

# **Second Dwelling Units**

PJR-032

## **Purpose**

This handout summarizes the regulations of the Sonoma County Zoning Ordinance for second dwelling units. The text of the ordinance is located in Attachment #1. A zoning permit is required for a second dwelling unit.

## **What is a second dwelling unit?**

A second dwelling unit is a small permanent home that may be established in addition to the main dwelling on a parcel zoned for residential use. Second dwelling units may be attached or detached from the main dwelling and can be no larger than 840 square feet, except when designated as an affordable housing unit (see Attachment #2). Second units may involve new construction, conversion of an existing structure, or designation of an existing home as a second dwelling unit so that a new main residence can be built.

## **Who can live in a second dwelling unit?**

Anyone can live in a second dwelling unit. There are no requirements that second units be owner occupied or that the occupant be related to the property owner. Second dwelling units may not be rented on a transient basis (periods less than 30 days). The property owner may not reside in the second unit as a principle residence if the unit is subject to affordability restrictions (see Attachment 2).

## **Where are second dwelling units allowed?**

Second units are allowed in residential zoning districts (R1, R2, R3, RR, and AR) and in agricultural and resource zoning districts (LIA, LEA, DA, and RRD). Second dwelling units are not allowed in the following zoning districts: the Resources and Rural Development/Agricultural Preserve (RRDWA), the Planned Community (PC), or in areas designated as a Second Dwelling Unit Exclusion Combining (Z) district. Areas designated Z are where there are problems related to water supply, sewage disposal, flooding or geologic hazards. Certain private property restrictions may also prohibit second units. These restrictions are generally found in recorded Codes, Covenants and Restrictions (CC&R's) that affect specific developments or subdivisions. A property title report will provide references to these types of private restrictions.

## **What permits are required for second dwelling units?**

The type or range of permits and/or approvals required for second dwelling units vary with a property's location, type of sewage disposal and water supply, whether an existing home is to be designated as a second dwelling unit, etc. In addition to the zoning permit required for the second unit, other permits that may be required include: a building permit, grading permit, septic permit, well permit, sewer permit, public water permit and/or an encroachment permit.

## **Second dwelling units in rural areas**

Whether a particular lot can be developed with a second dwelling unit in addition to the main dwelling depends on the zoning of the parcel, the parcel size and the suitability for sewage disposal and availability of adequate water supplies. Generally, a parcel must be at least two (2) acres or, if served by public sewer located within a designated urban service area, 6,000 square feet unless affordability restrictions are offered (see Attachment 2).

**Sonoma County Permit and Resource Management Department**

2550 Ventura Avenue ❖ Santa Rosa, CA ❖ 95403-2829 ❖ (707) 565-1900 ❖ Fax (707) 565-1103

An applicant should confirm with the Permit and Resource Management Department (PRMD) the minimum parcel size requirement that applies to the applicant's parcel. Second dwelling units must satisfy the same building code, septic system, water and zoning requirements as any home constructed in the County.

Soil suitability for a septic system and water availability are significant factors that determine whether a permit for a second dwelling unit can be issued. Property owners are advised to investigate septic suitability and water availability prior to proceeding with design plans. The construction of a second dwelling unit represents a new use on the property which must meet current codes with respect to the septic system for the unit. If one septic system is to serve both the main dwelling and second unit, the septic system must meet current code requirements and be adequately sized for the proposed sewage discharge (based upon total number of bedrooms in the two units).

Second dwelling units that are proposed in a Class 3 Water Scarce Area must provide a well test conducted between July 15 and October 1 and must meet minimum water yield requirements. Second dwelling units proposed in a Class 4 Water Scarce Area must provide well test and water yield as described above and provide a hydro-geologic report determining no cumulative groundwater impacts from projected development in the area. Water Scarce Areas are classified in the Sonoma County General Plan Resource Conservation Element "Groundwater Availability Maps". See Attachment #1 for more information.

Second unit permits require a site review by a building inspector. Geotechnical or other reports may be required based upon this review.

#### **Permit fees for a second dwelling unit.**

Permit application fees can vary depending upon the type of construction and the availability of public sewer and water. Prior to issuance of the building and zoning permits for any second dwelling unit, development impact fees (i.e. school, park, and traffic impact fees), sewer and water connection fees and/or well and septic plan check and permit fees are also required. The cost of these fees varies depending upon the location of the property and the various districts that provide services to the parcel. For current estimated fees, see PRMD's Estimated Permit Fees handout.

