



SAN FRANCISCO PLANNING DEPARTMENT

New Planning Code Summary: Accessory Dwelling Unit Program Amendments

Amended Sections: 207
Case Number: 2017-001170PCA
Board File/Enactment #: 170434/162-17
Initiated by: Supervisor Peskin
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The Ordinance amended the Planning Code to modify the requirements and procedures for authorizing the construction of Accessory Dwelling Units (ADUs) in the following ways: Include ADUs in RH-1(D) zoning Districts in the Citywide program; tie the cap on number of ADUs to the lot rather than the building and remove the cap on buildings undergoing seismic retrofitting; allow ADUs to expand into existing habitable space under certain conditions; provide an exception to the prohibition against constructing an ADU in buildings where there has been a no-fault eviction only when the tenant has been temporarily evicted in order for the owner to perform capital improvements, rehabilitation work, or lead remediation work; require ADU projects to be modified if the construction of the ADU would have adverse impacts on any known historic resource; and require the Planning Department to apply all relevant design guidelines when reviewing ADU applications to ensure architectural compatibility with existing buildings.

The Way It Was:

Eviction Protections:

1. ADUs could not be built in a building with the following no-fault eviction history:
 - i. Owner move-in¹ eviction within five years prior to the permit application date for ADU, or
 - ii. Within 10 years prior to the application of ADUs for condo conversion, demolition, temporary evictions for capital improvements, substantial rehabilitation, Ellis Act withdrawals, or temporary eviction due to lead remediation².

¹ Section 37.9(a)(8) of the Administrative Code

² Administrative Code Sections 37.9(a)(9)-(14) respectively.

Seismic Program Unit Cap:

2. Only one ADU could be added in buildings that were undergoing the voluntary seismic retrofitting program, as these buildings include four or fewer units.

Number of ADUs

3. The limit on the number of ADUs was based on the number of units in the building: For buildings with 4 or fewer units, only one ADU was allowed, and for buildings with five or more units, there was no numerical cap on the number of ADUs.

ADUs in RH-1(D) Districts

4. ADUs in single-family homes in RH-1(D) districts where no waivers from the Planning Code are needed, were excluded from Section 207(c)(6) of the Planning Code. Those ADUs were subject to the State Law.

Using Space from an Existing Unit

5. ADUs subject to Section 207 (c)(4), in multi-unit buildings and single-family homes where waivers from the Planning Code are needed, could not take space from an existing unit. If ground floor space in a building was already legally converted into habitable space, such space was considered part of the existing unit and therefore could not be used to convert to an ADU.

Neighborhood Notification

6. For ADUs subject to Section 207 (c)(4), when expansion of existing building envelope was allowed (infill under certain spaces), Neighborhood Notification (311) was required; however similar expansions that did not add an ADU did not require neighborhood notification.

Historic Preservation Review

7. The Department could require modifications for ADUs subject to Section 207(c)(6) in single-family homes where waivers from the Planning Code are not needed, only if there were adverse impacts to properties listed in the California Register of Historic Places.

The Way It Is Now:

Eviction Protections:

1. Temporary evictions where the tenant was offered to return once construction was completed no longer result in a prohibition from adding an ADU. Construction of ADUs will still be prohibited in buildings with the following no-fault eviction history:

- a. Owner move-in³ eviction within five years prior to the ADU permit application date, or
- b. Within 10 years prior to the ADU application date for condo conversion, demolition, substantial rehabilitation, Ellis Act withdrawals, and all temporary evictions⁴ except in cases of where the tenant was allowed to return.

Seismic Program Unit Cap:

2. For buildings undergoing voluntary seismic retrofitting, there is now no cap on the number of ADUs.

Number of ADUs

3. Restrictions on number of ADUs are now based on the number of units on the lot instead of in the building: For lots with 4 or fewer units, only one ADU is allowed, and for lots with five or more units, there is no numerical cap on the number of ADUs.

ADUs in RH-1(D) Districts

4. ADUs in single-family homes in RH-1(D) districts where no waivers from the Planning Code are needed are now subject to Section 207(c)(6) of the Planning Code. This is consistent with ADUs in single-family homes in all other zoning districts where no waivers from the Planning Code are needed.

Using Space from an Existing Unit

5. For ADUs subject to Section 207(c)(6), in multi-family buildings and in single-family homes where waivers from the Planning Code are needed, space from an existing unit can be used in the following circumstances:
 - a. If such habitable space is on the ground or basement floors, but no more than 25% of the existing unit's GFA.
 - b. If more than 25% of the unit is proposed for conversion to ADU, the Zoning Administrator can provide waiver in the following circumstances:
 - i. If the 25% cap will leave space that is impractical or unusable for other reasonable uses, including – but not limited to - storage or bicycle parking.
 - ii. If using the excess space beyond the 25% cap would help relieve any negative layout issues with the proposed ADU.

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

⁴ Administrative Code Sections 37.9(a)(11)-(14) respectively.

Neighborhood Notification:

6. Expanding the building envelope by infilling under certain spaces to add an ADUs is no longer subject to 311 or 312 Neighborhood Notification. This is consistent with such expansions in other types of permits where ADUs are not being added.

Historic Preservation Review

7. The Department will require modifications for ADUs in single-family homes where waivers from the Planning Code are needed if there are any adverse impacts on any known historic resource in addition to properties listed in the California Register of Historic Places.

Link to Signed Legislation:

<https://sfgov.legistar.com/View.ashx?M=F&ID=5338076&GUID=B53A4DE5-D0F7-4A19-961B-C7B2A7DBF3F9>