

LEGISLATIVE DIGEST
(Substituted, 02/08/2022)

[Planning, Administrative Codes - Dwelling Unit Density Exception in Residential Districts and Rent Control of Bonus Dwelling Units]

Ordinance amending the Planning Code to provide a density limit exception for Lots in all RH (Residential, House) zoning districts to permit additional units (“Bonus Dwelling Units”), up to four total dwelling units per lot exclusive of accessory dwelling units, and to require that if such Bonus Dwelling Units are ever sold, the sales prices would not exceed an amount determined to be affordable at 100% of area median income; amending the Administrative Code to limit initial rental rates and rent increases for Bonus Dwelling Units; 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, conditional 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.” (Section 209.1). The RH districts are composed 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.

The state law commonly referred to as Senate Bill 9 (Atkins) became effective on January 1, 2022 (“SB 9”). SB 9 codified California Government Code sections 65852.21 and 66411.7, which require the ministerial approval by local governments of

two-unit developments and lot splits, respectively, in single-family zones in urban areas, like San Francisco.

Amendments to Current Law

This ordinance would create a density limit exception to permit up to four units per lot in all RH districts, for property owners that are not seeking or receiving a density bonus. In RH-1 districts, this ordinance would provide property owners with an alternative to development process set forth in SB 9. Each unit permitted under this ordinance in excess of the number of units otherwise permitted by right in the applicable RH District (as set forth Planning Code Table 209.1) would constitute a “Bonus Dwelling Unit.” Bonus Dwelling Units would be permitted in addition to any Accessory Dwelling Units authorized under the Planning Code. Under this ordinance, Bonus Dwelling Units would be subject to the following limitations and requirements:

- Lots that include two or more Bonus Dwelling units in the RH-1(D), RH-1, RH-1(S), and RH-2 zoning districts would be subject to the Height and Bulk Limits, Rear Yard, and Side Yard standards applicable to the RH-3 zoning district.
- Sales of Bonus Dwelling Units would be subject to a maximum sales price determined by the Mayor’s Office of Housing and Community Development (“MOHCD”) to be affordable for a buyer at 100% of San Francisco’s Area Median Income as published annually by MOHCD and derived in part from income limits and area median income published by the U.S. Department of Housing and Urban Development for the County of San Francisco. The maximum sales price would be determined using an affordable sales price methodology established and approved by MOHCD.
- At the commencement of a tenancy, Bonus Dwelling Units would be offered for rent at a rate determined by MOHCD for rent for households earning 100% of San Francisco’s Area Median Income.
- Subsequent rent increases for Bonus Dwelling Units would be subject to the limitations in Administrative Code subsections 37.3(a), 37.3(d), 37.3(g), and 37.3(h).
- Property owners in RH zoning districts would not be required to meet any minimum or maximum income criteria in order for their property to be eligible for Bonus Dwelling Units.

Background Information

This ordinance contains findings emphasizing the need to build more housing in San Francisco, particularly for moderate income households, and the fact that five Supervisorial Districts in San Francisco experienced a “Negative Cumulative Housing Balance” between 2011 through 2020, meaning that the number of units removed from protected status exceeds

the number of new affordable housing units added to such districts during the subject time period.

This ordinance is a substitute for the ordinance that was introduced on November 16, 2021 alongside a resolution urging the Planning Department, in partnership with the Mayor's Office of Housing and Community Development and other City agencies, to create a "Housing Development Incentive Program for Homeowners" that supports San Francisco residents' efforts to build new housing.

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.

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