



October 12, 2023

Ms. Angela Calvillo, Clerk
Honorable Mayor Breed
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2023-003061PCA:
State-Mandated Accessory Dwelling Unit Controls
Board File No. 230310

Planning Commission Recommendation: **Approval with Modification**

Dear Ms. Calvillo and Mayor Breed,

On September 28, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Mayor Breed that would amend various sections of the Planning Code. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Amend the Code to exclude ADUs from dwelling unit mix requirements.

The proposed amendments were covered in Addendum No. 9 to the Final EIR, dated September 9, 2022, to the 2004 and 2009 Housing Element Final EIR certified April 24, 2014.

Mayor, please advise the City Attorney at your earliest convenience if you wish to incorporate the change recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc: Peter Miljanich, Deputy City Attorney
Lisa Gluckstein, Housing & Land Use Advisor to Mayor Breed
John Carroll, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21397

HEARING DATE: SEPTEMBER 28, 2023

Project Name: State-Mandated Accessory Dwelling Unit Controls
Case Number: 2023-003061PCA [Board File No. 230310]
Initiated by: Mayor Breed / Introduced March 20, 2023
Staff Contact: Veronica Flores, Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CLARIFY THE MINISTERIAL APPROVAL PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS (ADUS) MEETING CERTAIN REQUIREMENTS IN SINGLE-FAMILY AND MULTIFAMILY BUILDINGS AND TO PERMIT CERTAIN ADUS IN THE REAR YARD UNDER THE CITY'S LOCAL, DISCRETIONARY APPROVAL PROGRAM; MAKING FINDINGS 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 ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on March 20, 2023 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230310, which would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings and to permit certain ADUs in the rear yard under the City's local, discretionary approval program;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 28, 2023; and,

WHEREAS, the proposed Ordinance received CEQA clearance under Addendum No. 9 to the Final EIR, dated September 9, 2022 to the 2004 and 2009 Housing Element Final EIR certified April 24, 2014; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modification** the proposed ordinance. The Commission's proposed recommendation is as follows:

1. Amend the Code to exclude ADUs from dwelling unit mix requirements.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Commission finds that the proposed Ordinance supports the Housing Element's goals to increase and diversify housing choice.

The Commission finds that the proposed Ordinance will align the Planning Code with the State Law.

The Commission finds that the proposed Ordinance will further streamline the ADU review process and clarify current processes. Such changes will make the City's ADU program more effective and flexible.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1.A

Ensure housing stability and healthy homes.

OBJECTIVE 4.A

Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

Diversify housing types for all cultures, family structures, and abilities.

POLICY 4

Facilitate the legalization of unauthorized dwelling units while improving their safety and habitability.

POLICY 26

Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State-and local-required timelines, especially for 100% affordable housing and shelter projects.

POLICY 28

Affirm compliance in State housing law, requirements, and intent by strengthening data collection, clarifying definitions, and further supporting implementation.

POLICY 31

Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).

POLICY 32

Promote and facilitate aging in place for seniors and multi-generational living that supports extended families and communal households.

IMPLEMENTATION ACTION 7.4.6

Once adopted, submit the ADU ordinance to HCD and revise the ordinance based on HCD's review as needed.

This Ordinance addresses the remaining outstanding issues that the California Department of Housing and Community Development (HCD) needs to approve the City's Pro-Housing designation. Attaining this designation will help unlock state affordable housing funding and other resources such as Municipal Transportation Agency (MTA) grants.

The General Plan identifies ADUs as an effective way to increase housing choice in San Francisco. This Ordinance aligns with the Housing Element's objective the proposed Ordinance meets other objectives to increase housing in lower-density areas and to streamline ADU permit review processes. Further, this Ordinance seeks to make our local Code consistent with State law. This Ordinance directly responds to Implementation Action Item 7.4.6 which requires us to submit the ADU Ordinance to HCD for their review and comment. Changes have been made in response to HCD's initial comments. This Ordinance addresses the remaining outstanding issues that the California Department of Housing and Community Development (HCD) needs to approve the City's Pro-Housing designation. Attaining this designation will help unlock state affordable housing funding and other resources such as Municipal Transportation Agency (MTA) grants. This grant money could also unlock grant monies which

could provide financial support for professional services and construction of units that serve low-income households, as noted in Implementation Action Item 7.4.3.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATION the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 28, 2023.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2023.10.02 16:16:41 -07'00'

AYES: Braun, Ruiz, Diamond, Koppel, Tanner

NOES: Imperial, Moore

ABSENT: None

ADOPTED: September 28, 2023

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EXECUTIVE SUMMARY PLANNING CODE TEXT AMENDMENT

HEARING DATE: September 28, 2023

90-Day Deadline: December 29, 2023

Project Name: State-Mandated Accessory Dwelling Unit Controls

Case Number: 2023-003061PCA [Board File No. 230310]

Initiated by: Mayor Breed / Introduced March 20, 2023

Staff Contact: Veronica Flores, Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525

Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

Environmental Review: Addendum to FEIR - [Addendum No. 9](#) to the Final EIR, dated September 9, 2022 to the 2004 and 2009 Housing Element Final EIR certified April 24, 2014 - [2007.125E DEIR1](#) and [2007.125E DEIR2](#).

Recommendation: Approval

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings and to permit certain ADUs in the rear yard under the City’s local, discretionary approval program. This proposed Ordinance will update San Francisco’s ADU programs to comply with the latest amendments to the State law, per Assembly Bill 2221 and Senate Bill 897, both of which were effective beginning January 1, 2023.

THE WAY CODE IS WRITTEN BASED ON STATE LAW PRE-01/01/23	THE WAY IT IS BASED ON NEW STATE LAWS EFFECTIVE 01/01/23
<p>Timeline: The City has 60 days to act on State-Mandated ADUs.</p>	<p>The City has 60 days <i>to approve or deny</i> State-Mandated ADUs (instead of <i>to act</i>). The application is deemed approved if no action is taken within 60 days. Language regarding tolling is explicitly added to the Ordinance for when the applicant owes us information.</p> <p>This language has been moved from the Planning Code to Building Code because the Department of Building Inspection (DBI) is the permit-issuing agency.</p>
<p>Height: Up to 16 feet for Attached or Detached ADUs</p>	<p>Up to 16 feet in general for a Detached ADU</p> <p>Up to 18 feet: Allowed if the proposed ADU is within ½ mile of major transit stop or a high-quality transit corridor¹ -or- the property already has a MFD</p> <p>Up to 25 feet: Allowed if the ADU is attached to the primary dwelling, or up to the underlying height district (whichever is lower), but only up to two stories high</p>
<p>Detached ADUs: Detached ADUs are prohibited from sharing a structural wall with the primary dwelling or with any other structure on the property.</p>	<p>Per HCD’s interpretation of “detached” ADUs, the “Detached ADUs” definition would be revised to clarify it cannot share any structural walls with the <u>primary</u> structure. Therefore, Detached ADUs may share a structural wall with other structures on the property.</p>
<p>Permits for the demolition of a garage typically do not require notice per Planning Code (except if an Unauthorized Dwelling exists) and could potentially be approved over-the-counter.</p>	<p>Notice for the demolition of the garage being replaced with an ADU is not required, unless it is located within Article 10 or Article 11.</p> <p>This language has been copied into Building Code because it may trigger a DBI notice for this scope of work.</p>
<p>Hybrid ADUs: Hybrid ADUs are only permitted within existing or proposed single-family dwelling (SFD), or within an <i>existing</i> multi-family dwelling (MFD).</p>	<p>Hybrid ADUs are also permitted within <u>proposed</u> MFD.</p> <p>In the case of a Hybrid ADU within an <u>existing</u> MFD with a side or rear setback of less than 4 feet, the</p>

¹ An additional two feet in height shall be permitted to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling.

	existing MFD shall not be required to be modified as a condition of approving a Hybrid ADU.
CLARIFICATIONS	
State law has a special carveout for San Francisco that allows the City to impose objective design standards through the Hybrid ADU path.	Many applicants ask why there is the Hybrid ADU path. This Ordinance adds a clarification for this carveout and the reference to the Gov't. Code authorizing it.
The City cannot impose limits on lot coverage, floor area ratio, open space, and minimum lot size for State ADUs.	This section will be updated to also note the City cannot impose <u>front setbacks</u> for State ADUs. This change is to mirror the revised language in State law but does not change our review.
Permits for garage demolition being converted to an ADU are reviewed and issued pending on their submittal. If both are submitted at the same time, they are reviewed and issued at the same time.	State law explicitly requires that if a permit to demolish a detached garage is submitted at the same time as a permit for the ADU replacing the garage, that both permits shall be reviewed and issued at the same time. There is no implementation change here.

Anticipated Amendments

This file was duplicated from Board File No. 210585 on March 20, 2023 at the Land Use and Transportation Committee hearing. During that hearing, only one amendment² was included in the duplicate file with the intent of incorporating all the other changes from State laws effective January 1, 2023 following the hearing. The draft Ordinance included in Exhibit C reflects these other changes, as well as additional clean-up changes recommended by the Planning Department and endorsed by the Mayor's Office.

Background

The State Legislature has deemed ADUs a valuable and affordable form of housing in California. The State's ADU laws have been amended several times to revise the requirements and make the approval of an ADU less discretionary.

This proposed Ordinance will update San Francisco's ADU programs to comply with the latest amendments to the State law, per Assembly Bill 2221 and Senate Bill 897, both of which were effective beginning January 1, 2023.

San Francisco first adopted a Local ADU Program in 2014 and made several updates since the initial inception both in response to changes to the State law and to improve the City's Local ADU Program. In 2019, State law was amended to allow ADUs in new construction. In 2020, State law was amended to clarify the ministerial approval

² The only amendment included in the duplicate file was increasing the height limit for detached ADUs from 16 feet to 18 feet.

process to allow State, Hybrid, and Junior ADUs (JADU). In 2021, State law was amended to ban rental restrictions imposed by homeowner’s associations (HOA). This proposed Ordinance will update San Francisco’s ADU programs to comply with the latest amendments to the State law, per Assembly Bill 2221 and Senate Bill 897, both of which were effective beginning January 1, 2023. The City is already reviewing and approving ADUs based on these State laws and this Ordinance would make our Code consistent with State law. The proposed Ordinance will also relocate the ADU programs from the Density Limit Section to their own stand-alone sections. This was identified as a future task during the last ADU legislation and has been an ongoing effort to make the ADU Programs section easier to read, understand, and use.

Issues and Considerations

Housing Choice

San Francisco and the Bay Area have a housing shortage. The Planning Department is working to meet these housing needs. In the City’s Housing Element, Policy 31 specifically cites ADUs as a way to expand housing choices. Additionally, ADUs have been identified as a way to expand small and mid-rise multi-family housing production to serve our workforce. The ADU programs today have expanded tremendously from the initial ADU pilot program in the Castro District in 2014. This is a testament to the success of the ADUs and why the ADU program continues to grow and evolve. The Ordinance refines the ministerial process for State-Mandated ADUs and reorganizes the ADU programs to make the Code sections easier to understand and use.

Timeline for Review

The Planning Department has collaborated with other City agencies involved in the review of ADUs and introduced parallel review efforts in recent years to complete review within 60 days. One of the biggest time-savings has been the City’s fully concurrent electronic review. This process allows all required agencies to issue ADU comments at the same time. This evolved from the original “Roundtable” review where different City agencies previously met in person and reviewed ADU permits together. Now everything is reviewed digitally, and an email is sent to the applicant once all agencies have completed their review.

Prior to January 1, 2023, State law required City agencies *to act* on State-Mandated ADUs within 60 days. State law now specifies that City agencies have 60 days *to approve or deny* State-Mandated ADUs. Further, if the City has not approved or denied the completed application within 60 days, the application shall be deemed approved. While the timeframe is the same, the refined language makes a distinct difference impacting DBI, the City’s permit-issuing agency. Permit issuance depends on how long it takes for the applicant to pick up the permit and pay the remainder of the fees. The applicant’s timeline (and permit issuance) is beyond our control at that point. Language regarding tolling is explicitly added to the Ordinance for when the applicant owes us information assisting the City in meeting the 60-day timeframe.

New Height Limits

State law allows increased height limits for the following circumstances:

- Up to 18 feet if the proposed ADU is within ½ mile of major transit stop or a high-quality transit corridor³,
- Up to 18 feet if the property already has an existing multi-family dwelling, or
- Up to 25 feet if the proposed ADU is attached the primary dwelling, or up to the underlying height limit of the property, whichever is lower.

In the last circumstance described above, Attached ADUs are only permitted up to two stories high.

General Plan Compliance

This Ordinance addresses the remaining outstanding issues that the California Department of Housing and Community Development (HCD) needs to approve the City's Pro-Housing designation. Attaining this designation will help unlock state affordable housing funding and other resources such as Municipal Transportation Agency (MTA) grants.

The General Plan identifies ADUs as an effective way to increase housing choice in San Francisco. This Ordinance aligns with the Housing Element's objective the proposed Ordinance meets other objectives to increase housing in lower-density areas and to streamline ADU permit review processes. Further, this Ordinance seeks to make our local Code consistent with State law. This Ordinance directly responds to Implementation Action Item 7.4.6 which requires us to submit the ADU Ordinance to HCD for their review and comment. Changes have been made in response to HCD's initial comments. This Ordinance addresses the remaining outstanding issues that the California Department of Housing and Community Development (HCD) needs to approve the City's Pro-Housing designation. Attaining this designation will help unlock state affordable housing funding and other resources such as Municipal Transportation Agency (MTA) grants. This grant money could also unlock grant monies which could provide financial support for professional services and construction of units that serve low-income households, as noted in Implementation Action Item 7.4.3.

Racial and Social Equity Analysis

The Planning Code amendments in the proposed Ordinance help clarify ministerial ADUs. The State-Mandated ADU program provides a quicker, and often more financially feasible path for property owners to add to the housing stock and different types of housing. This provides more options for multi-generational households, which is often found in communities of color, and allows seniors to age in place more easily within their same community and household. ADUs also help advance racial and social equity by allowing for more affordable dwellings due to their smaller sizes. Even if ADUs are less costly due to smaller square footages, ADUs are not typically rented at very low- or low-income AMI levels so there is still an affordability issue.

ADUs are permitted both within existing and new construction buildings. Naturally, adding ADUs within existing structures is much cheaper than new construction projects. However, households with lower incomes pursuing ADUs may experience disproportionate costs in general. The same permit and construction costs may require a much larger percentage of their income compared to moderate-income households. This may be a barrier for lower-income households to pursue ADUs, in which case they do not benefit from the ADU program or the proposed Ordinance. One consideration to help alleviate such financial burden may include a permit or fee

³ An additional two feet in height shall be permitted to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling.

waiver for low-income households. Former Supervisor Mar launched a pilot program in District 4 in September 2020 to provide professional services to 25 qualifying households interested in adding ADU(s) on their property using grant monies awarded by the State. The pilot program's goals included 1) providing services to lower-income households that otherwise would not be able to afford to hire an architect/developer and 2) to better understand what barriers lower-income households encounter when pursuing an ADU. If successful, the Department recommends the pilot program be modified and expanded to benefit the entire city, pending funding availability. Additionally, State law effective January 1, 2020 also waived impact fees for State-Mandated ADUs smaller than 750 square feet or if the proposed State-Mandated ADU was proposed on a property with three or fewer existing units. Further, prior legislation extended this impact fee relief to larger State-Mandated ADUs 750 square feet or larger by implementing a reduced impact fee to also provide applicants with some financial relief. The reduced impact fee would be based on the ADU's proportion in relation to the primary unit for single-family dwellings, or the average of existing units for multi-family dwellings.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures. The Ordinance is to align our Planning Code with State law, which we are already implementing. The proposed Ordinance will also re-organize our Code and move the ADU Programs from Section 207 to their own Code Sections.

Recommendation

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department supports the overall goals of this Ordinance because of it supports the Housing Element's goals to increase housing choice in San Francisco. Specifically, the Ordinance refines the ministerial ADU programs to make the Planning Code consistent with State law. The proposed Ordinance also includes reorganizing the ADU Programs and creating stand-alone Code sections for them. This was identified as a future task during the last round of State ADU legislation and intended to make all ADU programs more legible and easier to use. Future Ordinances should also find ways to incentivize the Local ADU Program.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments received CEQA clearance under Addendum No. 9 to the Final EIR, dated September 9, 2022 to the 2004 and 2009 Housing Element Final EIR certified April 24, 2014.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 230310
- Exhibit C: Draft revisions of Board File No. 230310

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PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: September 28, 2023

Project Name: State-Mandated Accessory Dwelling Unit Controls
Case Number: 2023-003061PCA [Board File No. 230310]
Initiated by: Mayor Breed / Introduced March 20, 2023
Staff Contact: Veronica Flores, Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CLARIFY THE MINISTERIAL APPROVAL PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS (ADUS) MEETING CERTAIN REQUIREMENTS IN SINGLE-FAMILY AND MULTIFAMILY BUILDINGS AND TO PERMIT CERTAIN ADUS IN THE REAR YARD UNDER THE CITY’S LOCAL, DISCRETIONARY APPROVAL PROGRAM; MAKING FINDINGS 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 ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on March 20, 2023 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 230310, which would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings and to permit certain ADUs in the rear yard under the City’s local, discretionary approval program;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 28, 2023; and,

WHEREAS, the proposed Ordinance received CEQA clearance under Addendum No. 9 to the Final EIR, dated September 9, 2022 to the 2004 and 2009 Housing Element Final EIR certified April 24, 2014; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Commission finds that the proposed Ordinance supports the Housing Element's goals to increase and diversify housing choice.

