

**REVISED LEGISLATIVE DIGEST**

(Substituted, 2/15/2022)

[Planning, Subdivision Codes; Zoning Map - Density Exception in Residential Districts]

**Ordinance amending the Planning Code to rezone all Residential, One Family (RH-1) zoning districts to Residential, Two Family (RH-2) zoning districts, and to provide a density limit exception to permit up to four dwelling units per lot, and up to six dwelling units per lot in Corner Lots, in all RH (Residential, House) zoning districts, subject to certain requirements, including among others the replacement of protected units; amending the Subdivision Code to authorize a subdivider that is constructing new dwelling units pursuant to the density exception to submit an application for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; affirming the Planning Department’s determination under the California Environmental Quality Act; 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 Code sets forth different zoning districts throughout the City, where different uses are permitted, conditionally permitted, or prohibited, and where various controls (such as height, bulk, setbacks, etc.) apply. Residential, House (RH) districts are “intended to recognize, protect, conserve and enhance areas characterized by dwellings in the form of houses, usually with one, two or three units with separate entrances, and limited scale in terms of building width and height. Such areas tend to have similarity of building styles and predominantly contain large units suitable for family occupancy, considerable open space, and limited nonresidential uses.” (Planning Code Section 209.1.) The RH districts consist of five separate classes of districts, depending on the number of units permitted in each:

- RH-1(D) Districts: One-Family (Detached Dwellings); RH-1 Districts: One-Family; and RH-1(S) Districts: One-Family with Minor Second Unit, which are generally characterized by single-family houses;
- RH-2 Districts: Two-Family, which generally consist of one-family and two-family houses;
- RH-3 Districts: Three-Family, in which structures with three units are common in addition to one-family and two-family houses.

Currently, San Francisco property owners wishing to convert tenancy-in-common (“TIC”) residential units into condominium units may not convert more than two TIC units due to the conclusion and expiration of the Expedited Condominium Conversion Program, Subdivision

Code Sec. 1396.4 (“ECP”), in January 2020 and the suspension of the condominium conversion lottery until January 1, 2024. While the ECP was in effect, the program had authorized property owners to convert four to six TIC units into condominium units subject to compliance with certain requirements in the Subdivision Code.

### Amendments to Current Law

This Ordinance amends the Planning Code and the Zoning Map to rezone all existing RH-1 districts to RH-2 (Residential, Two Family) districts. Further, the ordinance creates a density limit exception to permit up to four units per lot in all RH-2 or RH-3 (Residential, Three Family) districts, and up to six units in Corner Lots, as defined under the Planning Code, for projects that are not seeking or receiving a density bonus. These units would be permitted in addition to any Accessory Dwelling Units permitted under the Code. The ordinance makes projects utilizing the density exception and that provide at least four dwelling units subject to a minimum Rear Yard requirement of the greater of 30% of lot depth or 15 feet; otherwise, it establishes that all other building standards applicable under the Planning Code continue to apply.

The ordinance provides that in order to receive this density exception, projects must demonstrate to the satisfaction of the Environmental Review Officer that they do not cause a substantial adverse change in the significance of an historic resource as defined by the California Environmental Quality Act (CEQA). Further, the ordinance incorporates state law requirements that are applicable to these projects – specifically, the requirements of Section 66300(d) of the California Government Code that projects subject to the density exception including produce at least as many dwelling units as they would demolish; replace all protected units; and offer existing occupants of any protected units that are lower income households relocation benefits and a right of first refusal for a comparable unit, as those terms are defined under that state law.

The ordinance amends the Subdivision Code to authorize a subdivider that is constructing new dwelling units pursuant to the density exception to submit an application for condominium conversion or a condominium map that includes the existing dwelling units as well as the new dwelling units created under the density exception. Applicants must meet certain requirements specified in the ordinance including certifying that within the 60 months preceding the date of the subject application, no tenant resided at the property.

The ordinance authorizes the Planning Department and the Department of Public Works to adopt regulations to implement it, and the City Attorney’s Office to remove all remaining references to RH-1 districts from the Municipal Code.

Background Information

The Ordinance contains ample findings setting forth the need to promote housing development in San Francisco. It states that the City faces a severe crisis of housing affordability and availability, characterized by dramatic increases in rent and home sale prices over recent years and historic underproduction of new housing units across income levels, particularly in the City's western neighborhoods and RH zoning districts. It further explains that adopting policies that promote construction of small multifamily buildings in low density areas to support "missing middle" housing opportunities was one of the recommendations of the City's COVID-19 Economic Recovery Task Force.

This ordinance is a substitute for the ordinance that was introduced on July 27, 2021. The ordinance includes new findings that are necessary to allow the Board to expedite its consideration and approval of the ordinance with respect to the California Environmental Quality Act ("CEQA"), as authorized under Senate Bill 10 (Wiener), which took effect on January 1, 2022 ("SB 10"). Under SB 10, an ordinance that increases the allowed zoning up to 10 units per parcel in a "transit-rich area" or an "urban infill site" (which includes all of San Francisco) would not constitute a "project" under CEQA. Such ordinances would be exempt from CEQA review. However, this exemption applies only to the ordinance, as individual housing projects proposed within a zone subject to an SB 10 ordinance still require review under CEQA.

The substitute ordinance contains other changes compared to the July 27, 2021 ordinance, such as the rezoning of RH-1 districts to RH-2, the requirements regarding historic resources under CEQA, and authorizing certain property owners who utilize the density exception to apply for condominium conversion or condominium maps that include existing residential units as well as new units created pursuant to the density exception.

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