

LEGISLATIVE DIGEST

[Planning, Business and Tax Regulations Codes - Accessory Dwelling Units in New Construction]

Ordinance amending the Planning Code and Business and Tax Regulations Code to authorize the addition of an Accessory Dwelling Unit in the construction of a new single-family home or multi-family building; clarifying the ministerial approval process and creating an expedited Board of Appeals process for certain Accessory Dwelling Units in single-family homes meeting specific requirements; 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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 102 defines “Accessory Dwelling Unit” (ADU) and Sections 207(c)(4) and 207(c)(6) establish the requirements for constructing an ADU in areas in San Francisco that are zoned for residential use. The provisions in Section 207(c)(4) apply to the City’s local program for construction of ADUs in multi-family buildings and single-family homes that do not meet the state law criteria; the provisions in Section 207(c)(6) apply to existing single-family homes that strictly meet the state law’s ADU requirements without requiring a Zoning Administrator waiver of Planning Code provisions.

Planning Code Section 311 establishes the notice requirements and permit review procedures for building permit applications in Residential, NC, NCT, and Eastern Neighborhoods Districts for a change of use, and demolition, new construction, or alteration of buildings.

Section 8 et seq. of the Business and Tax Regulations Code establish the procedures for appeals to the Board of Appeals. Section 26 authorizes a permit-issuing agency to take into account the effect of a code-complying project on surrounding property and its residents and exercise its sound discretion in determining whether to grant, deny, or revoke a permit.

Amendments to Current Law

The state law currently requires that a local jurisdiction ministerially approve the addition of one ADU in the new construction of a single-family home that meets all the requirements of state law. The ADU can be within the living area of the primary structure, attached to the primary structure, or in a detached structure on the same lot as the primary structure. This ordinance amends Planning Code Section 207(c)(6) – the City’s state mandated ADU program –to reflect the current provisions of state law. This ordinance also amends Planning Code Section 207(c)(4) – the City’s local ADU program – to allow construction of an ADU as

part of new construction of the primary structure. The definition in Planning Code Section 102 is amended to include new construction.

This ordinance exempts building permit applications to construct an Accessory Dwelling Unit pursuant to subsection 207(c)(6) from the notification and review requirements of Planning Code Section 311.

This ordinance amends Business and Tax Regulations Code Section 8 and 26 to eliminate the exercise of discretion in the review of permits for the construction of an ADU under Planning Code Section 207(c)(6).

Background Information

The State Legislature has declared that Accessory Dwelling Units are a valuable form of housing in California. They are also an affordable type of housing because they do not include the costs of purchasing land or require major new infrastructure. Since its first adoption, the Legislature has amended the state's ADU law several times to tighten the requirements and make approval of an ADU less discretionary.

San Francisco first enacted a local ADU ordinance in 2015 and has updated its ADU program several times since then, both in response to amendments to the state law and also to facilitate the construction of ADUs under the City's local program. This legislation will update San Francisco's ADU program to comply with amendments to the state law.

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