The Commission finds that the proposed Ordinance will align the Planning Code with the State Law.

The Commission finds that the proposed Ordinance will further streamline the ADU review process and clarify current processes. Such changes will make the City's ADU program more effective and flexible.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1.A

Ensure housing stability and healthy homes.

OBJECTIVE 4.A

Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

Diversify housing types for all cultures, family structures, and abilities.

POLICY 4

Facilitate the legalization of unauthorized dwelling units while improving their safety and habitability.

POLICY 26

Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State-and local-required timelines, especially for 100% affordable housing and shelter projects.

POLICY 28

Affirm compliance in State housing law, requirements, and intent by strengthening data collection, clarifying definitions, and further supporting implementation.

POLICY 31

Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).

POLICY 32

Promote and facilitate aging in place for seniors and multi-generational living that supports extended families and communal households.

IMPLEMENTATION ACTION 7.4.6

Once adopted, submit the ADU ordinance to HCD and revise the ordinance based on HCD's review as needed.

This Ordinance addresses the remaining outstanding issues that the California Department of Housing and Community Development (HCD) needs to approve the City's Pro-Housing designation. Attaining this designation will help unlock state affordable housing funding and other resources such as Municipal Transportation Agency (MTA) grants.

The General Plan identifies ADUs as an effective way to increase housing choice in San Francisco. This Ordinance aligns with the Housing Element's objective the proposed Ordinance meets other objectives to increase housing in lower-density areas and to streamline ADU permit review processes. Further, this Ordinance seeks to make our local Code consistent with State law. This Ordinance directly responds to Implementation Action Item 7.4.6 which requires us to submit the ADU Ordinance to HCD for their review and comment. Changes have been made in response to HCD's initial comments. This Ordinance addresses the remaining outstanding issues that the California Department of Housing and Community Development (HCD) needs to approve the City's Pro-Housing designation. Attaining this designation will help unlock state affordable housing funding and other resources such as Municipal Transportation Agency (MTA) grants. This grant money could also unlock grant monies which could provide financial support for professional services and construction of units that serve low-income households, as noted in Implementation Action Item 7.4.3.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic

buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 28, 2023.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: September 28, 2023

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1 [Planning Code - State-Mandated Accessory Dwelling Unit Controls]

2

3 **Ordinance amending the Planning Code to clarify the ministerial approval process for**
4 **certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family**
5 **and multifamily buildings and to permit certain ADUs in the rear yard under the City’s**
6 **local, discretionary approval program; ~~affirming the Planning Department’s~~**
7 **determination~~making findings~~ under the California Environmental Quality Act; making**
8 **findings of consistency with the General Plan and the eight priority policies of Planning**
9 **Code, Section 101.1; and adopting findings of public necessity, convenience, and**
10 **welfare under Planning Code, Section 302.**

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

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

19

20 Section 1. Findings.

21 (a) On April 24, 2014, the Planning Commission certified the 2004 and 2009 Housing
22 Element Final Environmental Impact Report (“Final EIR”) in accordance with the California
23 Environmental Quality Act (California Public Resources Code Sections 21000 et seq.)
24 (“CEQA”), the CEQA Guidelines (California Code of Regulations Title 14, Sections 15000 et
25 seq.), and Chapter 31 of the San Francisco Administrative Code. Subsequent to the adoption
of the Final EIR, the City has approved and incorporated eight addenda into the analysis of
the Final EIR and made requisite findings under CEQA. The Planning Department has

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

5 (b) The Planning Department prepared Addendum No. 9 to the Final EIR, dated
6 September 9, 2022 (“Addendum”). The Addendum evaluates the environmental effects of the
7 actions contemplated in this ordinance, which are an implementing program of the Project
8 evaluated in the Final EIR. The Addendum determines that: these actions would not cause
9 new significant impacts that were not identified in the Final EIR; these actions would not
10 cause significant impacts that were previously identified in the Final EIR to become
11 substantially more severe; no new mitigation measures would be necessary to reduce
12 significant impacts; no changes have occurred with respect to circumstances surrounding
13 these actions that would cause significant environmental impacts to which these actions
14 would contribute considerably; and no new information has become available that shows that
15 these actions would cause significant environmental impacts. For these reasons, no
16 subsequent or supplemental environmental review is required. The Board of Supervisors has
17 reviewed and considered the Final EIR and the Addendum, and the Planning Department’s
18 determination is on file with the Clerk of the Board of Supervisors in File No. 210585 and is
19 incorporated herein by reference.

20 (b~~c~~) On _____, the Planning Commission, in Resolution No. _____,
21 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
22 with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The
23 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
24 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

1 (ed) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
2 ordinance will serve the public necessity, convenience, and welfare for the reasons stated in
3 Planning Commission Resolution No. _____.

4
5 Section 2. The Planning Code is hereby amended by revising Sections 102, 136, 207,
6 1005, and 1110, to read as follows:

7
8 **SEC. 102. DEFINITIONS.**

9 * * * *

10 **Dwelling Unit, Accessory, or ADU.** Also known as a Secondary Unit or In-Law Unit, is a
11 Dwelling Unit that meets all the requirements of subsection 207(c)(4) or subsection 207(c)(6) and that
12 is accessory to at least one other Dwelling Unit on the same lotis constructed either entirely within the
13 existing built envelope, the “living area” as defined in State law, or the buildable area of an existing or
14 proposed building in areas that allow residential use; or is constructed within the existing built
15 envelope of an existing and authorized auxiliary structure on the same lot. A detached ADU shall not
16 share structural walls with either the primary structure or any other structure on the lot. Height for
17 detached ADUs located outside the buildable area shall be measured from existing grade at any given
18 point to either a) the highest point of a finished roof in the case of a flat roof or b) the average height of
19 a pitched roof or stepped roof, or similarly sculptured roof form. Height for detached ADUs located
20 outside the buildable area shall not be eligible for any exemptions described in Planning Code
21 subsection 260(b).

22
23 **Dwelling Unit, Junior Accessory, or JADU.** A Dwelling Unit that meets all the requirements of
24 subsection 207(c)(6), and that:

25 (a) is accessory to at least one other Dwelling Unit on the same lot;

1 **(b) is no more than 500 square feet of Gross Floor Area;**

2 **(c) is contained entirely within an existing or proposed single-family structure;**

3 **(d) may include separate sanitation facilities, or may share sanitation facilities with the**
4 **existing structure;**

5 **(e) is owner-occupied, unless the owner resides in the remaining portion of the structure;**

6 **(f) includes an entrance to the Junior Accessory Dwelling Unit that is separate from the**
7 **main entrance to the proposed or existing single-family structure; and**

8 **(g) includes an efficiency kitchen that meets the requirements of Government Code Section**
9 **65852.22(a)(6), including a cooking facility with appliances, and a food preparation counter and**
10 **storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling**
11 **Unit.**

12 * * * *

13
14 **SEC. 136. OBSTRUCTIONS OVER STREETS AND ALLEYS AND IN REQUIRED**
15 **SETBACKS, YARDS, AND USABLE OPEN SPACE.**

16 * * * *

17 (c) The permitted obstructions shall be as follows:

18 * * * *

19 (32) Infill under decks and cantilevered rooms when adding an Accessory
20 Dwelling Unit; provided, however, that such infill shall comply with Section 207(c)(4) or
21 Section 207(c)(6) of this Code, whichever is applicable; and provided further that if the ADU is
22 proposed for a single-family home, the rear yard must be 25% of the lot depth but in no case
23 less than 15 feet.

24 **(33) One detached Accessory Dwelling Unit that complies with the**
25 **requirements of Planning Code subsection 207(c)(4)(xii).**

1 * * * *

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 (4) **Accessory Dwelling Units – Local Accessory Dwelling Unit Program:**
9 **Accessory Dwelling Units in Multifamily Buildings and; Accessory Dwelling Units in**
10 **Single-Family Homes That Do Not Strictly Meet the Requirements in subsection (c)(6).**

11 (A) **Definition.** An “Accessory Dwelling Unit” (ADU) is defined in
12 Section 102.

13 (B) **Applicability.** This subsection (c)(4) shall apply to the construction
14 of ~~Accessory Dwelling Units~~ADUs on all lots located within the City and County of San Francisco
15 in areas that allow residential use, except ~~that construction of an Accessory Dwelling Unit is~~ADUs
16 regulated by subsection (c)(6) ~~below, and not this subsection (c)(4), if all of the following~~
17 ~~circumstances exist:~~

18 (i) ~~only one ADU will be constructed;~~

19 (ii) ~~the ADU will be located on a lot that is zoned for single-family or~~
20 ~~multifamily use and contains an existing or proposed single-family dwelling;~~

21 (iii) ~~the ADU is either attached to or will be constructed entirely~~
22 ~~within the “living area” (as defined in subsection (c)(6)(B)(iii)) or the buildable area of an the~~
23 ~~proposed or existing primary dwelling single-family home, or constructed within the built envelope of~~
24 ~~an existing and authorized auxiliary structure on the same lot; provided, however, that (A) when a~~
25 ~~stand-alone garage, storage structure, or other auxiliary structure is being converted to an ADU, an~~

1 ~~expansion to the envelope is allowed to add dormers even if the stand-alone garage, storage structure,~~
2 ~~or other auxiliary structure is in the required rear yard and (B) on a corner lot, a legal stand-alone~~
3 ~~nonconforming garage, storage structure, or other auxiliary structure may be expanded within its~~
4 ~~existing footprint by up to one additional story in order to create a consistent street wall and improve~~
5 ~~the continuity of buildings on the block.~~

6 (iv) ~~the ADU will strictly meet the requirements set forth in subsection~~
7 ~~(c)(6) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G); and~~

8 (v) ~~the permit application does not include seismic upgrade work~~
9 ~~pursuant to subsection (c)(4)(F).~~

10 (C) **Controls on Construction.** An ~~Accessory Dwelling Unit~~ ADU regulated by
11 this subsection (c)(4) is permitted to be constructed in an existing or proposed building under
12 the following conditions:

13 (i) For lots that have four existing Dwelling Units or fewer, or where
14 the zoning would permit the construction of four or fewer Dwelling Units, one ADU is
15 permitted, ~~for~~ for lots that have more than four existing Dwelling Units or are undergoing
16 seismic retrofitting under subsection (c)(4)(F) below, or where the zoning would permit the
17 construction of more than four Dwelling Units, there is no limit on the number of ADUs
18 permitted, as long as all other health and safety requirements are met.

19 (ii) The Department shall not approve an application for construction
20 of an ADU where a tenant on the lot ~~was~~ has been evicted pursuant to Administrative Code
21 Sections 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10
22 years prior to filing the application for a building permit to construct the ADU, or where a
23 tenant ~~has been~~ was evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice
24 of eviction served within five years prior to filing the application for a building permit to
25 construct the ADU. This subsection (c)(4)(C)(ii) shall not apply if the tenant was evicted under

1 Section 37.9(a)(11) or 37.9(a)(14) and the applicant(s) either (A) have certified that the
2 original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the
3 Department and to the Residential Rent Stabilization and Arbitration Board (Rent Board) a
4 declaration from the property owner or the tenant certifying that the property owner notified
5 the tenant of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.

6 (iii) Prior to submitting an application to construct an ADU under this
7 subsection (c)(4), the property owner shall file with the Rent Board a written declaration,
8 signed under penalty of perjury, demonstrating that the project will comply with the
9 requirements of Administrative Code Sections 37.2(r) and 37.9 relating to severance,
10 substantial reduction, or removal of a housing service. The Rent Board shall determine the
11 form and content of said declaration, which shall include the following information: (1) a
12 description of any housing services supplied in connection with the use or occupancy of any
13 units on the subject property that are located in the area of the property or building where the
14 ADU would be constructed; (2) whether construction of the ADU would result in the
15 severance, substantial reduction, or removal of any such housing services; and (3) whether
16 any of the just causes for eviction under Administrative Code Section 37.9(a) would apply.
17 The property owner shall also file a copy of the notice required under Section 207(c)(4)(J) with
18 the declaration.

19 (iv) Tenants at the subject property may contest the information in the
20 declaration required by subsection 207(c)(4)(C)(iii) by petitioning for a written determination
21 from the Rent Board verifying the presence and defining characteristics of the housing service
22 or services in question, and whether any such housing services would be severed,
23 substantially reduced, or removed by the project as proposed. Petitions must be filed with the
24 Rent Board within 30 calendar days after the notice required under subsection 207(c)(4)(J)
25 has been provided. If no such petition is timely filed, the Rent Board shall promptly transmit

1 the declaration to the Planning Department. If any such petition is timely filed, the Rent Board
2 shall endeavor to transmit the declaration and its final written determination on the petition to
3 the Planning Department within 90 calendar days of receipt of said petition. The Department
4 shall not approve an application to construct an ADU under this subsection (c)(4) unless (1)
5 the Rent Board has transmitted the declaration and final written determination required by
6 subsections (c)(4)(C)(iii) and (c)(4)(C)(iv), and (2) the materials transmitted by the Rent Board
7 indicate that construction of the ADU would not result in the severance, substantial reduction,
8 or removal without just cause of any tenant housing service set forth in Administrative Code
9 Section 37.2(r) that is supplied in the area of the property or building where the ADU would be
10 constructed, unless the property owner demonstrates that the tenant supplied with that
11 housing service has given their express written consent for the severance, substantial
12 reduction, or removal of the housing service.

13 (v) Except as provided in subsections (vi), ~~(vii)~~, and ~~(xiv)~~ below, an
14 ~~Accessory Dwelling Unit~~ ADU shall be constructed a. entirely within the buildable area of an
15 existing lot, provided that the ADU does not include a vertical addition ~~exceed the existing~~
16 ~~height of an existing the building in which it is constructed~~, or b. within the built envelope of an
17 existing and authorized ~~stand-alone~~ detached garage, storage structure, or other
18 ~~auxiliary detached~~ structure on the same lot, ~~as the built envelope existed three years prior to the~~
19 ~~time the application was filed for a building permit to construct the ADU. For purposes of this~~
20 subsection 207(c)(4), a “detached” structure or ADU shall not share structural walls with either the
21 primary structure or any other structure on the lot. For purposes of this subsection
22 207(c)(4)(C)(v), the “built envelope” shall include the open area under an existing and
23 authorized cantilevered room or room built on columns; decks, except for decks that are
24 supported by columns or walls other than the building wall to which they are attached and are
25 multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be

1 against a blank neighboring wall at the property line and not visible from any off-site location;
2 as these spaces exist as of July 11, 2016. An ADU constructed entirely within the existing built
3 envelope, as defined in this subsection 207(c)(4)(C)(v), along with permitted obstructions
4 allowed in Section 136(c)(32), of an existing building or authorized auxiliary detached structure
5 on the same lot, or where an existing ~~stand-alone detached~~ garage or storage structure has
6 been expanded to add dormers, is exempt from the notification requirements of Section 311 of
7 this Code unless the existing building or authorized auxiliary detached structure on the same lot
8 is an Article 10 or Article 11 individual landmark or is in an Article 10 or Article 11 District, in
9 which case the notification requirements will apply. If an ADU will be constructed under a
10 cantilevered room or deck that encroaches into the required rear yard, a pre-application
11 meeting ~~between the applicant and adjacent neighbors for all the proposed work that complies~~
12 with the Planning Commission's Pre-Application policy is required ~~before the application may~~
13 ~~be submitted.~~

14 (vi) When a ~~stand-alone detached~~ garage, storage, or other auxiliary
15 structure is being converted to an ADU, an expansion to the envelope is allowed to add
16 dormers even if the ~~stand-alone detached~~ garage, storage structure, or other auxiliary structure
17 is in the required rear yard.

18 (vii) On a corner lot, a legal ~~stand-alone detached~~ nonconforming garage,
19 storage structure, or other auxiliary structure may be expanded within its existing footprint by
20 up to one additional story in order to create a consistent street wall and improve the continuity
21 of buildings on the block.

22 (viii) ADUs shall comply with any applicable controls in Planning Code Section
23 134(f).

24 (viii)x) An ~~Accessory Dwelling Unit~~ ADU shall not be constructed using
25 space from an existing Dwelling Unit, except that an ADU may expand into habitable space on

1 the ground or basement floors provided that it does not exceed 25% of the total gross square
2 footage of such space on the ground and basement floors. The Zoning Administrator may waive
3 this 25% limitation if (1) the resulting space would not be usable or would be impractical to
4 use for other reasonable uses, including, but not limited to, storage or bicycle parking or (2)
5 waiving the limitation would help relieve any negative layout issues for the proposed ADU.

6 (ix) An existing building undergoing seismic retrofitting may be eligible
7 for a height increase pursuant to subsection (c)(4)(F) below.

8 (xi) Notwithstanding any other provision of this Code, an Accessory
9 Dwelling Unit ADU authorized under this Section 207(c)(4) may not be merged with an original
10 unit(s).

