

REVISED LEGISLATIVE DIGEST

(Revised 7/18/16)

[Planning, Administrative Codes - Construction of Accessory Dwelling Units]

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (ADUs, also known as Secondary or In-Law Units) on all lots in the City in areas that allow residential use; amending the Administrative Code to revise the definition of “rental unit” as it applies to ADUs; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this ordinance to the California Department of Housing and Community Development after adoption.

Existing Law

Planning Code Section 207(c)(4) authorizes Accessory Dwelling Units to be constructed within the boundaries of Board of Supervisors Districts 3 and 8 and in buildings undergoing seismic retrofitting. Section 207.2 was enacted in 1984 in response to the State’s Second Unit Law (Government Code Section 65852.2); it regulates second units in areas of San Francisco that are not covered by Section 207(c)(4). Administrative Code Section 37.2 defines “rental units” as including Accessory Dwelling Units constructed pursuant to Planning Code Section 207(c)(4), provided that the building containing the ADU(s) or any unit within the building is already subject to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Administrative Code Chapter 37.)

Amendments to Current Law

The proposed legislation would allow Accessory Dwelling Units to be constructed on any lot in San Francisco that is zoned for residential use under the conditions specified in Planning Code Sections 207(c)(4) and (c)(5). Subsection (c)(4) regulates the construction of an ADU in all zoning districts except for RH-1(D). Subsection (c)(5) allows the construction of an ADU in RH-1(D) zoning districts only as mandated by state law and if it is constructed in strict compliance with the state law standards. Planning Code Section 207.2, which precludes ADUs in RH-1 and RH-1(D) zoning districts and is outdated and no longer applicable, is deleted. As required by current law, a property owner who receives from the City waivers of certain Planning Code requirements in order to construct the ADU(s) must execute an agreement to subject the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance.

New provisions have been added that (1) impose Citywide the current controls for District 3, which allow one ADU in buildings that have four existing Dwelling Units and no limit on the number of ADUs for buildings that have more than four existing Dwelling Units; (2) clarify what

constitutes the “building envelope” within which an ADU can be built; (3) impose a minimum unit size, (4) prohibit the Planning Department from approving an application to construct an ADU in any building where a tenant has been served a notice of eviction either five years or 10 years prior to the filing of the application, depending on the cause of the eviction; (5) ~~(4)~~ prohibit use of the ADU for short-term rental; (6) prohibit an ADU from being subdivided or separately financed unless, within three years prior to July 11, 2016, the ADU is added to an existing condominium with no Rental Unit and no evictions within 10 years, (7) provide that on lots where an ADU is being added in coordination with seismic retrofitting the new ADU shall maintain the eligibility to enter the condo-conversion lottery along with the building, (8) clarify that in entering into a Regulatory Agreement to subject an ADU to the Rent Ordinance, the landlord is not precluded from establishing the initial rental rate upon vacancy, and ~~(5)~~ (9) prohibit an ADU in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if accommodating it would ~~either eliminate or reduce a ground-story retail or commercial space or reduce a ground-story retail or commercial space by more than 25%~~ either eliminate or reduce a ground-story retail or commercial space by more than 25%. The Zoning Control Tables in Articles 2, 7 and 8 and corresponding text have been amended to authorize the construction of ADUs. The San Francisco Residential Rent Stabilization and Arbitration Ordinance has been amended to delete from the definition of “rental unit” the requirement that the building in which an ADU is constructed or any unit within the building must already have been subject to the Rent Ordinance.

Background Information

San Francisco has long had a housing shortage. The housing market continues to be tight and housing costs are beyond the reach of many households. The City’s Housing Element states that adding new units in existing residential buildings represents a simple and cost-effective method of expanding the City’s housing supply.

In Section 65852.2 of the California Government Code, the State Legislature finds and declares that second units are a valuable form of housing in California. Expanding the construction of Accessory Dwelling Units to all lots in San Francisco that are zoned for residential use will provide additional housing. Allowing them in all Neighborhood Commercial Districts will allow more housing in already dense and transit-rich neighborhoods without substantially changing their built character and allow more residents to live within walking distance of transit, shopping, and services.

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