

1 [Planning, Building Codes - Unauthorized and Rent-Controlled Dwelling Units]

2
3 **Ordinance amending the Planning Code to require applicants to disclose the presence**
4 **of any Unauthorized Dwelling Unit, and require the Planning Department to investigate**
5 **any Unauthorized Dwelling Unit, upon submittal of a Development Application; require**
6 **the Planning Department to document when a property is subject to a regulatory**
7 **agreement subjecting any units on the property to the San Francisco Residential Rent**
8 **Stabilization and Arbitration Ordinance; and require the Planning Department to**
9 **inspect properties prior to recommending approval of any loss of a Residential Unit or**
10 **Unauthorized Dwelling Unit; amending the Building Code to expand the Department of**
11 **Building Inspection’s Expanded Compliance Control Program to address fraud,**
12 **bribery, and failure to accurately represent the presence and number of Unauthorized**
13 **Dwelling Units at properties subject to a permit application; affirming the Planning**
14 **Department’s determination under the California Environmental Quality Act, making**
15 **findings of consistency with the General Plan, and the eight priority policies of**
16 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**
17 **and welfare pursuant to Planning Code, Section 302.**

18 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
19 **Additions to Codes** are in *single-underline italics Times New Roman font*.
20 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
21 **Board amendment additions** are in double-underlined Arial font.
22 **Board amendment deletions** are in ~~strikethrough Arial font~~.
23 **Asterisks (* * * *)** indicate the omission of unchanged Code
24 subsections or parts of tables.

25 Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental and Land Use Findings.

1 (a) The Planning Department has determined that the actions contemplated in this
2 ordinance comply with the California Environmental Quality Act (California Public Resources
3 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
4 Supervisors in File No. 240803 and is incorporated herein by reference. The Board affirms
5 this determination.

6 (b) On October 17, 2024, the Planning Commission, in Resolution No. 21627, adopted
7 findings that the actions contemplated in this ordinance are consistent, on balance, with the
8 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
9 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
10 Board of Supervisors in File No. 240803, and is incorporated herein by reference.

11 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
12 amendments will serve the public necessity, convenience, and welfare for the reasons set
13 forth in Planning Commission Resolution No. 21627, and the Board adopts such reasons as
14 its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
15 No. 240803 and is incorporated herein by reference.

16 (d) On July 16, 2025, the Building Inspection Commission considered this ordinance at
17 a duly noticed public hearing pursuant to Charter Section 4.121 and Building Code
18 Section 104A.2.11.1.1.

19 (e) No local findings are required under California Health and Safety Code Section
20 17958.7 because the amendments to the Building Code contained in this ordinance do not
21 regulate materials or manner of construction or repair, and instead relate in their entirety to
22 administrative procedures for implementing the code, which are expressly excluded from the
23 definition of a "building standard" by California Health and Safety Code Section 18909(c).

1 Section 2. Articles 1.7, 2, and 3 of the Planning Code are hereby amended by revising
2 Sections 175, 176, 206.3, 206.5, 206.6, 207, 207.1, 249.94, 306.1, and 317, to read as
3 follows:

4 **SEC. 175. APPROVAL OF PERMITS OR DEVELOPMENT APPLICATIONS.**

5 (a) No application for a building permit, Development Application, or other permit or
6 license, or for a permit of Occupancy, shall be approved by the Planning Department, and no
7 permit or license shall be issued by any City department, which would authorize a new use, a
8 change of use or maintenance of an existing use of any land or structure contrary to the
9 provisions of this Code.

10 * * * *

11 (f) Whenever this Code requires a property owner to enter into a regulatory agreement with
12 the City subjecting any dwelling units to the San Francisco Residential Rent Stabilization and
13 Arbitration Ordinance (Chapter 37 of the Administrative Code), the Planning Department shall note
14 the existence of the recorded regulatory agreement on a publicly-accessible website.

15
16 **SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.**

17 * * * *

18 (c) **Penalties.**

19 (1) **Administrative Penalties.**

20 (A) **General Violations.** The Zoning Administrator, by issuance of the NOV,
21 may assess upon the Responsible Party an administrative penalty for each violation in an
22 amount up to \$1,000 for each day the violation continues unabated. For purposes of this
23 subsection (c)(1)(A), each real property address, and each commercial or dwelling unit within
24 a multi-unit real property address, affected by a violation is a distinct violation for calculation of
25 applicable administrative penalties. Notwithstanding the foregoing, a violation of this Code that

1 affects a common area, feature, or shared detached feature of a multi-unit structure may be
2 treated as a distinct violation of this Code, at the reasonable discretion of the Zoning
3 Administrator. Misrepresentations made on any Applications or plans submitted to the Planning
4 Department shall also constitute a violation of this Code for the purposes of this Section 176. The
5 NOV may be appealed in the manner provided in subsection (c)(1)(~~DE~~).

