

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 6/26/2017)

[Planning Code - Construction of Accessory Dwelling Units]

Ordinance amending the Planning Code to modify the requirements and procedures for authorizing the construction of Accessory Dwelling Units (ADUs) to 1) include ADUs in RH-1(D) zoning districts in the Citywide program, 2) apply the cap on number of ADUs to lots rather than buildings and remove the cap on buildings undergoing seismic retrofitting, 3) allow the construction of ADUs expanding into the buildable or habitable area under certain conditions, 4) make an exception to the prohibition against constructing an ADU where there has been a no-fault eviction in those cases where the tenant has been temporarily evicted in order for the owner to perform capital improvements, rehabilitation work, or lead remediation or abatement work, 5) require modification of the project if construction of the ADU would have adverse impacts on any known historic resource, and 6) require the Planning Department to apply all enacted design guidelines to ensure architectural compatibility of the ADU with existing buildings on the subject lot; 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 Sections 207(c)(4) and (c)(6) regulate the construction of Accessory Dwelling Units (ADUs) in San Francisco. The Code allows ADUs to be constructed on any lot in the City where residential use is allowed; one ADU may be constructed in an existing building with four existing units or fewer or in an existing accessory structure on the same lot and there is no numerical limit on the number that may be constructed in larger buildings. Specific controls on construction are established.

A recently-enacted ordinance, which was enacted on May 12, 2017 and went into effect on June 11, added subsection (c)(6) to the Code to bring the City's regulations on ADUs into conformity with new requirements of California Government Code Section 65852.2 mandating ministerial approval of the construction of one ADU in an existing single-family home or accessory structure on the same lot if the proposed ADU meets specified requirements. Subsection (c)(4), the City's existing law, continued to apply to the construction of more than one ADU or to ADUs in single-family homes that did not meet the strict requirements in subsection (c)(6). The construction of an ADU in a single-family home in an RH-1(D) zoning district is regulated by Government Code Section 65852.2 and reviewed under those provisions and not under the provisions of the Planning Code.

Amendments to Current Law

This ordinance makes additional policy changes to the City's ADU regulations. The construction of an ADU in an RH-1(D) zoning district would not be reviewed under the state law provisions but instead would be subject to the City's regulations. Proposed changes to the City's regulations are as follows:

- The cap on the number of ADUs allowed would apply to lots rather than to buildings, and the numerical limit would not apply to construction of an ADU in a building undergoing seismic retrofitting.
- The definition of existing "built envelope" is amended to include additional spaces.
- Space constructed using space from an existing dwelling unit would be allowed under certain conditions.
- Make an exception to the prohibition against constructing an ADU where there has been a no-fault eviction in those cases where the tenant has been temporarily evicted in order for the owner to perform capital improvements, rehabilitation work, or lead remediation or abatement work.
- The Planning Department would be mandated to require project modifications if construction of the ADU would have an adverse impact on any known historical resource.
- The Planning Department would be required to apply all design guidelines in the Code to the proposed ADU project and review the project's design to ensure architectural compatibility with existing buildings on the lot.

Background Information

This ordinance is trailing legislation to Ordinance No. 95-17, which was enacted on May 12, 2017 and went into effect on June 11. It makes further refinements and policy changes to the City's regulations on construction of ADUs. The ordinance was amended by the Land Use and Transportation Committee on June 26, 2017.

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