

CALIFORNIA GOVERNMENT CODE PERTAINING TO SECOND UNITS

65852.2. (a) (1) Any local agency may, by ordinance, provide for the creation of **second units** in single-family and multifamily residential zones. The ordinance may do any of the following:

(A) Designate areas within the jurisdiction of the local agency where **second units** may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of **second units** on traffic flow.

(B) Impose standards on **second units** that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Provide that **second units** do not exceed the allowable density for the lot upon which the **second unit** is located, and that **second units** are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. Nothing in this paragraph may be construed to require a local **government** to adopt or amend an ordinance for the creation of **second units**. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of **second units**.

(b) (1) When a local agency which has not adopted an ordinance governing **second units** in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit

pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a **second** unit if the **second** unit complies with all of the following:

- (A) The unit is not intended for sale and may be rented.
 - (B) The lot is zoned for single-family or multifamily use.
 - (C) The lot contains an existing single-family dwelling.
 - (D) The **second** unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
 - (E) The increased floor area of an attached **second** unit shall not exceed 30 percent of the existing living area.
 - (F) The total area of floorspace for a detached **second** unit shall not exceed 1,200 square feet.
 - (G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.
 - (H) Local building **code** requirements which apply to detached dwellings, as appropriate.
 - (I) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.
- (3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed **second** units on lots zoned for residential use which contain an existing single-family dwelling.

No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

NOTE THESE REQS., PLEASE:

(4) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of **second units** if these provisions are consistent with the limitations of this subdivision.

(5) A **second unit** which conforms to the requirements of this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The **second units** shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) No local agency shall adopt an ordinance which totally precludes **second units** within single-family or multifamily zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing **second units** within single-family and multifamily zoned areas justify adopting the ordinance.

(d) A local agency may establish minimum and maximum unit size requirements for both attached and detached **second units**. No minimum or maximum size for a **second unit**, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings which does not permit at least an efficiency unit to be constructed in compliance with local development standards.

(e) Parking requirements for **second units** shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the **second unit** and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or

regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(f) Fees charged for the construction of **second units** shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of **second units**.

(h) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) or (c) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area," means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "**Second unit**" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A **second unit** also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local **government** shall not be required to hold public hearings for coastal development permit applications for **second units**.