6 * * * *

7 (C) Penalties for Specified Violations.

8 * * * *

9 (iii) Misrepresentations of Material Tenant Information on
10 Development Application. For misrepresentation of material information within any Development
11 Application or Building Permit involving a failure to disclose the presence of tenants or a
12 misrepresentation of tenant history at a site, the Responsible Party shall be liable for a penalty of up to
13 \$150,000 upon issuance of an NOV. In determining the appropriate penalty amount, if any, the Zoning
14 Administrator or the Zoning Administrator's designee shall consider:

15 a. whether the misrepresentation was intentional, grossly
16 negligent, or negligent;

17 b. the financial gain to the Responsible Party;

18 c. the degree to which the project would have been affected
19 (including, for example, the number of project units affected);

20 d. the number and frequency of misrepresentations by the
21 Responsible Party;

22 e. efforts made by the Responsible Party to correct the
23 misrepresentation;

24 f. such other factors as the Zoning Administrator determines to
25 be relevant, based on the particular facts and circumstances of the misrepresentation; and

1 g. such other factors as the Planning Commission determines to
2 be relevant following a public hearing.

3 Within 12 months of the effective date of the ordinance in Board File No. 240803 amending this
4 Section 176, the Planning Commission shall adopt any additional relevant factors and criteria for
5 consideration, to be updated as necessary or appropriate from time to time, to provide guidance to the
6 Zoning Administrator when determining the appropriate penalty amount for violations subject to this
7 subsection (c)(1)(C)(iii).

8 * * * *

9
10 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**
11 **PROGRAM.**

12 * * * *

13 **(e) Implementation.**

14 * * * *

15 **(5) Regulatory Agreements.** Recipients of development bonuses under this
16 Section 206.3 shall enter into a Regulatory Agreement with the City, as follows.

17 (A) The terms of the agreement shall be acceptable in form and content
18 to the Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director
19 shall have the authority to execute such agreements.

20 (B) Following execution of the agreement by all parties, the completed
21 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed
22 and recorded on the Housing Project. The Planning Department shall note the existence of any
23 recorded Regulatory Agreement applicable to the Housing Project on a publicly-accessible website.

24 * * * *

1 **SEC. 206.5. STATE RESIDENTIAL DENSITY BONUS PROGRAM: ANALYZED.**

2 * * * *

3 (f) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession,
4 waiver, or modification shall enter into a Regulatory Agreement with the City, as follows.

5 (1) The terms of the agreement shall be acceptable in form and content to the
6 Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director shall
7 have the authority to execute such agreements.

8 (2) Following execution of the agreement by all parties, the completed Density
9 Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions
10 filed and recorded on the Housing Project. The Planning Department shall note the existence of
11 any recorded Regulatory Agreement applicable to the Housing Project on a publicly-accessible
12 website.

13
14 **SEC. 206.6. STATE DENSITY BONUS PROGRAM: INDIVIDUALLY REQUESTED.**

15 * * * *

16 (f) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession,
17 waiver, or modification shall enter into a Regulatory Agreement with the City, as follows.

18 (1) The terms of the agreement shall be acceptable in form and content to the
19 Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director shall
20 have the authority to execute such agreements.

21 (2) Following execution of the agreement by all parties, the completed Density
22 Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions
23 filed and recorded on the Housing Project. The Planning Department shall note the existence of
24 any recorded Regulatory Agreement applicable to the Housing Project on a publicly-accessible
25 website.

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2
3 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

4 * * * *

5 (c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations
6 under this Section 207 shall be made in the following circumstances:

7 * * * *

8 (8) **Residential Density Exception in RH Districts.**

9 * * * *

10 (E) **Applicability of Rent Ordinance; Regulatory Agreements.** Project
11 sponsors of projects utilizing the density exception of this subsection (c)(8) shall enter into a
12 regulatory agreement with the City, subjecting the new units or Group Housing rooms created
13 pursuant to the exception to the San Francisco Residential Rent Stabilization and Arbitration
14 Ordinance (Chapter 37 of the Administrative Code), as a condition of approval of the density
15 exception ("Regulatory Agreement"). At a minimum, the Regulatory Agreement shall contain
16 the following: (i) a statement that the new units created pursuant to the density exception are
17 not subject to the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50
18 et seq.) because, under Section 1954.52(b), the property owner has entered into and agreed
19 to the terms of this agreement with the City in consideration of an exception from residential
20 density limits of up to four dwelling units per lot, or up to six units per lot in Corner Lots, or
21 other direct financial contribution or other form of assistance specified in California
22 Government Code Sections 65915 et seq.; (ii) a description of the exception of residential
23 density or other direct financial contribution or form of assistance provided to the property
24 owner; and (iii) a description of the remedies for breach of the agreement and other provisions
25 to ensure implementation and compliance with the agreement. The property owner and the

