

BOARD of SUPERVISORS



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MEMORANDUM

Date: February 14, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240110 Version 2
Re-Referral to the Planning Commission - Various Codes - State-Mandated Accessory Dwelling Unit Controls

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure
- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302
- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

1 [Various Codes - State-Mandated Accessory Dwelling Unit Controls]

2

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

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

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

22 Section 1. Findings.

23 (a) ~~On April 24, 2014, the Planning Commission certified the 2004 and 2009 Housing~~
24 ~~Element Final Environmental Impact Report ("Final EIR") in accordance with the California~~
25 ~~Environmental Quality Act (California Public Resources Code Sections 21000 et seq.)~~

1 (“CEQA”), the CEQA Guidelines (California Code of Regulations Title 14, Sections 15000 et
2 seq.), and Chapter 31 of the San Francisco Administrative Code. Subsequent to the adoption
3 of the Final EIR, the City has approved and incorporated eight addenda into the analysis of
4 the Final EIR and made requisite findings under CEQA. The Planning Department has
5 determined that the actions contemplated in this ordinance comply with the California
6 Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said
7 determination is on file with the Clerk of the Board of Supervisors in File No. _____ and
8 is incorporated herein by reference. The Board affirms this determination. The Planning
9 Department has determined that the actions contemplated in this ordinance comply with the
10 California Environmental Quality Act (California Public Resources Code Sections 21000 et
11 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.
12 _____ and is incorporated herein by reference. The Board affirms this determination.

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

1 determination is on file with the Clerk of the Board of Supervisors in File No. 210585 and is
2 incorporated herein by reference.

3 (beb) On _____September 28, 2023, the Planning Commission, in Resolution
4 No. _____21397, adopted findings that the actions contemplated in this ordinance are
5 consistent, on balance, with the City’s General Plan and eight priority policies of Planning
6 Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution
7 is on file with the Clerk of the Board of Supervisors in File No. _____230310, and is
8 incorporated herein by reference.

9 (edc) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
10 ordinance will serve the public necessity, convenience, and welfare for the reasons stated in
11 Planning Commission Resolution No. _____21397.

12 (d) On _____, 2024, the Building Inspection Commission considered this
13 ordinance at a duly noticed public hearing pursuant to Charter Section 4.121.

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

19 (f) This ordinance amends the Planning Code to restate existing law that any
20 architectural review standards adopted by the Historic Preservation Commission that are
21 applicable to State-mandated Accessory Dwelling Units (“ADU”) must remain objective. This
22 ordinance also amends the Planning Code to impose those architectural review standards on
23 projects involving a property previously determined to be eligible for listing in the California
24 Register of Historic Places. California Government Code Section 65852.2, subdivision
25 (a)(1)(b)(i) broadly permits the City to impose objective architectural review standards on

1 ADUs seeking approval under the City’s State ADU program. This grant of authority is
2 separate from, and in addition to, subdivision (a)(1)(b)(i)’s authorization of local “standards that
3 prevent adverse impacts on any real property that is listed in the California Register of
4 Historical Resources.” Furthermore, California Government Code Section 65852.2,
5 subdivision (e)(6) also broadly permits the City to impose objective standards, “including, but
6 not limited to . . . historic standards” on ADUs under the City’s Hybrid ADU program. State
7 ADU law therefore authorizes the City to impose objective architectural review standards on
8 ADUs seeking approval under either of the City’s State-mandated programs.

9 (g) The City’s Hybrid ADU program implements the requirements of California
10 Government Code Section 65852.2, subdivision (e)(1). Under this program, on a lot
11 containing an existing or proposed single-family dwelling, subdivision (e)(1)(A) requires the
12 City to ministerially approve an ADU meeting certain requirements that is attached to, or
13 within the space of, the primary dwelling or an existing accessory structure. Subdivision
14 (e)(1)(B) separately requires the City to approve a detached ADU meeting certain
15 requirements on a lot containing an existing or proposed single-family dwelling. The
16 Government Code does not require the City to approve both types of ADUs on a single lot, but
17 does expressly require the City to allow property owners to combine either type of ADU with a
18 Junior ADU meeting certain requirements on a single lot. This ordinance is consistent with this
19 section of the California Government Code.

20
21 Section 2. The Planning Code is hereby amended by revising Sections 102, 136,
22 155.1, 207, 207.6, 207.7, 1005, and 1110, and adding Sections 207.1 and 207.2, to read as
23 follows:

24
25 **SEC. 102. DEFINITIONS.**

1 * * * *

2 **Dwelling Unit, Accessory, or ADU.** Also known as a Secondary Unit or In-Law Unit, is a
3 Dwelling Unit that meets all the requirements of ~~sub~~Section 207.1(e)(4) or ~~sub~~Section
4 207.2(e)(6) and that is accessory to at least one other Dwelling Unit on the same lot. A
5 detached ADU shall not share structural walls with ~~either the primary structure or any other~~
6 ~~structure~~ on the lot. Height for detached ADUs located outside the buildable area shall be
7 measured from existing grade at any given point to either a) the highest point of a finished
8 roof in the case of a flat roof or b) the average height of a pitched roof or stepped roof, or
9 similarly sculptured roof form. Height for detached ADUs located outside the buildable area
10 shall not be eligible for any exemptions described in Planning Code subsection 260(b).

11
12 **Dwelling Unit, Junior Accessory, or JADU.** A Dwelling Unit that meets all the requirements
13 of Section 207.2(e)(6), and that:

- 14 (a) is accessory to at least one other Dwelling Unit on the same lot;
- 15 (b) is no more than 500 square feet of Gross Floor Area;
- 16 (c) is contained entirely within an existing or proposed single-family structure;
- 17 (d) may include separate sanitation facilities, or may share sanitation facilities with
18 the existing structure;
- 19 (e) is owner-occupied, unless the owner resides in the remaining portion of the
20 structure; provided, however, that owner-occupancy shall not be required if the owner is a
21 governmental agency, land trust, or housing organization;
- 22 (f) includes an entrance to the Junior Accessory Dwelling Unit that is separate from
23 the main entrance to the proposed or existing single-family structure; and
- 24 (g) includes an efficiency kitchen that meets the requirements of Government Code
25 Section 65852.22(a)(6), including a cooking facility with appliances, and a food preparation

1 counter and storage cabinets that are of reasonable size in relation to the size of the Junior
2 Accessory Dwelling Unit.

3 * * * *

4
5 **SEC. 136. OBSTRUCTIONS OVER STREETS AND ALLEYS AND IN REQUIRED**
6 **SETBACKS, YARDS, AND USABLE OPEN SPACE.**

7 * * * *

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

9 * * * *

10 (32) Infill under decks and cantilevered rooms when adding an Accessory
11 Dwelling Unit; provided, however, that such infill shall comply with Section 207.1(e)(4) or
12 Section 207(c)(6) of this Code, whichever is applicable; and provided further that if the ADU is
13 proposed for a single-family home under Section 207.1, the rear yard must be 25% of the lot
14 depth but in no case less than 15 feet.

