

REVISED LEGISLATIVE DIGEST

(4/17/2017, Amended in Committee)

[Planning Code - Construction of Accessory Dwelling Units]

Ordinance amending the Planning Code to bring the requirements and procedures for authorizing the construction of Accessory Dwelling Units (ADUs) in single-family homes into conformity with the new mandates of state law; 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 findings of public convenience, necessity, and welfare under Planning Code Section 302; and directing the Clerk to send a copy of this ordinance to the California Department of Housing and Community Development after adoption pursuant to state law requirements.

Existing Law

Planning Code Section 207(c)(4) regulates the construction of Accessory Dwelling Units (ADUs) in San Francisco. It allows ADUs to be constructed on any lot in the City where residential use is allowed. One ADU may be constructed in buildings that have four existing units or fewer and there is no numerical limit on the number that may be constructed in buildings with more than four existing units. With the exception of properties in RH-1(D) zoning districts, which are regulated by Section 207(c)(5) and allowed only as mandated by California’s second unit law (Government Code Section 65852.2), the same controls on construction apply to all ADUs.

Amendments to Current Law

This ordinance groups all single-family homes together in a new Planning Code Section 207(c)(6). There are no changes to the requirements for the construction of an ADU in an RH-1(D) zoning district, which is still regulated entirely by the provisions of Government Code Section 65852.2. Single-family homes in other single-family zoning districts or in multifamily zoning districts that (1) fully meet the requirements of subsection (c)(6), (2) do not need any waivers of Planning Code requirements by the Zoning Administrator, and (3) are not also performing seismic upgrade work may receive a ministerially-approved permit. A single-family home that cannot meet these requirements continues to be regulated by Section 207(c)(4).

Background Information

On January 1, 2017, SB 1069 and AB 2299, both amending California’s law on second units (now called “accessory dwelling units”) went into effect. An existing local ordinance must fully comply with the new requirements or is considered by the state to be null and void. Planning Code Section 207(c)(4) is being amended to bring San Francisco’s ADU requirements into conformity with the new state law mandates.

Pursuant to Government Code Section 65852.2, a local jurisdiction must ministerially approve one ADU if it (1) is contained within the existing space of a single-family residence or accessory structure that is in a single-family or multifamily residential zone, (2) has independent exterior access from the existing residence, and (3) has side and rear setbacks sufficient for fire safety. The state imposes limits on other local requirements including parking, fire sprinklers, and utility connections. A local jurisdiction may enact less restrictive requirements but may not enact more restrictive standards than the maximum standards of Government Code Section 65852.2.

The legislation has been amended to: (1) conform the definition in Section 102 to the new requirements and (2) include in Section 207(c)(6) ADUs in single-family homes that are in multifamily zoning districts. For ADUs in single-family homes, the amended legislation (1) allows an ADU to be constructed within the buildable area of the existing home, (2) requires the ADU to have independent exterior access from the home or accessory structure, and (3) requires side and rear setbacks sufficient for fire safety. Additional amendments (1) clarifies that temporary evictions for seismic retrofits or tenant improvements where an existing tenant is allowed to return are not considered an ADU prohibition, (2) removes the cap on the number of ADUs that are allowed to be added in connection with a seismic retrofit, (3) in Neighborhood Commercial Districts, allows the use of vacant commercial space so long as that commercial space is not street facing or does not constitute more than a 25% reduction of the total commercial space on that lot, (4) clarifies that any residential space added under permit as a “rooms down” is allowed to be converted to an ADU, (5) adds a legislated timeline for the review of any complete ADU application, and (6) revises the definition of the “built envelope.”

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