11 (xii) An Accessory Dwelling Unit ADU shall not be permitted in any
12 building in a Neighborhood Commercial District or in the Chinatown Community Business or
13 Visitor Retail Districts if it would eliminate or reduce a ground-story retail ~~or commercial~~ space,
14 unless the Accessory Dwelling Unit is a Designated Child Care Unit, as defined in Section
15 102, and meets all applicable standards of Planning Code Section 414A.6(e).

16 (xiii) An Accessory Dwelling Unit shall not be permitted under this
17 subsection (c)(4) if it would result in the reduction or removal of on-site laundry service, unless
18 that laundry service is replaced with at least the same number or capacity of washers and
19 dryers within the same building and as accessible as before to all building tenants.

20 (xiv) An application for a permit solely to construct an ADU in a proposed
21 building pursuant to this subsection 207(c)(4)(C) shall not be subject to the notification requirements of
22 Section 311 of this Code; however, anyThe application for a permit to construct the proposed
23 building shall be subject to any applicable notification requirements of Section 311 of this Code.

1 (xv) In addition to any ADUs permitted under this Section 207(c)(4)
2 within the primary structure, one detached ADU shall be permitted within the required rear
3 yard if it complies with the following requirements:

4 a. The proposed ADU is located at least four feet from the side
5 and rear lot lines and has a height no greater than sixteen feet.

6 b. The Gross Floor Area of a detached ADU that provides one
7 bedroom or less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU
8 that provides more than one bedroom shall not exceed 1,000 square feet.

9 (D) **Prohibition of Short-Term Rentals.** An *Accessory Dwelling Unit* ADU shall
10 not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative
11 Code, which restriction shall be recorded as a Notice of Special Restriction on the subject lot.

12 (E) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article
13 9 of the Subdivision Code, a lot with an *Accessory Dwelling Unit* ADU authorized under this
14 Section 207(c)(4) shall not be subdivided in a manner that would allow for the ADU to be sold
15 or separately financed pursuant to any condominium plan, housing cooperative, or similar
16 form of separate ownership; ~~provided, however, that~~ This prohibition on separate sale or
17 finance of the ADU shall not apply to an ADU in a building that (i) within three years prior to July
18 11, 2016 was an existing consisted entirely of condominium with no Rental Unit as defined in Section
19 37.2(r) of the Administrative Code units as of July 11, 2013, and (ii) has had no evictions pursuant
20 to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the Administrative Code within 10
21 years prior to since July 11, 2011 1996. This prohibition on separate sale or finance of the ADU shall
22 not apply to an ADU that meets the requirements of California Government Code Section 65852.26.

23 (F) **Buildings Undergoing Seismic Retrofitting.** For *Accessory Dwelling*
24 *Units* ADUs on lots with a building undergoing mandatory seismic retrofitting in compliance with
25 Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with

1 the Department of Building Inspection’s Administrative Bulletin 094, the following additional
2 provision applies: If allowed by the Building Code, a building in which an ~~Accessory Dwelling~~
3 ~~Unit~~ADU is constructed may be raised up to three feet to create ground floor ceiling heights
4 suitable for residential use. Such a raise in height

5 (i) Shall be exempt from the notification requirements of Section 311
6 of this Code; and

7 (ii) May expand a noncomplying structure, as defined in Section
8 180(a)(2) of this Code and further regulated in Sections 172, 180, and 188, without obtaining
9 a variance for increasing the discrepancy between existing conditions on the lot and the
10 required standards of this Code.

11 (iii) On lots where an ADU is added in coordination with a building
12 undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing
13 Building Code or voluntary seismic retrofitting in compliance with the Department of Building
14 Inspection’s Administrative Bulletin 094, the building and the new ADU shall maintain any
15 eligibility to enter the condo-conversion lottery and may only be subdivided if the entire
16 property is selected on the condo-conversion lottery.

17 (iv) Pursuant to subsection (4)(C)(i), there is no limit on the number of
18 ADUs that are permitted to be added in connection with a seismic retrofit, as long as all health
19 and safety requirements are met.

20 (G) **Waiver of Code Requirements; Applicability of Rent Ordinance.**

21 Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant
22 ~~an Accessory Dwelling Unit~~ a complete or partial waiver of the density limits and bicycle
23 parking, rear yard, exposure, or open space standards of this Code for ADUs constructed within
24 an existing building, and may grant a waiver of the density limits of this Code for ADUs constructed
25 within a proposed building. If the Zoning Administrator grants a complete or partial waiver of the

1 requirements of this Code and the subject lot contains any Rental Units at the time an
2 application for a building permit is filed for construction of the ~~Accessory Dwelling Unit~~ADU(s),
3 the property owner(s) shall enter into a Regulatory Agreement with the City under subsection
4 (c)(4)(H) subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and
5 Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of
6 the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section
7 37.2(r) of the Administrative Code.

8 (H) **Regulatory Agreements.** A Regulatory Agreement required by
9 subsection (c)(4)(G) as a condition of approval of an Accessory Dwelling Unit shall contain the
10 following:

11 (i) a statement that the ADU(s) are not subject to the Costa Hawkins
12 Rental Housing Act (California Civil Code Section 1954.50) because, under Section
13 1954.52(b), the owner has entered into this agreement with the City in consideration for a
14 complete or partial waiver of the density limits, and/or bicycle parking, rear yard, exposure, or
15 open space standards of this Code or other direct financial contribution or other form of
16 assistance specified in California Government Code Sections 65915 et seq. (“Agreement”);
17 and

18 (ii) a description of the complete or partial waiver of Code
19 requirements granted by the Zoning Administrator or other direct financial contribution or form
20 of assistance provided to the property owner; and

21 (iii) a description of the remedies for breach of the Agreement and
22 other provisions to ensure implementation and compliance with the Agreement.

23 (iv) The property owner and the Planning Director (or the Director’s
24 designee), on behalf of the City, will execute the Agreement, which shall be reviewed and
25 approved by the City Attorney’s Office. The Agreement shall be executed prior to the City’s

1 issuance of the First Construction Document for the project, as defined in Section 107A.13.1
2 of the San Francisco Building Code.

3 (v) Following execution of the Regulatory Agreement by all parties
4 and approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall
5 be recorded against the property and shall be binding on all future owners and successors in
6 interest.

7 Any Regulatory Agreement entered into under this Section 207(c)(4) shall not preclude
8 a landlord from establishing the initial rental rate pursuant to Section 1954.53 of the Costa
9 Hawkins Rental Housing Act.

10 (l) **Monitoring Program.**

11 (i) **Monitoring and Enforcement of Unit Affordability.** The
12 Department shall establish a system to monitor the affordability of the Accessory Dwelling
13 Units authorized to be constructed by this subsection 207(c)(4) and shall use such data to
14 enforce the requirements of the Regulatory Agreements entered into pursuant to subsection
15 (c)(4)(H). Property owners shall provide the Department with rent information as requested by
16 the Department. The Board of Supervisors recognizes that property owners and tenants
17 generally consider rental information sensitive and do not want it publicly disclosed. The intent
18 of the Board is for the Department to obtain the information for purposes of monitoring and
19 enforcement but that its public disclosure is not linked to specific individuals or units. The
20 Department shall consult with the City Attorney's Office with respect to the legal requirements
21 to determine how best to achieve the intent of the Board.

22 (ii) **Monitoring of Prohibition on Use as Short Term Rentals.** The
23 Department shall collect data on the use of ~~Accessory Dwelling Units~~ ADUs authorized to be
24 constructed by this subsection (c)(4) as Short-Term Residential Rentals, as that term is
25 defined in Administrative Code Section 41A.4, and shall use such data to evaluate and

1 enforce Notices of Special Restriction pursuant to subsection 207(c)(4)(D) and the
2 requirements of Administrative Code Chapter 41A.

3 (iii) **Department Report.** *As part of the annual Housing Inventory, t*The
4 Department shall ~~publish a~~ report ~~annually until April 1, 2019, that describes and evaluates~~ the
5 types of units being developed pursuant to this subsection 207(c)(4), ~~and~~ their affordability rates,
6 ~~as well as~~ their use as Short-Term Residential Rentals, and. ~~The report shall contain~~ such
7 additional information as the Director or the Board of Supervisors determines would inform
8 decision makers and the public on the effectiveness and implementation of this subsection
9 207(c)(4), and shall include recommendations for any amendments to the requirements of this
10 Section 207(c)(4). ~~The Department shall transmit this report to the Board of Supervisors for its~~
11 ~~review and public input. In subsequent years, this information on Accessory Dwelling Units shall be~~
12 ~~reported annually in the Housing Inventory.~~

13 * * * *

14 (6) **Accessory Dwelling Units - State Mandated Accessory Dwelling Unit Program:**
15 **Accessory Dwelling Units in Existing or Proposed ~~Single-Family Homes~~Dwellings or in a**
16 **Detached ~~Auxiliary~~ Structure on the Same Lot.**

17 (A) **Applicability.** This subsection 207(c)(6) shall apply to the construction of
18 ~~Accessory Dwelling Units~~ADUs and Junior Accessory Dwelling Units (“JADUs”) (as defined in
19 Section 102) in existing or proposed ~~single-family homes~~dwellings, or in a detached ~~auxiliary~~
20 structure on the same lot, if the ADU meets the applicable requirements of this
21 subsection207(c)(6). An ADU constructed pursuant to this subsection is considered a
22 residential use that is consistent with the General Plan and the zoning designation for the lot.
23 Adding ~~one an~~ ADU or JADU in compliance with this subsection 207(c)(6) ~~to an existing or proposed~~
24 ~~single-family home or in a detached auxiliary structure on the same lot~~ does not exceed the
25 allowable density for the lot. Unless otherwise specified, for purposes of this subsection 207(c)(6), a

1 “detached” structure or ADU shall not share structural walls with either the primary structure or any
2 other structure on the lot. If construction of the ADU will not meet the requirements of this
3 subsection ~~and the ADU cannot be constructed without a waiver of Code requirements pursuant to~~
4 ~~subsection (c)(4)(G),~~ the ADU is regulated pursuant to subsection 207(c)(4) and not this
5 subsection 207(c)(6).

6 (B) ~~**Lots Zoned for Single-Family or Multifamily Use and Containing an Existing**~~
7 ~~**or Proposed Single-Family Home; General Controls on Construction.**~~ An ~~Accessory Dwelling~~
8 ~~Unit located on a lot that is zoned for single-family or multifamily use and contains an existing or~~
9 ~~proposed single-family dwelling and~~ADU constructed pursuant to this subsection (c)(6) shall
10 meet all of the following:

11 ~~————— (i) ——— The ADU will strictly meet the requirements set forth in this subsection~~
12 ~~(c)(6)(B) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G).~~

13 ~~————— (ii) ——— The permit application does not include seismic upgrade work pursuant~~
14 ~~to subsection (c)(4)(F).~~

15 ~~(iii) ——— Only one ADU will be constructed that is either attached to or will be~~
16 ~~constructed entirely within the “living area” (as defined in subsection (c)(6)(B)(iii)) or within the~~
17 ~~buildable area of the proposed or existing primary dwelling or, except as provided by subsections~~
18 ~~(B)(x) and (xi) below, within the built envelope of an existing and authorized auxiliary structure on the~~
19 ~~same lot. “Living area” means (as defined in Section 65852.2(i)(1) of the California Government~~
20 ~~Code) “the interior habitable area of a dwelling unit including basements and attics, but does not~~
21 ~~include a garage or any accessory structure.”~~

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

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

7 ~~(vi) — The Department shall apply any design guidelines in the Code to the~~
8 ~~proposed project and review the design of the proposed project to ensure architectural compatibility~~
9 ~~with existing buildings on the subject lot.~~

10 ~~(vii) — No setback is required for an existing garage that is converted to an~~
11 ~~ADU.~~

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

14 ~~(iv~~x~~) No parking is required for the ADU. If existing parking is demolished~~
15 ~~in order to construct the ADU, only the parking space required by this Code for the existing single-~~
16 ~~family home must be replaced, except that no replacement parking is required for An ADU approved~~
17 ~~pursuant to subsection 207(c)(6)(D). If replacement parking is required, it may be located in any~~
18 ~~configuration on the lot including but not limited to covered, uncovered, or tandem space or by the use~~
19 ~~of mechanical automobile parking lifts.~~

20 ~~(x) — When a stand-alone garage, storage, or other auxiliary structure is being~~
21 ~~converted to an ADU, an expansion to the envelope is allowed to add dormers even if the stand-alone~~
22 ~~garage, storage structure, or other auxiliary structure is in the required rear yard.~~

23 ~~(xi) — On a corner lot, a legal stand-alone nonconforming garage, storage~~
24 ~~structure, or other auxiliary structure may be expanded within its existing footprint by up to one~~

1 ~~additional story in order to create a consistent street wall and improve the continuity of buildings on~~
2 ~~the block.~~

3 ~~(xii) — When the ADU involves expansion of the built envelope of an existing~~
4 ~~primary dwelling, or an expansion of the built envelope of an existing and authorized stand-alone~~
5 ~~garage, storage structure, or other auxiliary structure on the same lot, or the construction of a new~~
6 ~~detached auxiliary structure on the same lot, the total floor area of the ADU shall not exceed 1,200~~
7 ~~square feet.~~

8 ~~(C) — **Permit Application Review and Approval.** The Department shall approve an~~
9 ~~application for a permit to construct an Accessory Dwelling Unit within 120 days from receipt of the~~
10 ~~complete application, without modification or disapproval, if the proposed construction fully complies~~
11 ~~with the requirements set forth in subsection (c)(6)(B). No requests for discretionary review shall be~~
12 ~~accepted by the Planning Department for permit applications meeting the requirements of this~~
13 ~~subsection (c)(6). The Planning Commission shall not hold a public hearing for discretionary review of~~
14 ~~permit applications meeting the requirements of this subsection (c)(6). Permit applications meeting the~~
15 ~~requirements of this subsection (c)(6) shall not be subject to the notification or review requirements of~~
16 ~~Section 311 of this Code.~~

17 ~~(D) — **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the~~
18 ~~Department under this subsection (c)(6) shall be as set forth in Section 8 of the Business and Tax~~
19 ~~Regulations Code.~~

20 ~~(E) — **Prohibition of Short-Term Rentals.** An Accessory Dwelling Unit authorized~~
21 ~~under this subsection (c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of~~
22 ~~the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the~~
23 ~~subject lot.~~

24 ~~(F) — **Rental; Restrictions on Subdivisions.**~~

1 (i) — ~~An ADU constructed pursuant to this subsection (c)(6) may be rented and~~
2 ~~is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance~~
3 ~~(Chapter 37 of the Administrative Code).~~

4 (ii) — ~~Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot~~
5 ~~with an Accessory Dwelling Unit authorized under this subsection (c)(6) shall not be subdivided in a~~
6 ~~manner that would allow for the ADU to be sold or separately financed pursuant to any condominium~~
7 ~~plan, housing cooperative, or similar form of separate ownership.~~

8 (G) — **Department Report.** ~~In the report required by subsection (c)(4)(I)(iii), the~~
9 ~~Department shall include a description and evaluation of the number and types of units being~~
10 ~~developed pursuant to this subsection (c)(6), their affordability rates, and such other information as the~~
11 ~~Director or the Board of Supervisors determines would inform decision makers and the public.~~

12 (H) — **Notification.** ~~Upon determination that an application is in compliance with the~~
13 ~~standards of subsection 207(c)(6) of the Planning Code, the Planning Department shall cause a notice~~
14 ~~to be posted on the site pursuant to rules established by the Zoning Administrator and shall cause a~~
15 ~~written notice describing the proposed project to be sent in the manner described below. This notice~~
16 ~~shall be in addition to any notices required by the Building Code and shall have a format and content~~
17 ~~determined by the Zoning Administrator. This notice shall include a description of the proposal~~
18 ~~compared to any existing improvements on the site with dimensions of the basic features, elevations~~
19 ~~and site plan of the proposed project including the position of any adjacent buildings, exterior~~
20 ~~dimensions and finishes, and a graphic reference scale, existing and proposed uses or commercial or~~
21 ~~institutional business name, if known. The notice shall describe the project review process and shall set~~
22 ~~forth the mailing date of the notice.~~

23 (i) — ~~Written notice shall be mailed to the project sponsor and tenants of the~~
24 ~~subject property. Written notice shall also be mailed to tenants of the subject property in unauthorized~~
25 ~~residential units.~~

1 (ii) — ~~The notification package for a project subject to notice under this~~
2 ~~subsection 207(c)(6) shall include a written notice and reduced-size drawings of the project. The~~
3 ~~written notice shall compare the proposed project to the existing conditions at the development lot.~~
4 ~~Change to basic features of the project that are quantifiable shall be disclosed on the written notice.~~
5 ~~The basic features of existing and proposed conditions shall include, where applicable, front setback,~~
6 ~~building depth, rear yard, depth side, setbacks, building height, number of stories, dwelling unit count~~
7 ~~and use of the building.~~

8 (iii) — ~~The written notice shall describe whether the project is a demolition, new~~
9 ~~construction or alteration project. If the project is an alteration, the type of alteration shall be~~
10 ~~described: horizontal, vertical, or both horizontal and vertical additions, and where the alteration is~~
11 ~~located.~~

