

**LEGISLATIVE DIGEST**

[Planning Code - Dwelling Unit Density]

**Ordinance amending the Planning Code to exclude Affordable Housing Units as defined from density calculations for projects that provide at least 20% of their units as Affordable Units and amending density calculations under certain scenarios; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan, and the eight Priority Policies of Planning Code, Section 101.1.**

**Existing Law**

Section 207.1 of the Planning Code currently provides for rules related to the calculation of dwelling unit density. In calculating dwelling unit density, the Code currently states that fractional numbers shall be adjusted downward to the next lower whole number of dwelling units. The Code provides that, in Residential Transit Oriented (RTO) districts only, Affordable Units, defined as units that meet the affordability requirements of Section 406 or 415 of the Planning Code will not count toward the calculation of density. Sections 406 and 415 require units to be restricted as affordable at or below a certain Area Median Income by a governmental entity for a certain time period.

**Amendments to Current Law**

The Proposed legislation clarifies several issues related to the calculation of dwelling unit densities. It provides that Section 207.1 addressing the calculation of dwelling unit density only applies in districts that establish a maximum dwelling unit density. It also provides that, if a calculation of density results in a fraction of over one-half, the number shall be rounded up to the nearest whole number of dwelling units. The Legislation also amends Section 207.4 to clarify how to measure the dwelling unit density in NC districts.

The Proposed Legislation also provides that "Affordable Units" as defined in the ordinance, will not count toward the calculation of dwelling unit density for a project if 20 percent or more of the project's units are Affordable Units. This provision does not apply if a project sponsor is located in an RH-1 or RH-2 district or if the project sponsor is seeking and receiving a density bonus under the State Density Bonus Statute. Similar to the existing provision for RTO districts, the Proposed Legislation defines "Affordable Units" for purposes of Section 207.1 as units that meet the requirements of Planning Code Section 406(b) or on site Inclusionary Units under Section 415. And, it expands the definition to include units restricted as part of certain tax credit projects. In all cases, the units are restricted at or below a certain Area Median Income by a governmental entity for a certain time period. If a project sponsor elects to pursue the additional density and its units are not otherwise restricted, the Proposed

Legislation authorizes the Planning Department and the Mayor's Office of Housing and Community Development to enforce restricting the units as affordable under Planning Code Section 415.6 up to a maximum of 20 percent. The Proposed Legislation continues to provide that any Affordable Unit in a project located in an RTO district will not count toward the calculation of dwelling unit density. The Proposed Legislation does not provide for any exceptions to other Planning Code requirements such as height or bulk.

An uncodified Section of the legislation provides that the Board of Supervisors will revisit the provisions of the Proposed Legislation if the Mayor's Housing Working Group advances a broader proposal related to density bonuses.

#### Background

Supervisor Wiener originally introduced this legislation on January 14, 2014. He introduced substitute legislation on June 3, 2014 and additional substitute legislation on June 17, 2014.