1 Planning Director (or the Director’s designee), on behalf of the City, will execute the
2 Regulatory Agreement, which shall be reviewed and approved by the City Attorney’s Office.
3 The Regulatory Agreement shall be executed prior to the City’s issuance of the First
4 Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco
5 Building Code. Following execution of the Regulatory Agreement by all parties and approval
6 by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded
7 to the title records in the Office of the Assessor-Recorder against the property and shall be
8 binding on all future owners and successors in interest. The Planning Department shall note the
9 existence of any recorded Regulatory Agreement applicable to the new units on a publicly-accessible
10 website.

11 * * * *

12
13 **SEC. 207.1. LOCAL ACCESSORY DWELLING UNIT PROGRAM.**

14 * * * *

15 (h) **Regulatory Agreements.** A Regulatory Agreement required by subsection
16 207.1(g) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

17 * * * *

18 (5) Following execution of the Regulatory Agreement by all parties and
19 approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be
20 recorded against the property and shall be binding on all future owners and successors in
21 interest. The Planning Department shall note the existence of any recorded Regulatory Agreement
22 applicable to the ADU on a publicly-accessible website.

23 * * * *

1 **SEC. 249.94. FAMILY AND SENIOR HOUSING OPPORTUNITY SPECIAL USE**
2 **DISTRICT.**

3 * * * *

4 **(e) Applicability of Rent Ordinance; Regulatory Agreements.**

5 (1) Sponsors of projects utilizing any of the density exceptions above the base
6 density up to the limits in subsection (d)(1) of this Section 249.94 shall enter into a regulatory
7 agreement with the City subjecting the new units created pursuant to such density exception,
8 except for any required Affordable Units as defined in Planning Code Section 401, to the
9 Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative
10 Code), as a condition of approval of the density exception (“Regulatory Agreement”).

11 (2) The property owner and the Planning Director, or the Director’s designee,
12 on behalf of the City, will execute the Regulatory Agreement, which is subject to review and
13 approval by the City Attorney’s Office. The Regulatory Agreement shall be executed prior to
14 the City’s issuance of the First Construction Document for the project, as defined in Section
15 107A.13.1 of the Building Code. Following execution of the Regulatory Agreement by all
16 parties and approval by the City Attorney, the Regulatory Agreement or a memorandum
17 thereof shall be recorded in the title records in the Office of the Assessor-Recorder against the
18 property and shall be binding on all future owners and successors in interest. The Planning
19 Department shall note the existence of any recorded Regulatory Agreement applicable to the new units
20 on a publicly-accessible website.

21 * * * *

22
23 **SEC. 306.1. APPLICATIONS AND FILING FEES.**

24 * * * *

1 (c) **Content of Applications.** The content of applications shall be in accordance with
2 the policies, rules and regulations of the Planning Department, Zoning Administrator, ~~and the~~
3 Planning Commission. All applications shall be upon forms prescribed therefor, and shall
4 contain or be accompanied by all information required to assure the presentation of pertinent
5 facts for proper consideration of the case and for the permanent record. The applicant may be
6 required to file with ~~his~~their application the information needed for the preparation and mailing
7 of notices as specified in Section 306.3, and the information required by subsection 317(j). In
8 addition to any other information required by the Planning Department, ~~the~~ Zoning
9 Administrator, ~~and the~~ Planning Commission, an applicant for a conditional use
10 ~~permit~~authorization or variance who proposes a commercial use for the subject property shall
11 disclose the name under which business will be, or is expected to be, conducted at the
12 subject property, if such name is known at the time of application. The term "known" shall
13 mean actual, not imputed knowledge, and shall consist of direct evidence including but not
14 limited to a contract of sale, lease, or rental, or letter of intent or agreement, between the
15 applicant and a commercial entity. If the business name becomes known to the applicant
16 during the conditional use permit or variance processing period, the applicant promptly shall
17 amend the application to disclose such business name.