12 (iv) — ~~A written project description shall be part of the notice. In addition, the~~
13 ~~notice shall describe the project review process, information on how to obtain additional information,~~
14 ~~and the contact information of the Planning Department.~~

15 (v) — ~~The building permit application number(s) shall be disclosed in the~~
16 ~~written notice.~~

17 (vi) — ~~11x17 sized or equivalent drawings to scale shall be included with the~~
18 ~~written notice. The drawings shall illustrate the existing and proposed conditions in relationship to the~~
19 ~~adjacent properties. All dimensions and text throughout the drawings shall be legible. The drawings~~
20 ~~shall include a site plan, floor plans, and elevations documenting dimensional changes that correspond~~
21 ~~to the basic features included in the written notice. The existing and proposed site plan shall illustrate~~
22 ~~the project including the full lots and structures of the directly adjacent properties. The existing and~~
23 ~~proposed floor plans shall illustrate the location and removal of interior and exterior walls. The use of~~
24 ~~each room shall be labeled. Significant dimensions shall be provided to document the change proposed~~
25 ~~by the project. The existing and proposed elevations shall document the change in building volume:~~

1 *height and depth. Dimensional changes shall be documented, including overall building height and*
2 *also parapets, penthouses, and other proposed vertical and horizontal building extensions. The front*
3 *and rear elevations shall include the full profiles of the adjacent structures including the adjacent*
4 *structures' doors, windows, and general massing. Each side elevation shall include the full profile of*
5 *the adjacent building in the foreground of the project, and the adjacent windows, lightwells and*
6 *general massing shall be illustrated.*

7 *(vii) — **Language Access.** All forms of public notice provided pursuant to this*
8 *subsection 207(c)(6)(H) shall comply with the requirements of the Language Access Ordinance,*
9 *Chapter 91 of the Administrative Code, to provide vital information about the Planning Department's*
10 *services or programs in the languages spoken by a Substantial Number of Limited English Speaking*
11 *Persons, as defined in Chapter 91. The notices required by this subsection 207(c)(6)(H) shall contain*
12 *the information set forth in subsection 207(c)(6)(h)(ii)-(v) in the languages spoken by a Substantial*
13 *Number of Limited English Speaking Persons, as defined in Administrative Code Chapter 91.*

14 *(viii) — **Online Notice.** For 30 calendar days, on a publicly accessible website*
15 *that is maintained by the Planning Department, the Planning Department shall provide a digital copy*
16 *formatted to print on 11 x 17 inch paper of the posted notice, including the contents set forth in*
17 *subsection 207(c)(6)(h)(ii)-(v) for the application; and digital copies of any architectural and/or site*
18 *plans that are sealed and formatted to print on 11 x 17 inch paper, are consistent with Plan Submittal*
19 *Guidelines maintained and published by the Planning Department, and that describe and compare, at a*
20 *minimum, the existing and proposed conditions at the subject property, the existing and proposed*
21 *conditions in relationship to adjacent properties, and that may include a site plan, floor plans, and*
22 *elevations documenting dimensional changes required to describe the proposal.*

23 *(C) **Specific Controls for Ministerial ADUs.** The purpose of this subsection*
24 *207(c)(6)(C) is to implement California Government Code Sections 65852.2(e) and 65852.22, which*
25 *requires ministerial consideration of ADUs and JADUs that meet certain standards ("Ministerial*

1 ADUs”). ADUs and JADUs shall strictly meet the requirements set forth in this subsection (c)(6)(C)
2 without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G). The City shall
3 approve ADUs and JADUs meeting the following requirements, in addition to the requirements of
4 subsection 207(c)(6)(B) and any other applicable standards:

5 (i) ADUs and JADUs within proposed space of a proposed single-family
6 dwelling or within existing space of a single-family dwelling or accessory structure meeting the
7 following conditions:

- 8 a. The lot on which the ADU or JADU is proposed contains an
9 existing or proposed single-family dwelling.
- 10 b. Only one ADU and one JADU is permitted per lot.
- 11 c. Each proposed ADU and JADU includes an entrance that is
12 separate from the entrance to the existing or proposed dwelling.
- 13 d. Side and rear setbacks will be sufficient for fire safety.
- 14 e. If an ADU is proposed, it will be within the existing space of a
15 single-family dwelling or accessory structure, or within the space of a proposed single-family dwelling,
16 or it will require an addition of no more than 150 square feet to an existing accessory structure to
17 accommodate ingress and egress.
- 18 f. If a JADU is proposed, it meets the requirements of California
19 Government Code Section 65852.22.

20 (ii) Detached, new construction ADUs on lot containing a proposed or
21 existing single-family dwelling meeting the following conditions:

- 22 a. The lot on which the detached ADU is proposed contains an
23 existing or proposed single-family dwelling.
- 24 b. The lot on which the ADU is proposed does not contain another
25 ADU, but may contain a JADU.

1 d. No more than two ADUs shall be permitted per lot pursuant to
2 this subsection 207(c)(6)(C)(iv).

3 (D) Specific Controls for Streamlined ADUs. The purpose of this subsection
4 207(c)(6)(D) is implement California Government Code Sections 65852.2(a) through (d), which
5 requires streamlined, ministerial approval of ADUs meeting certain standards (“Streamlined ADUs”).
6 An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or
7 proposed dwelling, and that is constructed pursuant to this subsection 207(c)(6)(D), shall meet all of
8 the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other
9 applicable standards. Provided, however, that the City shall not impose limits on lot coverage, floor
10 area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not
11 permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross
12 Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this
13 subsection 207(c)(6)(D) shall meet the following conditions:

14 (i) Only one ADU will be constructed.

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

17 (iii) The lot on which the ADU is proposed does not contain another ADU or
18 JADU.

19 (iv) The ADU is either a. attached to or will be constructed entirely within the
20 proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or
21 an accessory structure on the same lot, or b. attached to or will be constructed entirely within a
22 proposed or legally existing detached structure on the same lot, or c. detached from the proposed or
23 existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

24 (v) If there is an existing primary dwelling, the Gross Floor Area of an
25 attached ADU that provides one bedroom or less shall not exceed 50 percent of the Gross Floor Area

1 of the existing primary dwelling or 850 square feet, whichever is greater. If there is an existing primary
2 dwelling, the Gross Floor Area of an attached ADU that provides more than one bedroom shall not
3 exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 1,000 square feet,
4 whichever is greater.

5 (vi) The Gross Floor Area of a detached ADU that provides one bedroom or
6 less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides more
7 than one bedroom shall not exceed 1,000 square feet.

8 (vii) **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 and is
10 located in the same location and constructed to the same dimensions as the structure being replaced. A
11 setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is
12 not converted from either an existing structure or a new structure constructed in the same location and
13 to the same dimensions as an existing structure.

14 (viii) When a garage, carport, or covered parking structure is demolished in
15 conjunction with the construction of an ADU or converted to an ADU, replacement of those offstreet
16 parking spaces is not required.

17 (ix) The ADU shall not exceed a height of 16 feet.

18 (E) **Notification requirements for ADUs on a lot containing a proposed or existing**
19 **single-family dwelling.** Prior to submitting an application to construct an ADU or JADU on a lot
20 containing a proposed or existing single-family dwelling under subsection 207(c)(6)(D), the property
21 owner shall notify all tenants on the subject property of the application, including tenants of the subject
22 property in unauthorized residential units. The property owner shall satisfy this notification
23 requirement in one of the following two ways.

24 (i) Comply with the requirements of the Building Code and applicable
25 Department of Building Inspection screening forms, and submit a copy of any applicable Department of

1 Building Inspection Screening forms to the Planning Department as part of the application to construct
2 an ADU or JADU; or

3 (ii) Cause a notice describing the proposed project to be posted on the
4 subject property for at least 15 days, cause a written notice describing the proposed project to be
5 mailed to the tenants of the subject property, and submit proof of these notices to the Planning
6 Department as part of the application to construct an ADU or JADU. These notices shall have a
7 format and content determined by the Zoning Administrator, and shall generally describe the project,
8 including the number and location of the proposed ADU and JADU. These notices shall describe how
9 to obtain additional information regarding the project and provide contact information for the
10 Planning Department that complies with the requirements of the Language Access Ordinance, Chapter
11 91 of the Administrative Code, to provide vital information about the Planning Department's services
12 or programs in the languages spoken by a Substantial Number of Limited English Speaking Persons, as
13 defined in Chapter 91.

14 (F) **Permit Application Review and Approval.** The City shall act on an application
15 for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt
16 of the complete application, without modification or disapproval, if the proposed construction fully
17 complies with the requirements set forth in this subsection 207(c)(6). No requests for discretionary
18 review shall be accepted by the Planning Department for permit applications meeting the requirements
19 of this subsection 207(c)(6). The Planning Commission shall not hold a public hearing for
20 discretionary review of permit applications meeting the requirements of this subsection 207(c)(6).
21 Permit applications meeting the requirements of this subsection 207(c)(6) shall not be subject to the
22 notification or review requirements of Section 311 of this Code.

23 (G) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the
24 Department under this subsection 207(c)(6) shall be as set forth in Section 8 of the Business and Tax
25 Regulations Code.

1 (H) **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this
2 subsection 207(c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the
3 Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject
4 lot.

5 (I) **Rental; Restrictions on Subdivisions.** The following restrictions shall be
6 recorded as a Notice of Special Restriction on the subject lot on which an ADU or JADU is constructed
7 under this subsection 207(c)(6) and shall be binding on all future owners and successors in interest:

8 (i) An ADU or JADU constructed pursuant to this subsection 207(c)(6) may
9 be rented and is subject to all applicable provisions of the Residential Rent Stabilization and
10 Arbitration Ordinance (Chapter 37 of the Administrative Code).

11 (ii) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot
12 with an ADU or JADU authorized under this subsection 207(c)(6) shall not be subdivided in a manner
13 that would allow for the ADU or JADU to be sold or separately financed pursuant to any condominium
14 plan, housing cooperative, or similar form of separate ownership, except that this prohibition on
15 separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of
16 California Government Code Section 65852.26.

17 (iii) The size and attributes of a JADU constructed pursuant to this subsection
18 207(c)(6) shall comply with the requirements of this subsection 207(c)(6) and Government Code
19 65852.22.

20 (J) **Department Report.** In addition to the information required by subsection
21 207(c)(4)(I)(iii), the annual Housing Inventory shall include a description and evaluation of the
22 number and types of units being developed pursuant to this subsection (c)(6), their affordability rates,
23 and such other information as the Director or the Board of Supervisors determines would inform
24 decision makers and the public.

1 (K) Fees. No impact fees shall be imposed on ADUs or JADUs authorized under this
2 subsection 207(c)(6), where the ADU or JADU is smaller than seven hundred and fifty square feet of
3 Gross Floor Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees
4 for all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary
5 dwelling unit.

6 * * * *

7
8 **SEC. 1005. CONFORMITY AND PERMITS.**

9 * * * *

10 (e) After receiving a permit application from the Central Permit Bureau in accordance
11 with the preceding subsection, the Department shall ascertain whether a Certificate of
12 Appropriateness is required or has been approved for the work proposed in such permit
13 application. If a Certificate of Appropriateness is required and has been issued, and if the
14 permit application conforms to the work approved in the Certificate of Appropriateness, the
15 permit application shall be processed without further reference to this Article 10. If a
16 Certificate of Appropriateness is required and has not been issued, or if the permit application
17 does not conform to what was approved, the permit application shall be disapproved or held
18 by the Department until such time as conformity does exist either through modifications to the
19 proposed work or through the issuance of an amended or new Certificate of Appropriateness.
20 Notwithstanding the foregoing, in the following cases the Department shall process the permit
21 application without further reference to this Article 10:

22 * * * *

23 (9) When the application is for a permit to install a City-sponsored Landmark
24 plaque to a landmark or district, provided that the improvements conform to the requirements
25 outlined in Section 1006.6 of this Code.; or

1 (10) When the application is for a permit to construct an Accessory Dwelling Unit or
2 Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory
3 Dwelling Unit conforms to the requirements of subsection 207(c)(6) of this Code.

4 * * * *

5
6 **SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT**
7 **OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.**

8 * * * *

9 (g) Notwithstanding the foregoing, in the following cases the Department may process
10 the permit application without further reference to this Article 11:

11 (1) When the application is for a permit for ordinary maintenance and repairs
12 only. For the purpose of this Article 11, "ordinary maintenance and repairs" shall mean any
13 work, the sole purpose and effect of which is to correct deterioration, decay or damage of
14 existing materials, including repair of damage caused by fire or other disaster.

15 (2) When the application is for a permit to construct any new or replacement
16 structures on a site where a Significant or Contributory Building has been lawfully demolished
17 pursuant to this Code and the site is not within a designated Conservation District; or

18 (3) When the application is for a permit to make interior alterations only and
19 does not constitute a demolition as defined in this Article, unless the Planning Department has
20 determined that the proposed interior alterations may result in any visual or material impact to
21 the exterior of the building or when the designating ordinance or applicable Appendix in this
22 Article requires review of such interior alterations; or

23 (4) When the application is for a permit to construct an Accessory Dwelling Unit or
24 Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory
25 Dwelling Unit conforms to the requirements of subsection 207(c)(6) of this Code.

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Section 3. 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 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

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

Section 6. Corrected Presentation of Existing Code. Some prior versions of this ordinance inadvertently failed to accurately reflect recent amendments to section 207 of the Planning Code enacted by Ordinance Nos. 208-21 and 209-21. This version of this ordinance has been updated to accurately represent those recent amendments as existing text of the Planning Code. Said revisions do not change the substance of this ordinance.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3

4 By: /s/ Peter R. Miljanich
5 PETER R. MILJANICH
6 Deputy City Attorney

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1 [Administrative Code, Business and Tax Regulations, Planning Code - State-Mandated
2 Accessory Dwelling Unit Controls]

3 **Ordinance amending the Administrative Code, Building Code, Business and Tax
4 Regulations Code, and Planning Code to clarify the ministerial approval process for
5 certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family
6 and multifamily buildings ~~and to permit certain ADUs in the rear yard under the City's~~
7 ~~local, discretionary approval program; affirming the Planning Department's~~
8 ~~determinationmaking findings~~affirming the Planning Department's determination under
9 the California Environmental Quality Act; making findings of consistency with the
10 General Plan and the eight priority policies of Planning Code, Section 101.1; and
11 adopting findings of public necessity, convenience, and welfare under Planning Code,
12 Section 302.**

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

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

21 Section 1. Findings.

22 (a) ~~On April 24, 2014, the Planning Commission certified the 2004 and 2009 Housing~~
23 ~~Element Final Environmental Impact Report ("Final EIR") in accordance with the California~~
24 ~~Environmental Quality Act (California Public Resources Code Sections 21000 et seq.)~~
25 ~~("CEQA"), the CEQA Guidelines (California Code of Regulations Title 14, Sections 15000 et~~
~~seq.), and Chapter 31 of the San Francisco Administrative Code. Subsequent to the adoption~~

1 of the Final EIR, the City has approved and incorporated eight addenda into the analysis of
2 the Final EIR and made requisite findings under CEQA. The Planning Department has
3 determined that the actions contemplated in this ordinance comply with the California
4 Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said
5 determination is on file with the Clerk of the Board of Supervisors in File No. _____ and
6 is incorporated herein by reference. The Board affirms this determination. The Planning
7 Department has determined that the actions contemplated in this ordinance comply with the
8 California Environmental Quality Act (California Public Resources Code Sections 21000 et
9 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.
10 _____ and is incorporated herein by reference. The Board affirms this determination.

11 (b) The Planning Department prepared Addendum No. 9 to the Final EIR, dated
12 September 9, 2022 (“Addendum”). The Addendum evaluates the environmental effects of the
13 actions contemplated in this ordinance, which are an implementing program of the Project
14 evaluated in the Final EIR. The Addendum determines that: these actions would not cause
15 new significant impacts that were not identified in the Final EIR; these actions would not
16 cause significant impacts that were previously identified in the Final EIR to become
17 substantially more severe; no new mitigation measures would be necessary to reduce
18 significant impacts; no changes have occurred with respect to circumstances surrounding
19 these actions that would cause significant environmental impacts to which these actions
20 would contribute considerably; and no new information has become available that shows that
21 these actions would cause significant environmental impacts. For these reasons, no
22 subsequent or supplemental environmental review is required. The Board of Supervisors has
23 reviewed and considered the Final EIR and the Addendum, and the Planning Department’s
24 determination is on file with the Clerk of the Board of Supervisors in File No. 210585 and is
25 incorporated herein by reference.

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

6 (edc) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
7 ordinance will serve the public necessity, convenience, and welfare for the reasons stated in
8 Planning Commission Resolution No. _____.

9 (d) On _____, 2023, the Building Inspection Commission considered this
10 ordinance at a duly noticed public hearing pursuant to Charter Section D3. 750-5.

11 (e) No local findings are required under California Health and Safety Code Section
12 17958.7 because the amendments to the Building Code contained in this ordinance do not
13 regulate materials or manner of construction or repair, and instead relate in their entirety to
14 administrative procedures, which are expressly excluded from the definition of a "building
15 standard" by California Health and Safety Code Section 18909(c).

