



INFORMATION SHEET

NO. G-23

DATE : July 27, 2017

CATEGORY : General

SUBJECT : **Addition of Dwelling Units per Ordinance Nos. 162-16, 95-17 and 162-17**

REFERENCE :

- San Francisco Existing Building Code Chapter 4D: Mandatory Earthquake Retrofit of Wood Frame Buildings
- Administrative Bulletin AB-004: Priority Permit Processing Guidelines
- Administrative Bulletin AB-005: Procedures for Approval of Local Equivalencies
- Administrative Bulletin AB-028: Pre-application and Pre-addendum Plan Review Procedures
- Administrative Bulletin AB-094: Definition and Design Criteria for Voluntary Seismic Upgrade of Soft-Story, Type V (wood-frame) Buildings
- Administrative Bulletin AB-106: Procedures for Implementation of SFEB Chapter 4D
- Administrative Bulletin AB-107: Application of Engineering Criteria in SFEB Chapter 4D
- Information Sheet No. G-11: School Impaction Fee Administration
- Information Sheet No. G-17: Legalization of Dwelling Units Installed Without a Permit
- Information Sheet No. S-07: Interpretation of SFEB Section 402D, Exception 1
- Information Sheet No. S-08: Miscellaneous Clarification of AB-107 on Engineering Criteria in SFEB Chapter 4D
- Information Sheet No. FS-05: Sprinkler Systems Requirements for Addition or Legalization of Dwelling Unit
- San Francisco Planning Code
- San Francisco Fire Code
- San Francisco Administrative Code
- California Historical Building Code
- California Energy Code
- California Civil Code Section 1954.52
- Ordinance No. 162-16: Construction of Accessory Dwelling Units
- Ordinance No. 95-17: Planning Code - Construction of Accessory Dwelling Units

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Ordinance No. 162-17: Planning Code - Construction of Accessory Dwelling Units

DISCUSSION :

(A) Summary of Ordinance No. 162-16, No. 95-17 and No. 162-17

1. ADUs are permitted in any zoning district where a residential use is permitted.
2. Ordinance No. 162-16 allows construction of Accessory Dwelling Units in multi-unit buildings and single-family homes that require administrative waivers from the Planning Code; and establishes the controls regulating such units (See Section (E); Planning Requirements).
3. Ordinance No. 95-17 establishes controls and procedures for the construction of Accessory Dwelling Units in single-family homes that do not require administrative waivers from the Planning Code. (See Section (E); Planning Requirements).
4. Ordinance No. 162-17 further amends controls in the Planning Code for construction of ADUs.
5. Ordinance No. 162-16 authorizes the Zoning Administrator to waive certain aspects of the Planning Code, if necessary, to allow these accessory dwelling units to be built.
6. Ordinance No. 162-16 and No. 162-17 state that for projects that require administrative waivers to add an ADU, buildings that have pursued no-fault evictions with the Rent Board must wait either 5 or 10 years before applying to construct an ADU (5 years for an owner move-in eviction; 10 years for certain other no-fault evictions). With exception are some temporary evictions for capital improvements.
7. Ordinance No. 162-16 states that if building owners participating in the City's Mandatory Seismic Retrofitting under Chapter 4D of San Francisco Existing Building Code or voluntary seismic retrofitting programs per Administrative Bulletin AB-094 are seeking to add accessory dwelling units, the ADUs will be subject to different conditions regarding eligibility for subdivision or condo conversion, as well as permitting processes.
8. The Mandatory Seismic Retrofitting under SFEBCh 4D applies to wood-frame buildings of three or more stories or two stories over a basement or underfloor area that have any portion extending above grade, containing five or more residential dwelling units where the permit to construct was applied for prior to January 1, 1978; and, where the building has not yet been seismically strengthened.

Building permits and Certificates of Final Completion and Occupancy under this program shall clearly state, "Soft Story Retrofit per SFEBCh 4D" and the Permit Application Form shall specify engineering criteria on the description of work. The unit count shall remain the same.

Building permits for Soft Story Retrofit shall not include other work. Other work shall be under a separate permit with a separate set of plans. Both permits may not refer to the same set of plans.

For mixed-used occupancies, soft story retrofit work shall be divided into two (2) building permits: one for the residential portion and one for the non-residential portion. The valuation for these permits shall be pro-rated by the square footage of the floor areas. Both permits may refer to the same set of plans.

Building permits for Soft Story Retrofit shall not include reference to the addition of a dwelling unit.

9. The voluntary seismic upgrade of soft-story buildings per Administrative Bulletin AB-094 is applicable to any Type V (wood-frame) buildings, including single family homes, apartment buildings, and condominium buildings.