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

17 (34) An Accessory Dwelling Unit proposed for approval under Section 207.2
18 that is no greater than 800 square feet in Gross Floor Area with four-foot side and rear yard
19 setbacks.

20 * * * *

21
22 **SEC. 155.1. BICYCLE PARKING: DEFINITIONS AND STANDARDS.**

23 * * * *

24 (b) **Standards for Location of Bicycle Parking Spaces.** These standards apply to
25 all bicycle parking subject to Section 155.2, as well as bicycle parking for City-owned and

1 leased buildings, parking garages and parking lots subject to Section 155.3. Bicycle racks
2 shall be located in highly visible areas as described in subsections below in order to maximize
3 convenience and minimize theft and vandalism. For Accessory Dwelling Units, the
4 requirements of this subsection (b) may be modified or waived pursuant to the procedures
5 and criteria set forth in Sections 307(l) and 207.1(c)(4)(G).

6 * * * *

7 (c) **Design Standards for Bicycle Parking Spaces.** These design standards apply to
8 all bicycle parking spaces subject to Sections 155.2 and 155.3. Bicycle parking shall follow the
9 design standards established in Zoning Administrator Bulletin No. 9, which includes specific
10 requirements on bicycle parking layout and acceptable types of Class 1 and Class 2 bicycle
11 parking spaces. For Accessory Dwelling Units, the requirements of this subsection (c) may be
12 modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and
13 207.1(c)(4)(G).

14 * * * *

15
16 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

17 * * * *

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

20 * * * *

21 (4) The exception to Dwelling Unit density limits for certain Accessory
22 Dwelling Units under the City’s Local Accessory Dwelling Unit Program is set forth in Section
23 207.1 of this Code. ~~Accessory Dwelling Units — Local Program: Accessory Dwelling Units in~~
24 ~~Multifamily Buildings and Accessory Dwelling Units in Single-Family Homes That Do Not~~
25 ~~Strictly Meet the Requirements in subsection (c)(6).~~

1 ~~————— (A) —~~ Definition. An “Accessory Dwelling Unit” (ADU) is defined in
2 Section 102.

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

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

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

14 ~~————— (ii) —~~ The Department shall not approve an application for construction
15 of an ADU where a tenant on the lot was evicted pursuant to Administrative Code Sections
16 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years
17 prior to filing the application for a building permit to construct the ADU, or where a tenant was
18 evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served
19 within five years prior to filing the application for a building permit to construct the ADU. This
20 subsection ~~(c)(4)(C)(ii)~~ shall not apply if the tenant was evicted under Section 37.9(a)(11) or
21 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the
22 unit after the temporary eviction or (B) have submitted to the Department and to the
23 Residential Rent Stabilization and Arbitration Board (Rent Board) a declaration from the
24 property owner or the tenant certifying that the property owner notified the tenant of the
25 tenant’s right to reoccupy the unit and the tenant chose not to reoccupy it.

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

14 ~~————— (iv) —~~ Tenants at the subject property may contest the information in the
15 declaration required by subsection ~~207(c)(4)(C)(iii)~~ by petitioning for a written determination
16 from the Rent Board verifying the presence and defining characteristics of the housing service
17 or services in question, and whether any such housing services would be severed,
18 substantially reduced, or removed by the project as proposed. Petitions must be filed with the
19 Rent Board within 30 calendar days after the notice required under subsection ~~207(c)(4)(J)~~
20 has been provided. If no such petition is timely filed, the Rent Board shall promptly transmit
21 the declaration to the Planning Department. If any such petition is timely filed, the Rent Board
22 shall endeavor to transmit the declaration and its final written determination on the petition to
23 the Planning Department within 90 calendar days of receipt of said petition. The Department
24 shall not approve an application to construct an ADU under this subsection ~~(c)(4)~~ unless (1)
25 the Rent Board has transmitted the declaration and final written determination required by

1 subsections (c)(4)(C)(iii) and (c)(4)(C)(iv), and (2) the materials transmitted by the Rent Board
2 indicate that construction of the ADU would not result in the severance, substantial reduction,
3 or removal without just cause of any tenant housing service set forth in Administrative Code
4 Section 37.2(r) that is supplied in the area of the property or building where the ADU would be
5 constructed, unless the property owner demonstrates that the tenant supplied with that
6 housing service has given their express written consent for the severance, substantial
7 reduction, or removal of the housing service.

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

1 case the notification requirements will apply. If an ADU will be constructed under a
2 cantilevered room or deck that encroaches into the required rear yard, a pre-application
3 meeting that complies with the Planning Commission's Pre-Application policy is required.

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

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

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

13 ~~————— (ix) —~~ An ADU shall not be constructed using space from an existing
14 Dwelling Unit, except that an ADU may expand into habitable space on the ground or
15 basement floors provided that it does not exceed 25% of the total gross square footage of
16 such space on the ground and basement floors. The Zoning Administrator may waive this
17 25% limitation if (1) the resulting space would not be usable or would be impractical to use for
18 other reasonable uses, including, but not limited to, storage or bicycle parking or (2) waiving
19 the limitation would help relieve any negative layout issues for the proposed ADU.

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

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

24 ~~————— (xii) —~~ An ADU shall not be permitted in any building in a Neighborhood
25 Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it

1 would eliminate or reduce a ground-story retail space, unless the Accessory Dwelling Unit is a
2 Designated Child Care Unit, as defined in Section 102, and meets all applicable standards of
3 Planning Code Section 414A.6(e).

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

8 ~~————— (xiv) An application for a permit solely to construct an ADU in a proposed~~
9 ~~building pursuant to this subsection 207(c)(4)(C) shall not be subject to the notification~~
10 ~~requirements of Section 311 of this Code; however, any application for a permit to construct~~
11 ~~the proposed building shall be subject to any applicable notification requirements of Section~~
12 ~~311 of this Code.~~

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

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

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

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

24 ~~———— (E) Restrictions on Subdivisions. Notwithstanding the provisions of Article 9~~
25 ~~of the Subdivision Code, a lot with an ADU authorized under this Section 207(c)(4) shall not~~

1 be subdivided in a manner that would allow for the ADU to be sold or separately financed
2 pursuant to any condominium plan, housing cooperative, or similar form of separate
3 ownership. This prohibition on separate sale or finance of the ADU shall not apply to an ADU
4 in a building that consisted entirely of condominium units as of July 11, 2013, and has had no
5 evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the
6 Administrative Code since July 11, 1996. This prohibition on separate sale or finance of the
7 ADU shall not apply to an ADU that meets the requirements of California Government Code
8 Section 65852.26.

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

16 (i) Shall be exempt from the notification requirements of Section 314
17 of this Code; and

18 (ii) May expand a noncomplying structure, as defined in Section
19 480(a)(2) of this Code and further regulated in Sections 172, 180, and 188, without obtaining
20 a variance for increasing the discrepancy between existing conditions on the lot and the
21 required standards of this Code.

22 (iii) On lots where an ADU is added in coordination with a building
23 undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing
24 Building Code or voluntary seismic retrofitting in compliance with the Department of Building
25 Inspection's Administrative Bulletin 094, the building and the new ADU shall maintain any

1 eligibility to enter the condo conversion lottery and may only be subdivided if the entire
2 property is selected on the condo conversion lottery.

