

---

# Background Material on Second Units

---



Housing Element Update

---

## Prepared for Housing Element Steering Committee Meeting #2 (July 17, 2012)

### Definition of a Second Unit

A secondary unit (also known as an “in-law unit” or “granny unit”) is an additional, self-contained dwelling on the same lot as an existing residential building. It is usually built within a pre-existing structure but sometimes is an addition to the structure or is in a separate carriage house or accessory structure in the rear yard.

### Advantages of Second Units

Secondary units are often viewed as an effective tool to provide smaller (and cheaper) housing in a way that disperses new housing throughout a community and blends in well with existing community character. Secondary units require no additional land or governmental funding as a source of affordable because they use existing structures or new small structures and most components and infrastructure (e.g., water, sewer, utilities, landscaping) are in place. Second units can be a valuable addition to Menlo Park’s housing stock, adding flexibility, affordability, and diversity.

Some of the advantages of second units include:

- **Affordable rentals** – because they are small and because there are no land costs, second units typically provide affordable rental units.
- **Preserved neighborhood character** – Because they are small and often attached to a house, second units are easy to fit in to existing neighborhoods.
- **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.

### Other Links

1. [HCD: Memo on AB 1866 — Second unit Legislation](#)
2. [San Luis Obispo County’s Secondary Unit Stock Plans](#)
3. <http://www.21elements.com/Download-document/484-Second-Units-Affordability-and-Trends-Report-for-San-Mateo-County.html>
4. <http://www.21elements.com/Download-document/485-Best-Practices-for-Second-Units-Fact-Sheet-for-San-Mateo-County.html>
5. <http://www.21elements.com/Download-document/483-Amnesty-Program-for-Second-Units-Fact-Sheet.html>

- **Increased property values** – Second units can increase the value of a home.
- **Assistance for homeowners** – The additional rental income can help owners buy and stay in homes.

### State Law Requirements and City Standards

State Law sets standards regarding second unit regulation. AB 1866 (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.

The current Housing Element and Land Use Element of the General Plan both broadly encourage second units as a source of housing in the City. The City of Menlo Park regulates secondary dwelling units through the Zoning Ordinance (Chapter 16.79). The City allows attached second uses as a permitted use and detached second units on lots 7,000 square feet or greater. *City of Menlo Park standards for second dwelling can be found on the following link — [Secondary Dwelling Units](#).*

### Counting Second Units Towards the City's RHNA

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, there is a documented need, there are need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the HCD.

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 (i.e., by 2014) 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.

While many cities have successfully used second units to meet a small, but important, portion of their RHNA, few if any cities have used second units to meet a large portion of RHNA. Those that have tried have had trouble getting certified.

**Number of Second Units.** 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.

**Affordability of Second Units.** 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 the anticipated sizes for second units to estimate the anticipated affordability of second units.

Based on studies conducted in the Bay Area (including San Mateo County) it can be estimated that a significant percentage of second units, even as high as 50%, are affordable as lower income housing. 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 at below the market price for typical larger apartments.

## Possible Strategies for Encouraging Second Units

### 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.

### Technical Assistance

1. Provide technical assistance and 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.

#### *Example of Technical Assistance and Incentives*

##### *City of Santa Cruz Accessory Dwelling Units (ADU) Program*

Often mentioned as a very well developed model for technical assistance at the extreme, the City of Santa Cruz’s ADU Development Program has received recognition nationwide and is the recipient of numerous awards. Through the ADU Development Program, the City of Santa Cruz offers technical and financial assistance including an ADU manual detailing the development process, relevant zoning, design standards, building codes and showcases of ADU Prototype designs.

#### Link to ADU Ordinance

### Incentives

1. Reduce per unit fees in recognition of their small size and limited impacts.
2. Remove owner-occupancy requirement.
3. Reduce or waive development standards and/or fees in exchange for rent restriction agreement.

4. Differentiate level and/or number of variances or waivers for acceptance of Low and Very Low rent restrictions.
5. Utilize affordable housing funds to assist owners in making required upgrades in exchange for rental restriction.
6. Allow for off-site or on-street parking in a required front or side yard setback area.
7. Allow increased unit sizes in exchange for affordability restrictions.
8. Allow detached units to have the same side and rear setbacks as other accessory structures
9. Allow higher/taller buildings for second units with increased side setbacks.
10. Work with other agencies to reduce hook-up or other fees for second units. (For example, the City of Mill Valley undertook a very successful process to legalize existing second units and persuaded the Marin Municipal Water District to allow a 50% reduction in fees for second units when deemed affordable with a 10-year deed restriction.)

### **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.

### **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 that 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 that 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.

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.

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