#### **Affordable Housing Program**

Several incentives are available to property owners who wish to participate in the County's affordable housing program. These incentives include exceptions to the size of the dwelling unit, size of the parcel or size of an attached garage, and can be granted if the owner enters into an affordable housing agreement that restricts the rent of the unit to lower income households. See Attachment #2 on the Affordable Housing Incentive Program for more information.

#### **Attachments**

Second Dwelling Unit - Attachment 1

Second Unit Affordable Housing Incentive Program - Attachment 2

# Second Dwelling Unit - Attachment #1

(Effective April 6, 2007)

## Sec. 26-88-060. Second dwelling units.

- (a) **Purpose.** This section implements the requirements of Government Code Section 65852.2 and the provisions of the general plan housing element that encourage the production of affordable housing by means of second dwelling units.
- (b) **Applicability.** Second dwelling units shall be permitted only in compliance with the requirements of this section, and all other requirements of the applicable zoning district, except as otherwise provided by this section, in the following agricultural and residential zoning districts: LIA (Land Intensive Agriculture), LEA (Land Extensive Agriculture), DA (Diverse Agriculture), RRD (Rural Resources and Development), AR (Agricultural Residential), RR (Rural Residential), R1 (Low Density Residential), and R2 (Medium Density Residential). Second dwelling units are prohibited in the Z (second dwelling unit exclusion) combining district.
- (c) **Permit Requirements.** A zoning permit (Section 26-92-170) shall be required for a second dwelling unit. Additionally, second dwelling units must comply with all other applicable building codes and requirements, including evidence of adequate septic capacity and water yield.
- (d) **Use.** Second dwelling units may not be sold separately from the main unit, but may be rented separately. Occupant(s) need not be related to the property owner. Units may not be rented on a transient occupancy basis (periods less than thirty (30) days).
- (e) **Unit Type.** A second dwelling unit may be attached or detached from the primary dwelling on the site. A detached second dwelling unit may also be a manufactured home on a permanent foundation, in compliance with Section 26-02-140.
- (f) **Timing.** A second dwelling unit allowed by this section may be constructed prior to, concurrently with, or after construction of the primary dwelling.
- (g) **Density.** As provided by Government Code Section 65852.2(b)(5), second dwelling units are exempt from the density limitations of the general plan, provided that no more than one (1) second dwelling unit may be located on any parcel. A second dwelling unit may not be located on any parcel already containing a dwelling unit that is non-conforming with respect to land use or density, or developed with a duplex, triplex, apartment or condominium.
- (h) **Site Requirements.**
  - (1) **Water Availability.**
    - (i) Except as provided in subsection (b) of this section, a second dwelling unit shall be permitted only in designated groundwater availability classification areas 1 or 2, or where public water is available.
    - (ii) A second dwelling unit in a Class 3 groundwater availability area shall be permitted only if:
      - (A) The domestic water source is located on the subject parcel, or a mutual water source is available; and
      - (B) Groundwater yield is sufficient for the existing and proposed use, pursuant to Section 7-12 of this code.
    - (iii) Second dwelling units shall not be established within designated Class 4 groundwater availability classification areas except where both requirements for Class 3 areas, above, are met and a groundwater report determines that there is

no long-term or cumulative impact to groundwater resources. All applications for a zoning permit to allow a second dwelling unit within a Class 4 area shall be accompanied by a groundwater report containing information and analysis as specified by the director. Said report shall be prepared and certified by an appropriate licensed professional, specific for the subject site and the existing and proposed use, and the report must find and determine that:

(A) Water yield will be sufficient year-round to serve both the primary and the secondary residential use; and

(B) The establishment and continuation of the use will not result in significant impacts to local groundwater availability or yield, nor is it expected to have significant long-term or cumulative impacts.

**(2) Minimum Parcel Size.**

(i) A second dwelling unit shall be permitted only on parcels with a minimum gross lot area of at least two (2) acres, except as provided for below:

(A) An exception will be made to permit an affordable second dwelling unit on a parcel with a minimum of 1.5 acres in gross lot area in designated Class 1 or 2 groundwater availability areas, provided that an affordable housing agreement pursuant to Article 89 is executed and recorded, restricting the occupancy and rent of the subject unit to low- or very low-income households for a period of at least thirty (30) years. The agreement shall be subject to review and approval of the county counsel and the executive director of the community development commission.

(B) In designated urban service areas, where the parcel is served by public sewer, second dwelling units shall be permitted only on parcels with a minimum gross lot area of at least six thousand (6,000) square feet without restriction as to tenancy or affordability.