16
17 Section 2. The Planning Code is hereby amended by revising Sections 102, 136,
18 155.1, 207, 1005, and 1110, and adding Sections 207.1 and 207.2, to read as follows:

19
20 **SEC. 102. DEFINITIONS.**

21 * * * *

22 **Dwelling Unit, Accessory, or ADU.** Also known as a Secondary Unit or In-Law Unit, is a
23 Dwelling Unit that meets all the requirements of subsection 207.1(e)(4) or subsection
24 207.2(e)(6) and that is accessory to at least one other Dwelling Unit on the same lot. A
25 detached ADU shall not share structural walls with either the primary structure or any other

1 structure on the lot. Height for detached ADUs located outside the buildable area shall be
2 measured from existing grade at any given point to either a) the highest point of a finished
3 roof in the case of a flat roof or b) the average height of a pitched roof or stepped roof, or
4 similarly sculptured roof form. Height for detached ADUs located outside the buildable area
5 shall not be eligible for any exemptions described in Planning Code subsection 260(b).

6
7 **Dwelling Unit, Junior Accessory, or JADU.** A Dwelling Unit that meets all the requirements
8 of subsection 207.2(e)(6), and that:

- 9 (a) is accessory to at least one other Dwelling Unit on the same lot;
- 10 (b) is no more than 500 square feet of Gross Floor Area;
- 11 (c) is contained entirely within an existing or proposed single-family structure;
- 12 (d) may include separate sanitation facilities, or may share sanitation facilities with
13 the existing structure;
- 14 (e) is owner-occupied, unless the owner resides in the remaining portion of the
15 structure;
- 16 (f) includes an entrance to the Junior Accessory Dwelling Unit that is separate from
17 the main entrance to the proposed or existing single-family structure; and
- 18 (g) includes an efficiency kitchen that meets the requirements of Government Code
19 Section 65852.22(a)(6), including a cooking facility with appliances, and a food preparation
20 counter and storage cabinets that are of reasonable size in relation to the size of the Junior
21 Accessory Dwelling Unit.

22 * * * *

23
24 **SEC. 136. OBSTRUCTIONS OVER STREETS AND ALLEYS AND IN REQUIRED**
25 **SETBACKS, YARDS, AND USABLE OPEN SPACE.**

1 * * * *

2 (c) The permitted obstructions shall be as follows:

3 * * * *

4 (32) Infill under decks and cantilevered rooms when adding an Accessory
5 Dwelling Unit; provided, however, that such infill shall comply with Section 207.1~~(e)~~(4) or
6 Section 207.2~~(e)~~(6) of this Code, whichever is applicable; and provided further that if the ADU
7 is proposed for a single-family home, the rear yard must be 25% of the lot depth but in no
8 case less than 15 feet.

9 (33) One detached Accessory Dwelling Unit that complies with the
10 requirements of Planning Code subsection 207.1(c)~~(15)~~(4)~~(xii)~~.

11 * * * *

12
13 **SEC. 155.1. BICYCLE PARKING: DEFINITIONS AND STANDARDS.**

14 * * * *

15 (b) **Standards for Location of Bicycle Parking Spaces.** These standards apply to
16 all bicycle parking subject to Section 155.2, as well as bicycle parking for City-owned and
17 leased buildings, parking garages and parking lots subject to Section 155.3. Bicycle racks
18 shall be located in highly visible areas as described in subsections below in order to maximize
19 convenience and minimize theft and vandalism. For Accessory Dwelling Units, the
20 requirements of this subsection (b) may be modified or waived pursuant to the procedures
21 and criteria set forth in Sections 307(l) and 207.1~~(e)~~(4)(G).

22 * * * *

23 (c) **Design Standards for Bicycle Parking Spaces.** These design standards apply to
24 all bicycle parking spaces subject to Sections 155.2 and 155.3. Bicycle parking shall follow the
25 design standards established in Zoning Administrator Bulletin No. 9, which includes specific

1 requirements on bicycle parking layout and acceptable types of Class 1 and Class 2 bicycle
2 parking spaces. For Accessory Dwelling Units, the requirements of this subsection (c) may be
3 modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and
4 207.1(e)(4)(G).

5 * * * *

7 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

8 * * * *

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

11 * * * *

12 (4) The exception to Dwelling Unit density limits for certain Accessory
13 Dwelling Units under the City’s Local Accessory Dwelling Unit Program are contained in
14 Section 207.1 of this Code ~~Accessory Dwelling Units—Local Program: Accessory Dwelling Units~~
15 ~~in Multifamily Buildings and Accessory Dwelling Units in Single-Family Homes That Do Not~~
16 ~~Strictly Meet the Requirements in subsection (e)(6).~~

17 (A) ~~Definition.~~ An “Accessory Dwelling Unit” (ADU) is defined in Section
18 102.

19 (B) ~~Applicability.~~ This subsection (e)(4) shall apply to the construction of
20 ADUs on all lots located within the City and County of San Francisco in areas that allow residential
21 use, except ADUs regulated by subsection (e)(6) below.

22 (C) ~~Controls on Construction.~~ An ADU regulated by this subsection (e)(4) is
23 permitted to be constructed in an existing or proposed building under the following conditions:

24 (i) ~~For lots that have four existing Dwelling Units or fewer, or where the~~
25 ~~zoning would permit the construction of four or fewer Dwelling Units, one ADU is permitted. For lots~~

1 *that have more than four existing Dwelling Units or are undergoing seismic retrofitting under*
2 *subsection (c)(4)(F) below, or where the zoning would permit the construction of more than four*
3 *Dwelling Units, there is no limit on the number of ADUs permitted, as long as all other health and*
4 *safety requirements are met.*

5 ~~————— (ii) ——— The Department shall not approve an application for construction of an~~
6 ~~ADU where a tenant on the lot was evicted pursuant to Administrative Code Sections 37.9(a)(9)~~
7 ~~through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the~~
8 ~~application for a building permit to construct the ADU, or where a tenant was evicted pursuant to~~
9 ~~Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to~~
10 ~~filing the application for a building permit to construct the ADU. This subsection (c)(4)(C)(ii) shall not~~
11 ~~apply if the tenant was evicted under Section 37.9(a)(11) or 37.9(a)(14) and the applicant(s) either (A)~~
12 ~~have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have~~
13 ~~submitted to the Department and to the Residential Rent Stabilization and Arbitration Board (Rent~~
14 ~~Board) a declaration from the property owner or the tenant certifying that the property owner notified~~
15 ~~the tenant of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.~~

16 ~~————— (iii) ——— Prior to submitting an application to construct an ADU under this~~
17 ~~subsection (c)(4), the property owner shall file with the Rent Board a written declaration, signed under~~
18 ~~penalty of perjury, demonstrating that the project will comply with the requirements of Administrative~~
19 ~~Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or removal of a housing~~
20 ~~service. The Rent Board shall determine the form and content of said declaration, which shall include~~
21 ~~the following information: (1) a description of any housing services supplied in connection with the use~~
22 ~~or occupancy of any units on the subject property that are located in the area of the property or~~
23 ~~building where the ADU would be constructed; (2) whether construction of the ADU would result in the~~
24 ~~severance, substantial reduction, or removal of any such housing services; and (3) whether any of the~~
25

1 *just causes for eviction under Administrative Code Section 37.9(a) would apply. The property owner*
2 *shall also file a copy of the notice required under Section 207(e)(4)(J) with the declaration.*

3 ~~—— (iv) Tenants at the subject property may contest the information in the declaration~~
4 ~~required by subsection 207(e)(4)(C)(iii) by petitioning for a written determination from the Rent Board~~
5 ~~verifying the presence and defining characteristics of the housing service or services in question, and~~
6 ~~whether any such housing services would be severed, substantially reduced, or removed by the project~~
7 ~~as proposed. Petitions must be filed with the Rent Board within 30 calendar days after the notice~~
8 ~~required under subsection 207(e)(4)(J) has been provided. If no such petition is timely filed, the Rent~~
9 ~~Board shall promptly transmit the declaration to the Planning Department. If any such petition is~~
10 ~~timely filed, the Rent Board shall endeavor to transmit the declaration and its final written~~
11 ~~determination on the petition to the Planning Department within 90 calendar days of receipt of said~~
12 ~~petition. The Department shall not approve an application to construct an ADU under this subsection~~
13 ~~(e)(4) unless (1) the Rent Board has transmitted the declaration and final written determination~~
14 ~~required by subsections (e)(4)(C)(iii) and (e)(4)(C)(iv), and (2) the materials transmitted by the Rent~~
15 ~~Board indicate that construction of the ADU would not result in the severance, substantial reduction,~~
16 ~~or removal without just cause of any tenant housing service set forth in Administrative Code Section~~
17 ~~37.2(r) that is supplied in the area of the property or building where the ADU would be constructed,~~
18 ~~unless the property owner demonstrates that the tenant supplied with that housing service has given~~
19 ~~their express written consent for the severance, substantial reduction, or removal of the housing~~
20 ~~service.~~

21 ~~—— (v) Except as provided in subsections (vi), (vii), and (xiv) below, an ADU~~
22 ~~shall be constructed a. entirely within the buildable area of an existing lot, provided that the ADU does~~
23 ~~not include a vertical addition, or b. within the built envelope of an existing and authorized detached~~
24 ~~garage, storage structure, or other detached structure on the same lot. For purposes of this subsection~~
25 ~~207(e)(4), a “detached” structure or ADU shall not share structural walls with either the primary~~

1 ~~structure or any other structure on the lot. For purposes of this subsection 207(e)(4)(C)(v), the “built~~
2 ~~envelope” shall include the open area under an existing and authorized cantilevered room or room~~
3 ~~built on columns; decks, except for decks that are supported by columns or walls other than the~~
4 ~~building wall to which they are attached and are multi-level or more than 10 feet above grade; and~~
5 ~~lightwell infills provided that the infill will be against a blank neighboring wall at the property line and~~
6 ~~not visible from any off-site location; as these spaces exist as of July 11, 2016. An ADU constructed~~
7 ~~entirely within the existing built envelope, as defined in this subsection 207(e)(4)(C)(v), along with~~
8 ~~permitted obstructions allowed in Section 136(e)(32), of an existing building or authorized detached~~
9 ~~structure on the same lot, or where an existing detached garage or storage structure has been~~
10 ~~expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code~~
11 ~~unless the existing building or authorized detached structure on the same lot is an Article 10 or Article~~
12 ~~11 individual landmark or is in an Article 10 or Article 11 District, in which case the notification~~
13 ~~requirements will apply. If an ADU will be constructed under a cantilevered room or deck that~~
14 ~~encroaches into the required rear yard, a pre-application meeting that complies with the Planning~~
15 ~~Commission’s Pre-Application policy is required.~~

16 ~~————— (vi) ——— When a detached garage, storage, or other auxiliary structure is being~~
17 ~~converted to an ADU, an expansion to the envelope is allowed to add dormers even if the detached~~
18 ~~garage, storage structure, or other auxiliary structure is in the required rear yard.~~

19 ~~————— (vii) ——— On a corner lot, a legal detached nonconforming garage, storage~~
20 ~~structure, or other auxiliary structure may be expanded within its existing footprint by up to one~~
21 ~~additional story in order to create a consistent street wall and improve the continuity of buildings on~~
22 ~~the block.~~

23 ~~————— (viii) ADUs shall comply with any applicable controls in Planning Code Section~~
24 ~~134(f).~~

1 ~~————— (ix) — An ADU shall not be constructed using space from an existing Dwelling~~
2 ~~Unit, except that an ADU may expand into habitable space on the ground or basement floors provided~~
3 ~~that it does not exceed 25% of the total gross square footage of such space on the ground and basement~~
4 ~~floors. The Zoning Administrator may waive this 25% limitation if (1) the resulting space would not be~~
5 ~~usable or would be impractical to use for other reasonable uses, including, but not limited to, storage~~
6 ~~or bicycle parking or (2) waiving the limitation would help relieve any negative layout issues for the~~
7 ~~proposed ADU.~~

8 ~~————— (x) — An existing building undergoing seismic retrofitting may be eligible for a~~
9 ~~height increase pursuant to subsection (e)(4)(F) below.~~

10 ~~————— (xi) — Notwithstanding any other provision of this Code, an ADU authorized~~
11 ~~under this Section 207(e)(4) may not be merged with an original unit(s).~~

12 ~~————— (xii) — An ADU shall not be permitted in any building in a Neighborhood~~
13 ~~Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would~~
14 ~~eliminate or reduce a ground-story retail space, unless the Accessory Dwelling Unit is a Designated~~
15 ~~Child Care Unit, as defined in Section 102, and meets all applicable standards of Planning Code~~
16 ~~Section 414A.6(e).~~

17 ~~————— (xiii) — An Accessory Dwelling Unit shall not be permitted under this subsection~~
18 ~~(e)(4) if it would result in the reduction or removal of on-site laundry service, unless that laundry~~
19 ~~service is replaced with at least the same number or capacity of washers and dryers within the same~~
20 ~~building and as accessible as before to all building tenants.~~

21 ~~————— (xiv) — An application for a permit solely to construct an ADU in a proposed~~
22 ~~building pursuant to this subsection 207(e)(4)(C) shall not be subject to the notification requirements of~~
23 ~~Section 311 of this Code; however, any application for a permit to construct the proposed building~~
24 ~~shall be subject to any applicable notification requirements of Section 311 of this Code.~~

1 ~~————— (xv) — In addition to any ADUs permitted under this Section 207(e)(4) within the~~
2 ~~primary structure, one detached ADU shall be permitted within the required rear yard if it complies~~
3 ~~with the following requirements:~~

4 ~~————— a. — The proposed ADU is located at least four feet from the side and~~
5 ~~rear lot lines and has a height no greater than sixteen feet.~~

6 ~~————— b. — The Gross Floor Area of a detached ADU that provides one~~
7 ~~bedroom or less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that~~
8 ~~provides more than one bedroom shall not exceed 1,000 square feet.~~

9 ~~———— (D) — **Prohibition of Short-Term Rentals.** An ADU shall not be used for Short-Term~~
10 ~~Residential Rentals under Chapter 41A of the Administrative Code, which restriction shall be recorded~~
11 ~~as a Notice of Special Restriction on the subject lot.~~

12 ~~———— (E) — **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the~~
13 ~~Subdivision Code, a lot with an ADU authorized under this Section 207(e)(4) shall not be subdivided in~~
14 ~~a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium~~
15 ~~plan, housing cooperative, or similar form of separate ownership. This prohibition on separate sale or~~
16 ~~finance of the ADU shall not apply to an ADU in a building that consisted entirely of condominium~~
17 ~~units as of July 11, 2013, and has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12)~~
18 ~~and 37.9(a)(14) of the Administrative Code since July 11, 1996. This prohibition on separate sale or~~
19 ~~finance of the ADU shall not apply to an ADU that meets the requirements of California Government~~
20 ~~Code Section 65852.26.~~

21 ~~———— (F) — **Buildings Undergoing Seismic Retrofitting.** For ADUs on lots with a building~~
22 ~~undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building~~
23 ~~Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's~~
24 ~~Administrative Bulletin 094, the following additional provision applies: If allowed by the Building~~
25

1 ~~Code, a building in which an ADU is constructed may be raised up to three feet to create ground floor~~
2 ~~ceiling heights suitable for residential use. Such a raise in height~~

3 ~~————— (i) — Shall be exempt from the notification requirements of Section 311 of this~~
4 ~~Code; and~~

5 ~~————— (ii) — May expand a noncomplying structure, as defined in Section 180(a)(2) of~~
6 ~~this Code and further regulated in Sections 172, 180, and 188, without obtaining a variance for~~
7 ~~increasing the discrepancy between existing conditions on the lot and the required standards of this~~
8 ~~Code.~~

9 ~~————— (iii) — On lots where an ADU is added in coordination with a building~~
10 ~~undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building~~
11 ~~Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's~~
12 ~~Administrative Bulletin 094, the building and the new ADU shall maintain any eligibility to enter the~~
13 ~~condo-conversion lottery and may only be subdivided if the entire property is selected on the condo-~~
14 ~~conversion lottery.~~

15 ~~————— (iv) — Pursuant to subsection (4)(C)(i), there is no limit on the number of ADUs~~
16 ~~that are permitted to be added in connection with a seismic retrofit, as long as all health and safety~~
17 ~~requirements are met.~~

18 ~~————— (G) — **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to~~
19 ~~the provisions of Section 307(l) of this Code, the Zoning Administrator may grant a complete or partial~~
20 ~~waiver of the density limits and bicycle parking, rear yard, exposure, or open space standards of this~~
21 ~~Code for ADUs constructed within an existing building, and may grant a waiver of the density limits of~~
22 ~~this Code for ADUs constructed within a proposed building. If the Zoning Administrator grants a~~
23 ~~complete or partial waiver of the requirements of this Code and the subject lot contains any Rental~~
24 ~~Units at the time an application for a building permit is filed for construction of the ADU(s), the~~
25 ~~property owner(s) shall enter into a Regulatory Agreement with the City under subsection (c)(4)(H)~~

1 *subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance*
2 *(Chapter 37 of the Administrative Code) as a condition of approval of the ADU(s). For purposes of this*
3 *requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.*

