BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

M E M O R A N D U M

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair
Land Use and Transportation Committee

FROM: John Carroll, Assistant Clerk

DATE: March 11, 2024

SUBJECT **COMMITTEE REPORT, BOARD MEETING**
Tuesday, March 12, 2024

The following file should be presented as COMMITTEE REPORT during the Board meeting on Tuesday, March 12, 2024. This ordinance was acted upon during the Land Use and Transportation Committee meeting on Monday, March 11, 2024, at 1:30 p.m., by the votes indicated.

BOS Item No. 20 **File No. 230310**

[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 ministerial 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.

RECOMMENDED AS COMMITTEE REPORT
Vote: Supervisor Myrna Melgar – Aye
Supervisor Dean Preston – Aye
Supervisor Aaron Peskin – Aye

Cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Anne Pearson, Deputy City Attorney

File No. 230310 **Committee Item No.** 1
Board Item No. 20

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation **Date:** March 11, 2024
Board of Supervisors Meeting: **Date:** March 12, 2024

Cmte Board

Cmte	Board		
☐	☐	**Motion**	
☐	☐	**Resolution**	
☒	☒	**Ordinance**	**- VERSION 4**
☒	☒	**Legislative Digest**	**- VERSION 4**
☐	☐	**Budget and Legislative Analyst Report**	
☐	☐	**Youth Commission Report**	
☐	☐	**Introduction Form**	
☐	☐	**Department/Agency Cover Letter and/or Report**	
☐	☐	**MOU**	
☐	☐	**Grant Information Form**	
☐	☐	**Grant Budget**	
☐	☐	**Subcontract Budget**	
☐	☐	**Contract / DRAFT Mills Act Agreement**	
☐	☐	**Form 126 – Ethics Commission**	
☐	☐	**Award Letter**	
☐	☐	**Application**	
☒	☒	**Public Correspondence**	

OTHER

☒	☒	Planning Commission Transmittals – February 29, 2024, - October 12, 2023, and September 7, 2021
☒	☒	Planning Dept. Letter to HCD – November 27, 2023
☒	☒	Planning Department Presentation – March 13, 2023
☒	☒	CEQA Determinations – April 21, 2023 and July 22, 2021
☒	☒	BOS Reso No. 347-23 – July 6, 2023
☒	☒	Referrals – February 7, 2024, April 3, 2023, and June 11, 2021
☒	☒	Committee Report Request Memo – March 7, 2024
☐	☐	
☐	☐	

Prepared by: John Carroll **Date:** March 7, 2024
Prepared by: John Carroll **Date:** March 11, 2024
Prepared by: **Date:**

[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 ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings ~~and to permit certain ADUs in the rear yard under the City's local, discretionary approval program~~; ~~affirming the Planning Department's determinationmaking findings~~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.

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

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

Section 1. Findings.

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

~~of the Final EIR, the City has approved and incorporated eight addenda into the analysis of the Final EIR and made requisite findings under CEQA.The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms this determination.~~The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 230310 and is incorporated herein by reference. The Board affirms this determination.

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

(~~bc~~b) On ~~_____~~February 29, 2024, the Planning Commission, in Resolution No. ~~_____~~21527, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. ~~_____~~230310, and is incorporated herein by reference.

(~~cd~~c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons stated in Planning Commission Resolution No. ~~_____~~21527.

(d) On October 18, 2023, the Building Inspection Commission considered this ordinance at a duly noticed public hearing pursuant to Charter Section 4.121.

(e) No local findings are required under California Health and Safety Code Section 17958. 7 because the amendments to the Building Code contained in this ordinance do not regulate materials or manner of construction or repair, and instead relate in their entirety to administrative procedures, which are expressly excluded from the definition of a "building standard" by California Health and Safety Code Section 18909(c).

