

[Planning, Business and Tax Regulations Codes - State-Mandated Accessory Dwelling Unit Program]

Ordinance amending the Planning Code and Business and Tax Regulations Code to modify the City's State-mandated Accessory Dwelling Unit ("ADU") approval process and conform to changes to State ADU law, including by removing any appeal to the Board of Appeals, and increasing size limits for certain detached, new construction ADUs on a lot containing a single-family dwelling; 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 making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

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

Section 1. Environmental and Land Use Findings.

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

(b) On _____, the Planning Commission, in Resolution No. _____,

1 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
2 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
3 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
4 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

10
11 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
12 207.2, to read as follows:

13
14 **SEC. 207.2. STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.**

15 (a) **Exception to Dwelling Unit Density Limits for Certain Accessory Dwelling**
16 **Units Under the State-Mandated Program.** An exception to the calculations under Section
17 207 of this Code shall be made for Accessory Dwelling Units ("ADUs") and Junior Accessory
18 Dwelling Units ("JADUs"), as defined in Section 102 of this Code, meeting the requirements of
19 this Section 207.2 and ~~The purpose of this Section 207.2 is to implement~~ California ~~California~~
20 Government Code Sections 66314 ~~and~~ through 66333, which require ministerial consideration
21 of ADUs and JADUs that meet certain standards.

22 (b) **Applicability.** This Section 207.2 shall apply to the construction of ADUs and
23 JADUs in or attached to existing or proposed dwellings, or in a detached structure on the same
24 lot, if the ADU meets the applicable requirements of this Section 207.2 and California
25 Government Code Sections 66314 through 66333. An ADU constructed pursuant to this Section

207.2 is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding an ADU or JADU in compliance with this Section 207.2 does not exceed the allowable density for the lot. ~~Unless otherwise specified, for purposes of this Section 207.2, a “detached” structure or ADU shall not share structural walls with the primary structure on the lot. If construction of the ADU will not meet the requirements of this Section, the ADU is regulated pursuant to Section 207.1 and not this Section 207.2.~~ Planning Director Bulletin No. 3, entitled “State Accessory Dwelling Unit Program,” sets forth a comprehensive list of State and local requirements applicable to ADUs approved under this Section 207.2.

~~(c) **General Controls on Construction.** An ADU constructed pursuant to this Section 207.2 shall meet all of the following:~~

~~(1) The ADU must have independent exterior access from the existing or proposed primary dwelling or existing accessory structure, and side and rear setbacks sufficient for fire safety.~~

~~(2) For projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any objective architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter.~~

~~(3) All applicable requirements of San Francisco’s health and safety codes shall apply, including but not limited to the Building and Fire Codes.~~

~~(4) No parking is required for the ADU.~~

~~(c)~~ **Specific Controls for Hybrid Streamlined ADUs Under Government Code Sections 66323 and 66333.** ~~The purpose of this subsection 207.2(d) is to implement~~ California Government Code Sections 66323 and 66333, ~~which~~ require ministerial consideration of ADUs and JADUs that meet certain standards (“Hybrid Streamlined ADUs”). ~~California Government Code Section~~

~~66323 authorizes the City to impose objective standards, including, but not limited to, design, development, and historic standards, on ADUs approved under this subsection 207.2(d). ADUs and JADUs shall strictly meet the requirements set forth in this subsection 207.2(d), and all other applicable Planning Code standards, including open space, exposure, buildable area, and other standards, without requiring a waiver of Code requirements pursuant to subsection 207.1(g); provided, however, that adding an ADU or JADU in compliance with this subsection 207.2(d) does not exceed the allowable density for the lot.~~ The City shall approve Streamlined ADUs and JADUs meeting the following requirements, in addition to the requirements of ~~subsection 207.2(b) and any other applicable standards~~ Government Code Sections 66323 and 66333:

(1) A detached, new construction Streamlined ADU on a lot containing a proposed or existing single-family dwelling shall not exceed the applicable height limit contained in subsection 207.2(d)(9), and shall be no greater than 850 square feet in Gross Floor Area for an ADU that provides one bedroom or less, and no greater than 1,000 square feet in Gross Floor Area for an ADU that provides more than one bedroom.

(2) A detached, new construction Streamlined ADU on a lot containing a proposed or existing multifamily dwelling shall not exceed the applicable height limit contained in subsection 207.2(d)(9).

