



Terry Taplin
Councilmember District 2

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: September 13, 2021

Item Number: 35

Item Description: Efficiency Unit Ordinance

Supplemental/Revision Submitted By: Councilmember Taplin

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

Due to community concerns regarding affordability and living standards for residents of Efficiency Units, this revision directs staff and the Planning Commission to study a broader scope of revisions and recommendations for enabling Efficiency Units. Considerations may include, but are not limited to, affordability requirements, in-unit facilities, and shared living spaces. The Commission and staff are further directed to return recommendations, which may include a draft ordinance, with consideration for financial feasibility of projects.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



BERKELEY CITY COUNCILMEMBER
TERRY TAPLÍN
DISTRICT 2

CONSENT CALENDAR
May 10, 2022

To: Honorable Mayor and Members of the City Council
From: Councilmember Taplin, Councilmember Robinson (co-sponsor)
Subject: Efficiency Unit Ordinance

RECOMMENDATION

Refer to the City Manager and Planning Commission to study and, if recommended, propose standards for Efficiency Units pursuant to California Housing and Safety Code Section 17958.1. Consider appropriate standards for unit size and facilities including bathrooms as well as for shared indoor and outdoor spaces and facilities within buildings with such units. Shared space requirements may include requirements for "full kitchen" facilities, dining and/or meeting rooms, indoor lounge/study areas, outdoor/roof space, bike/scooter and stroller parking, gym/workout/play spaces, storage, and other shared and accessible facilities to support healthy and social lives, and accommodate important activities and uses that are externalized from Efficiency Units. Consider zones where Efficiency Units may be appropriate, affordability requirements, phasing, and any other standards and zoning related to such units. Based on study and consideration of financial feasibility, develop recommendations and/or to adopt objective standards for Efficiency Units pursuant to California Housing and Safety Code § 17958.1, developing an ordinance to amend the Berkeley Municipal Code modeled after standards implemented in the City of Davis, the City of Santa Barbara and other cities.

FINANCIAL IMPLICATIONS

Staff time.

CURRENT SITUATION AND ITS EFFECTS

Establishing standards for Efficiency Units is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

BMC Chapter 23F.04 defines Group Living Accommodations (GLAs) as a “building or portion of a building designed for or accommodating a residential use by persons not living together as a household.” This broad category includes several distinct housing types, such as Dormitories and Residential Hotels. While this definition rests on cohabitation by multiple persons not constituting a “household,” state law provides a legal framework for establishing positive efficiency unit standards for one- or two-person households. California Housing and Safety Code § 17958.1 allows local governments to “permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or

bathroom facilities, as specified by the ordinance.” The City of Berkeley currently lacks such an ordinance.

Berkeley’s current standards for Residential Hotels disincentivizes their production, limiting the supply of lower-cost housing that could be built without limited or no public subsidies. Development standards in Commercial districts are equivalent to those in R-3 zones, requiring a minimum of 350 square feet of total lot area per occupant, inclusive of 90 square feet of open space per occupant. This effectively permits fewer residents by area than other residential uses and reduces financial feasibility. For example, a proposed multifamily apartment development at 2720 San Pablo Ave. in the C-W district is on a 9,576 square-foot project site, with 25 dwelling units and a total of 97 bedrooms. If it were a GLA project such as a residential hotel, it would only be permitted a maximum of 27 bedrooms.

BACKGROUND

Berkeley has made insufficient progress on meeting its state-mandated Regional Housing Need Allocation (RHNA) goals for low- and moderate-income housing in the 2014-2022 RHNA cycle. As recently as the city’s 2020 Housing Pipeline Report, the city had only fulfilled 23% of its moderate-income RHNA goals, 21% of its RHNA goals for Very-Low Income households, and a mere 4% for Low-Income households. Berkeley’s next RHNA cycle is estimated to mandate roughly 3 times as many units as the previous cycle’s total of 2,959 units across all income tiers. In 2019, development costs in the San Francisco Bay Area averaged \$600,000 for new housing funded by 9% Low Income Housing Tax Credits.¹