(f) This ordinance amends the Planning Code to restate existing law that any architectural review standards adopted by the Historic Preservation Commission that are applicable to State-mandated Accessory Dwelling Units ("ADU") must remain objective. California Government Code Section 65852.2, subdivision (a)(1)(b)(i) broadly permits the City to impose objective architectural review standards on ADUs seeking approval under the City's State ADU program. This grant of authority is separate from, and in addition to, subdivision (a)(1(b)(i)'s authorization of local "standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources." Furthermore, California Government Code Section 65852.2, subdivision (e)(7) also broadly permits the City

to impose objective standards, "including, but not limited to . . . historic standards" on ADUs under the City's Hybrid ADU program. State ADU law therefore authorizes the City to impose objective architectural review standards on ADUs seeking approval under either of the City's State-mandated programs.

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

SEC. 102. DEFINITIONS.

* * * *

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

Dwelling Unit, Junior Accessory, or JADU. A Dwelling Unit that meets all the requirements of Section 207.2~~(c)(6)~~, and that:

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

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

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

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

(e) is owner-occupied, unless the owner resides in the remaining portion of the structure; provided, however, that owner-occupancy shall not be required if the owner is a governmental agency, land trust, or housing organization;

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

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

* * * *

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

* * * *

(c) The permitted obstructions shall be as follows:

* * * *

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

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

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

* * * *

SEC. 155.1. BICYCLE PARKING: DEFINITIONS AND STANDARDS.

* * * *

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

* * * *

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

*** * * ***

SEC. 207. DWELLING UNIT DENSITY LIMITS.

* * * *

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

* * * *

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

~~(A) Definition. An "Accessory Dwelling Unit" (ADU) is defined in Section 102.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(G) Waiver of Code Requirements; Applicability of Rent Ordinance. Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant a complete or partial waiver of the density limits and bicycle parking, rear yard, exposure, or open space standards of this Code for ADUs constructed within an existing building, and may grant a waiver of the density limits of this Code for ADUs constructed within a proposed building. If the Zoning Administrator grants a complete or partial waiver of the requirements of this Code and the subject lot contains any Rental Units at the time an application for a building~~

~~permit is filed for construction of the ADU(s), the property owner(s) shall enter into a Regulatory Agreement with the City under subsection (c)(4)(H) subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.~~

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

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

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

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

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

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

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

~~(I) Monitoring Program.~~

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

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

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

* * * *

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

~~(A) Applicability. This subsection 207(c)(6) shall apply to the construction of ADUs and Junior Accessory Dwelling Units ("JADUs") (as defined in Section 102) in existing or proposed dwellings, or in a detached structure on the same lot, if the ADU meets the applicable requirements of this subsection207(c)(6). An ADU constructed pursuant to this subsection is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding an ADU or JADU in compliance with this subsection 207(c)(6) does not exceed the allowable density for the lot. Unless otherwise specified, for purposes of this subsection 207(c)(6), a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot. If construction of the ADU will not meet the requirements of this subsection, the ADU is regulated pursuant to subsection 207(c)(4) and not this subsection 207(c)(6).~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~d. The proposed ADU is new construction.~~

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

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

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

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

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

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

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

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

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

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

~~(D) Specific Controls for Streamlined ADUs. The purpose of this subsection 207(c)(6)(D) is implement California Government Code Sections 65852.2(a) through (d), which requires streamlined, ministerial approval of ADUs meeting certain standards ("Streamlined ADUs"). An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling, and that is constructed pursuant to this subsection 207(c)(6)(D), shall meet all of the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards. Provided,~~

~~however, that the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this subsection 207(c)(6)(D) shall meet the following conditions:~~

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

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

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

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

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

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

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

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

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

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

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

~~(ii) Cause a notice describing the proposed project to be posted on the subject property for at least 15 days, cause a written notice describing the proposed project to be mailed to the tenants of the subject property, and submit proof of these notices to the Planning Department as part of the application to construct an ADU or JADU. These~~

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

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

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

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

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

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

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

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

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

~~(K) Fees. No impact fees shall be imposed on ADUs or JADUs authorized under this subsection 207(c)(6), where the ADU or JADU is smaller than seven hundred and fifty square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units~~

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

* * * *

SEC. 207.1 LOCAL ACCESSORY DWELLING UNIT PROGRAM.