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

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

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

20 ~~————— (i) — a statement that the ADU(s) are not subject to the Costa Hawkins~~
21 ~~Rental Housing Act (California Civil Code Section 1954.50) because, under Section~~
22 ~~1954.52(b), the owner has entered into this agreement with the City in consideration for a~~
23 ~~complete or partial waiver of the density limits, and/or bicycle parking, rear yard, exposure, or~~
24 ~~open space standards of this Code or other direct financial contribution or other form of~~

1 assistance specified in California Government Code Sections 65915 et seq. (“Agreement”);
2 and

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

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

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

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

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

20 ~~————— (I) — Monitoring Program.~~

21 ~~————— (i) — Monitoring and Enforcement of Unit Affordability. The Department~~
22 ~~shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized~~
23 ~~to be constructed by this subsection 207(c)(4) and shall use such data to enforce the~~
24 ~~requirements of the Regulatory Agreements entered into pursuant to subsection (c)(4)(H).~~
25 ~~Property owners shall provide the Department with rent information as requested by the~~

1 Department. The Board of Supervisors recognizes that property owners and tenants generally
2 consider rental information sensitive and do not want it publicly disclosed. The intent of the
3 Board is for the Department to obtain the information for purposes of monitoring and
4 enforcement but that its public disclosure is not linked to specific individuals or units. The
5 Department shall consult with the City Attorney's Office with respect to the legal requirements
6 to determine how best to achieve the intent of the Board.

7 (ii) Monitoring of Prohibition on Use as Short Term Rentals. The
8 Department shall collect data on the use of ADUs authorized to be constructed by this
9 subsection (c)(4) as Short Term Residential Rentals, as that term is defined in Administrative
10 Code Section 41A.4, and shall use such data to evaluate and enforce Notices of Special
11 Restriction pursuant to subsection 207(c)(4)(D) and the requirements of Administrative Code
12 Chapter 41A.

13 (iii) Department Report. As part of the annual Housing Inventory, the
14 Department shall report the types of units being developed pursuant to this subsection
15 207(c)(4), their affordability rates, their use as Short Term Residential Rentals, and such
16 additional information as the Director or the Board of Supervisors determines would inform
17 decision makers and the public on the effectiveness and implementation of this subsection
18 207(c)(4), and shall include recommendations for any amendments to the requirements of this
19 Section 207(c)(4).

20 * * * *

21 (6) The exception to Dwelling Unit density limits for certain Accessory Dwelling
22 Units under the State-Mandated Accessory Dwelling Unit Program is set forth in Section 207.2
23 of this Code. Accessory Dwelling Units – State Mandated Program: Accessory Dwelling Units
24 in Existing or Proposed Dwellings or in a Detached Structure on the Same Lot.

25

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

12 ~~————— (B) ——— General Controls on Construction. An ADU constructed pursuant to this~~
13 ~~subsection (c)(6) shall meet all of the following:~~

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

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

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

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

1 ~~—————(C)——~~ Specific Controls for Ministerial ADUs. The purpose of this subsection
2 207(c)(6)(C) is to implement California Government Code Sections 65852.2(e) and 65852.22,
3 which requires ministerial consideration of ADUs and JADUs that meet certain standards
4 (“Ministerial ADUs”). ADUs and JADUs shall strictly meet the requirements set forth in this
5 subsection ~~(c)(6)(C)~~ without requiring a waiver of Code requirements pursuant to subsection
6 ~~(c)(4)(G)~~. The City shall approve ADUs and JADUs meeting the following requirements, in
7 addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards:

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

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

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

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

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

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

21 ~~—————f.——~~ If a JADU is proposed, it meets the requirements of
22 California Government Code Section 65852.22.

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

1 a. The lot on which the detached ADU is proposed contains an
2 existing or proposed single-family dwelling.

3 b. The lot on which the ADU is proposed does not contain
4 another ADU, but may contain a JADU.

5 c. The proposed ADU is detached from the single-family
6 dwelling and any other structure.

7 d. The proposed ADU is new construction.

8 e. The proposed ADU is located at least four feet from the side
9 and rear lot lines, is no greater than 800 square feet in Gross Floor Area, and has a height no
10 greater than sixteen feet.

11 (iii) ADUs within existing space of a multifamily dwelling meeting the
12 following conditions:

13 a. The lot on which the ADU is proposed contains an existing
14 multifamily dwelling.

15 b. The ADU is proposed within a portion of the multifamily
16 dwelling structure that is not used as livable space, including but not limited to storage rooms,
17 boiler rooms, passageways, attics, basements, or garages.

18 c. The total number of ADUs within the dwelling structure
19 would not exceed twenty-five percent of the existing number of primary dwelling units within
20 the structure, provided that all multifamily dwelling structures shall be permitted to have at
21 least one ADU pursuant to this subsection 207(c)(6)(C)(iii) if all other applicable standards are
22 met.

23 (iv) Detached, new construction ADUs on lot containing multifamily
24 dwelling meeting the following conditions:

25

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

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

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

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

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

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

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

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

24 ~~———— (F) — Permit Application Review and Approval. The City shall act on an~~
25 ~~application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within~~

1 60 days from receipt of the complete application, without modification or disapproval, if the
2 proposed construction fully complies with the requirements set forth in this subsection
3 207(c)(6). No requests for discretionary review shall be accepted by the Planning Department
4 for permit applications meeting the requirements of this subsection 207(c)(6). The Planning
5 Commission shall not hold a public hearing for discretionary review of permit applications
6 meeting the requirements of this subsection 207(c)(6). Permit applications meeting the
7 requirements of this subsection 207(c)(6) shall not be subject to the notification or review
8 requirements of Section 311 of this Code.

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

12 — (H) — Prohibition of Short-Term Rentals. An ADU or JADU authorized under
13 this subsection 207(c)(6) shall not be used for Short-Term Residential Rentals under Chapter
14 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special
15 Restriction on the subject lot.

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

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

23 — (ii) — Notwithstanding the provisions of Article 9 of the Subdivision
24 Code, a lot with an ADU or JADU authorized under this subsection 207(c)(6) shall not be
25 subdivided in a manner that would allow for the ADU or JADU to be sold or separately

1 financed pursuant to any condominium plan, housing cooperative, or similar form of separate
2 ownership, except that this prohibition on separate sale or finance of the ADU shall not apply
3 to an ADU that meets the requirements of California Government Code Section 65852.26.

4 ~~————— (iii) — The size and attributes of a JADU constructed pursuant to this~~
5 ~~subsection 207(c)(6) shall comply with the requirements of this subsection 207(c)(6) and~~
6 ~~Government Code 65852.22.~~

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

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

17 * * * *

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

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

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

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

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

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

21 (3) Prior to submitting an application to construct an ADU under this Section
22 207.1, the property owner shall file with the Rent Board a written declaration, signed under
23 penalty of perjury, demonstrating that the project will comply with the requirements of
24 Administrative Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or
25 removal of a housing service. The Rent Board shall determine the form and content of said

1 declaration, which shall include the following information: (i) a description of any housing
2 services supplied in connection with the use or occupancy of any units on the subject property
3 that are located in the area of the property or building where the ADU would be constructed;
4 (ii) whether construction of the ADU would result in the severance, substantial reduction, or
5 removal of any such housing services; and (iii) whether any of the just causes for eviction
6 under Administrative Code Section 37.9(a) would apply. The property owner shall also file a
7 copy of the notice required under Section 207.1(j) with the declaration.

