

REVISED LEGISLATIVE DIGEST
(Amended in Committee – June 4, 2020)

[Planning, Building Codes - Re-Authorization and Extension of Fee Waiver for Legalization of Unauthorized Dwelling Units]

Ordinance amending the Planning and Building Codes to reauthorize the waiver of fees related to granting legal status to existing dwelling units constructed without required permits and extending the waiver through December 31, 2024; requiring annual reports on the fee waiver program; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Planning Department and Department of Building Inspection charge certain administrative fees for review of building permit applications, including permit applications that may be submitted to legalize an existing dwelling unit that had been constructed or added without required City permits – currently defined in Planning Code Section 317(b)(13) as “unauthorized units.” Pursuant to Ordinance No. 146-15 (approved on August 6, 2015), the fees of the Planning and Building Inspection Departments related to review of a permit or the portion of a permit related to legalizing an unauthorized unit were waived until January 1, 2020.

Amendments to Current Law

This ordinance re-authorizes the fee waiver enacted by Ordinance 146-15 and provides that it is extended from January 1, 2020 through December 31, 2024. Only fees related directly to legalization would be waived. If the Director of Building Inspection and the Planning Director determine that the permit application fee waiver is no longer feasible, they could request that the Board of Supervisors consider an ordinance terminating this fee waiver prior to January 1, 2025. A report from the Department of Building Inspection to the Board of Supervisors, Building Inspection Commission, and Planning Commission is required starting March 2021 and annually thereafter.

Background Information

As stated in the findings, San Francisco has long had a housing shortage, especially of affordable housing. The housing market continues to be tight and housing costs are beyond the reach of many households. The City has no definitive information on the number of dwelling units that have been added to existing residential buildings without the benefit of a permit but unofficial estimates indicate that as many as 30,000 to 40,000 such dwelling units existed as of 2013. Often these unauthorized units have been built in the basements,

garages, and attics of existing buildings or in rear-yard structures. While many of these unauthorized units may not meet existing Planning and Building Code requirements, they constitute a major supply of San Francisco's affordable housing units, often meet life and safety standards, or could meet such standards with minor permitted alterations, and may require only exceptions from density, open space, and other Planning Code requirements in order to become legal units.

The Housing Element of the General Plan directs the City to protect the affordability of the existing housing stock, especially rental units, and to preserve “naturally” affordable housing types such as smaller and older ownership units. This fee waiver will encourage owners to maintain and legalize potential sources of affordable housing and result in a very low fiscal impact to the Planning and Building Departments.

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