

REVISED LEGISLATIVE DIGEST
(Amended in Committee - February 12, 2024)

[Various Codes - State-Mandated Accessory Dwelling Unit Controls]

Ordinance amending the Administrative Code, Building Code, Business and Tax Regulations Code, and Planning Code to clarify the state-mandated, ministerial approval process and local, discretionary approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings; 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 of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 102 defines Accessory Dwelling Unit (ADU) and Junior ADU. Planning Code Section 136 regulates permitted obstructions in required setbacks, yards, and open space. Planning Code subsections 207(c)(4) and 207(c)(6) establish the requirements for constructing ADUs in areas of the City that are zoned for residential use. Subsection 207(c)(6) sets forth two state-mandated, ministerial approval processes for ADUs constructed on lots containing existing or proposed single-family dwellings that meet state ADU law requirements: the “State ADU” program, which implements the requirements of California Government Code Sections 65852.2(a) through (d), and the “Hybrid ADU” program, which implements the requirements of California Government Code Sections 65852.2(e). The City’s Hybrid ADU program currently permits the addition of one Junior ADU per lot, in combination with one detached ADU or one ADU converted from existing built space.

Planning Code subsection 207(c)(4) provides the City’s local program for ADUs constructed on lots containing multi-family dwellings, and on lots containing existing or proposed single-family dwellings that do not meet the state ADU law criteria for ministerial consideration.

The Building Code sets forth standards and processes for the approval of permits to construct dwelling units, including ADUs.

Amendments to Current Law

Recent amendments to state ADU law, and new interpretations of state ADU law by the California Department of Housing and Community Development, require the City to amend the process for ministerial consideration of applications to construct ADUs that meet certain requirements, and to amend the Planning Code standards applicable to certain ADUs. These required Planning Code amendments include:

- Clarifying the distinction between the City's local and state-mandated ADU approval programs by relocating the City's ADU controls from Planning Code subsections 207(c)(4) and 207(c)(6) to Planning Code Sections 201.2 and 207.2;
- Revising the definition of Junior ADU in Section 102 to clarify that Junior ADUs need not be owner-occupied if the owner is a governmental agency, land trust, or housing organization;
- Clarifying that lot coverage requirements of Planning Code Section 136 do not prohibit construction of an ADU that is no more than 800 square feet with four-foot side and rear setbacks;
- Increasing height limits on certain ADUs to 16, 18, 20, or 25 feet, as applicable;
- Excluding ADUs and Junior ADUs from the City's dwelling unit mix requirements set forth in Planning Code Section 207.6 and 207.7;
- Clarifying existing limits on the City's authority to impose standards and process requirements on state-mandated ADUs, including that any architectural review standards developed by the Historic Preservation Commission for ADUs must be objective; and
- Removing certain notification requirements applicable to the State ADU program.

This ordinance expands the ADU projects subject to architectural review standards developed by the Historic Preservation Commission to include ADU projects on properties previously determined to be eligible for the California Register of Historic Resources. This ordinance also amends the Building Code to clarify that the City must ministerially approve or deny, rather than simply act on, an application to construct a code-complying, state-mandated ADU within 60 days.

This ordinance also amends the Building Code to clarify that the City must approve or deny an application to construct an ADU under the City's discretionary, local approval program within 60 days. This deadline would not apply to ADU permit applications subject to a request for discretionary review or an appeal to the Board of Appeals.

This ordinance also amends various sections of the Administrative Code, Business and Tax Regulations Code, and Planning Code to correct cross references to the City's ADU controls.

Background Information

On February 5, 2024, the Land Use and Transportation Committee of the Board of Supervisors created this ordinance by duplicating the ordinance in Board File No. 230310. This legislative digest reflects amendments made to this ordinance by the Land Use and Transportation Committee on February 12, 2024.