~~(1) ADUs and JADUs within proposed space of a proposed single-family dwelling or within existing space of a single-family dwelling or accessory structure meeting the following conditions:~~

~~(A) The lot on which the ADU or JADU is proposed contains an existing or proposed single-family dwelling.~~

~~(B) Only one detached ADU, and one JADU, are permitted per lot in addition to an ADU permitted under this subsection 207.2(d)(1).~~

~~(C) Each proposed ADU and JADU includes an entrance that is separate from~~

1 ~~the entrance to the existing or proposed dwelling.~~

2 ~~(D) Side and rear setbacks will be sufficient for fire safety.~~

3 ~~(E) If an ADU is proposed, it will be within the existing space of a single-family~~
4 ~~dwelling or accessory structure, or within the space of a proposed single-family dwelling, or it will~~
5 ~~require an addition of no more than 150 square feet to an existing accessory structure to accommodate~~
6 ~~ingress and egress.~~

7 ~~(F) If a JADU is proposed, it meets the requirements of Planning Code Section~~
8 ~~102 and California Government Code Section 66333.~~

9 ~~(2) Detached, new construction ADUs on a lot containing a proposed or existing~~
10 ~~single-family dwelling meeting the following conditions:~~

11 ~~(A) The lot on which the detached ADU is proposed contains an existing or~~
12 ~~proposed single-family dwelling.~~

13 ~~(B) The lot on which the ADU is proposed does not contain more than one other~~
14 ~~ADU and one JADU.~~

15 ~~(C) The proposed ADU is detached from the single-family dwelling and any~~
16 ~~other structure.~~

17 ~~(D) The proposed ADU is new construction.~~

18 ~~(E) The proposed ADU is located at least four feet from the side and rear lot~~
19 ~~lines, is no greater than 800 square feet in Gross Floor Area, and does not exceed the applicable height~~
20 ~~limit contained in subsection 207.2(e)(9).~~

21 ~~(3) ADUs within existing space of a multifamily dwelling meeting the following~~
22 ~~conditions:~~

23 ~~(A) The lot on which the ADU is proposed contains an existing multifamily~~
24 ~~dwelling.~~

25 ~~(B) The ADU is proposed within a portion of the multifamily dwelling structure~~

1 ~~that is not used as livable space, including but not limited to storage rooms, boiler rooms,~~
2 ~~passageways, attics, basements, or garages.~~

3 ~~(C) The total number of ADUs within the dwelling structure would not exceed~~
4 ~~25% of the existing number of primary dwelling units within the structure, provided that all multifamily~~
5 ~~dwelling structures shall be permitted to have at least one ADU pursuant to this subsection 207.2(d)(3)~~
6 ~~if all other applicable standards are met.~~

7 ~~(4) Detached, new construction ADUs on a lot containing a proposed or existing~~
8 ~~multifamily dwelling meeting the following conditions:~~

9 ~~(A) The lot on which the ADU is proposed contains a proposed or existing~~
10 ~~multifamily dwelling.~~

11 ~~(B) The proposed ADU is detached from the multifamily dwelling.~~

12 ~~(C) The proposed ADU is located at least four feet from the side and rear lot~~
13 ~~lines, except that if the existing multifamily dwelling has a side or rear setback of less than four feet,~~
14 ~~modification of the existing multifamily dwelling shall not be required as a condition of approving a~~
15 ~~proposed ADU that otherwise satisfies the requirements of this subsection 207.2(e)(4).~~

16 ~~(D) The proposed ADU does not exceed the applicable height limit contained in~~
17 ~~subsection 207.2(e)(9).~~

18 ~~(E) No more than two ADUs shall be permitted per lot pursuant to this~~
19 ~~subsection 207.2(e)(4).~~

20 ~~(de) Specific Controls for Attached and All Other State-Mandated ADUs.~~ The purpose of
21 this subsection 207.2(de) is to implement California Government Code Sections 66314 through
22 66333, which require streamlined, ministerial approval of ADUs meeting certain standards that
23 are not eligible for approval under California Government Code Section 66323 (“State ADUs”). An
24 ADU located on a lot that is zoned for single-family or multifamily use and contains an existing
25 or proposed dwelling, and that is constructed pursuant to this subsection 207.2(de), shall meet

1 all of the following requirements, in addition to the requirements of subsection 207.2(b) and
2 any other applicable standards; provided, however, that the City shall not impose any
3 requirement for a zoning clearance or separate zoning review, any minimum or maximum size
4 for an ADU, any size based upon a percentage of the proposed or existing primary dwelling,
5 or any limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot
6 size, for either attached or detached dwellings, that does not permit construction of an ADU
7 meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or
8 less in height, and with four foot side and rear yard setbacks. ADUs under this subsection
9 207.2(~~de~~) shall meet the following conditions:

10 (1) Only one ADU will be constructed.

