

REVISED LEGISLATIVE DIGEST

(Revised July 11, 2016)

[Planning, Administrative Code - 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 and adopting findings 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 currently specified under Planning Code Section 207(c)(4). 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 them to the San Francisco Residential Rent Stabilization and Arbitration Ordinance.

New provisions have been added that (1) 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, (2) prohibit use of the ADU for short-term rental, (3) prohibit an ADU in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would eliminate or reduce a ground story retail or commercial space, (4) define the “built envelope” of an existing building for purposes of determining what open spaces may be incorporated into an ADU and require Section 311 or 312 notice for specified spaces, (5)

mandate a minimum unit size for ADUs, and (6) allow a separate sale or finance of an ADU under specified conditions, which includes requiring the ADU to be sold as a below-market-rate unit.

The ordinance also deletes the existing Section 311 and 312 notice exemption for buildings undergoing seismic retrofitting, and clarifies that entering into a Regulatory Agreement with the City to subject the ADU to the Rent Ordinance does not preclude a landlord from setting the initial rental rate upon vacancy. The Zoning Control Tables in Articles 7 and 8 and corresponding text have been amended to authorize the construction of ADUs. Section 207.2, which is outdated and no longer applicable, is deleted. The San Francisco Residential Rent Stabilization and Arbitration Ordinance has been amended to delete from the definition of “rental unit” the building in which the ADU(s) 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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