8 (4) Tenants at the subject property may contest the information in the
9 declaration required by subsection 207.1(c)(3) by petitioning for a written determination from
10 the Rent Board verifying the presence and defining characteristics of the housing service or
11 services in question, and whether any such housing services would be severed, substantially
12 reduced, or removed by the project as proposed. Petitions must be filed with the Rent Board
13 within 30 calendar days after the notice required under Section 207.1(j) has been provided. If
14 no such petition is timely filed, the Rent Board shall promptly transmit the declaration to the
15 Planning Department. If any such petition is timely filed, the Rent Board shall endeavor to
16 transmit the declaration and its final written determination on the petition to the Planning
17 Department within 90 calendar days of receipt of said petition. The Department shall not
18 approve an application to construct an ADU under this Section 207.1 unless (i) the Rent
19 Board has transmitted the declaration and final written determination required by subsections
20 (c)(3) and (c)(4), and (ii) the materials transmitted by the Rent Board indicate that construction
21 of the ADU would not result in the severance, substantial reduction, or removal without just
22 cause of any tenant housing service set forth in Administrative Code Section 37.2(r) that is
23 supplied in the area of the property or building where the ADU would be constructed, unless
24 the property owner demonstrates that the tenant supplied with that housing service has given
25

1 their express written consent for the severance, substantial reduction, or removal of the
2 housing service.

3 (5) Except as provided in subsections (6), (7), and (8) below, an ADU shall
4 be constructed (i) entirely within the buildable area of an existing lot, provided that the ADU
5 does not include a vertical addition, or (ii) within the built envelope of an existing and
6 authorized detached garage, storage structure, or other detached structure on the same lot.
7 For purposes of this subsection 207.1, a “detached” structure or ADU shall not share
8 structural walls with either the primary structure or any other structure on the lot. For purposes
9 of this subsection 207.1, the “built envelope” shall include the open area under an existing and
10 authorized cantilevered room or room built on columns; decks, except for decks that are
11 supported by columns or walls other than the building wall to which they are attached and are
12 multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be
13 against a blank neighboring wall at the property line and not visible from any off-site location;
14 as these spaces exist as of July 11, 2016. An ADU constructed entirely within the existing built
15 envelope, as defined in this subsection 207.1, along with permitted obstructions allowed in
16 Section 136(c)(32), of an existing building or authorized detached structure on the same lot, or
17 where an existing detached garage or storage structure has been expanded to add dormers,
18 is exempt from the notification requirements of Section 311 of this Code unless the existing
19 building or authorized detached structure on the same lot is listed in or previously determined
20 to be eligible for listing in the California Register of Historic Places, or designated individually
21 or as part of a historic or conservation district pursuant to Article 10 or Article 11, in which
22 case the notification requirements will apply. If an ADU will be constructed under a
23 cantilevered room or deck that encroaches into the required rear yard, a pre-application
24 meeting that complies with the Planning Commission’s Pre-Application policy is required.

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

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

8 (8) ADUs shall comply with any applicable controls in Planning Code Section
9 134(f).

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

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

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

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

1 (13) An Accessory Dwelling Unit shall not be permitted under this Section 207.1
2 if it would result in the reduction or removal of on-site laundry service, unless that laundry
3 service is replaced with at least the same number or capacity of washers and dryers within the
4 same building and as accessible as before to all building tenants.

5 (14) An application for a permit solely to construct an ADU in a proposed
6 building pursuant to this subsection 207.1(c) shall not be subject to the notification
7 requirements of Section 311 of this Code; however, any application for a permit to construct
8 the proposed building shall be subject to any applicable notification requirements of Section
9 311 of this Code.

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

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

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

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

21 (e) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of
22 the Subdivision Code, a lot with an ADU authorized under this Section 207.1 shall not be
23 subdivided in a manner that would allow for the ADU to be sold or separately financed
24 pursuant to any condominium plan, housing cooperative, or similar form of separate
25 ownership. This prohibition on separate sale or finance of the ADU shall not apply to an ADU

1 in a building that consisted entirely of condominium units as of July 11, 2013, and has had no
2 evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the
3 Administrative Code since July 11, 1996. This prohibition on separate sale or finance of the
4 ADU shall not apply to an ADU that meets the requirements of California Government Code
5 Section 65852.26.

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

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

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

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

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

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

16 (h) **Regulatory Agreements.** A Regulatory Agreement required by subsection
17 207.1(g) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

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

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

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

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

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

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

18 (i) **Monitoring Program.**

19 (1) **Monitoring and Enforcement of Unit Affordability.** The Department
20 shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized
21 to be constructed by this Section 207.1 and shall use such data to enforce the requirements of
22 the Regulatory Agreements entered into pursuant to subsection 207.1(h). Property owners
23 shall provide the Department with rent information as requested by the Department. The
24 Board of Supervisors recognizes that property owners and tenants generally consider rental
25 information sensitive and do not want it publicly disclosed. The intent of the Board is for the

1 Department to obtain the information for purposes of monitoring and enforcement but that its
2 public disclosure is not linked to specific individuals or units. The Department shall consult
3 with the City Attorney's Office with respect to the legal requirements to determine how best to
4 achieve the intent of the Board.

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

6 Department shall collect data on the use of ADUs authorized to be constructed by this Section
7 207.1 as Short-Term Residential Rentals, as that term is defined in Administrative Code
8 Section 41A.4, and shall use such data to evaluate and enforce Notices of Special Restriction
9 pursuant to Section 207.1(d) and the requirements of Administrative Code Chapter 41A.

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

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

16
17 **SEC. 207.2 STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.**

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

1 **(b) Applicability.** This Section 207.2 shall apply to the construction of ADUs and
2 JADUs in existing or proposed dwellings, or in a detached structure on the same lot, if the
3 ADU meets the applicable requirements of this Section 207.2. An ADU constructed pursuant
4 to this Section 207.2 is considered a residential use that is consistent with the General Plan
5 and the zoning designation for the lot. Adding an ADU or JADU in compliance with this
6 Section 207.2 does not exceed the allowable density for the lot. Unless otherwise specified,
7 for purposes of this Section 207.2, a “detached” structure or ADU shall not share structural
8 walls with the primary structure on the lot. If construction of the ADU will not meet the
9 requirements of this Section, the ADU is regulated pursuant to Section 207.1 and not this
10 Section 207.2.

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

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

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

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

25 **(4)** No parking is required for the ADU.