4 ~~————— (H) ——— **Regulatory Agreements.** A Regulatory Agreement required by subsection~~
5 ~~(e)(4)(G) as a condition of approval of an Accessory Dwelling Unit shall contain the following:~~

6 ~~————— (i) ——— a statement that the ADU(s) are not subject to the Costa Hawkins Rental~~
7 ~~Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has~~
8 ~~entered into this agreement with the City in consideration for a complete or partial waiver of the~~
9 ~~density limits, and/or bicycle parking, rear yard, exposure, or open space standards of this Code or~~
10 ~~other direct financial contribution or other form of assistance specified in California Government Code~~
11 ~~Sections 65915 et seq. (“Agreement”); and~~

12 ~~————— (ii) ——— a description of the complete or partial waiver of Code requirements~~
13 ~~granted by the Zoning Administrator or other direct financial contribution or form of assistance~~
14 ~~provided to the property owner; and~~

15 ~~————— (iii) ——— a description of the remedies for breach of the Agreement and other~~
16 ~~provisions to ensure implementation and compliance with the Agreement.~~

17 ~~————— (iv) ——— The property owner and the Planning Director (or the Director’s~~
18 ~~designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by~~
19 ~~the City Attorney’s Office. The Agreement shall be executed prior to the City’s issuance of the First~~
20 ~~Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building~~
21 ~~Code.~~

22 ~~————— (v) ——— Following execution of the Regulatory Agreement by all parties and~~
23 ~~approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded~~
24 ~~against the property and shall be binding on all future owners and successors in interest.~~

1 ~~Any Regulatory Agreement entered into under this Section 207(c)(4) shall not preclude a~~
2 ~~landlord from establishing the initial rental rate pursuant to Section 1954.53 of the Costa Hawkins~~
3 ~~Rental Housing Act.~~

4 ~~————— (I) ———~~ **Monitoring Program.**

5 ~~————— (i) ———~~ **Monitoring and Enforcement of Unit Affordability.** ~~The Department~~
6 ~~shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized to be~~
7 ~~constructed by this subsection 207(c)(4) and shall use such data to enforce the requirements of the~~
8 ~~Regulatory Agreements entered into pursuant to subsection (c)(4)(H). Property owners shall provide~~
9 ~~the Department with rent information as requested by the Department. The Board of Supervisors~~
10 ~~recognizes that property owners and tenants generally consider rental information sensitive and do not~~
11 ~~want it publicly disclosed. The intent of the Board is for the Department to obtain the information for~~
12 ~~purposes of monitoring and enforcement but that its public disclosure is not linked to specific~~
13 ~~individuals or units. The Department shall consult with the City Attorney's Office with respect to the~~
14 ~~legal requirements to determine how best to achieve the intent of the Board.~~

15 ~~————— (ii) ———~~ **Monitoring of Prohibition on Use as Short Term Rentals.** ~~The~~
16 ~~Department shall collect data on the use of ADUs authorized to be constructed by this subsection (c)(4)~~
17 ~~as Short Term Residential Rentals, as that term is defined in Administrative Code Section 41A.4, and~~
18 ~~shall use such data to evaluate and enforce Notices of Special Restriction pursuant to subsection~~
19 ~~207(c)(4)(D) and the requirements of Administrative Code Chapter 41A.~~

20 ~~————— (iii) ———~~ **Department Report.** ~~As part of the annual Housing Inventory, the~~
21 ~~Department shall report the types of units being developed pursuant to this subsection 207(c)(4), their~~
22 ~~affordability rates, their use as Short Term Residential Rentals, and such additional information as the~~
23 ~~Director or the Board of Supervisors determines would inform decision makers and the public on the~~
24 ~~effectiveness and implementation of this subsection 207(c)(4), and shall include recommendations for~~
25 ~~any amendments to the requirements of this Section 207(c)(4).~~

1 * * * *

2 (6) The exception to Dwelling Unit density limits for certain Accessory Dwelling
3 Units under the State-Mandated Accessory Dwelling Unit Program are contained in Section
4 207.2 of this Code. ~~*Accessory Dwelling Units – State Mandated Program: Accessory Dwelling Units*~~
5 ~~*in Existing or Proposed Dwellings or in a Detached Structure on the Same Lot.*~~

6 ——— (A) — ~~*Applicability. This subsection 207(e)(6) shall apply to the construction of ADUs*~~
7 ~~*and Junior Accessory Dwelling Units (“JADUs”) (as defined in Section 102) in existing or proposed*~~
8 ~~*dwellings, or in a detached structure on the same lot, if the ADU meets the applicable requirements of*~~
9 ~~*this subsection 207(e)(6). An ADU constructed pursuant to this subsection is considered a residential*~~
10 ~~*use that is consistent with the General Plan and the zoning designation for the lot. Adding an ADU or*~~
11 ~~*JADU in compliance with this subsection 207(e)(6) does not exceed the allowable density for the lot.*~~
12 ~~*Unless otherwise specified, for purposes of this subsection 207(e)(6), a “detached” structure or ADU*~~
13 ~~*shall not share structural walls with either the primary structure or any other structure on the lot. If*~~
14 ~~*construction of the ADU will not meet the requirements of this subsection, the ADU is regulated*~~
15 ~~*pursuant to subsection 207(e)(4) and not this subsection 207(e)(6).*~~

16 ——— (B) — ~~*General Controls on Construction. An ADU constructed pursuant to this*~~
17 ~~*subsection (e)(6) shall meet all of the following:*~~

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

21 ——— (ii) — ~~*For projects involving a property listed in the California Register of*~~
22 ~~*Historic Places, or a property designated individually or as part of a historic or conservation district*~~
23 ~~*pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any architectural review*~~
24 ~~*standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic*~~
25

1 ~~resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to~~
2 ~~Alter.~~

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

5 ~~————— (iv) — No parking is required for the ADU.~~

6 ~~————— (C) — **Specific Controls for Ministerial ADUs.** The purpose of this subsection~~
7 ~~207(e)(6)(C) is to implement California Government Code Sections 65852.2(e) and 65852.22, which~~
8 ~~requires ministerial consideration of ADUs and JADUs that meet certain standards (“Ministerial~~
9 ~~ADUs”). ADUs and JADUs shall strictly meet the requirements set forth in this subsection (e)(6)(C)~~
10 ~~without requiring a waiver of Code requirements pursuant to subsection (e)(4)(G). The City shall~~
11 ~~approve ADUs and JADUs meeting the following requirements, in addition to the requirements of~~
12 ~~subsection 207(e)(6)(B) and any other applicable standards:~~

13 ~~————— (i) — **ADUs and JADUs within proposed space of a proposed single-family**~~
14 ~~**dwelling or within existing space of a single-family dwelling or accessory structure meeting the**~~
15 ~~**following conditions:**~~

16 ~~————— a. — The lot on which the ADU or JADU is proposed contains an~~
17 ~~existing or proposed single-family dwelling.~~

18 ~~————— b. — Only one ADU and one JADU is permitted per lot.~~

19 ~~————— c. — Each proposed ADU and JADU includes an entrance that is~~
20 ~~separate from the entrance to the existing or proposed dwelling.~~

21 ~~————— d. — Side and rear setbacks will be sufficient for fire safety.~~

22 ~~————— e. — If an ADU is proposed, it will be within the existing space of a~~
23 ~~single-family dwelling or accessory structure, or within the space of a proposed single-family dwelling,~~
24 ~~or it will require an addition of no more than 150 square feet to an existing accessory structure to~~
25 ~~accommodate ingress and egress.~~

- 1 ~~_____ f. If a JADU is proposed, it meets the requirements of California~~
- 2 ~~Government Code Section 65852.22.~~
- 3 ~~_____ (ii) **Detached, new construction ADUs on lot containing a proposed or**~~
- 4 ~~**existing single family dwelling meeting the following conditions:**~~
- 5 ~~_____ a. The lot on which the detached ADU is proposed contains an~~
- 6 ~~existing or proposed single family dwelling.~~
- 7 ~~_____ b. The lot on which the ADU is proposed does not contain another~~
- 8 ~~ADU, but may contain a JADU.~~
- 9 ~~_____ c. The proposed ADU is detached from the single family dwelling~~
- 10 ~~and any other structure.~~
- 11 ~~_____ d. The proposed ADU is new construction.~~
- 12 ~~_____ e. The proposed ADU is located at least four feet from the side and~~
- 13 ~~rear lot lines, is no greater than 800 square feet in Gross Floor Area, and has a height no greater than~~
- 14 ~~sixteen feet.~~
- 15 ~~_____ (iii) **ADUs within existing space of a multifamily dwelling meeting the**~~
- 16 ~~**following conditions:**~~
- 17 ~~_____ a. The lot on which the ADU is proposed contains an existing~~
- 18 ~~multifamily dwelling.~~
- 19 ~~_____ b. The ADU is proposed within a portion of the multifamily dwelling~~
- 20 ~~structure that is not used as livable space, including but not limited to storage rooms, boiler rooms,~~
- 21 ~~passageways, attics, basements, or garages.~~
- 22 ~~_____ c. The total number of ADUs within the dwelling structure would not~~
- 23 ~~exceed twenty five percent of the existing number of primary dwelling units within the structure,~~
- 24 ~~provided that all multifamily dwelling structures shall be permitted to have at least one ADU pursuant~~
- 25 ~~to this subsection 207(e)(6)(C)(iii) if all other applicable standards are met.~~

1 ~~————— (iv) — Detached, new construction ADUs on lot containing multifamily~~
2 ~~dwelling meeting the following conditions:~~

3 ~~————— a. — The lot on which the ADU is proposed contains an existing~~
4 ~~multifamily dwelling.~~

5 ~~————— b. — The proposed ADU is detached from the multifamily dwelling.~~

6 ~~————— c. — The proposed ADU is located at least four feet from the side and~~
7 ~~rear lot lines and has a height no greater than eighteen feet.~~

8 ~~————— d. — No more than two ADUs shall be permitted per lot pursuant to~~
9 ~~this subsection 207(e)(6)(C)(iv).~~

10 ~~————— (D) — **Specific Controls for Streamlined ADUs.** The purpose of this subsection~~
11 ~~207(e)(6)(D) is implement California Government Code Sections 65852.2(a) through (d), which~~
12 ~~requires streamlined, ministerial approval of ADUs meeting certain standards (“Streamlined ADUs”).~~
13 ~~An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or~~
14 ~~proposed dwelling, and that is constructed pursuant to this subsection 207(e)(6)(D), shall meet all of~~
15 ~~the following requirements, in addition to the requirements of subsection 207(e)(6)(B) and any other~~
16 ~~applicable standards. Provided, however, that the City shall not impose limits on lot coverage, floor~~
17 ~~area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not~~
18 ~~permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross~~
19 ~~Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this~~
20 ~~subsection 207(e)(6)(D) shall meet the following conditions:~~

21 ~~(i) — Only one ADU will be constructed.~~

22 ~~————— (ii) — The ADU will be located on a lot that is zoned for single-family or~~
23 ~~multifamily use and contains an existing or proposed dwelling.~~

24 ~~(iii) — The lot on which the ADU is proposed does not contain another ADU or~~
25 ~~JADU.~~

1 ~~————— (iv) — The ADU is either a. attached to or will be constructed entirely within the~~
2 ~~proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or~~
3 ~~an accessory structure on the same lot, or b. attached to or will be constructed entirely within a~~
4 ~~proposed or legally existing detached structure on the same lot, or c. detached from the proposed or~~
5 ~~existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.~~

6 ~~————— (v) — If there is an existing primary dwelling, the Gross Floor Area of an~~
7 ~~attached ADU that provides one bedroom or less shall not exceed 50 percent of the Gross Floor Area~~
8 ~~of the existing primary dwelling or 850 square feet, whichever is greater. If there is an existing primary~~
9 ~~dwelling, the Gross Floor Area of an attached ADU that provides more than one bedroom shall not~~
10 ~~exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 1,000 square feet,~~
11 ~~whichever is greater.~~

12 ~~————— (vi) — The Gross Floor Area of a detached ADU that provides one bedroom or~~
13 ~~less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides more~~
14 ~~than one bedroom shall not exceed 1,000 square feet.~~

15 ~~————— (vii) — **Setbacks.** No setback is required for an ADU located within an existing~~
16 ~~living area or an existing accessory structure, or an ADU that replaces an existing structure and is~~
17 ~~located in the same location and constructed to the same dimensions as the structure being replaced. A~~
18 ~~setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is~~
19 ~~not converted from either an existing structure or a new structure constructed in the same location and~~
20 ~~to the same dimensions as an existing structure.~~

21 ~~————— (viii) — When a garage, carport, or covered parking structure is demolished in~~
22 ~~conjunction with the construction of an ADU or converted to an ADU, replacement of those offstreet~~
23 ~~parking spaces is not required.~~

24 ~~————— (ix) — The ADU shall not exceed a height of 16 feet.~~

1 ~~————— (E) ——— Notification requirements for ADUs on a lot containing a proposed or existing~~
2 ~~single-family dwelling. Prior to submitting an application to construct an ADU or JADU on a lot~~
3 ~~containing a proposed or existing single-family dwelling under subsection 207(c)(6)(D), the property~~
4 ~~owner shall notify all tenants on the subject property of the application, including tenants of the subject~~
5 ~~property in unauthorized residential units. The property owner shall satisfy this notification~~
6 ~~requirement in one of the following two ways:~~

7 ~~————— (i) ——— Comply with the requirements of the Building Code and applicable~~
8 ~~Department of Building Inspection screening forms, and submit a copy of any applicable Department of~~
9 ~~Building Inspection Screening forms to the Planning Department as part of the application to construct~~
10 ~~an ADU or JADU; or~~

11 ~~————— (ii) ——— Cause a notice describing the proposed project to be posted on the~~
12 ~~subject property for at least 15 days, cause a written notice describing the proposed project to be~~
13 ~~mailed to the tenants of the subject property, and submit proof of these notices to the Planning~~
14 ~~Department as part of the application to construct an ADU or JADU. These notices shall have a~~
15 ~~format and content determined by the Zoning Administrator, and shall generally describe the project,~~
16 ~~including the number and location of the proposed ADU and JADU. These notices shall describe how~~
17 ~~to obtain additional information regarding the project and provide contact information for the~~
18 ~~Planning Department that complies with the requirements of the Language Access Ordinance, Chapter~~
19 ~~91 of the Administrative Code, to provide vital information about the Planning Department's services~~
20 ~~or programs in the languages spoken by a Substantial Number of Limited English Speaking Persons, as~~
21 ~~defined in Chapter 91.~~

22 ~~————— (F) ——— Permit Application Review and Approval. The City shall act on an application~~
23 ~~for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt~~
24 ~~of the complete application, without modification or disapproval, if the proposed construction fully~~
25 ~~complies with the requirements set forth in this subsection 207(c)(6). No requests for discretionary~~

1 *review shall be accepted by the Planning Department for permit applications meeting the requirements*
2 *of this subsection 207(e)(6). The Planning Commission shall not hold a public hearing for*
3 *discretionary review of permit applications meeting the requirements of this subsection 207(e)(6).*
4 *Permit applications meeting the requirements of this subsection 207(e)(6) shall not be subject to the*
5 *notification or review requirements of Section 311 of this Code.*

6 ~~———— (G) ——— **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the~~
7 ~~Department under this subsection 207(e)(6) shall be as set forth in Section 8 of the Business and Tax~~
8 ~~Regulations Code.~~

9 ~~———— (H) ——— **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this~~
10 ~~subsection 207(e)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the~~
11 ~~Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject~~
12 ~~lot.~~

13 ~~———— (I) ——— **Rental; Restrictions on Subdivisions.** The following restrictions shall be~~
14 ~~recorded as a Notice of Special Restriction on the subject lot on which an ADU or JADU is constructed~~
15 ~~under this subsection 207(e)(6) and shall be binding on all future owners and successors in interest:~~

16 ~~———— (i) ——— An ADU or JADU constructed pursuant to this subsection 207(e)(6) may~~
17 ~~be rented and is subject to all applicable provisions of the Residential Rent Stabilization and~~
18 ~~Arbitration Ordinance (Chapter 37 of the Administrative Code).~~

19 ~~———— (ii) ——— Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot~~
20 ~~with an ADU or JADU authorized under this subsection 207(e)(6) shall not be subdivided in a manner~~
21 ~~that would allow for the ADU or JADU to be sold or separately financed pursuant to any condominium~~
22 ~~plan, housing cooperative, or similar form of separate ownership, except that this prohibition on~~
23 ~~separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of~~
24 ~~California Government Code Section 65852.26.~~

1 ~~(iii) The size and attributes of a JADU constructed pursuant to this subsection~~
2 ~~207(e)(6) shall comply with the requirements of this subsection 207(e)(6) and Government Code~~
3 ~~65852.22.~~

4 ~~(J) Department Report. In addition to the information required by subsection~~
5 ~~207(e)(4)(I)(iii), the annual Housing Inventory shall include a description and evaluation of the~~
6 ~~number and types of units being developed pursuant to this subsection (e)(6), their affordability rates,~~
7 ~~and such other information as the Director or the Board of Supervisors determines would inform~~
8 ~~decision makers and the public.~~

9 ~~(K) Fees. No impact fees shall be imposed on ADUs or JADUs authorized under this~~
10 ~~subsection 207(e)(6), where the ADU or JADU is smaller than seven hundred and fifty square feet of~~
11 ~~Gross Floor Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees~~
12 ~~for all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary~~
13 ~~dwelling unit.~~

14 * * * *

15 **SEC. 207.1 LOCAL ACCESSORY DWELLING UNIT PROGRAM.**

16 **(a) Exception to Dwelling Unit Density Limits for Certain Accessory Dwelling**
17 **Units Under City’s Local Program.** An exception to the calculations under Section 207 of
18 this Code shall be made for Accessory Dwelling Units (“ADUs”), as defined in Section 102 of
19 this Code, meeting the requirements of this Section 207.1.