18 (d) **Verification.** Each application filed by or on behalf of one or more property owners
19 shall be verified by at least one such owner or ~~his~~ their authorized agent attesting to the truth
20 and correctness of all facts, statements and information presented. All applications shall
21 include the following statement: "The information contained in this application is true and
22 complete to the best of my knowledge, based upon diligent inquiry. This application is signed
23 under penalty of perjury. I understand that willful or material misstatement(s) or omissions in
24 the application may result in the ~~rejection~~cancellation of the application and a lapse of time
25 before the application may be resubmitted." The Zoning Administrator may ~~reject a conditional~~

1 ~~use or variance~~cancel any Development Application as inaccurate and may require the applicant
2 to re-file the application where the Zoning Administrator determines that the application
3 includes material misstatements or omissions; provided, however, where the material
4 misstatements or omissions relate to the presence or number of Unauthorized Dwelling Units or
5 tenants on the property, the Zoning Administrator shall cancel any development application as
6 inaccurate and shall require the applicant to re-file the application. Such ~~rejection~~cancellation shall
7 not be considered to be a denial of the application on its merits. Where the Zoning
8 Administrator determines that such material misstatements or omissions were made willfully,
9 the Zoning Administrator may require that the applicant wait up to six months before re-filing
10 an application for substantially the same project. The Zoning Administrator's action in this
11 regard may be appealed to the Board of Appeals pursuant to Section 308.2 of this Code.

12 * * * *

13
14 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**
15 **DEMOLITION, MERGER, AND CONVERSION.**

16 * * * *

17 **(j) Disclosure of Unauthorized Units.**

18 **(1) Disclosure Required.** All Development Applications shall disclose the presence of
19 any Unauthorized Unit at the subject property. In addition to the verification required by Planning
20 Code subsection 306.1(d), any Development Application that does not identify an Unauthorized Unit at
21 the subject property shall include a declaration, signed under penalty of perjury by the owner(s) or
22 owner's authorized agent, that no Unauthorized Units exist at the property.

23 **(2) Application Contents.** All Development Applications shall require the applicant to
24 report certain information that may suggest the presence of Unauthorized Units at the property. The
25

1 Planning Department shall develop, and publish on the Department's website, a list of such
2 information, which shall include, at minimum:

3 (A) The number of dwelling units at the property, and, to the best of the
4 applicant's knowledge, whether any units or bedrooms have been rented in the prior 10 years.

5 (B) For each unit that has been rented, the number of bedrooms in such unit.

6 (C) The number of mailboxes at the property.

7 (D) The number of utility meters at the property.

8 (3) **Planning Department Investigation.** If the application states that the property does
9 not contain any Unauthorized Unit, but the information contained in the application leads Department
10 staff to reasonably believe that an Unauthorized Unit may exist on the property, Department staff shall
11 investigate whether the property contains any Unauthorized Unit. Such investigation may include
12 research into property and Residential Rent Stabilization and Arbitration Board rental records,
13 inspection of the property, or review of evidence of prior tenancy submitted by current and former
14 owners, tenants, and neighbors. Department staff shall review and consider inspection reports and
15 notices of violation prepared by the Department of Building Inspection and any relevant information
16 contained in the Department's files for the property. If, after conducting an investigation, the
17 Department determines that the Development Application failed to disclose any Unauthorized Unit, the
18 Department shall cancel the Development Application as inaccurate pursuant to Section 306.1(d).

19 (k) **Department Inspection.** Prior to recommending approval of Residential Demolition,
20 Conversion, or Merger, the Department shall inspect the property. The Department's inspection shall
21 attempt to establish whether the property contains rental units and whether any rental units are
22 occupied. The Department shall also request information from the Residential Rent Stabilization and
23 Arbitration Board that indicates whether any rental units on the property are subject to the Residential
24 Rent Stabilization and Arbitration ordinance.

1 Section 3. Chapter 1A of the Building Code, Section 103A, is hereby amended by
2 revising Section 103A.6 (specifically Sections 103A.6.1, 103A.6.3.1, and 103A.6.4.2; Section
3 103A.6.2 reprinted for informational purposes only), to read as follows:

4
5 **103A.6 Expanded Compliance Control and permit review.**

6 **103A.6.1 Significant violation tracking reports.** When any of the following occur:

7 (a) a building inspector issues a Notice of Violation in which there is an instance of any
8 of the following:

- 9 (1) Misrepresentation of existing conditions or project scope that results in
10 circumvention of notification or review requirements;
- 11 (2) Structural work or demolition of structural features without or beyond the
12 scope of a building permit;
- 13 (3) Work under permit performed by a party without required license; or
- 14 (4) Other substantial non-compliance;