1 (d) **Specific Controls for Hybrid ADUs.** The purpose of this subsection 207.2(d)
2 is to implement California Government Code Sections 65852.2(e) and 65852.22, which
3 require ministerial consideration of ADUs and JADUs that meet certain standards (“Hybrid
4 ADUs”). California Government Code Section 65852.2(e)(6) authorizes the City to impose
5 objective standards, including, but not limited to, design, development, and historic standards,
6 on ADUs approved under this subsection 207.2(d). ADUs and JADUs shall strictly meet the
7 requirements set forth in this subsection 207.2(d), and all other applicable Planning Code
8 standards, including open space, exposure, buildable area, and other standards, without
9 requiring a waiver of Code requirements pursuant to subsection 207.1(g); provided, however,
10 that adding an ADU or JADU in compliance with this subsection 207.2(d) does not exceed the
11 allowable density for the lot. The City shall approve ADUs and JADUs meeting the following
12 requirements, in addition to the requirements of subsection 207.2(b) and any other applicable
13 standards:

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

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

19 (B) Only one ADU and one JADU are permitted per lot under this
20 subsection 207.2(d)(1).

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

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

24 (E) If an ADU is proposed, it will be within the existing space of a
25 single-family dwelling or accessory structure, or within the space of a proposed single-family

1 dwelling, or it will require an addition of no more than 150 square feet to an existing accessory
2 structure to accommodate ingress and egress.

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

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

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

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

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

13 (D) The proposed ADU is new construction.

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

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

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

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

24 (C) The total number of ADUs within the dwelling structure would not
25 exceed 25% of the existing number of primary dwelling units within the structure, provided that

1 all multifamily dwelling structures shall be permitted to have at least one ADU pursuant to this
2 subsection 207.2(d)(3) if all other applicable standards are met.

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

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

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

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

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

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

17 (e) **Specific Controls for State ADUs.** The purpose of this subsection 207.2(e) is
18 implement California Government Code Sections 65852.2(a) through (d), which require
19 streamlined, ministerial approval of ADUs meeting certain standards (“State ADUs”). An ADU
20 located on a lot that is zoned for single-family or multifamily use and contains an existing or
21 proposed dwelling, and that is constructed pursuant to this subsection 207.2(e), shall meet all
22 of the following requirements, in addition to the requirements of subsection 207.2(b) and any
23 other applicable standards. Provided, however, that the City shall not impose any
24 requirement for a zoning clearance or separate zoning review, any minimum or maximum size
25 for an ADU, any size based upon a percentage of the proposed or existing primary dwelling,

1 or any limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot
2 size, for either attached or detached dwellings, that does not permit construction of an ADU
3 meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or
4 less in height, and with four foot side and rear yard setbacks. ADUs under this subsection
5 207.2(e) shall meet the following conditions:

6 (1) Only one ADU will be constructed.

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

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

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

17 (5) If there is an existing primary dwelling, the Gross Floor Area of an
18 attached ADU that provides one bedroom or less shall not exceed 50% of the Gross Floor
19 Area of the existing primary dwelling or 850 square feet, whichever is greater. If there is an
20 existing primary dwelling, the Gross Floor Area of an attached ADU that provides more than
21 one bedroom shall not exceed 50% of the Gross Floor Area of the existing primary dwelling or
22 1,000 square feet, whichever is greater.

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

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

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

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

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

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

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

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

1 (f) **Permit Application Review and Approval.** No requests for discretionary
2 review shall be accepted by the Planning Department for permit applications meeting the
3 requirements of this Section 207.2. The Planning Commission shall not hold a public hearing
4 for discretionary review of permit applications meeting the requirements of this Section 207.2.
5 Permit applications meeting the requirements of this Section 207.2 shall not be subject to the
6 notification or review requirements of Section 311 of this Code.

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

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

14 (i) **Rental; Restrictions on Subdivisions.** An ADU or JADU constructed
15 pursuant to this Section 207.2 may be rented and is subject to all applicable provisions of the
16 Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative
17 Code). Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU
18 or JADU authorized under this Section 207.2 shall not be subdivided in a manner that would
19 allow for the ADU or JADU to be sold or separately financed pursuant to any condominium
20 plan, housing cooperative, or similar form of separate ownership, except that this prohibition
21 on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements
22 of California Government Code Section 65852.26.

23 (i) **Recordation for Junior ADUs.** The following restrictions shall be recorded as
24 a Notice of Special Restriction on the subject lot on which a JADU is constructed under this
25 Section 207.2 and shall be binding on all future owners and successors in interest:

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

7 (2) The size and attributes of a JADU constructed pursuant to this Section
8 207.2 shall comply with the requirements of this Section 207.2 and California Government
9 Code 65852.22.

10 (j) **Department Report.** In addition to the information required by subsection
11 207.1(i)(3), the annual Housing Inventory shall include a description and evaluation of the
12 number and types of units being developed pursuant to this Section 207.2, their affordability
13 rates, and such other information as the Director or the Board of Supervisors determines
14 would inform decision makers and the public.

15 (k) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under
16 this Section 207.2, where the ADU or JADU is smaller than 750 square feet of Gross Floor
17 Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for
18 all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the
19 primary dwelling unit.

20
21 **SEC. 207.6. REQUIRED MINIMUM DWELLING UNIT MIX IN RTO, RCD, NCT, DTR,**
22 **EASTERN NEIGHBORHOODS MIXED USE DISTRICTS, THE VAN NESS & MARKET**
23 **RESIDENTIAL SPECIAL USE DISTRICT, AND THE POLK STREET AND PACIFIC**
24 **AVENUE NEIGHBORHOOD COMMERCIAL DISTRICTS.**

25 * * * *

1 **(b) Applicability.**

2 (1) This Section shall apply in the RTO, RCD, NCT, DTR, Eastern
3 Neighborhoods Mixed Use Districts, the Van Ness & Market Residential Special Use District,
4 and the Pacific Avenue and Polk Street NCDs.

5 (2) This Section shall apply to all applications for building permits and/or
6 Planning Commission entitlements that propose the creation of five or more Dwelling Units.

7 (3) This Section does not apply to buildings for which 100 percent of the
8 residential uses are: Group Housing, Dwelling Units that are provided at below market rates
9 pursuant to Section 406(b)(1) of this Code, Single Room Occupancy (SRO) Units, Student
10 Housing (all as defined in Section 102 of this Code) or housing specifically and permanently
11 designated for seniors or persons with physical disabilities.

12 (4) This Section 207.6 shall not apply to applications for permits or entitlements
13 to construct Accessory Dwelling Units or Junior Accessory Dwelling Units.

14 * * * *

15
16 **SEC. 207.7. REQUIRED MINIMUM DWELLING UNIT MIX.**

17 (a) **Purpose.** To ensure an adequate supply of family-sized units in new housing
18 stock, new residential construction must include a minimum percentage of units of at least two
19 and three bedrooms.

20 **(b) Applicability.**

21 (1) This Section 207.7 shall apply to all applications for building permits and/or
22 Planning Commission entitlements that propose the creation of 10 or more Dwelling Units in
23 all districts that allow residential uses, unless that project is located in the RTO, RCD, NCT,
24 DTR, and Eastern Neighborhoods Mixed Use Districts, or in an area or Special Use District
25

1 with higher specific bedroom mix requirements, or is a HOME SF project subject to the
2 requirements of Planning Code Section 206.3.