20 **(b) Applicability.** This Section 207.1 shall apply to the construction of ADUs on all
21 lots located within the City and County of San Francisco in areas that allow residential use,
22 except ADUs regulated by the State-Mandated Program under Section 207.2 of this Code.

23 **(c) Controls on Construction.** An ADU regulated by this Section 207.1 is
24 permitted to be constructed in an existing or proposed building under the following conditions:
25

1 (1) For lots that have four existing Dwelling Units or fewer, or where the
2 zoning would permit the construction of four or fewer Dwelling Units, one ADU is permitted.
3 For lots that have more than four existing Dwelling Units or are undergoing seismic retrofitting
4 under subsection 207.1(f) below, or where the zoning would permit the construction of more
5 than four Dwelling Units, there is no limit on the number of ADUs permitted, as long as all
6 other health and safety requirements are met.

7 (2) The Department shall not approve an application for construction of an
8 ADU where a tenant on the lot was evicted pursuant to Administrative Code Sections
9 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years
10 prior to filing the application for a building permit to construct the ADU, or where a tenant was
11 evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served
12 within five years prior to filing the application for a building permit to construct the ADU. This
13 subsection (c)(2) shall not apply if the tenant was evicted under Section 37.9(a)(11) or
14 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the
15 unit after the temporary eviction or (B) have submitted to the Department and to the
16 Residential Rent Stabilization and Arbitration Board (Rent Board) a declaration from the
17 property owner or the tenant certifying that the property owner notified the tenant of the
18 tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.

19 (3) Prior to submitting an application to construct an ADU under this Section
20 207.1, the property owner shall file with the Rent Board a written declaration, signed under
21 penalty of perjury, demonstrating that the project will comply with the requirements of
22 Administrative Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or
23 removal of a housing service. The Rent Board shall determine the form and content of said
24 declaration, which shall include the following information: (1) a description of any housing
25 services supplied in connection with the use or occupancy of any units on the subject property

1 that are located in the area of the property or building where the ADU would be constructed;
2 (2) whether construction of the ADU would result in the severance, substantial reduction, or
3 removal of any such housing services; and (3) whether any of the just causes for eviction
4 under Administrative Code Section 37.9(a) would apply. The property owner shall also file a
5 copy of the notice required under Section 207.1(j) with the declaration.

6 (4) Tenants at the subject property may contest the information in the
7 declaration required by subsection 207.1(c)(3) by petitioning for a written determination from
8 the Rent Board verifying the presence and defining characteristics of the housing service or
9 services in question, and whether any such housing services would be severed, substantially
10 reduced, or removed by the project as proposed. Petitions must be filed with the Rent Board
11 within 30 calendar days after the notice required under Section 207.1(j) has been provided. If
12 no such petition is timely filed, the Rent Board shall promptly transmit the declaration to the
13 Planning Department. If any such petition is timely filed, the Rent Board shall endeavor to
14 transmit the declaration and its final written determination on the petition to the Planning
15 Department within 90 calendar days of receipt of said petition. The Department shall not
16 approve an application to construct an ADU under this Section 207.1 unless (1) the Rent
17 Board has transmitted the declaration and final written determination required by subsections
18 (c)(3) and (c)(4), and (2) the materials transmitted by the Rent Board indicate that construction
19 of the ADU would not result in the severance, substantial reduction, or removal without just
20 cause of any tenant housing service set forth in Administrative Code Section 37.2(r) that is
21 supplied in the area of the property or building where the ADU would be constructed, unless
22 the property owner demonstrates that the tenant supplied with that housing service has given
23 their express written consent for the severance, substantial reduction, or removal of the
24 housing service.

1 (5) Except as provided in subsections (6), (7), and (8) below, an ADU shall
2 be constructed a. entirely within the buildable area of an existing lot, provided that the ADU
3 does not include a vertical addition, or b. within the built envelope of an existing and
4 authorized detached garage, storage structure, or other detached structure on the same lot.
5 For purposes of this subsection 207(c)(4), a “detached” structure or ADU shall not share
6 structural walls with either the primary structure or any other structure on the lot. For purposes
7 of this subsection 207(c)(5), the “built envelope” shall include the open area under an existing
8 and authorized cantilevered room or room built on columns; decks, except for decks that are
9 supported by columns or walls other than the building wall to which they are attached and are
10 multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be
11 against a blank neighboring wall at the property line and not visible from any off-site location;
12 as these spaces exist as of July 11, 2016. An ADU constructed entirely within the existing built
13 envelope, as defined in this subsection 207(c)(5), along with permitted obstructions allowed in
14 Section 136(c)(32), of an existing building or authorized detached structure on the same lot, or
15 where an existing detached garage or storage structure has been expanded to add dormers,
16 is exempt from the notification requirements of Section 311 of this Code unless the existing
17 building or authorized detached structure on the same lot is an Article 10 or Article 11
18 individual landmark or is in an Article 10 or Article 11 District, in which case the notification
19 requirements will apply. If an ADU will be constructed under a cantilevered room or deck that
20 encroaches into the required rear yard, a pre-application meeting that complies with the
21 Planning Commission’s Pre-Application policy is required.

22 (6) When a detached garage, storage, or other auxiliary structure is being
23 converted to an ADU, an expansion to the envelope is allowed to add dormers even if the
24 detached garage, storage structure, or other auxiliary structure is in the required rear yard.

25

1 (7) On a corner lot, a legal detached nonconforming garage, storage
2 structure, or other auxiliary structure may be expanded within its existing footprint by up to
3 one additional story in order to create a consistent street wall and improve the continuity of
4 buildings on the block.

5 (8) ADUs shall comply with any applicable controls in Planning Code Section
6 134(f).

7 (9) An ADU shall not be constructed using space from an existing Dwelling
8 Unit, except that an ADU may expand into habitable space on the ground or basement floors
9 provided that it does not exceed 25% of the total gross square footage of such space on the
10 ground and basement floors. The Zoning Administrator may waive this 25% limitation if (1) the
11 resulting space would not be usable or would be impractical to use for other reasonable uses,
12 including, but not limited to, storage or bicycle parking or (2) waiving the limitation would help
13 relieve any negative layout issues for the proposed ADU.

14 (10) An existing building undergoing seismic retrofitting may be eligible for a
15 height increase pursuant to subsection 207.1(f) below.

16 (11) Notwithstanding any other provision of this Code, an ADU authorized
17 under this Section 207.1 may not be merged with an original unit(s).

18 (12) An ADU shall not be permitted in any building in a Neighborhood
19 Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it
20 would eliminate or reduce a ground-story retail space, unless the Accessory Dwelling Unit is a
21 Designated Child Care Unit, as defined in Section 102, and meets all applicable standards of
22 Planning Code Section 414A.6(e).

23 (13) An Accessory Dwelling Unit shall not be permitted under this subsection
24 (c)(4) if it would result in the reduction or removal of on-site laundry service, unless that
25

1 laundry service is replaced with at least the same number or capacity of washers and dryers
2 within the same building and as accessible as before to all building tenants.

3 (14) An application for a permit solely to construct an ADU in a proposed
4 building pursuant to this subsection 207.1(c) shall not be subject to the notification
5 requirements of Section 311 of this Code; however, any application for a permit to construct
6 the proposed building shall be subject to any applicable notification requirements of Section
7 311 of this Code.

8 (15) In addition to any ADUs permitted under this Section 207.1 within the
9 primary structure, one detached ADU shall be permitted within the required rear yard if it
10 complies with the following requirements:

11 (A) The proposed ADU is located at least four feet from the side and
12 rear lot lines and has a height no greater than sixteen feet.

13 (B) The Gross Floor Area of a detached ADU that provides one
14 bedroom or less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU
15 that provides more than one bedroom shall not exceed 1,000 square feet.

16 (d) **Prohibition of Short-Term Rentals.** An ADU shall not be used for Short-Term
17 Residential Rentals under Chapter 41A of the Administrative Code, which restriction shall be
18 recorded as a Notice of Special Restriction on the subject lot.

19 (e) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of
20 the Subdivision Code, a lot with an ADU authorized under this Section 207.1 shall not be
21 subdivided in a manner that would allow for the ADU to be sold or separately financed
22 pursuant to any condominium plan, housing cooperative, or similar form of separate
23 ownership. This prohibition on separate sale or finance of the ADU shall not apply to an ADU
24 in a building that consisted entirely of condominium units as of July 11, 2013, and has had no
25 evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the

1 Administrative Code since July 11, 1996. This prohibition on separate sale or finance of the
2 ADU shall not apply to an ADU that meets the requirements of California Government Code
3 Section 65852.26.

4 (f) **Buildings Undergoing Seismic Retrofitting.** For ADUs on lots with a building
5 undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing
6 Building Code or voluntary seismic retrofitting in compliance with the Department of Building
7 Inspection's Administrative Bulletin 094, the following additional provision applies: If allowed
8 by the Building Code, a building in which an ADU is constructed may be raised up to three
9 feet to create ground floor ceiling heights suitable for residential use. Such a raise in height

10 (1) Shall be exempt from the notification requirements of Section 311 of this
11 Code; and

12 (2) May expand a noncomplying structure, as defined in Section 180(a)(2) of
13 this Code and further regulated in Sections 172, 180, and 188, without obtaining a variance
14 for increasing the discrepancy between existing conditions on the lot and the required
15 standards of this Code.

16 (3) On lots where an ADU is added in coordination with a building
17 undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing
18 Building Code or voluntary seismic retrofitting in compliance with the Department of Building
19 Inspection's Administrative Bulletin 094, the building and the new ADU shall maintain any
20 eligibility to enter the condo-conversion lottery and may only be subdivided if the entire
21 property is selected on the condo-conversion lottery.

22 (4) Pursuant to subsection 207.1(c)(1), there is no limit on the number of
23 ADUs that are permitted to be added in connection with a seismic retrofit, as long as all health
24 and safety requirements are met.

1 (g) **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to
2 the provisions of Section 307(l) of this Code, the Zoning Administrator may grant a complete
3 or partial waiver of the density limits and bicycle parking, rear yard, exposure, or open space
4 standards of this Code for ADUs constructed within an existing building, and may grant a
5 waiver of the density limits of this Code for ADUs constructed within a proposed building. If
6 the Zoning Administrator grants a complete or partial waiver of the requirements of this Code
7 and the subject lot contains any Rental Units at the time an application for a building permit is
8 filed for construction of the ADU(s), the property owner(s) shall enter into a Regulatory
9 Agreement with the City under subsection 207.1(h) subjecting the ADU(s) to the San
10 Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the
11 Administrative Code) as a condition of approval of the ADU(s). For purposes of this
12 requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.

13 (h) **Regulatory Agreements.** A Regulatory Agreement required by subsection
14 207.1(g) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

15 (1) a statement that the ADU(s) are not subject to the Costa Hawkins Rental
16 Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the
17 owner has entered into this agreement with the City in consideration for a complete or partial
18 waiver of the density limits, and/or bicycle parking, rear yard, exposure, or open space
19 standards of this Code or other direct financial contribution or other form of assistance
20 specified in California Government Code Sections 65915 et seq. ("Agreement"); and

21 (2) a description of the complete or partial waiver of Code requirements
22 granted by the Zoning Administrator or other direct financial contribution or form of assistance
23 provided to the property owner; and

24 (3) a description of the remedies for breach of the Agreement and other
25 provisions to ensure implementation and compliance with the Agreement.

1 (4) The property owner and the Planning Director (or the Director's
2 designee), on behalf of the City, will execute the Agreement, which shall be reviewed and
3 approved by the City Attorney's Office. The Agreement shall be executed prior to the City's
4 issuance of the First Construction Document for the project, as defined in Section 107A.13.1
5 of the San Francisco Building Code.

6 (5) Following execution of the Regulatory Agreement by all parties and
7 approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be
8 recorded against the property and shall be binding on all future owners and successors in
9 interest.

10 Any Regulatory Agreement entered into under this Section 207.1 shall not preclude a
11 landlord from establishing the initial rental rate pursuant to Section 1954.53 of the Costa
12 Hawkins Rental Housing Act.

13 (i) **Monitoring Program.**

14 (1) **Monitoring and Enforcement of Unit Affordability.** The Department
15 shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized
16 to be constructed by this Section 207.1 and shall use such data to enforce the requirements of
17 the Regulatory Agreements entered into pursuant to subsection 207.1(h). Property owners
18 shall provide the Department with rent information as requested by the Department. The
19 Board of Supervisors recognizes that property owners and tenants generally consider rental
20 information sensitive and do not want it publicly disclosed. The intent of the Board is for the
21 Department to obtain the information for purposes of monitoring and enforcement but that its
22 public disclosure is not linked to specific individuals or units. The Department shall consult
23 with the City Attorney's Office with respect to the legal requirements to determine how best to
24 achieve the intent of the Board.

1 (2) **Monitoring of Prohibition on Use as Short Term Rentals.** The

2 Department shall collect data on the use of ADUs authorized to be constructed by this Section
3 207.1 as Short-Term Residential Rentals, as that term is defined in Administrative Code
4 Section 41A.4, and shall use such data to evaluate and enforce Notices of Special Restriction
5 pursuant to Section 207.1(d) and the requirements of Administrative Code Chapter 41A.

6 (3) **Department Report.** As part of the annual Housing Inventory, the

7 Department shall report the types of units being developed pursuant to this subsection 207.1,
8 their affordability rates, their use as Short-Term Residential Rentals, and such additional
9 information as the Director or the Board of Supervisors determines would inform decision
10 makers and the public on the effectiveness and implementation of this Section 207.1, and
11 shall include recommendations for any amendments to the requirements of this Section 207.1.

12
13 **SEC. 207.2 STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.**

14 (a) **Exception to Dwelling Unit Density Limits for Certain Accessory Dwelling**
15 **Units Under the State-Mandated Program.** An exception to the calculations under Section
16 207 of this Code shall be made for Accessory Dwelling Units (“ADUs”) and Junior Accessory
17 Dwelling Units (“JADUs”), as defined in Section 102 of this Code, meeting the requirements of
18 this Section 207.2. The purpose of this Section 207.2 is to implement California Government
19 Code Sections 65852.2 and 65852.22, which require ministerial consideration of ADUs and
20 JADUs that meet certain standards.

21 (b) **Applicability.** This Section 207.2 shall apply to the construction of ADUs and
22 JADUs in existing or proposed dwellings, or in a detached structure on the same lot, if the
23 ADU meets the applicable requirements of this Section 207.2. An ADU constructed pursuant
24 to this Section is considered a residential use that is consistent with the General Plan and the
25 zoning designation for the lot. Adding an ADU or JADU in compliance with this Section 207.2

1 does not exceed the allowable density for the lot. Unless otherwise specified, for purposes of
2 this subsection Section 207.2, a “detached” structure or ADU shall not share structural walls
3 with the primary structure on the lot. If construction of the ADU will not meet the requirements
4 of this Section, the ADU is regulated pursuant to Section 207.1 and not this Section 207.2.

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

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

10 (2) For projects involving a property listed in the California Register of
11 Historic Places, or a property designated individually or as part of a historic or conservation
12 district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any
13 architectural review standards adopted by the Historic Preservation Commission to prevent
14 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 (3) All applicable requirements of San Francisco’s health and safety codes
17 shall apply, including but not limited to the Building and Fire Codes.

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

19 (d) **Specific Controls for Hybrid ADUs.** The purpose of this subsection 207.2(d)
20 is to implement California Government Code Sections 65852.2(e) and 65852.22, which
21 require ministerial consideration of ADUs and JADUs that meet certain standards (“Hybrid
22 ADUs”). California Government Code Section 65852.2(e)(7) authorizes the City to impose
23 objective standards, including, but not limited to, design, development, and historic standards,
24 on ADUs approved under this subsection 207.2(d). ADUs and JADUs shall strictly meet the
25 requirements set forth in this subsection 207.2(d) without requiring a waiver of Code

1 requirements pursuant to subsection 207.1(g). The City shall approve ADUs and JADUs
2 meeting the following requirements, in addition to the requirements of subsection 207.2(b) and
3 any other applicable standards:

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

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

9 (B) Only one ADU and one JADU is permitted per lot.

10 (C) Each proposed ADU and JADU includes an entrance that is
11 separate from the entrance to the existing or proposed dwelling.

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

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

17 (F) If a JADU is proposed, it meets the requirements of Planning Code
18 Section 102 and California Government Code Section 65852.22.

