

Building Blocks for Effective Housing Elements

Adequate Sites Inventory and Analysis

Second Units

Government Code Section 65583.1(a) allows a city or county to identify sites for second units based on the number of second units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required.

I. REQUISITE ANALYSIS

Local governments can employ a variety of development strategies and/or commit to specific program actions to address the adequate sites requirement. As provided in Government Code Section 65583(c)(1)). In addition to identifying vacant or underutilized land resources, local governments can address a portion of their adequate sites requirement through the provision of second units.

To rely on second units as part of an overall adequate sites strategy to accommodate (a portion) of the regional housing need, the element must include an estimate of the potential number of second units to be developed in the planning period based on an analysis that considers the following factors:

- (1) the number of second units developed in the prior planning period;
- (2) community need for these types of housing units,
- (3) the resources and/or incentives available that will encourage the development of second-units; and
- (4) other relevant factors as determined by HCD.

The projection of second-unit development must be based on realistic capacity and development trends of second units in the previous planning period. In addition, the housing element must describe and analyze factors that could affect second unit development within the planning period. At a minimum, the element should analyze development standards (i.e., heights, setbacks, minimum unit sizes, lot coverage, parking standards, etc.), what zones allow second units (by right), architectural review standards, fees and exactions, and any other

components of the ordinance potentially impacting or constraining the development of second units.

Second-Unit Affordability: The housing element should also include an analysis of the anticipated affordability of second units. The purpose of this analysis is to determine the housing need by income group that could be accommodated through second-unit development. Second-unit affordability can be determined in a number of ways. As an example, a community could survey existing second units for their rents and include other factors such as square footage, number of bedrooms, amenities, age of the structure and general location. Another method could examine market rates for reasonably comparable rental properties to determine an average price per square foot in the community. This price can be applied to anticipated sizes for second units to estimate the anticipated affordability of second units.

Frequently Asked Questions About Second Units

What Kind of Environmental Review is Required for Second-Units?

Second-units approved ministerially are statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the CEQA guidelines and Section 21080(b)(1) of the Public Resources Code. In addition, second-units can be categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA guidelines, authority cited under Public Resources Code Section 21083 and 21087.

What is Ministerial Review?

Chapter 1062 requires development applications for second-units to be "...considered ministerially without discretionary review or a hearing..." or, in the case where there is no local ordinance in compliance with subsections (a) or (c), a local government must "...accept the application and approve or disapprove the application ministerially without discretionary review..." In order for an application to be considered ministerially, the process must apply predictable, objective, fixed, quantifiable and clear standards. These standards must be administratively applied to the application and not subject to discretionary decision-making by a legislative body (for clarification see the definition of ministerial under California Environmental Quality Act (CEQA) Guidelines, (Section 15369).

An application should not be subject to excessively burdensome conditions of approval, should not be subject to a public hearing or public comment and should not be subject to any discretionary decision-making process. There should be no local legislative, quasi-legislative or discretionary consideration of the application, except provisions for authorizing an administrative appeal of a decision

How Can a Locality Encourage Second-Units?

Local governments can encourage second-unit development through a variety of mechanisms.

- Develop information packets to market second-unit construction. A packet could include materials for a second-unit application, explain the application process, and describe incentives to promote their development.
- Advertise second-unit development opportunities to homeowners on the community's web page, at community and senior centers, in community newsletters, and in local utility bills, etc.
- Establish and maintain a second-unit specialist in the current planning division to assist in processing and approving second-units.
- Establish flexible zoning requirements, development standards, processing and fee incentives that facilitate the creation of second-units (Government Code Section 65852.2(g)). Incentives include reduced parking requirements near transit nodes, tandem parking requirements, pre-approved building plans or design prototypes, prioritized processing, fee waivers, fee deferrals, reduced impact fees, reduced water and sewer connection fees, setback reductions and streamlined architectural review. For example, the City of Santa Cruz established pre-approved design prototypes to encourage and stimulate the development of second-units.
- Monitor the effectiveness of ordinances, programs and policies encouraging the creation of second-unit development. Some localities monitor implementation of second-unit strategies through the annual general plan progress report (Government Code Section 65400). Evaluating the effectiveness of a second-unit ordinance can assist the local government in determining appropriate measures to improve usefulness and further facilitate the development of housing affordable to lower- and moderate-income families.

See LINKS below for additional information and FAQs on state planning law related to second units, a second-unit bibliography prepared by HCD, and other program resources including examples of local program actions.

KEY IDEAS

II. MODEL ANALYSES

[Sample Sites Inventory](#)

III. LINKS

[HCD: Memo on AB 1866 — Second-Unit Legislation](#)

[HCD: Bibliography on Second Unit Resources](#)

[City of Santa Cruz Accessory Dwelling Unit Development Program](#)

[San Luis Obispo County's Secondary Unit Stock Plans](#)

[County of Marin Second Unit Amnesty Program](#)

[County of Los Angeles Second Unit Ordinance](#)

[City of Martinez's Second Unit Ordinance](#)

[San Anselmo's Second Unit Ordinance](#)