Applicants under this program shall complete Attachment I of AB-004: Documentation of Priority Permit Processing. An approved copy of this attachment shall be attached to the building permit application form. Building permits under this program shall clearly state, "Soft Story Retrofit per AB-094" under the description of work on the Building Permit Application Form and Certificate of Final Completion and Occupancy. The unit count shall remain the same.

Building permits for Soft Story Retrofit shall not include other work. Other work shall be under a separate permit with a separate set of plans. Both permits may not refer to the same set of plans.

Building permits for Soft Story Retrofit shall not include reference to the addition of a dwelling unit.

10. In multi-unit buildings and single-family homes that require Planning Code administrative waivers to add the ADU(s), the added dwelling unit shall not extend beyond the built envelope, except as follows:

Buildings may be raised up to three feet to create ground-floor ceiling heights suitable for residential use. Such raising of the buildings shall comply with vertical addition requirements of SFEB Section 402 and full seismic retrofit requirements of entire building per SFEB Section 301.2. Such raising of the building shall also comply with any applicable Planning Code requirements such as: height limits, shadow requirements, and historic preservation review. Please see the Planning Department Requirements for more information (Section E).

11. In existing single-family homes that do not require Planning Code administrative waivers to add the ADU, expansion is permitted within the buildable area of the lot. Such expansion shall comply with Planning Code requirements including neighborhood notification and design review. If a single-family home does not require administrative waivers to add the ADU or propose any expansion, and complies fully with Planning Code Section 207(c)(6)(C), the Department shall approve the permit within 120 days from receipt of the application.

The building cannot be undergoing Mandatory Seismic Retrofitting under Chapter 4D of the San Francisco Building Code or voluntary seismic retrofitting programs per Administrative Bulletin AB-094.

Please see the Planning Department Requirements for more information (Section E).

(B) Determination of Equivalencies

Through a pre-application meeting (see AB-028 or AB-005) or through development of information sheets, DBI and Fire shall determine whether Building and Fire Code equivalencies are applicable to the various code issues related to the addition of dwelling units.

Code equivalencies on sprinkler requirements, to help facilitate addition of dwelling units, are addressed in Information Sheet No. FS-05.

(C) Building Code Requirements

The addition of dwelling units needs to meet San Francisco Building Code and Fire Code requirements.

(D) Energy Code Requirements

The addition of dwelling units needs to meet Title 24 California Energy Code.

Please note that legalization of dwelling units per Ordinance No. 43-14 does not need to meet Title 24 California Energy Code. (See Information Sheet No. G-17 Attachment B, Item 38)

(E) Planning Requirements

In multi-unit buildings and single-family homes that need administrative waivers to add ADU(s), an ADU shall be constructed entirely within the existing building envelope or auxiliary structure, as it existed three (3) years prior to the time of the application for a building permit. In these cases, an ADU can be created from 25% of the gross square footage of ground or basement level of existing Dwelling Unit(s).

In single-family homes that do not require administrative waivers for open space, rear yard, or reduced exposure to add the ADU, one ADU can be constructed from the existing Dwelling Unit within the buildable area of the lot. In addition, on lots with single-family homes that do not require administrative waivers to add the ADU, the ADU can be created from within the built envelope of an existing and authorized auxiliary structure on the lot. These ADUs must have independent access from the existing residence or accessory structure and sufficient side and rear setbacks for fire safety. No parking is required for the ADU.

On lots that have four existing Dwelling Units or fewer, one Accessory Dwelling Unit is permitted; on lots that have more than four existing Dwelling Units, there is no limit on the number of Accessory Dwelling Units permitted. In addition, on lots with buildings undergoing Mandatory Seismic Retrofitting under Chapter 34B of San Francisco Building Code (Chapter 4D of San Francisco Existing Building Code, effective January 1, 2017) or voluntary seismic retrofitting programs per Administrative Bulletin AB-094, there is no limit on the number of ADUs that can be added on the lot.

Accessory Dwelling Units shall not be permitted in any building in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would eliminate or reduce a ground-story commercial space.

Neighborhood notification pursuant to Planning Code Sections 311 and 312 is not required for Accessory Dwelling Units that comply with the requirements below:

Buildings undergoing seismic upgrades may be raised up to three feet to create heights suitable for residential use on lower floors and be exempt from neighborhood notification or a variance to expand a nonconforming building; however the building must comply with height limits.

Expansions are permitted in limited circumstances for multi-unit buildings and single-family homes that require administrative waivers to add ADU(s). The first is under cantilevered or column supported rooms. The second is under decks that do not encroach into the required rear yard, except for decks that are supported by columns or walls other than the building wall to which it is attached and are multi-level or more than 10 feet above grade. The third expansion is as an infill into light wells provided that the expansion is not visible from anywhere off-site, and is against a blank neighboring wall. These spaces must have existed as of July 11, 2016. Please note that these expansions cannot occur into the required rear yard. Neighborhood notification is not required for these expansions.