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

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

23 (B) The lot on which the ADU is proposed does not contain another
24 ADU, but may contain a JADU.

1 (C) The proposed ADU is detached from the single-family dwelling and
2 any other structure.

3 (D) The proposed ADU is new construction.

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

7 **(3) ADUs within existing space of a multifamily dwelling meeting the**
8 **following conditions:**

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

11 (B) The ADU is proposed within a portion of the multifamily dwelling
12 structure that is not used as livable space, including but not limited to storage rooms, boiler
13 rooms, passageways, attics, basements, or garages.

14 (C) The total number of ADUs within the dwelling structure would not
15 exceed twenty-five percent of the existing number of primary dwelling units within the
16 structure, provided that all multifamily dwelling structures shall be permitted to have at least
17 one ADU pursuant to this subsection 207.2(d)(3) if all other applicable standards are met.

18 **(4) Detached, new construction ADUs on lot containing a proposed or**
19 **existing multifamily dwelling meeting the following conditions:**

20 (A) The lot on which the ADU is proposed contains a proposed or
21 existing multifamily dwelling.

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

23 (C) The proposed ADU is located at least four feet from the side and
24 rear lot lines, except that if the existing multifamily dwelling has a side or rear setback of less
25 than four feet, modification of the existing multifamily dwelling shall not be required as a

1 condition of approving a proposed ADU that otherwise satisfies the requirements of this
2 subsection 207.2(c)(4).

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

5 (E) No more than two ADUs shall be permitted per lot pursuant to this
6 subsection 207.2(c)(4).

7 (e) **Specific Controls for State ADUs.** The purpose of this subsection 207.2(d) is
8 implement California Government Code Sections 65852.2(a) through (d), which require
9 streamlined, ministerial approval of ADUs meeting certain standards (“State ADUs”). An ADU
10 located on a lot that is zoned for single-family or multifamily use and contains an existing or
11 proposed dwelling, and that is constructed pursuant to this subsection 207.2(e), shall meet all
12 of the following requirements, in addition to the requirements of subsection 207.2(b) and any
13 other applicable standards. Provided, however, that the City shall not impose limits on lot
14 coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either
15 attached or detached dwellings, that does not permit construction of an ADU meeting all other
16 requirements that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and
17 with four foot side and rear yard setbacks. ADUs under this subsection 207(e) shall meet the
18 following conditions:

19 (1) Only one ADU will be constructed.

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

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

24 (4) The ADU is either (A) attached to or will be constructed entirely within the
25 proposed or existing primary dwelling, including attached garages, storage areas, or similar

1 uses, or an accessory structure on the same lot, or (B) attached to or will be constructed
2 entirely within a proposed or legally existing detached structure on the same lot, or (C)
3 detached from the proposed or existing primary dwelling and located on the same lot as the
4 proposed or existing primary dwelling.

5 (5) If there is an existing primary dwelling, the Gross Floor Area of an
6 attached ADU that provides one bedroom or less shall not exceed 50 percent of the Gross
7 Floor Area of the existing primary dwelling or 850 square feet, whichever is greater. If there is
8 an existing primary dwelling, the Gross Floor Area of an attached ADU that provides more
9 than one bedroom shall not exceed 50 percent of the Gross Floor Area of the existing primary
10 dwelling or 1,000 square feet, whichever is greater.

11 (6) The Gross Floor Area of a detached ADU that provides one bedroom or
12 less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides
13 more than one bedroom shall not exceed 1,000 square feet.

14 (7) **Setbacks.** No setback is required for an ADU located within an existing
15 living area or an existing accessory structure, or an ADU that replaces an existing structure
16 and is located in the same location and constructed to the same dimensions as the structure
17 being replaced. A setback of no more than four feet from the side and rear lot lines shall be
18 required for an ADU that is not converted from either an existing structure or a new structure
19 constructed in the same location and to the same dimensions as an existing structure.

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

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

1 (A) A height of 16 feet for a detached ADU on a lot with an existing or
2 proposed dwelling.

3 (B) A height of 18 feet for a detached ADU on a lot with an existing or
4 proposed dwelling that is within one-half of one mile walking distance of a major transit stop or
5 a high-quality transit corridor, as defined in Section 21155 of the California Public Resources
6 Code. An additional two feet in height shall be permitted to accommodate a roof pitch on the
7 ADU that is aligned with the roof pitch of the primary dwelling.

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

10 (D) A height of 25 feet or the applicable height limit for the primary
11 dwelling, whichever is lower, for an ADU that is attached to the primary dwelling, except that
12 the ADU shall not exceed two stories.

13 (f) **Notification requirements for ADUs on a lot containing a proposed or**
14 **existing single-family dwelling.** Prior to submitting an application to construct an ADU or
15 JADU on a lot containing a proposed or existing single-family dwelling under subsection 207.2
16 (e), the property owner shall notify all tenants on the subject property of the application,
17 including tenants of the subject property in unauthorized residential units. The property owner
18 shall satisfy this notification requirement in one of the following two ways.

19 (1) Comply with the requirements of the Building Code and applicable
20 Department of Building Inspection screening forms, and submit a copy of any applicable
21 Department of Building Inspection Screening forms to the Planning Department as part of the
22 application to construct an ADU or JADU; or

23 (2) Cause a notice describing the proposed project to be posted on the
24 subject property for at least 15 days, cause a written notice describing the proposed project to
25 be mailed to the tenants of the subject property, and submit proof of these notices to the

1 Planning Department as part of the application to construct an ADU or JADU. These notices
2 shall have a format and content determined by the Zoning Administrator, and shall generally
3 describe the project, including the number and location of the proposed ADU and JADU.
4 These notices shall describe how to obtain additional information regarding the project and
5 provide contact information for the Planning Department that complies with the requirements
6 of the Language Access Ordinance, Chapter 91 of the Administrative Code, to provide vital
7 information about the Planning Department's services or programs in the languages spoken
8 by a Substantial Number of Limited English Speaking Persons, as defined in Chapter 91.

9 (3) Written and posted notice shall not be required for the demolition of a
10 detached garage that is to be replaced with an ADU, unless the property is located within a
11 historic or conservation district pursuant to Article 10 or Article 11 of this Code.

12 (g) **Permit Application Review and Approval.** No requests for discretionary
13 review shall be accepted by the Planning Department for permit applications meeting the
14 requirements of this Section 207.2. The Planning Commission shall not hold a public hearing
15 for discretionary review of permit applications meeting the requirements of this Section 207.2.
16 Permit applications meeting the requirements of this Section 207.2 shall not be subject to the
17 notification or review requirements of Section 311 of this Code.

18 (h) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the
19 Department under this Section 207.2 shall be as set forth in Section 8 of the Business and
20 Tax Regulations Code.

21 (i) **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this
22 Section 207.2 shall not be used for Short-Term Residential Rentals under Chapter 41A of the
23 Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on
24 the subject lot.

1 (j) **Rental; Restrictions on Subdivisions.** The following restrictions shall be
2 recorded as a Notice of Special Restriction on the subject lot on which an ADU or JADU is
3 constructed under this Section 207.2 and shall be binding on all future owners and successors
4 in interest:

5 (1) An ADU or JADU constructed pursuant to this subsection 207.2 may be
6 rented and is subject to all applicable provisions of the Residential Rent Stabilization and
7 Arbitration Ordinance (Chapter 37 of the Administrative Code).

8 (2) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot
9 with an ADU or JADU authorized under this Section 207.2 shall not be subdivided in a manner
10 that would allow for the ADU or JADU to be sold or separately financed pursuant to any
11 condominium plan, housing cooperative, or similar form of separate ownership, except that
12 this prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets
13 the requirements of California Government Code Section 65852.26.

14 (3) The size and attributes of a JADU constructed pursuant to this Section
15 207.2 shall comply with the requirements of this Section 207.2 and Government Code
16 65852.22.

17 (j) **Department Report.** In addition to the information required by subsection
18 207.1(i)(3), the annual Housing Inventory shall include a description and evaluation of the
19 number and types of units being developed pursuant to this Section 207.2, their affordability
20 rates, and such other information as the Director or the Board of Supervisors determines
21 would inform decision makers and the public.

22 (k) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under
23 this subsection 207.2, where the ADU or JADU is smaller than seven hundred and fifty square
24 feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units or
25

1 fewer. Impact fees for all other ADUs shall be imposed proportionately in relation to the Gross
2 Floor Area of the primary dwelling unit.

3
4 **SEC. 1005. CONFORMITY AND PERMITS.**

5 * * * *

6 (e) After receiving a permit application from the Central Permit Bureau in accordance
7 with the preceding subsection, the Department shall ascertain whether a Certificate of
8 Appropriateness is required or has been approved for the work proposed in such permit
9 application. If a Certificate of Appropriateness is required and has been issued, and if the
10 permit application conforms to the work approved in the Certificate of Appropriateness, the
11 permit application shall be processed without further reference to this Article 10. If a
12 Certificate of Appropriateness is required and has not been issued, or if the permit application
13 does not conform to what was approved, the permit application shall be disapproved or held
14 by the Department until such time as conformity does exist either through modifications to the
15 proposed work or through the issuance of an amended or new Certificate of Appropriateness.
16 Notwithstanding the foregoing, in the following cases the Department shall process the permit
17 application without further reference to this Article 10:

18 * * * *

19 (9) When the application is for a permit to install a City-sponsored Landmark
20 plaque to a landmark or district, provided that the improvements conform to the requirements
21 outlined in Section 1006.6 of this Code; or

22 (10) When the application is for a permit to construct an Accessory Dwelling Unit
23 or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior
24 Accessory Dwelling Unit conforms to the requirements of subsection 207.2~~(e)~~(6) of this Code.

25 * * * *

1
2 **SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT**
3 **OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.**

4 * * * *

5 (g) Notwithstanding the foregoing, in the following cases the Department may process
6 the permit application without further reference to this Article 11:

7 (1) When the application is for a permit for ordinary maintenance and repairs
8 only. For the purpose of this Article 11, "ordinary maintenance and repairs" shall mean any
9 work, the sole purpose and effect of which is to correct deterioration, decay or damage of
10 existing materials, including repair of damage caused by fire or other disaster.

11 (2) When the application is for a permit to construct any new or replacement
12 structures on a site where a Significant or Contributory Building has been lawfully demolished
13 pursuant to this Code and the site is not within a designated Conservation District; or

14 (3) When the application is for a permit to make interior alterations only and
15 does not constitute a demolition as defined in this Article, unless the Planning Department has
16 determined that the proposed interior alterations may result in any visual or material impact to
17 the exterior of the building or when the designating ordinance or applicable Appendix in this
18 Article requires review of such interior alterations; or

19 (4) When the application is for a permit to construct an Accessory Dwelling Unit
20 or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior
21 Accessory Dwelling Unit conforms to the requirements of subsection 207.2(e)(6) of this Code.

22
23 Section 3. Articles 1, 2, 3, 7, and 8 of the Planning Code are hereby amended by
24 replacing all references to Planning Code "subsection 207(c)(4)" and "section 207(c)(4)" in
25 each of the Sections listed below with the term "Section 207.1":

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Section 4. Articles 1, 2, 3, 7, and 8 of the Planning Code are hereby amended by replacing all references to Planning Code “subsection 207(c)(6)” and “section 207(c)(6)” in each of the Sections listed below with the term “Section 207.2”:

Section 5. The Administrative Code is hereby amended by revising Section 37.2, to read as follows:

SEC. 37.2. DEFINITIONS.

* * * *

(r) Rental Units. All residential dwelling units in the City together with the land and appurtenant buildings thereto, and all housing services, privileges, furnishings, and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.

Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks, patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed from the tenancy by the landlord without just cause as required by Section 37.9(a). Any severance, substantial reduction or removal of a housing service, even if permitted under Section 37.9(a), shall be offset by a corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent Board to determine the amount of the rent reduction. In addition, a tenant may petition the Rent Board for a determination on whether an Accessory Dwelling Unit proposed to be constructed under Planning Code Section 207.1(e)(4) would sever, substantially reduce, or remove a housing service, pursuant to the procedures

1 set forth in subsection 207.1(e)(4)(C)(iii). The issuance of a permit for construction of an
2 Accessory Dwelling Unit does not, in and of itself, constitute a just cause for the purpose of
3 severing a housing service.

4 Notwithstanding the preceding paragraph, a landlord may temporarily sever one or
5 more housing services listed in that paragraph in order to perform seismic work required by
6 Building Code "Mandatory Earthquake Retrofit of Wood-Frame Buildings" ("mandatory
7 seismic work") if: (1) the landlord has given the notice to temporarily sever as required by
8 Administrative Code Section 65A.2; (2) the landlord has obtained all necessary permits on or
9 before the date the notice to temporarily sever is given; (3) the housing service(s) will only be
10 severed for the minimum time required to complete the mandatory seismic work and in no
11 event for a longer period than provided by Building Code Section 106A.4.4, Table B; and (4)
12 the temporarily severed housing service(s) will be fully restored immediately upon completion
13 of the mandatory seismic work. For such temporary severance of one or more of the specified
14 housing services due to mandatory seismic work required by Building Code Chapter 34B,
15 tenants will not be entitled to a reduction in rent, but tenants shall be entitled to either
16 compensation or a substitute housing service as provided in Administrative Code Chapter
17 65A.

18 The term "rental units" shall not include:

19 * * * *

20 (4) Except as provided in subsections (A)-(E), dwelling units whose rents are
21 controlled or regulated by any government unit, agency, or authority, excepting those
22 unsubsidized and/or unassisted units which are insured by the United States Department of
23 Housing and Urban Development; provided, however, that units in unreinforced masonry
24 buildings which have undergone seismic strengthening in accordance with Building Code
25 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the

1 ordinance is not in conflict with the seismic strengthening bond program or with the program's
2 loan agreements or with any regulations promulgated thereunder;

3 * * * *

4 (D) The term "rental units" shall include (i) Accessory Dwelling Units
5 constructed pursuant to Section 207.1(e)(4) of the Planning Code and that have received a
6 complete or partial waiver of the density limits and the parking, rear yard, exposure, or open
7 space standards from the Zoning Administrator pursuant to Planning Code Section 307(l), and
8 (ii) New Unit(s) constructed and funded pursuant to Administrative Code Chapter 85.

9 * * * *

10
11 Section 6. The Business and Tax Regulations Code is hereby amended by revising
12 Sections 8 and 26, to read as follows:

13 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

14 * * * *

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

17 * * * *

18 (9) Additional Requirements.

19 * * * *

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

24 * * * *

1 (iii) In the case of a decision on a permit application made pursuant to
2 Planning Code Section 207.2, ~~subsection (e)(6)~~, the Board of Appeals shall set the hearing
3 not less than 10 days after the filing of said appeal, shall act thereon not more than 30 days
4 after such filing, and shall not entertain a motion for rehearing.

5
6 **SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.**

7 * * * *

8 (f) Notwithstanding subsection (a), the provisions of Planning Code Section 207.2,
9 ~~subsection (e)(6)~~, shall govern actions taken on the granting, denial, amendment, suspension,
10 and revocation of permits regulated under that ~~subsection 207.2(e)(6)~~, not the standards set
11 forth in subsection (a) of this Section 26.

12 * * * *

13
14 Section 7. The Building Code is hereby amended by adding Section 106A.1.19, to
15 read as follows:

16 **106A.1.19 State-Mandated Accessory Dwelling Unit Program.** California
17 Government Code Sections 65852.2 and 65852.22 require expedited, ministerial
18 consideration of Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units
19 (“JADUs”) that meet the requirements of Planning Code Section 207.2.

20 **106A.1.19.1 Permit Application Review and Approval.** The City shall approve or
21 deny an application for a permit to construct an ADU or JADU on a lot containing an existing
22 dwelling within 60 days from receipt of the complete application if the proposed construction
23 fully complies with the requirements set forth in Planning Code Section 207.2 and any other
24 applicable requirements. If the applicant requests a delay, the 60-day time period shall be

1 tolled for the period of the delay. If the City has not approved or denied the completed
2 application within 60 days, the application shall be deemed approved.

3 **106A.1.19.2 Notice of Garage Demolition.** Written and posted notice shall not be
4 required for the demolition of a detached garage that is to be replaced with an ADU, unless
5 the property is located within a historic or conservation district pursuant to Article 10 or Article
6 11 of the Planning Code.

7
8 Section 38. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 Section 49. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 Section 510. Directions to Clerk. The Clerk of the Board of Supervisors is hereby
21 directed to submit a copy of this ordinance to the California Department of Housing and
22 Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the
23 California Government Code.

1 Section 11. Corrected Presentation of Existing Code. On March 20, 2023, the Land
2 Use and Transportation Committee created this ordinance by duplicating Board File No.
3 210585. Ordinance No. 53-23, in Board of Supervisors File No. 210585, took effect on May
4 22, 2023. This ordinance has been updated to accurately represent recent amendments to
5 Sections 102, 136, 207, 1005, and 1110 of the Planning Code enacted by Ordinance No. 53-
6 23 as existing text of the Planning Code. Said revisions do not change the substance of this
7 ordinance.

8
9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12
13 By: /s/ Peter R. Miljanich
14 PETER R. MILJANICH
15 Deputy City Attorney

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