11 (2) The ADU will be located on a lot that is zoned for single-family or
12 multifamily use and contains an existing or proposed dwelling.

13 (3) The lot on which the ADU is proposed does not contain another ADU or
14 JADU.

15 (4) The ADU is either (A) attached to or will be constructed entirely within the
16 proposed or existing primary dwelling, including attached garages, storage areas, or similar
17 uses, or an accessory structure on the same lot, or (B) attached to or will be constructed
18 entirely within a proposed or legally existing detached structure on the same lot, or (C)
19 detached from the proposed or existing primary dwelling and located on the same lot as the
20 proposed or existing primary dwelling.

21 (5) Size Limits.

22 (A) Attached ADU Size Limit. If there is an existing primary dwelling, the
23 Gross Floor Area of an attached ADU that provides one bedroom or less shall not exceed
24 50% of the Gross Floor Area of the existing primary dwelling or 850 square feet, whichever is
25 greater. If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that

1 provides more than one bedroom shall not exceed 50% of the Gross Floor Area of the existing
2 primary dwelling or 1,000 square feet, whichever is greater.

3 ~~(6)~~—**(B) Detached ADU Size Limit.** The Gross Floor Area of a detached ADU
4 that provides one bedroom or less shall not exceed 850 square feet. The Gross Floor Area of
5 a detached ADU that provides more than one bedroom shall not exceed 1,000 square feet.

6 **(6) Passageway.** *No passageway shall be required in conjunction with construction of*
7 *an ADU.*

8 **(7) Setbacks.** No setback is required for an ADU located within an existing
9 living area or an existing accessory structure, or an ADU that replaces an existing structure
10 and is located in the same location and constructed to the same dimensions as the structure
11 being replaced. A setback of no more than four feet from the side and rear lot lines shall be
12 required for an ADU that is not converted from either an existing structure or a new structure
13 constructed in the same location and to the same dimensions as an existing structure;
14 provided, however, that for an ADU that is part of new construction, such setback shall be
15 required only for the portions of the ADU outside of the buildable area of the lot.

16 **(8) Garages.** When a garage, carport, or covered parking structure is proposed
17 to be demolished in conjunction with the construction of an ADU or converted to an ADU,
18 replacement of those off-street parking spaces is not required; and a permit to demolish a
19 detached garage that is to be replaced with an ADU shall be reviewed with the application to
20 construct the ADU and issued at the same time.

21 **(9) Height limits.** The ADU shall not exceed the following height limits:

22 (A) A height of 18~~6~~ feet for a detached ADU on a lot with an existing or
23 proposed dwelling. *An additional two feet in height is allowed to accommodate a roof pitch on the*
24 *ADU that is aligned with the roof pitch of the primary dwelling unit.*

25 ~~(B) A height of 18 feet for a detached ADU on a lot with an existing or~~

1 ~~proposed dwelling that is within one-half of one mile walking distance of a major transit stop or a high-~~
2 ~~quality transit corridor, as defined in Section 21155 of the California Public Resources Code. An~~
3 ~~additional two feet in height shall be permitted to accommodate a roof pitch on the ADU that is aligned~~
4 ~~with the roof pitch of the primary dwelling.~~

5 ~~(C) A height of 18 feet for a detached ADU on a lot with an existing or~~
6 ~~proposed multifamily, multi-story dwelling.~~

7 ~~(BD) A height of 25 feet or the applicable height limit for the primary~~
8 ~~dwelling, whichever is lower, for an ADU that is attached to the primary dwelling, except that the~~
9 ~~ADU shall not exceed two stories.~~

10 (10) **Historic Resources.** For projects involving a property listed in the California
11 Register of Historic Places, or a property designated individually or as part of a historic or
12 conservation district pursuant to Article 10 or Article 11 of this Code, the ADU or JADU shall comply
13 with any objective architectural review standards adopted by the Historic Preservation Commission to
14 prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a
15 Certificate of Appropriateness or a Permit to Alter.

16 ~~(ef)~~ **Permit Application Review and Approval.** No requests for discretionary review
17 shall be accepted by the Planning Department for an ADU or JADU meeting the requirements
18 of this Section 207.2. The Planning Commission shall not hold a public hearing for
19 discretionary review of an ADU or JADU meeting the requirements of this Section 207.2. An
20 ADU or JADU meeting the requirements of this Section 207.2 shall not be subject to the
21 notification or review requirements of Section 311 of this Code.