(C) In designated urban service areas, where the parcel is served by public sewer, second dwelling units shall be permitted on parcels with a gross lot area of at least five thousand (5,000) square feet, provided that an affordable housing agreement pursuant to Article 89 is executed and recorded restricting the occupancy and rent of the subject unit to low- or very low-income households for a period of at least thirty (30) years. The agreement shall be subject to review and approval of the county counsel and the executive director of the community development commission.

**(i) Design and Development Standards.**

**(1) Height.** In designated urban service areas, a second dwelling unit shall not exceed sixteen feet (16') in height except that where the unit is attached to the primary unit, or where the second dwelling unit is proposed to be located above a garage, carport or barn, the maximum height shall be that established for the primary dwelling in the underlying zoning district. In no case shall the provision of a second dwelling unit result in a substantial reduction in solar access to surrounding properties.

**(2) Design.** The second dwelling unit shall be similar or compatible in character to the primary residence on the site and to the surrounding residences in terms of roof pitch, eaves, building materials, colors and landscaping. Second dwelling units shall also meet all standards set forth in any applicable combining district, specific plan or area plan, or local area development guidelines.

**(3) Size.** A second unit shall not exceed eight hundred forty (840) square feet in floor area. When the second dwelling unit is provided as an affordable rental unit, the size limit shall

be one thousand (1,000) square feet so long as an affordable housing agreement pursuant to Article 89 is first executed and recorded, restricting the occupancy and rent for the subject unit to low- or very low-income households for a period of at least thirty (30) years. The agreement shall be subject to review and approval of the county counsel and the executive director of the community development commission.

- (i) **Calculating the Size of Second Dwelling Units.** Floor area shall be calculated by measuring the exterior perimeter of the second dwelling unit and the length of any common walls. In the case of straw bale or similar construction, floor area may be calculated using interior dimensions. Any storage space or enclosed areas attached to the second dwelling unit shall be included in the size calculation, except: a) a garage, as described in subsection (i)(3)(ii) of this section; or b) where the second dwelling unit is constructed over or attached to an unconditioned accessory structure, as described in subsection (i)(3)(iii) of this section.
  - (ii) **Allowable Garage Area.** An attached garage up to four hundred (400) square feet in unconditioned floor area shall be permitted for a second dwelling unit provided that all required setbacks are met. An attached garage of up to five hundred (500) square feet shall be permitted if an affordable housing agreement pursuant to Article 89 is recorded restricting the rent to low- or very low-income households for a period of at least thirty (30) years. No conditioned space shall be allowed within the garage area. An interior access door between the attached garage and the second dwelling unit may be provided. A deed restriction shall be recorded limiting the floor area of the second dwelling unit to eight hundred forty (840) square feet, and declaring that no portion of the attached garage or barn area is to be utilized as a part of the conditioned residential space.
  - (iii) **Units Attached to Accessory Structures.** A second dwelling unit may be located above or attached to a barn or other unconditioned, unfinished accessory structure of greater than four hundred (400) square feet only where the accessory structure serves the primary residential or agricultural use of the property. In such cases, access to the second dwelling unit shall be provided by an exterior entrance only. An interior access door between the attached structure and the second unit is prohibited. A deed restriction shall be recorded limiting the floor area of the second dwelling unit to eight hundred forty (840) square feet, and declaring that no additional portion of the structure may be converted or utilized as a part of the conditioned or habitable space.
- (4) **Lot Coverage Limitation.** The total lot coverage for parcels developed with a second dwelling unit shall not exceed that allowed within the applicable zoning district in which the parcel is located.
- (5) **Setback and Location Requirements.**
- (i) A second dwelling unit and any attached or detached garage must comply with the setback requirements of the applicable zoning district in which the second dwelling unit is located, except that the rear yard setback for second dwelling units located in urban service areas within zone districts RR, R1 and R2 shall be reduced to five feet (5'). In the case of an existing legal structure that is nonconforming with respect to setbacks, yard requirements may be reduced through use permit approval in order to allow the legal conversion of the existing structure for use as a second dwelling unit.
  - (ii) In the case of a second dwelling unit in a rural zone district that is located more than one hundred feet (100') from the primary dwelling, the second dwelling unit shall maintain minimum front, rear and side setbacks of sixty feet (60'), unless otherwise provided through use permit.

