

LEGISLATIVE DIGEST
(7/28/15 – Amended in Board)

[Planning, Administrative Codes - Construction of Accessory Dwelling Units - 8]

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (ADUs, also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 8, and require the Planning Department to monitor the use of ADUs as short-term rentals; amending the Administrative Code to correct section references; 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 directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

Existing Law

Planning Code Section 102 has definitions for various uses. Section 207(c) establishes exemptions to dwelling unit density limits for various types of projects. Subsection (c)(4) allows Accessory Dwelling Units (ADUs), also known as Secondary Units or In-Law Units, to be constructed within the built envelope of an existing building zoned for residential use or an authorized auxiliary structure on the same lot within the Castro Street Neighborhood Commercial District and surrounding area, and in a building undergoing mandatory seismic retrofitting under the Building Code. An ADU cannot be constructed using space from an existing Dwelling Unit.

Section 307 authorizes the Zoning Administrator to grant complete or partial waivers from the Planning Code’s density, parking, rear yard, exposure or open space requirements to facilitate construction of an ADU and the Planning Department is required to establish a system for monitoring their affordability. If the ADU was constructed with a waiver of Planning Code requirements, it will be subject to the Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) if the building containing the ADU or any unit within the building is already subject to the Rent Ordinance.

Amendments to Current Law

Planning Code Section 102 is amended to add a definition for Accessory Dwelling Unit. Section 207(c)(4) is amended to allow ADUs to be constructed anywhere within the boundaries of Board of Supervisors District 8. An ADU may not be subdivided in a manner that would allow the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership. For buildings undergoing mandatory seismic retrofitting, a noncomplying structure may be expanded without needing a variance and, if permitted by the Building Code, the building may be raised up to three feet to

create heights suitable for residential use on lower floors. The increase in height for buildings undergoing mandatory seismic retrofitting is exempt from the notification requirements of Planning Code Sections 311 and 312. The Zoning Control Tables for zoning districts within the boundaries of District 8 are amended to refer to ADUs, and conforming technical amendments are made to Planning Code Section 307 and the Rent Ordinance.

An applicant for construction of an ADU must disclose whether the applicant intends to use, or authorize the use of, the ADU for Short-Term Residential Rentals, as that term is defined in Administrative Code Section 41A.4, and the Planning Department cannot approve the application unless the applicant has disclosed this information. The Department is required to collect data on the use of ADUs as Short-Term Residential Rentals, and must use that data to evaluate and enforce the requirements of Chapter 41A.

Background Information

San Francisco has long had a housing shortage. The housing market continues to be tight and housing costs are beyond the reach of many households. Policy I.5 of the City's 2014 Housing Element states that adding new units in existing residential buildings represents a simple and cost-effective method of expanding the City's housing supply. The State Legislation has also declared, in Section 65852.150 of the California Government Code, that second units in existing residential buildings are a valuable form of housing in California.

Permitting the creation of Accessory Dwelling Units in additional areas of the City that are already dense and transit rich will provide additional housing without changing the built character of these neighborhoods. It also "greens" San Francisco by efficiently using existing buildings and allowing more residents to live within walking distance of transit, shopping, and services.

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