



SAN FRANCISCO PLANNING DEPARTMENT

New Planning Code Summary:

Citywide Accessory Dwelling Units

Amended Sections: 102, 207, 307, 209, 210.4, 710 through 748, 810 through 848.1
Case Number: 2016.004042PCA
Board File/Enactment #: 160657/162-16
Initiated by: Supervisors Farrell, Peskin, Wiener
Effective Date: September 3, 2016

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The proposed Ordinance amended the Planning Code to allow the construction of Accessory Dwelling Units (ADUs, also known as Secondary or In-Law Units) on all lots in the City in areas that allow residential use.

The Way It Was:

- ADUs were allowed in all residential buildings in Supervisor Districts 3 and 8, and also in buildings that were undergoing voluntary or mandatory soft story seismic retrofitting.
 - In District 3 and District 8, ADUs were not allowed in RH-1(D) parcels.
 - In buildings undergoing seismic retrofitting, ADUs were not allowed in either RH-1 or RH-1 (D) zoned parcels.
- The number of ADUs allowed per parcel varied under the various programs and geographies.
 - For ADUs in buildings undergoing seismic retrofitting there was no limit on how many ADUs can be built.
 - Within District 8 and within buildings with more than ten units, two ADUs were allowed. However, in District 8 buildings with ten or less units, only one ADU could be added.
 - Within District 3 and within buildings with five or more units, there was no limit on how many ADUs that can be added. However, within District 3 buildings with less than five units, only one ADU could be added.
- Restrictions:
 - ADUs could only be built within the existing built envelope.
 - ADUs could not use space from an existing unit.
- Waivers:
 - Certain provisions of the Planning Code such as rear yard, open space, partial exposure, and parking could be waived by the Zoning Administrator. The Zoning Administrator could reduce the exposure requirement so that qualifying windows may face an open area that is no less than 15'X15' and is open to the sky.
- Specific Controls for ADUs as a part of the soft-story seismic retrofitting:

- Under seismic program and if allowed by the Building Code, a building could be raised up to three feet to satisfy the minimum ground floor ceiling height requirements. This height increase is exempt from notification requirements of Sections 311 and 312 of the Planning Code. The height increase may also expand a noncomplying structure as defined in Section 180(a)(2) without a variance.
6. Applicability of Rent Control Ordinance:
 - For ADUs that received waivers from Planning Code requirements, if the original building was subject to rent control, the ADU(s) would also be subject to rent control¹.
 7. Monitoring:
 - The Department was required to monitor the affordability of ADUs through inquiring rent information from property owners. The Code required the Department to publish a report by April 1, 2016 to describe and evaluate the types of units being developed and their affordability rates. Subsequent years, this information was to be included in the Housing Inventory report. The Department was also required to inquire from property owners at the time of application whether or not they intend to use the ADU as short-term rentals.

The Way It Is Now:

1. ADUs are permitted citywide in any zoning district where a residential use is allowed except in RH-1(D) parcels where ADUs would be allowed only per the State Law.
 - State Law² requires jurisdictions to approve or disapprove applications for ADUs ministerially within 120 days after receiving the application. ADUs subject to the State Law can also be detached so long as setback requirements are met. For further details of criteria for reviewing ADUs per State Law, which would apply to RH-1(D) parcels in San Francisco, see Section 65852.2(b) of the California Government Code. This Section is currently undergoing an update through SB-1069.
2. In buildings with more than 4 units, there is no limit on number of new ADUs allowed. In buildings with 4 or less units, one ADU can be added.
3. Restrictions:
 - a) Restrictions Maintained: ADUs still are not allowed to use space from an existing unit.
 - b) Restrictions Modified: ADUs can still only be built within the existing built envelope. The definition of built envelope is however modified to include infill under certain spaces, including: 1) open area under a cantilevered room or room built on columns,

¹ Administrative Code Section 37.2 defines "rental units" as including Accessory Dwelling Units constructed pursuant to Planning Code Section 207(c)(4), provided that the building containing the ADU(s) or any unit within the building is already subject to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Administrative Code Chapter 37.)

² While State Law applies to all single family buildings, in San Francisco State Law would only apply to single family buildings in RH-1(D) zones, as all other zones are subject to the local program described here.

2) decks that are supported by the building wall to which they are attached (excluding decks supported by columns and other walls, or decks that encroach into the required rear yard, and decks that are more than 10 feet above grade), and 3) lightwell infill if the infill will be against a blank neighboring wall at the property line and not visible from any off-site location. Neighborhood notification pursuant to Section 311 or 312 is required if infill under the spaces listed above is proposed for the ADU.

c) Restrictions added:

- ADUs are prohibited from eliminating or reducing a ground-story retail or commercial space in Neighborhood Commercial Districts, or in the Chinatown Community Business or Visitor Retail District.
 - ADUs cannot be merged with an original unit(s).
 - ADUs can be subdivided and sold separately only if the building a) was an existing condominium within three years prior to July 11, 2016 with no Rental Unit as defined in Section 37.2(r) of the Administrative Code; and b) has no eviction history, at-fault or no-fault, within 10 years prior to July 11, 2016.
 - ADUs cannot be used for short-term rentals.
 - ADUs cannot be built in a building with the following no-fault eviction history: 1)owner move-in³ eviction within five year prior to the permit application date for the ADU, or 2) condo conversion, demolition, temporary evictions for capital improvements, substantial rehabilitation, Ellis Act withdrawals, temporary eviction due to lead remediation⁴ within 10 years prior to the application of ADUs.
4. Waivers:
- The waivers from rear yard, open space, partial exposure (reduction of open area to 15' by 15'), and parking are still available.
5. Specific Controls for ADUs as a part of the soft-story seismic retrofitting:
- Buildings with ADUs built in coordination with the mandatory soft story retrofitting per Chapter 34B or voluntary seismic retrofitting per DBI's Administrative Bulletin 094 will maintain eligibility to enter the condo-conversion lottery and may only be subdivided if the entire property is selected on the condo-conversion lottery.
 - The 3 foot height increase provision for these buildings will remain intact.
6. Applicability of Rent Control Ordinance:
- This provision remains unchanged but will be modified under a newly defined Regulatory Agreement.
7. Monitoring:
- The requirements remain intact except for the dates. Planning will develop an annual report until April 1, 2019 to evaluate types of units developed, the affordability of those units, and the use of these units as short-term rentals. Subsequent years, this information would be included in the Housing Inventory.

³ Section 37.9(a)(8) of the Administrative Code

⁴ Administrative Code Sections 37.9(a)(9)-(14) respectively.

Link to Signed Legislation:

<https://sfgov.legistar.com/View.ashx?M=F&ID=4617538&GUID=2625970B-6704-46C2-A972-68BF0C206D9C>