3 (2) This Section 207.7 shall not apply to buildings for which 100% of the
4 residential uses are: Group Housing, Dwelling Units that are provided at below market rates
5 pursuant to Section 406(b)(1) of this Code, Single Room Occupancy (SRO) Units, Student
6 Housing (all as defined in Section 102 of this Code), or housing specifically and permanently
7 designated for seniors or persons with physical disabilities, including units to be occupied by
8 staff serving any of the foregoing residential uses. This Section 207.7 shall apply to Student
9 Housing unless the educational institution with which it is affiliated has an Institutional Master
10 Plan that the City has accepted, as required under Planning Code Section 304.5.

11 (3) This Section 207.7 shall not apply to projects that filed a complete
12 Environmental Evaluation Application on or prior to January 12, 2016, or to projects that have
13 received an approval, including approval by the Planning Commission, as of June 15, 2017.

14 (4) In accordance with Section 210.5, this Section 207.7 shall not apply to
15 Commercial to Residential Adaptive Reuse projects.

16 (5) This Section 207.7 shall not apply to applications for permits or entitlements
17 to construct Accessory Dwelling Units or Junior Accessory Dwelling Units.

18 * * * *

19
20 **SEC. 1005. CONFORMITY AND PERMITS.**

21 * * * *

22 (e) After receiving a permit application from the Central Permit Bureau in accordance
23 with the preceding subsection, the Department shall ascertain whether a Certificate of
24 Appropriateness is required or has been approved for the work proposed in such permit
25 application. If a Certificate of Appropriateness is required and has been issued, and if the

1 permit application conforms to the work approved in the Certificate of Appropriateness, the
2 permit application shall be processed without further reference to this Article 10. If a
3 Certificate of Appropriateness is required and has not been issued, or if the permit application
4 does not conform to what was approved, the permit application shall be disapproved or held
5 by the Department until such time as conformity does exist either through modifications to the
6 proposed work or through the issuance of an amended or new Certificate of Appropriateness.
7 Notwithstanding the foregoing, in the following cases the Department shall process the permit
8 application without further reference to this Article 10:

9 * * * *

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

13 (10) When the application is for a permit to construct an Accessory Dwelling Unit
14 or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior
15 Accessory Dwelling Unit conforms to the requirements of ~~sub~~Section 207.2(e)(6) of this
16 Code.

17 * * * *

18
19 **SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT**
20 **OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.**

21 * * * *

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

24 (1) When the application is for a permit for ordinary maintenance and repairs
25 only. For the purpose of this Article 11, "ordinary maintenance and repairs" shall mean any

1 work, the sole purpose and effect of which is to correct deterioration, decay, or damage of
2 existing materials, including repair of damage caused by fire or other disaster.

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

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

11 (4) When the application is for a permit to construct an Accessory Dwelling Unit
12 or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior
13 Accessory Dwelling Unit conforms to the requirements of ~~sub~~Section 207.2(e)(6) of this Code.

14
15 Section 3. Articles 1, 2, 3, 7, and 8 of the Planning Code are hereby amended by
16 replacing all references to Planning Code “subsection 207(c)(4)” and “section 207(c)(4)” in
17 each of the Sections, subsections, and tables listed below with the term “Section 207.1”. If any
18 references in the Planning Code to “subsection 207(c)(4)” and “section 207(c)(4)” have been
19 inadvertently omitted from the above list, the City Attorney is authorized to cause such
20 references to be changed to “Section 207.1”.

- 21 - Subsection 134(f)
- 22 - Subsection 138.1(c)(1)
- 23 - Subsection 140(c)(2)
- 24 - Subsection 172(a)
- 25 - Table 209.1, Note 6

- 1 - Table 209.2, Note 7
- 2 - Table 209.3, Note 7
- 3 - Table 209.4, Note 7
- 4 - Table 210.1, Note 5
- 5 - Table 210.2, Note 7
- 6 - Table 210.4, Note 3
- 7 - Subsection 307(l) (2 references)
- 8 - Section 710
- 9 - Table 710 (2 references)
- 10 - Section 711
- 11 - Table 711 (2 references)
- 12 - Section 712
- 13 - Table 712 (2 references)
- 14 - Section 713
- 15 - Table 713 (2 references)
- 16 - Section 714
- 17 - Table 714 (2 references)
- 18 - Section 715
- 19 - Table 715 (2 references)
- 20 - Section 716
- 21 - Table 716 (2 references)
- 22 - Section 717
- 23 - Table 717 (2 references)
- 24 - Section 718
- 25 - Table 718 (2 references)

- 1 - Section 719
- 2 - Table 719 (2 references)
- 3 - Table 720
- 4 - Table 721
- 5 - Section 722
- 6 - Table 722 (2 references)
- 7 - Section 723
- 8 - Table 723 (2 references)
- 9 - Section 724
- 10 - Table 724 (2 references)
- 11 - Section 725
- 12 - Table 725 (2 references)
- 13 - Section 726
- 14 - Table 726 (2 references)
- 15 - Section 727
- 16 - Table 727 (2 references)
- 17 - Section 728
- 18 - Table 728 (2 references)
- 19 - Section 729
- 20 - Table 729 (2 references)
- 21 - Section 730
- 22 - Table 730 (2 references)
- 23 - Table 731 (2 references)
- 24 - Table 732 (2 references)
- 25 - Table 733 (2 references)

- 1 - Table 734 (2 references)
- 2 - Section 735
- 3 - Table 735 (2 references)
- 4 - Section 736
- 5 - Table 736 (2 references)
- 6 - Section 737
- 7 - Table 737 (2 references)
- 8 - Section 738
- 9 - Table 738 (2 references)
- 10 - Section 739
- 11 - Table 739 (2 references)
- 12 - Section 740
- 13 - Table 740 (2 references)
- 14 - Section 741
- 15 - Table 741 (2 references)
- 16 - Section 742
- 17 - Table 742 (2 references)
- 18 - Section 743
- 19 - Table 743 (2 references)
- 20 - Section 744
- 21 - Table 744 (2 references)
- 22 - Section 745
- 23 - Table 745 (2 references)
- 24 - Table 750 (2 references)
- 25 - Table 751 (2 references)

- 1 - Section 752
- 2 - Table 752 (2 references)
- 3 - Section 753
- 4 - Table 753 (2 references)
- 5 - Section 754
- 6 - Table 754 (2 references)
- 7 - Section 755
- 8 - Table 755 (2 references)
- 9 - Section 756
- 10 - Table 756 (2 references)
- 11 - Section 757
- 12 - Table 757 (2 references)
- 13 - Section 758
- 14 - Table 758 (2 references)
- 15 - Section 759
- 16 - Table 759 (2 references)
- 17 - Section 760
- 18 - Table 760 (2 references)
- 19 - Table 761 (2 references)
- 20 - Section 762
- 21 - Table 762 (2 references)
- 22 - Table 763 (2 references)
- 23 - Section 764
- 24 - Table 764 (2 references)
- 25 - Section 827

- 1 - Table 827 (2 references)
- 2 - Section 828
- 3 - Section 829
- 4 - Table 829 (2 references)
- 5 - Table 830
- 6 - Section 831
- 7 - Section 832
- 8 - Section 833
- 9 - Section 834
- 10 - Section 835
- 11 - Section 836
- 12 - Section 837
- 13 - Section 838
- 14 - Section 839
- 15 - Section 840

16

17 Section 4. Articles 1, 2, 3, 7, and 8 of the Planning Code are hereby amended by
18 replacing all references to Planning Code “subsection 207(c)(6)” and “section 207(c)(6)” in
19 each of the Sections, subsections, and tables listed below with the term “Section 207.2”. If any
20 references in the Planning Code to “subsection 207(c)(4)” and “section 207(c)(4)” have been
21 inadvertently omitted from the above list, the City Attorney is authorized to cause such
22 references to be changed to “Section 207.1”.