According to an October 2014 report on affordable housing development by several state housing agencies, “for each 10 percent increase in the number of units, the cost per unit declines by 1.7 percent.”² A 2020 study by UC Berkeley’s Terner Center on affordable housing projects funded by 9% Low Income Housing Tax Credits reported: “On average, efficiencies of scale translate into a reduction of about \$1,162 for every additional unit in a project.”³

Because GLAs typically offer lower market rents for smaller dwelling units, certain types of GLAs including Residential Hotels are exempted from Berkeley’s Affordable Housing Mitigation Fee requirements pursuant to BMC 23C.12.020.B. With the exception of Dormitories, GLA units also count toward Berkeley’s RHNA housing production targets for low- and moderate-income households if rents meet household affordability thresholds. Lower-cost housing forms with smaller dwelling units such as Single Room Occupancy (SRO) hotels have historically provided a significant portion of affordable

¹ Reid, C. (2020). The Costs of Affordable Housing Production: Insights from California’s 9% Low-Income Housing Tax Credit Program. *UC Berkeley Terner Center for Housing Innovation*. Retrieved from https://ternercenter.berkeley.edu/wp-content/uploads/pdfs/LIHTC_Construction_Costs_March_2020.pdf

² California Department of Housing and Community Development, et al. (2014). Affordable Housing Cost Study: Analysis of the Factors that Influence the Cost of Building Multi-Family Affordable Housing in California. Retrieved from https://www.treasurer.ca.gov/ctcac/affordable_housing.pdf

³ See footnote 1.

housing for cities in the San Francisco Bay Area and nationwide without public subsidies for construction, but current zoning has made projects with this type of cost-effective unit size practically infeasible throughout much of Berkeley's transit-rich corridors.

The lack of Efficiency Unit standards has contributed to some consternation in the community with respect to recent GLA projects. For instance, an appeal of Use Permit # ZP2018-0229 for a Residential Hotel project at 2435 San Pablo Avenue—a permit that the City Council upheld in 2021—criticized the project as “neither fish nor fowl” because the project was designated as a Residential Hotel but resembled an Efficiency Unit project.⁴ If the project were an Efficiency Unit, the individual efficiency kitchens and bathrooms would be subject to State standards (or local standards if the City were to adopt them), and the communal kitchens would be an amenity for residents rather than a requisite feature of a Residential Hotel.

Other jurisdictions in California have availed themselves of state authority to establish local standards. For example, the City of Davis establishes a definition of Efficiency Units pursuant to CHSC § 17958.1 with “a minimum floor area of two hundred twenty square feet and shall have a bathroom facility and a partial kitchen or kitchenette.”⁵ Davis Municipal Code § 40.01.010(e) and Santa Barbara Municipal Code § 30.185.040 establish standards for Efficiency Units consistent with state law.⁶⁷ Santa Barbara's standards also enable a minimum floor area of 150 square feet for “Affordable Efficiency Units” subject to deed restrictions for low- and very-low income households.

Notably, both Davis and Santa Barbara, like Berkeley, are host cities to campuses in the University of California system. There is a dire shortage of student housing in the neighborhoods adjacent to campus such as Southside, and moreover, a dire shortage of affordable units available to students without overcrowding apartments. Partial kitchen or bathroom facilities, as allowed for efficiency units as now laid out by state law, will not always be ideal for all tenants, but may be a highly attractive option for students. Establishing an efficiency unit ordinance would be an important pathway to permitting denser, student-oriented housing in neighborhoods adjacent to campus and on key transit corridors connecting to campus.