**(6) Access and Parking Requirements.**

- (i) **Driveway Access.** Both the primary unit and the second dwelling unit shall be served by one common, all-weather surface access driveway with a minimum width of twelve feet (12'), connecting the second dwelling unit to a public or private road. The requirement for a single driveway connection may be waived in each of the following instances if the director determines that the waiver of the requirement would not be detrimental to the public health, safety or general welfare:
- (A) Where an applicant seeks to convert an existing structure to use as a second dwelling unit, and that structure was served by an access driveway separate from the primary dwelling; or
- (B) Where the applicant can show that there are already two (2) legally established access driveways to the parcel that are available to serve the primary and secondary dwelling units separately; or
- (C) Where the parcel is split by a public or private road, or where the parcel has frontage on two (2) roads (public or private); or
- (D) Where the applicant demonstrates an alternative access design that provides an overall reduction in the expanse of driveway area is preferable.
- (ii) **Parking Required.** One (1) off-street parking space with an all-weather surface shall be provided for the exclusive use of the second dwelling unit, in addition to the parking that is required for the primary dwelling. The parking space for the second dwelling unit may not be provided within a required front yard setback.
- (iii) **Surfaces.** Wherever feasible, the use of permeable surfaces for parking, driveway and walkway areas is strongly encouraged. (Ord. No. 5711 § 3 (Exh. B), 2007; Ord. No. 5569 § 3, 2005; Ord. No. 5429 § 6, 2003.)

## **Second Dwelling Unit - Attachment #2 Affordable Housing Incentive Program**

Several incentives are available to property owners who wish to participate in the County's Affordable Housing Program. Certain exceptions to the standards for second dwelling units may be permitted if the owner enters into an Affordable Housing Agreement that restricts the rent to lower income households for a period of at least 30 years. The following summarizes the incentives and contract restrictions.

### **Incentives:**

- \* Maximum size of second units may be increased to 1,000 square feet.
- \* Maximum size of the attached garage space with interior access may be increased to 500 square feet.
- \* Minimum lot size in rural areas may be reduced to 1.5 acres gross (except in Class 3 and 4 Water Scarce Areas).
- \* Minimum lot size in urban areas may be reduced to 5,000 square feet.
- \* All other zoning, building and environmental health standards must be met.

### **Restrictions:**

The restrictions for second units to be rented at affordable levels are as follows:

- \* Affordable second units must be rentals and the owner cannot occupy the unit as a primary residence.
- \* The owner of the property will enter into an Affordable Housing Agreement (AHA) with the Community Development Commission (CDC), restricting the tenant income and the maximum rent charged to lower income and very low income households for a minimum of thirty (30) years. The maximum rent and income limits allowed are shown in the following table. The owner will pay the CDC a processing fee to prepare the AHA.
- \* A family member may rent or live in the second unit, so long as the family member's income qualifies and the rent does not exceed affordability levels.
- \* The imputed income from assets is computed in determining qualifying household income.
- \* The owner will provide the CDC an annual compliance report confirming the income of the tenant in the second dwelling unit and the rent that the owner is charging the tenant. The owner also will advise the CDC when a new tenant moves into the second dwelling unit, reporting the tenant's household size, income and rent. Periodically, the CDC staff will visit the property to inspect the second dwelling unit and meet with the owner to inspect the records for the unit. During the term of the AHA, the CDC will charge an annual fee to monitor income and rent levels.

**Second Dwelling Unit - Affordable Housing Incentive Program  
2009 Income and Rent Limits**

Size of Unit/Household <sup>1</sup>	2009 Gross Annual Income Limit <sup>2</sup>	2009 Maximum Monthly Rent Allowed <sup>3</sup>
Studio (1 person)	\$44,800	\$842.00
1 Bedroom (2 persons)	\$51,200	\$963.00
2 Bedrooms (3 persons)	\$57,600	\$1,083.00
3 Bedrooms	\$64,000	\$1,203.00

These limits are adjusted periodically. Contact the Community Development Commission at 565-7500.

**2009 Application Fee for an Affordable Housing Agreement:                   \$500**

**Annual Monitoring Fee:   \$75/unit**

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<sup>1</sup> The household size is estimated by the number of bedrooms plus one person.

<sup>2</sup> The gross annual income limit is based upon lower income households that earn less than 80 percent of the median household income for Sonoma County adjusted for household size as published annually by the U. S. Department of Housing and Community Development.

<sup>3</sup> Maximum monthly rent is based on 30 percent of the gross annual household income limits adjusted for household size as published annually by the U.S. Department of Housing and Urban Development. The maximum monthly rent allowed includes all utilities with an estimated cost factor of 15 percent.