Neighborhood notification pursuant to Planning Code Sections 311 and 312 is required for Accessory Dwelling Units that comply with the requirements below:

Expansions are permitted within the buildable area of the lot for single-family homes that do not require administrative waivers for open space, rear yard or reduced exposure to add the ADU. These expansions would require neighborhood notification and be subject to design review.

The Zoning Administrator may waive rear yard, parking, open space, and density requirements and may reduce the amount of dwelling unit exposure required. Typically a new dwelling unit must face a street or conforming rear yard; however, the Zoning Administrator may reduce this requirement so that qualifying windows may face an open area that is no less than 15'X15' and is open to the sky. A qualifying window is defined in the Housing Code and must be located within a living area (e.g. living room, dining room, bedroom, or kitchen) that is at least 120 square feet in area.

All other Planning Code requirements must be met including: landscaping and permeability requirements in the front setback, and bicycle parking. In addition, each unit must meet the reduced exposure requirement stated above. If the addition of accessory units requires exterior changes on a visible façade, design review and historic preservation review may be required.

If the subject lot contains any Rental Units under the Rent Ordinance at the time the building permit application is filed, and Planning Code administrative waivers are granted, the new unit will also be subject to the Rent Ordinance. This will be accomplished through a regulatory agreement that the owner will be required to sign as a condition of approval, known as a Costa Hawkins Agreement. See Section (F).

ADU permits will not be approved over-the-counter if they are taking advantage of the Program specified in Ord. No. 95-17 or No. 162-16.

A Preliminary Project Assessment (PPA) will be required only if 25 or more Accessory Dwelling Units are proposed on one lot.

An Accessory Dwelling Unit shall not be used for Short-Term Residential Rentals.

The ADU cannot pursue subdivision or condo conversion with DPW with the exception of a building that was a condominium building for three years prior to July 11, 2016 and had no Rental Unit. However, an

Accessory Dwelling Unit added in coordination with a building undergoing mandatory seismic retrofit per SFEBC Ch 4D or voluntary seismic retrofit per AB-094, shall maintain eligibility for subdivision or condo conversion, should a program become available.

Please consult with Planning Department staff to ensure that the property is eligible to add an accessory dwelling unit and other Planning Code requirements.

(F) Rent Control Requirements

In addition to the Planning requirements listed in Section (E), if the existing building contains any Rental Units under the San Francisco Residential Rent Stabilization and Arbitration Ordinance (the "Rent Ordinance," Chapter 37 of the Administrative Code), and the Zoning Administrator grants a complete or partial waiver of the requirements of the Planning Code, the property owner shall enter into an Regulatory Agreement with the City under section (c)(4)(H) that meets the requirements of California Civil Code Section 1954.52(b) (the Costa Hawkins Rental Housing Act) for an exception to the rent control exemptions in Section 1954.52(a) and subjects the ADU(s) to the Rent Ordinance as a condition of approval.

Furthermore, please be aware that if the property owner is proposing to convert an existing garage, laundry room or storage space that is part of a tenancy subject to Rent Ordinance to an Accessory Dwelling Unit, the property owner must have one of the "just cause" reasons specified in Rent Ordinance Section 37.9(a) to sever such a housing service from the tenancy and must follow the legal procedures to recover possession of the garage, laundry room or storage space from the tenant(s). It is recommended that you consult with an attorney to see if a specified housing service can be severed from an existing tenancy. You may also contact the San Francisco Rent Board for basic information regarding this requirement.

This agreement must be fully executed prior to the City's issuance of the first construction document.

(G) School Impaction Fee Administration

Letter from SFUSD to DBI dated 12/15/89 informing that the California State Legislature had amended School Facilities Fees legislation and exempts any residential addition of less than 500 square feet. (See Information Sheet No. G-11)

(H) Report to Assessor – Recorder's Office

Added dwelling units shall be reported to the Assessor when completed for applicable property tax assessment.

Under State law, the Assessor is responsible for establishing a taxable value of property located in the City & County of San Francisco. Please contact the Assessor's Office with additional questions, call 311 or visit assessor@sfgov.org.

(I) Permit Process for Filing a Building Permit Application for the addition of a Dwelling Unit per Ordinance No. 162-16:

1. Applicant needs to complete the Screening Form (see Attachment B) and file it at the Soft Story Counter (Window 8 on Ground Floor of 1660 Mission Street).

