

1 [Planning, Building Codes - Fee Waiver for Legalization of Secondary Dwelling Units]

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3 **Ordinance amending the Planning and Building Codes to waive fees related to granting**
4 **legal status to existing dwelling units constructed without required permits; and**
5 **~~affirming the Planning Department's determination under the California Environmental~~**
6 **~~Quality Act;~~ and making findings of consistency with the General Plan, Planning Code**
7 **Section 302 and the eight priority policies of Planning Code Section 101.1.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Findings.

17 (a) ~~The Planning Department has determined that the actions contemplated in this~~
18 ~~ordinance comply with the California Environmental Quality Act (California Public Resources~~
19 ~~Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of~~
20 ~~Supervisors in File No. _____ and is incorporated herein by reference. This Board affirms said~~
21 ~~determination.~~

22 (b) On _____, the Planning Commission, in Resolution No. _____, adopted findings The
23 Board of Supervisors finds that the actions contemplated in this ordinance are consistent, on
24 balance, with the City's General Plan and eight priority policies of Planning Code Section
25 101.1 because the fee waiver will encourage owners to maintain and legalize potential
sources of affordable housing and result in a very low fiscal impact to the Planning and

1 Building Departments. ~~The Board adopts these findings as its own. A copy of said Resolution~~
2 ~~is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated~~
3 ~~herein by reference.~~

4 (eb) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
5 Amendment will serve the public necessity, convenience, and welfare because the fee waiver
6 will encourage owners to maintain and legalize potential sources of affordable housing and
7 result in little fiscal impact to the City ~~for the reasons set forth in Planning Commission~~
8 ~~Resolution No. _____ and the Board incorporates such reasons herein by reference.~~

9 (ec) In California Government Code Section 65852.150, the Legislature declared that
10 secondary units are a valuable form of housing in California because they "provide housing
11 for family members, students, the elderly, in-home health care providers, the disabled, and
12 others, at below market prices within existing neighborhoods" and that "homeowners who
13 create second units benefit from added income, and an increased sense of security."

14 (ed) San Francisco has long had a housing shortage, especially of affordable housing.
15 The housing market continues to be tight and housing costs are beyond the reach of many
16 households. Objective 3 of the City's 2014 Housing Element directs the City to protect the
17 affordability of the existing housing stock, especially rental units. Policy 3.4 seeks to preserve
18 "naturally" affordable housing types, such as smaller and older ownership units.

19 (fe) The City has no definitive information on the number of dwelling units that have
20 been added to existing residential buildings without the benefit of a permit, but unofficial
21 estimates indicate that as many as 30,000 to 40,000 such dwelling units exist as of 2013.
22 Often these illegal units have been built in the basements, garages, and attics of existing
23 buildings or in rear-yard structures. While many of these units may not meet existing Planning
24 and Building Code requirements, they constitute a major supply of San Francisco's affordable
25 housing units, often meet life and safety standards, or could meet such standards with minor

1 permitted alterations, and may require only exceptions from density, open space, and other
2 Planning Code requirements in order to become legal units.

3 (gf) The City's 2014 Housing Element notes that while 76 secondary units were
4 legalized between 2004 and 2013, a much larger number (226 units) were removed during
5 that same period.

6 (hg) In Spring 2014, the City passed legislation (Ordinance Number 43-14, approved
7 on April 14, 2014) to allow the legalization process for secondary units built without a building
8 permit. The legislation amends the Planning Code, the Building Code, and the Administrative
9 Code to establish a legalization process for such units.

10 (ih) Mayoral Executive Directive 13-01 seeks to maximize the preservation of these
11 secondary units as affordable housing. To encourage the legalization of such units, this
12 ordinance would waive certain permit review fees associated with retaining these secondary
13 units by granting legal status to existing dwelling units constructed without the required
14 permits.

15 (ji) By waiving such fees, the City would create incentives for property owners to
16 pursue legalization of the secondary units and would help achieve several public policy
17 objectives. By encouraging the legalization of these units, the City would add legitimate units
18 to the City's supply of affordable housing, ensure that these units are safe and habitable, and
19 properly include these units when calculating the City's existing housing supply.

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21 Section 2. Fee Waivers

22 (a) Notwithstanding any provision of the Planning Code, including the fee schedule
23 associated with Sections 355(a), the permit fee related to reviewing permit applications
24 seeking to legalize existing dwelling units that were constructed without the required permits,
25 is hereby waived for any permit issued for such activities prior to January 1, 2020.

1 (b) Notwithstanding any provision of the Building Code, including the fee schedules of
2 Tables 1A-A and 1A-E, the Plan Review Fee related to reviewing permit applications, or a
3 portion of a permit application, seeking to legalize existing dwelling units that were
4 constructed without the required permits is hereby waived for any permit issued for such
5 activities prior to January 1, 2020; provided that other fees, including but not limited to fees for
6 applications to undertake structural work or excavation activities or any fees required by
7 State law, shall not be waived.

8 (c) Only the portion of the permit fees related to legalizing existing units may be
9 waived. If the permit describes work beyond that required to legalize the unit, the fees related
10 to any additional work beyond necessary improvements for legalization shall not be waived.

11 (d) In the event the Director of Building Inspection or the Planning Director determine
12 that the fee waivers provided in this Ordinance No. _____ are no longer feasible, they may
13 provide information to the Board of Supervisors about such feasibility and the Board may
14 consider adopting an ordinance terminating this fee waiver prior to January 1, 2020.
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16 Section 3. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance.
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21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 KATE H. STACY
Deputy City Attorney

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