22 ~~(g) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the~~
23 ~~Department under this Section 207.2 shall be as set forth in Section 8 of the Business and Tax~~
24 ~~Regulations Code.~~

25 ~~(fh)~~ **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this

1 Section 207.2 shall not be used for Short-Term Residential Rentals under Chapter 41A of the
2 Administrative Code.

3 (~~g~~) **Rental; Restrictions on Subdivisions.** An ADU or JADU constructed pursuant
4 to this Section 207.2 may be rented and is subject to all applicable provisions of the
5 Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative
6 Code). Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU
7 or JADU authorized under this Section 207.2 shall not be subdivided in a manner that would
8 allow for the ADU or JADU to be sold or separately financed pursuant to any condominium
9 plan, housing cooperative, or similar form of separate ownership, except that this prohibition
10 on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements
11 of either: California Government Code Section ~~66333(f)~~66341, or Section 207.4 and
12 Subdivision Code Section 1316.

13 (~~h~~) **Recordation for Junior ADUs.** The following restrictions shall be recorded as a
14 Notice of Special Restriction, as required by California Government Code Section 66333(c),
15 on the subject lot on which a JADU is constructed under this Section 207.2 and shall be
16 binding on all future owners and successors in interest:

17 (1) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot
18 with a JADU authorized under this Section 207.2 shall not be subdivided in a manner that
19 would allow for the JADU to be sold or separately financed pursuant to any condominium
20 plan, housing cooperative, or similar form of separate ownership, except that this prohibition
21 on separate sale or finance of the JADU shall not apply to a JADU that meets the
22 requirements of California Government Code Section 66333(f).

23 (2) The size and attributes of a JADU constructed pursuant to this Section
24 207.2 shall comply with the requirements of this Section 207.2 and California Government
25 Code Section 66333.

1 (i~~k~~) **Department Report.** ~~In addition to the information required by subsection~~
2 ~~207.1(i)(3),~~ As part of the annual Housing Inventory, the Department shall ~~include a description and~~
3 ~~evaluation of the number and~~ report the types of units being developed pursuant to this Section
4 207.2, their affordability rates, and such other information as the Director or the Board of
5 Supervisors determines would inform decision-makers and the public.

6 (i~~l~~) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this
7 Section 207.2, where the ADU or JADU is smaller than 750 square feet of Gross Floor Area,
8 or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for all
9 other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary
10 dwelling unit.

11
12 Section 3. Article 1 of the Business and Tax Regulations Code is hereby amended by
13 revising Sections 8 and 26, to read as follows:

14
15 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

16 * * * *

17 (e) Appeals shall be taken by filing a notice of appeal with the Board of Appeals and
18 paying to said Board at such time a filing fee as follows:

19 * * * *

20 (9) **Additional Requirements.**

21 * * * *

22 (C) Except as otherwise specified in this subsection (e)(9)(C), the Board
23 of Appeals shall fix the time and place of hearing, which shall be not less than 10 nor more
24 than 45 days after the filing of said appeal, and shall act thereon not later than 60 days after
25 such filing or a reasonable time thereafter.

* * * *

~~(iii)—In the case of a decision on a permit application made pursuant to Planning Code Section 207.2, the Board of Appeals shall set the hearing not less than 10 days after the filing of said appeal, shall act thereon not more than 30 days after such filing, and shall not entertain a motion for rehearing.~~

(iii) In the case of a decision on a permit or determination of compliance regarding a homeless shelter located on City owned or leased property during a declared shelter crisis, the Board of Appeals shall set the hearing not less than 10 days after the filing of said appeal, shall act thereon not more than 30 days after such filing, and shall not entertain a motion for rehearing.

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SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.

* * * *

~~(f) Notwithstanding subsection (a), the provisions of Planning Code Section 207.2 shall govern actions taken on the granting, denial, amendment, suspension, and revocation of permits regulated under that Section 207.2, not the standards set forth in subsection (a) of this Section 26.~~

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

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3 additions, and Board amendment deletions in accordance with the "Note" that appears under
4 the official title of the ordinance.

5
6 Section 6. Directions to Clerk. The Clerk of the Board of Supervisors is hereby
7 directed to submit a copy of this ordinance to the California Department of Housing and
8 Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the
9 California Government Code.

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11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

13 By: /s/ Peter Miljanich
14 PETER MILJANICH
Deputy City Attorney

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