- 23 - Subsection 138.1(c)(1)
- 24 - Table 209.1, Note 6
- 25 - Table 209.2, Note 7

- 1 - Table 209.3, Note 7
- 2 - Table 209.4, Note 7
- 3 - Table 210.1, Note 5
- 4 - Table 210.2, Note 7
- 5 - Table 210.4, Note 3
- 6 - Subsection 311(b)
- 7 - Table 710 (2 references)
- 8 - Table 711 (2 references)
- 9 - Table 712 (2 references)
- 10 - Table 713 (2 references)
- 11 - Table 714 (2 references)
- 12 - Table 715 (2 references)
- 13 - Table 716 (2 references)
- 14 - Table 717 (2 references)
- 15 - Table 718 (2 references)
- 16 - Table 719 (2 references)
- 17 - Table 720
- 18 - Table 721
- 19 - Table 722 (2 references)
- 20 - Table 723 (2 references)
- 21 - Table 724 (2 references)
- 22 - Table 725 (2 references)
- 23 - Table 726 (2 references)
- 24 - Section 727
- 25 - Table 727 (2 references)

- 1 - Table 728 (2 references)
- 2 - Table 729 (2 references)
- 3 - Table 730 (2 references)
- 4 - Table 731 (2 references)
- 5 - Table 732 (2 references)
- 6 - Table 733 (2 references)
- 7 - Table 734 (2 references)
- 8 - Section 735
- 9 - Table 735 (2 references)
- 10 - Section 736
- 11 - Table 736 (2 references)
- 12 - Section 737
- 13 - Table 737 (2 references)
- 14 - Section 738
- 15 - Table 738 (2 references)
- 16 - Section 739
- 17 - Table 739 (2 references)
- 18 - Section 740
- 19 - Table 740 (2 references)
- 20 - Section 741
- 21 - Table 741 (2 references)
- 22 - Section 742
- 23 - Table 742 (2 references)
- 24 - Section 743
- 25 - Table 743 (2 references)

- 1 - Section 744
- 2 - Table 744 (2 references)
- 3 - Section 745
- 4 - Table 745 (2 references)
- 5 - Table 750 (2 references)
- 6 - Table 751 (2 references)
- 7 - Section 752
- 8 - Table 752 (2 references)
- 9 - Table 753 (2 references)
- 10 - Table 754 (2 references)
- 11 - Table 755 (2 references)
- 12 - Table 756 (2 references)
- 13 - Table 757 (2 references)
- 14 - Table 758 (2 references)
- 15 - Table 759 (2 references)
- 16 - Table 760 (2 references)
- 17 - Table 761 (2 references)
- 18 - Table 762 (2 references)
- 19 - Table 763 (2 references)
- 20 - Section 764
- 21 - Table 764 (2 references)
- 22 - Subsection 1005(e)(10)
- 23 - Subsection 1110(g)(4)
- 24
- 25

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

3 **SEC. 37.2. DEFINITIONS.**

4 * * * *

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

9 Garage facilities, parking facilities, driveways, storage spaces, laundry rooms,
10 decks, patios, or gardens on the same lot, or kitchen facilities or lobbies in single room
11 occupancy (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not
12 be severed from the tenancy by the landlord without just cause as required by Section
13 37.9(a). Any severance, substantial reduction, or removal of a housing service, even if
14 permitted under Section 37.9(a), shall be offset by a corresponding reduction in rent. Either a
15 landlord or a tenant may file a petition with the Rent Board to determine the amount of the rent
16 reduction. In addition, a tenant may petition the Rent Board for a determination on whether an
17 Accessory Dwelling Unit proposed to be constructed under Planning Code Section 207.1(e)(4)
18 would sever, substantially reduce, or remove a housing service, pursuant to the procedures
19 set forth in ~~subsection 207.1(e)(4)(C)(iii)~~. The issuance of a permit for construction of an
20 Accessory Dwelling Unit does not, in and of itself, constitute a just cause for the purpose of
21 severing a housing service.

22 Notwithstanding the preceding paragraph, a landlord may temporarily sever one or
23 more housing services listed in that paragraph in order to perform seismic work required by
24 Building Code "Mandatory Earthquake Retrofit of Wood-Frame Buildings" ("mandatory
25 seismic work") if: (1) the landlord has given the notice to temporarily sever as required by

1 Administrative Code Section 65A.2; (2) the landlord has obtained all necessary permits on or
2 before the date the notice to temporarily sever is given; (3) the housing service(s) will only be
3 severed for the minimum time required to complete the mandatory seismic work and in no
4 event for a longer period than provided by Building Code Section 106A.4.4, Table B; and (4)
5 the temporarily severed housing service(s) will be fully restored immediately upon completion
6 of the mandatory seismic work. For such temporary severance of one or more of the specified
7 housing services due to mandatory seismic work required by Building Code Chapter 34B,
8 tenants will not be entitled to a reduction in rent, but tenants shall be entitled to either
9 compensation or a substitute housing service as provided in Administrative Code Chapter
10 65A.

11 The term "rental units" shall not include:

12 * * * *

13 (4) Except as provided in subsections (A)-(E), dwelling units whose rents are
14 controlled or regulated by any government unit, agency, or authority, excepting those
15 unsubsidized and/or unassisted units which are insured by the United States Department of
16 Housing and Urban Development; provided, however, that units in unreinforced masonry
17 buildings which have undergone seismic strengthening in accordance with Building Code
18 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
19 ordinance is not in conflict with the seismic strengthening bond program or with the program's
20 loan agreements or with any regulations promulgated thereunder;

21 * * * *

22 (D) The term "rental units" shall include (i) Accessory Dwelling Units
23 constructed pursuant to Section 207.1(e)(4) of the Planning Code and that have received a
24 complete or partial waiver of the density limits and the parking, rear yard, exposure, or open
25

1 space standards from the Zoning Administrator pursuant to Planning Code Section 307(l), and
2 (ii) New Unit(s) constructed and funded pursuant to Administrative Code Chapter 85.

3 * * * *

4
5 Section 6. The Business and Tax Regulations Code is hereby amended by revising
6 Sections 8 and 26, to read as follows:

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

8 * * * *

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

11 * * * *

12 (9) Additional Requirements.

