

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 3/20/2023)

[Planning Code - State-Mandated Accessory Dwelling Unit Controls]

Ordinance amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings and to permit certain ADUs in the rear yard under the City's local, discretionary approval program; making findings 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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 102 defines Accessory Dwelling Unit (ADU). 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) provides a state-mandated, ministerial approval process for ADUs constructed on lots containing existing or proposed single-family dwellings that strictly meet state ADU law requirements without requiring a Zoning Administrator waiver of Planning Code standards. 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.

Amendments to Current Law

Recent amendments to state ADU law, including Senate Bill 13, Assembly Bill 68, and Assembly Bill 881, effective January 1, 2020, require the City to ministerially consider applications to construct additional types of ADUs that meet certain requirements. State ADU law has also been amended to further restrict the City's authority to impose Planning Code standards on certain ADUs. This ordinance conforms Planning Code Section 102 and Section 207(c)(6) – the City's state-mandated ADU program – to the current provisions of state law. As further described below, this ordinance would divide the City's state-mandated ADU program into two separate approval pathways required by state law: one for "Streamlined" ADUs, and another for "Ministerial" ADUs.

This ordinance adds a definition of Junior ADU to Section 102. A Junior ADU is a Dwelling Unit that meets all the requirements of Planning Code subsection 207(c)(6), and, among other attributes, is accessory to at least one other Dwelling Unit on the same lot, is no more than 500 square feet of Gross Floor Area, and is contained entirely within an existing single-family structure.

The “Streamlined” ADU pathway would implement the requirements of California Government Code Sections 65852.2(a) through (d), which require ministerial approval within 60 days of a single ADU added to a lot that contains an existing or proposed dwelling. State law limits the standards that the City may impose on these Streamlined ADUs. This ordinance requires Streamlined ADUs to satisfy certain specific requirements, in addition to any other applicable standards, but clarifies that the City may not impose limits on lot coverage, floor area ratio, open space, and minimum lot size that do not permit construction of an ADU that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks.

Under this “Streamlined” ADU pathway, the maximum square footage per ADU that the City is required to approve would be:

- In the case of detached ADUs, 1200 square feet of Gross Floor Area;
- In the case of attached ADUs, if there is an existing primary dwelling:
 - Studios and 1 bedroom ADUs within the primary structure would be permitted up to 850 square feet, or 50% of the square footage of existing primary dwelling, whichever is greater; and
 - 2+ bedroom ADUs within the primary structure would be permitted up to 1,000 square feet, or 50% of the square footage of existing primary dwelling, whichever is greater.

The “Ministerial” ADU pathway would implement the requirements of California Government Code Sections 65852.2(e) and 65852.22, which require ministerial consideration of the following four categories of ADUs and Junior ADUs:

- One ADU and one Junior ADU per lot within the space of a proposed single-family dwelling or within the space of an existing single-family dwelling or accessory structure, which may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. This ADU or Junior ADU must have exterior access separate from the entrance to the single-family dwelling, as well as side and rear setbacks that are sufficient for fire and safety.
- One detached, new construction, ADU per lot with a proposed or existing single-family dwelling. This detached ADU may be combined with a Junior ADU. As authorized by state law, this ordinance would limit the detached ADU to no more than 800 square feet in Gross Floor Area, and no more than 18 feet in height.
- Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space. As required by state law, this ordinance allows the construction of at least one ADU within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units.

- Not more than two ADUs located on a lot containing an existing multifamily dwelling, but detached from that multifamily dwelling. As required by state law, these detached ADUs are limited to 16 feet in height, and must have four foot rear yard and side setbacks.

State law allows the City to impose standards, including design, development, and historic standards, on these Ministerial ADUs. This ordinance requires Ministerial ADUs to satisfy certain specific requirements, in addition to any other applicable standards.

State law exempts ADUs smaller than 750 square feet of Gross Floor Area from impact fees, and requires impact fees for all other ADUs to be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit. In addition, this ordinance also exempts ADUs proposed in lots with three existing units or fewer from paying impact fees.

This ordinance also modifies the tenant notification requirements for applications to construct an ADU and/or a Junior ADU on a lot containing an existing single-family dwelling under subsection 207(c)(6).

This ordinance also amends the City's local ADU program set forth in Planning Code Section 207(c)(4). In addition to clarifying amendments, this ordinance would permit one detached ADU to be constructed within the required rear yard of a property, subject to certain height, setback, and floor area limitations.

Background Information

The State Legislature has declared that Accessory Dwelling Units are a valuable form of housing in California. They are an affordable type of housing because they do not include the costs of purchasing land or require major new infrastructure. Since adoption, the Legislature has amended state ADU law several times to tighten requirements and make local ADU approval less discretionary.

San Francisco first enacted a local ADU ordinance in 2015 and has updated its ADU program several times since then, both in response to amendments to State law and also to facilitate the construction of ADUs under the City's local program.

This legislative digest reflects amendments made to this ordinance by the Board of Supervisors Land Use and Transportation Committee on March 20, 2023.

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