In 2014, the City of Seattle enacted strict limitations on new “congregate” micro-housing projects, and saw a corresponding increase in production of Small Efficiency Dwelling Units (SEDUs) following this change. However, due to increases in minimum floor area

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[https://www.cityofberkeley.info/Clerk/City_Council/2021/01_Jan/Admin_Record_ZAB_Appeal_0_\(2435\)_San_Pablo_Ave.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/01_Jan/Admin_Record_ZAB_Appeal_0_(2435)_San_Pablo_Ave.aspx)

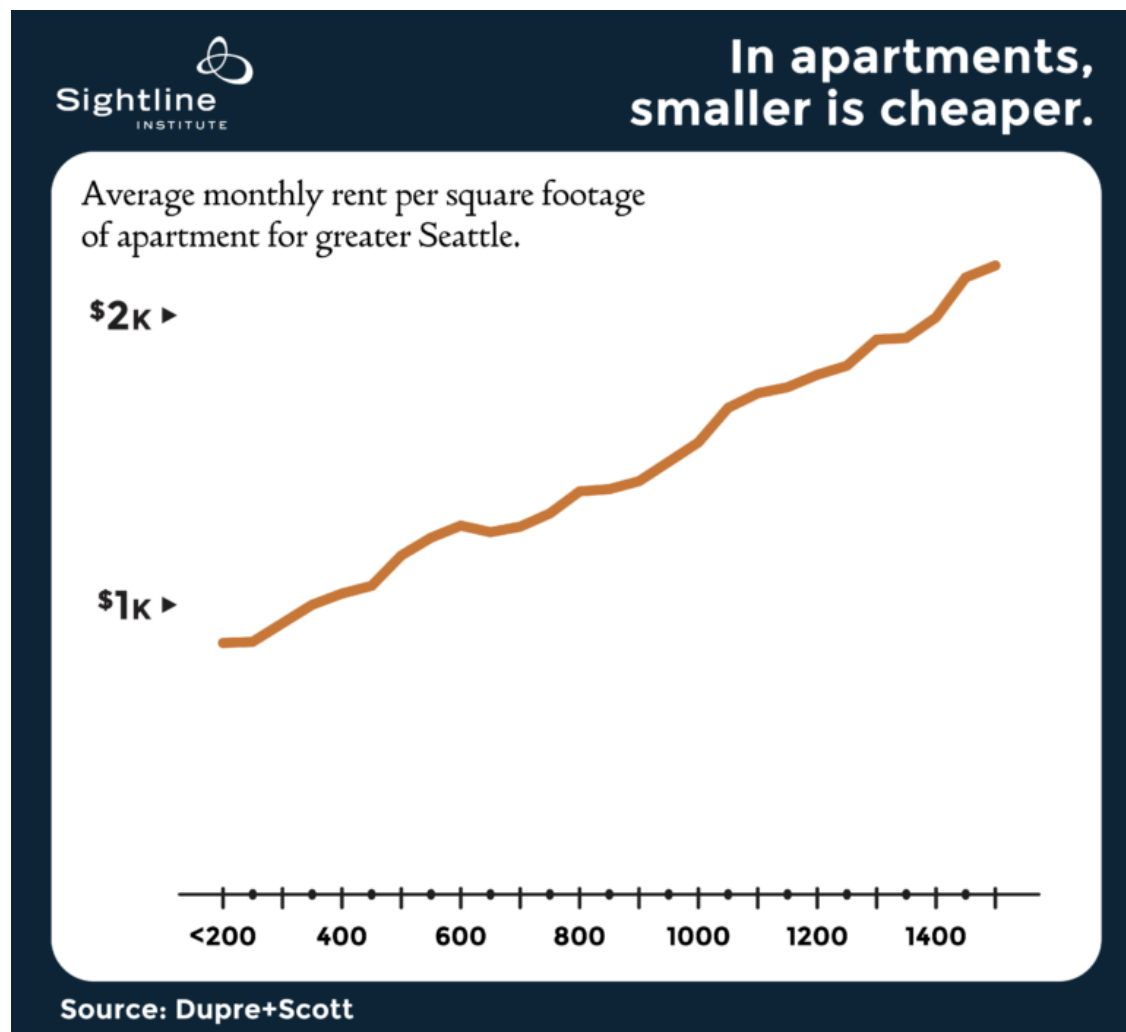
⁵ http://qcode.us/codes/davis/?view=desktop&topic=40-40_01-40_01_010#:~:text=Efficiency%20unit%20has%20the%20meaning,a%20partial%20kitchen%20or%20kitchenette