2. A building permit (Form 3/8: "Application for Building Permit Additions, Alterations or Repairs") is required. The Screening Form needs to be stapled to the application form.
3. The scope of work should be clearly defined and carried through the permit application, job card, and CFC (Certificate of Final Completion and Occupancy).
4. The permit application should clearly indicate the present use and the proposed use in Items Nos. 7 and 7A on the building permit application form.
5. The permit application should clearly indicate the number of existing dwelling units and the number of proposed dwelling units in Item Nos. 9 and 9A on the building permit application form.
6. The address for the new dwelling unit is not required for the building permit application.

If addition of a new address is required, submit a request for appointment via email with all the relevant information to: Wai-Fong.Cheung@sfgov.org once the permit to add the dwelling unit has been issued.

7. The accessory dwelling unit should be counted as a new dwelling unit in the dwelling unit count.
8. The added dwelling unit can be an efficiency dwelling unit or any other type of dwelling unit per Building Code.
9. The following stamp shall be stamped on "description of work" on the building permit application form:

**Add Unit per Ordinance Nos.
162-16, 95-17 & 162-17**

CPB staff shall input in the "description of work" in the PTS as follows:

"Addition of dwelling units per Ordinance Nos. 162-16, 95-17 & 162-17"

10. Separate permits are required for Soft Story Retrofit and adding dwelling units. One permit for the soft story work and one permit to add a unit dwelling unit are required with separate sets of plans. Both permits may not refer to the same set of plans.

The permit for adding dwelling units shall make reference to the permit application number for Soft Story Retrofit.

The permit for adding dwelling units shall not be issued prior to issuance of permit for Soft Story Retrofit. The CFC for permit to add dwelling units shall not be issued prior to issuance of CFC for permit for Soft Story Retrofit.

These provisions are applicable for Item #4 in Section (A).

11. The applicant needs to submit a minimum of two (2) sets of plans on sized 11" x 17" or greater. A plot plan, key plan and architectural floor plans need to be included.

- 12. The applicant needs to submit Title 24 Energy Calculations and Compliance Forms.
- 13. If the subject building has active NOVs, the applicant needs to bring the permit application form to HIS on 6th floor for the approval to proceed.
- 14. The building occupancy class will be reclassified from R3 to R2, when one or more dwelling unit(s) is added to an existing single or two family building, resulting in a dwelling unit count of three (3) or more.

(J) RECORDS:


The number of dwelling units and the occupancy classification after the proposed alteration, including all addresses for the building, shall be shown on the Certificate of Final Completion and Occupancy and 3R Report.

OTHER CONDITIONS:

Other conditions will be evaluated on a case-by-case basis by the Supervisor or Manager. A Pre-application meeting and/or approval per AB-005 is required.



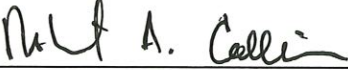
 Tom C. Hui, S.E., C.B.O., Director
 Department of Building Inspection on 10/26/17
 Date



 John Rahaim, Director
 Planning Department 9.12.17
 Date



 Daniel deCossio
 Fire Marshal 10/17/17
 Date



 Robert Collins, Executive Director
 Rent Board 10/23/17
 Date

Attachments:

- A. [Ordinance No. 162-16](#) (File No. 160657): Construction of Accessory Dwelling Units
- B. Screening Form (Rev. 6/4/2018)
- C. [Ordinance No. 95-17](#): Planning Code - Construction of Accessory Dwelling Units]
- D. [Ordinance No. 162-17](#): Planning Code - Construction of Accessory Dwelling Units]

This Information Sheet is subject to modification at any time. For the most current version, visit our website at <http://www.sfdbi.org>

SECTION 2 – DETERMINATION OF ELIGIBILITY TO ADD DWELLING UNITS

	<u>Yes</u>	<u>No</u>
1. Has mandatory seismic retrofitting been filed under SFEBC Chapter 4D, Mandatory Earthquake Retrofit of Wood Frame Buildings?	<input type="checkbox"/>	<input type="checkbox"/>

If yes, Permit Application Number: _____

	<u>Yes</u>	<u>No</u>
2. Has voluntary seismic strengthening been filed under Administrative Bulletin AB-094, Definition and Design Criteria for Voluntary Seismic Upgrade of Soft Story, Type-V (wood frame) Buildings?	<input type="checkbox"/>	<input type="checkbox"/>

If yes, Permit Application Number: _____

	<u>Yes</u>	<u>No</u>
3. Does existing residential building comply with Ordinance No. 162-16, No. 95-17 or 162-17 for addition of dwelling units? (Subject to Planning review)	<input type="checkbox"/>	<input type="checkbox"/>

Owner / Agent:

Owner

Agent

Signature

Date

FOR DBI USE ONLY

DBI has received the materials submitted and filed under "Addition of dwelling units per Ordinance No. 162-16, No. 95-17 or No. 162-17".

Further discussions on code issues and equivalencies on compliance will be via pre-application meetings or Administrative Bulletin AB-005.

Date received by DBI