craigslist	Woodside Survey	Los Altos Hills Survey
Studio	39%	50%	39%
1 Bedroom	35%	23%	42%
2 Bedroom	27%	23%	19%
3 Bedrooms+	NA	3%	NA

While there is not precise information about the occupation of occupants of second units, surveys show that second units are occupied by seniors, students, and many others.

Chart xxx. Occupants

Student	13%
Caretaker	11%
Retired	14%
Other	62%

Source: Los Altos Hills, 2002

Current Second Unit Development Standards

[Name of Jurisdiction] has the following performance standards, which are specific, are relatively easily enforced, and are consistent with State law:

1. The unit may be located in a portion of the main single family unit or in a separate structure on the site.
2. It may not exceed _____ square feet in size.
3. The property owner shall occupy either the principal or accessory dwelling.
4. There is an existing or a proposed single family home on the lot.
5. There shall be no more than one second unit per lot.
6. The second unit is exempt from density limits (consistent with State law).
7. The second unit meets height, setbacks, yards, and lot coverage requirements.
8. [Identify parking standards]
9. Exterior alteration is the minimum necessary to blend with the existing residence on the lot and neighborhood residences. [Identify design requirements]

This section needs to be customized based on local development standards.

Policies and Programs

Currently, [Name of Jurisdiction] encourages second units by: [customize]

- Providing information/brochures to interested homeowners
- Providing information on the [city]’s website
- Relaxing zoning requirements [describe]
- Waving fees

Add in information about local policies and programs in your jurisdiction. Discuss the results of the different programs. Describe any new policies or programs.

[In addition, [Name of Jurisdiction] plans on implementing the following programs [see Section I for ideas]]

- [New policy/program 1]
- [New policy/program 2]
- [New policy/program 3]

Number of Units Developed in Prior Planning Period

In recent years, [name of Jurisdiction] produced [xx] units per year (chart xxx), and we expect this trend to continue.

Describe changes in the trends and reasons for those changes. For example, have the numbers increased. If so, explain why.

Chart xxx. Second Units Produced

2000
2001
2002
2003
2004
2005
2006
2007
Average

Source: Building Department

Anticipated Second Units During the 2007-2014 Planning Period

Based on recent trends, we expect to produce a total of [average from above multiplied by seven] second units in the planning period.

[OR]

Based on recent trends, [Name of Jurisdiction] would be expected to produce a total of [average from above multiplied by seven] housing units in the planning period. The programs and policies identified above are likely to increase the production of second units, so we estimate we will produce [xxx] second units a year, and a total of [average times seven] units. [Justify assumptions]

Based on recent trends, surveys conducted throughout the county and other research, it is anticipated that the units will meet the following targets for affordability [multiply number of units expected by affordability percentages from page six]:

Chart xxx. Number of Units

Extremely Low In-
come
Very Low Income
Low Income
Moderate Income
Above Moderate In-
come
Total

Jurisdictions are free to use other methods to estimate the number of second units that will be produced. If the number of units produced has increased in recent years, you may take this into account. If in this Housing Element Update you are creating/improving policies and programs that will increase the rate of second unit production, you may also take this into account. If you get your data from a different place, be sure to change the source on the chart.

As provided for in Government Code Section 65583.1, [Name of Jurisdiction] is applying these second units towards its adequate sites requirement

Produced by San Mateo County Department of Housing and Baird + Driskell Community Planning.