⁶ http://qcode.us/codes/davis/?view=desktop&topic=40-40_26-40_26_450

⁷ https://qcode.us/codes/santabarbara/view.php?topic=30-iii-30_185-30_185_040&frames=on

requirements and inability to access affordable housing incentives, the number of new SEDUs completed per year in Seattle has declined.⁸

Nevertheless, the data from Seattle shows a clear marginal benefit to housing affordability. A 2021 study of Seattle’s microhousing market by the firm Kidder Matthews found that the average monthly rent of SEDUs was \$277 or 18% lower than comparable market-rate studio apartments.⁹



Sightline Institute, 2017¹⁰

⁸ Neiman, D. (2021). When is Seattle Going to Fix Microhousing? *Sightline Institute*. Retrieved from <https://www.sightline.org/2021/02/04/when-is-seattle-going-to-fix-microhousing/>

⁹ Anderson, J. & Simon, D. (2021). 2021 Micro Report. *Kidder Matthews*. Retrieved from https://secureservercdn.net/72.167.230.230/qjx.818.myftpupload.com/wp-content/uploads/2021/12/2021-Micro-Report_Simon-Anderson-Team.pdf?time=1649887261

¹⁰ Neiman, D. (2017). How Seattle Killed Microhousing Again. *Sightline Institute*. Retrieved from <https://www.sightline.org/2017/03/20/how-seattle-killed-micro-housing-again/>

In Berkeley, the 39-unit “Step Up Housing”¹¹ project at 1367 University Ave. will lease 180 square foot furnished studio units to the nonprofit Building Opportunities for Self Sufficiency (BOSS) for \$1,400 per month, roughly \$600 or 30% lower than local studio apartment rents. The City will be supporting the leasing and operations of the project with Measure P funds to provide permanent supportive housing.

Irrespective of subsidies, this cost is also \$195 below the “fair market rent” for SRO/studio units in Alameda County set by the U.S. Department of Housing and Urban Development (HUD), and roughly the same as Alameda County’s rent limit for deed-restricted studio units for a household earning 60% of Area Median Income.¹²

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Incentives for affordable housing offer potential to reduce Vehicle Miles Traveled Per Capita by increasing housing options in Berkeley and shortening commute times for a greater share of the local workforce. In an analysis of 252 California Cities, Durst (2021) finds that “each additional affordable housing incentive is associated with a 0.37 percentage point decrease in the share of workers who commute more than 30 minutes.”¹³ With transportation accounting for 60% of Berkeley’s carbon footprint, per capita VMT reduction is critical for emissions reductions. Research from UC Berkeley scholars and the CoolClimate Network finds that urban infill offers one of the greatest potential policy levers for municipalities to reduce their greenhouse gas emissions.¹⁴ Notably, this study predates the City of Berkeley’s 2019 prohibition on natural gas in new buildings,¹⁵ which would further reduce the carbon footprint of future Berkeley residents relative to the regional average.

CONTACT PERSON

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ATTACHMENTS

1. City of Santa Barbara Ordinance 5794
2. City of Davis Ordinance 2602

¹¹ https://www.cityofberkeley.info/Clerk/City_Council/2021/02_Feb/Documents/2021-02-23_Item_26_Step_Up_Housing_Initiative.aspx

¹² <https://www.acgov.org/cda/hcd/documents/2021IncomeandRentLimits.pdf>

¹³ Durst, N. J. (2021). Residential Land Use Regulation and the Spatial Mismatch between Housing and Employment Opportunities in California Cities. *Terner Center for Housing Innovation*. Retrieved from <http://californialanduse.org/download/Durst%20Residential%20Land%20Use%20Regulation%202020.pdf>

¹⁴ Jones, C. et al. (2017). Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities. *Urban Planning*, 3(2). doi:10.17645/up.v3i2.1218.

¹⁵ Cagle, C. (2019). Berkeley became first US city to ban natural gas. Here's what that may mean for the future. *The Guardian*. Retrieved from <https://www.theguardian.com/environment/2019/jul/23/berkeley-natural-gas-ban-environment>