15 (b) any individual, agent, or entity with business before the Department is convicted of any
16 offense involving fraud, willful misrepresentation, or the making of any willfully inaccurate or false
17 statement associated with a permit application or project considered by the City, or any offense
18 involving bribery or other unlawful influence of a City official or employee; or

19 (c) the Planning Department notifies the Department that the Planning Department has
20 identified a significant misrepresentation of existing conditions or project scope that has resulted in a
21 failure to disclose or represent any Unauthorized Unit in any permit application submitted to the
22 Department;

23 Inspection Services Division shall log the violation described in subsections (a), (b), or (c)
24 above, and identify all individuals, agents, and ~~other~~ entities associated with the permit and/or
25 project in the Permit Tracking System (or other system of record) or known to be associated with

1 the permit and/or project at the time the Notice of Violation is issued, or the violation described
2 in subsections (b) or (c) is discovered, in the Compliance Control Tracking File maintained by the
3 Inspection Services Division. The Compliance Control Tracking File is for internal purposes
4 only; an individual, agent, or entity's presence in the file does not indicate responsibility for
5 any violation or misconduct. For purposes of Section 103A.6, "Unauthorized Unit" shall have the
6 same meaning as in Planning Code Section 317(b).

7 **103A.6.2 Candidates for Expanded Compliance Control.**

8 (1) The Inspection Services Division shall review the Compliance Control Tracking
9 File on a monthly basis to determine if any project, individual, agent, or entity has been
10 associated with three or more reported violations described in 103A.6.1 within the last 18
11 months. Any such project, individual, agent, or entity shall be a candidate for Expanded
12 Compliance Control.

13 (2) Even if the three-or-more-violations standard is not met during the 18-month
14 period, the Department, in consultation with the City Attorney, may designate a project,
15 individual, agent, or entity as a candidate for Expanded Compliance Control for any violation
16 or violations that the Department determines, individually or together, to be egregious and
17 create significant risk to health, safety, or property.

18 **103A.6.3 Expanded Compliance Control List.**

19 **103A.6.3.1 Factors.** In determining whether to include any candidate on the Expanded
20 Compliance Control List, the following factors shall be considered: the candidate's role and
21 conduct that contributed to the violations; any impacts on individual or public health, and
22 safety; whether the misrepresentation of existing conditions or the misrepresentation of
23 project scope was reckless or intentional to avoid permit review or notification requirements,
24 including any omission or misrepresentation regarding the presence of any Unauthorized Unit; the
25 extent of the demolition or work that occurred without or beyond the scope of a building permit

1 or without the necessary license or certification; any impacts on historically significant
2 structures; prospective undervaluation of the construction cost that resulted in lower permit
3 fees from the violations; and the number, frequency, and severity of violations.

4 * * * *

5 **103A.6.4.2 Measures.** Upon placing a project, individual, agent, or entity on the
6 Expanded Compliance Control List, the Department shall take the following actions:

7 (1) Refer the listee to any applicable licensing board or regulatory agency with
8 the Director’s final determination and written findings;

9 (2) Require all existing permit applications and addenda and any new
10 applications or addenda submitted by or containing reference to the listee undergo Expanded
11 Compliance Control by senior Plan Review Services staff and multi-station (all permit stations
12 applicable to a given permit) review at intake and after the Planning Department approves the
13 Site Permit (if applicable); and notify all parties listed on the applications or addenda for these
14 permits of the Expanded Compliance Control requirement;

15 (3) Require site inspections by the Department of Building Inspection and
16 Planning Department prior to issuing any permit submitted by or containing reference to the
17 listee;

18 (4) Require that a licensed contractor be named on the permit prior to
19 issuance, unless the applicant is filing for the permit as an Owner-Builder, in conformance
20 with California Health and Safety Code Section 19825;

21 (5) Dedicate a Senior Inspector to perform inspections and respond to any
22 complaints or requests regarding the listee; ~~and~~

23 (6) If warranted, consult with the City Attorney about any additional
24 enforcement actions; and

1 (7) If warranted, after consultation with the City Attorney, refer the listee to the
2 District Attorney with the Director's final determination and written findings.

3 * * * *

4 Section 4. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
12 additions, and Board amendment deletions in accordance with the "Note" that appears under
13 the official title of the ordinance.

14
15 APPROVED AS TO FORM:
16 DAVID CHIU, City Attorney

17 By: /s/ Peter Miljanich
18 PETER MILJANICH
19 Deputy City Attorney

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