13 * * * *

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

18 * * * *

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

23
24 **SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.**

25 * * * *

1 (f) Notwithstanding subsection (a), the provisions of Planning Code Section 207.2,
2 ~~subsection (c)(6)~~, shall govern actions taken on the granting, denial, amendment, suspension,
3 and revocation of permits regulated under that ~~subsection 207.2(c)(6)~~, not the standards set
4 forth in subsection (a) of this Section 26.

5
6 Section 7. The Building Code is hereby amended by adding Section 106A.1.19,
7 including Sections 106A.1.19.1 and 106A.1.19.2, and Section 106A.1.20, to read as follows:

8 **106A.1.19 State-Mandated Accessory Dwelling Unit Program.** California
9 Government Code Sections 65852.2 and 65852.22 require expedited, ministerial
10 consideration of Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units
11 (“JADUs”) that meet the requirements of Planning Code Section 207.2.

12 **106A.1.19.1 Permit Application Review and Approval.** The City shall approve or
13 deny an application for a permit to construct an ADU or JADU on a lot containing an existing
14 dwelling within 60 days from receipt of the complete application if the proposed construction
15 fully complies with the requirements set forth in Planning Code Section 207.2 and any other
16 applicable requirements. If the applicant requests a delay, the 60-day time period shall be
17 tolled for the period of the delay. If the City has not approved or denied the completed
18 application within 60 days, the application shall be deemed approved.

19 **106A.1.19.2 Notice of Garage Demolition.** Written and posted notice shall not be
20 required for the demolition of a detached garage that is to be replaced with an ADU, unless
21 the property is located within a historic or conservation district pursuant to Article 10 or Article
22 11 of the Planning Code.

23 **106A.1.20 Local Accessory Dwelling Unit Program.** The City provides a local,
24 discretionary process for the consideration of permits to construct Accessory Dwelling Units
25 (“ADUs”) that meet the requirements of Planning Code Section 207.1. The City shall approve

1 or deny an application for a permit to construct an ADU under Planning Code Section 207.1
2 on a lot containing an existing dwelling within 60 days from receipt of the complete application
3 if the proposed construction fully complies with the requirements set forth in Planning Code
4 Section 207.1 and any other applicable requirements. This requirement shall not apply to any
5 ADU permit subject to a request for discretionary review or an appeal to the Board of Appeals.
6 If the applicant requests a delay, the 60-day time period shall be tolled for the period of the
7 delay.

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

13
14 Section 49. Scope of Ordinance. Except as stated in Sections 3 and 4 of this
15 ordinance, in enacting this ordinance, the Board of Supervisors intends to amend only those
16 words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks,
17 charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly
18 shown in this ordinance as additions, deletions, Board amendment additions, and Board
19 amendment deletions in accordance with the "Note" that appears under the official title of the
20 ordinance.

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

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Section 11. Corrected Presentation of Existing Code. On February 5, 2024, the Land Use and Transportation Committee created this ordinance by duplicating Board File No. 230310. Ordinance No. 53-23, in Board of Supervisors File No. 210585, took effect on May 22, 2023. This ordinance has been updated to accurately represent recent amendments to Sections 102, 136, 207, 1005, and 1110 of the Planning Code enacted by Ordinance No. 53-23 as existing text of the Planning Code. Said revisions do not change the substance of this ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

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

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REVISED LEGISLATIVE DIGEST
(Amended in Committee - February 12, 2024)

[Various Codes - State-Mandated Accessory Dwelling Unit Controls]

Ordinance amending the Administrative Code, Building Code, Business and Tax Regulations Code, and Planning Code to clarify the state-mandated, ministerial approval process and local, discretionary approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 102 defines Accessory Dwelling Unit (ADU) and Junior ADU. Planning Code Section 136 regulates permitted obstructions in required setbacks, yards, and open space. Planning Code subsections 207(c)(4) and 207(c)(6) establish the requirements for constructing ADUs in areas of the City that are zoned for residential use. Subsection 207(c)(6) sets forth two state-mandated, ministerial approval processes for ADUs constructed on lots containing existing or proposed single-family dwellings that meet state ADU law requirements: the “State ADU” program, which implements the requirements of California Government Code Sections 65852.2(a) through (d), and the “Hybrid ADU” program, which implements the requirements of California Government Code Sections 65852.2(e). The City’s Hybrid ADU program currently permits the addition of one Junior ADU per lot, in combination with one detached ADU or one ADU converted from existing built space.

Planning Code subsection 207(c)(4) provides the City’s local program for ADUs constructed on lots containing multi-family dwellings, and on lots containing existing or proposed single-family dwellings that do not meet the state ADU law criteria for ministerial consideration.

The Building Code sets forth standards and processes for the approval of permits to construct dwelling units, including ADUs.

Amendments to Current Law

Recent amendments to state ADU law, and new interpretations of state ADU law by the California Department of Housing and Community Development, require the City to amend the process for ministerial consideration of applications to construct ADUs that meet certain requirements, and to amend the Planning Code standards applicable to certain ADUs. These required Planning Code amendments include:

- Clarifying the distinction between the City's local and state-mandated ADU approval programs by relocating the City's ADU controls from Planning Code subsections 207(c)(4) and 207(c)(6) to Planning Code Sections 201.2 and 207.2;
- Revising the definition of Junior ADU in Section 102 to clarify that Junior ADUs need not be owner-occupied if the owner is a governmental agency, land trust, or housing organization;
- Clarifying that lot coverage requirements of Planning Code Section 136 do not prohibit construction of an ADU that is no more than 800 square feet with four-foot side and rear setbacks;
- Increasing height limits on certain ADUs to 16, 18, 20, or 25 feet, as applicable;
- Excluding ADUs and Junior ADUs from the City's dwelling unit mix requirements set forth in Planning Code Section 207.6 and 207.7;
- Clarifying existing limits on the City's authority to impose standards and process requirements on state-mandated ADUs, including that any architectural review standards developed by the Historic Preservation Commission for ADUs must be objective; and
- Removing certain notification requirements applicable to the State ADU program.

This ordinance expands the ADU projects subject to architectural review standards developed by the Historic Preservation Commission to include ADU projects on properties previously determined to be eligible for the California Register of Historic Resources. This ordinance also amends the Building Code to clarify that the City must ministerially approve or deny, rather than simply act on, an application to construct a code-complying, state-mandated ADU within 60 days.

This ordinance also amends the Building Code to clarify that the City must approve or deny an application to construct an ADU under the City's discretionary, local approval program within 60 days. This deadline would not apply to ADU permit applications subject to a request for discretionary review or an appeal to the Board of Appeals.

This ordinance also amends various sections of the Administrative Code, Business and Tax Regulations Code, and Planning Code to correct cross references to the City's ADU controls.

Background Information

On February 5, 2024, the Land Use and Transportation Committee of the Board of Supervisors created this ordinance by duplicating the ordinance in Board File No. 230310. This legislative digest reflects amendments made to this ordinance by the Land Use and Transportation Committee on February 12, 2024.