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

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

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

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

(2) The Department shall not approve an application for construction of an ADU where a tenant on the lot was evicted pursuant to Administrative Code Sections 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the application for a building permit to construct the ADU, or where a tenant was evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the application for a building permit to construct the ADU. This

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

(3) Prior to submitting an application to construct an ADU under this Section 207.1, the property owner shall file with the Rent Board a written declaration, signed under penalty of perjury, demonstrating that the project will comply with the requirements of Administrative Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or removal of a housing service. The Rent Board shall determine the form and content of said declaration, which shall include the following information: (i) a description of any housing services supplied in connection with the use or occupancy of any units on the subject property that are located in the area of the property or building where the ADU would be constructed; (ii) whether construction of the ADU would result in the severance, substantial reduction, or removal of any such housing services; and (iii) whether any of the just causes for eviction under Administrative Code Section 37.9(a) would apply. The property owner shall also file a copy of the notice required under Section 207.1(j) with the declaration.

(4) Tenants at the subject property may contest the information in the declaration required by subsection 207.1(c)(3) by petitioning for a written determination from the Rent Board verifying the presence and defining characteristics of the housing service or services in question, and whether any such housing services would be severed, substantially reduced, or removed by the project as proposed. Petitions must be filed with the Rent Board within 30 calendar days after the notice required under Section 207.1(j) has been provided. If no such petition is timely filed, the Rent Board shall promptly transmit the declaration to the

Planning Department. If any such petition is timely filed, the Rent Board shall endeavor to transmit the declaration and its final written determination on the petition to the Planning Department within 90 calendar days of receipt of said petition. The Department shall not approve an application to construct an ADU under this Section 207.1 unless (i) the Rent Board has transmitted the declaration and final written determination required by subsections (c)(3) and (c)(4), and (ii) the materials transmitted by the Rent Board indicate that construction of the ADU would not result in the severance, substantial reduction, or removal without just cause of any tenant housing service set forth in Administrative Code Section 37.2(r) that is supplied in the area of the property or building where the ADU would be constructed, unless the property owner demonstrates that the tenant supplied with that housing service has given their express written consent for the severance, substantial reduction, or removal of the housing service.

(5) Except as provided in subsections (6), (7), and (8) below, an ADU shall be constructed (i) entirely within the buildable area of an existing lot, provided that the ADU does not include a vertical addition, or (ii) within the built envelope of an existing and authorized detached garage, storage structure, or other detached structure on the same lot. For purposes of this subsection 207.1, a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot. For purposes of this subsection 207.1, the "built envelope" shall include the open area under an existing and authorized cantilevered room or room built on columns; decks, except for decks that are supported by columns or walls other than the building wall to which they are attached and are multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be against a blank neighboring wall at the property line and not visible from any off-site location; as these spaces exist as of July 11, 2016. An ADU constructed entirely within the existing built envelope, as defined in this subsection 207.1, along with permitted obstructions allowed in

Section 136(c)(32), of an existing building or authorized detached structure on the same lot, or where an existing detached garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code. ~~unless~~If the existing building or authorized detached structure on the same lot is ~~listed in or previously determined to be eligible for listing in the California Register of Historic Places, or~~ designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, ~~in which case~~ the notification requirements of Article 10 or Article 11 will apply. If an ADU will be constructed under a cantilevered room or deck that encroaches into the required rear yard, a pre-application meeting that complies with the Planning Commission's Pre-Application policy is required.

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

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

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

(9) An ADU shall not be constructed using space from an existing Dwelling Unit, except that an ADU may expand into habitable space on the ground or basement floors provided that it does not exceed 25% of the total gross square footage of such space on the ground and basement floors. The Zoning Administrator may waive this 25% limitation if (i) the resulting space would not be usable or would be impractical to use for other reasonable uses.

including, but not limited to, storage or bicycle parking or (ii) waiving the limitation would help relieve any negative layout issues for the proposed ADU.

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

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

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

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

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

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

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

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

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

(e) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU authorized under this Section 207.1 shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership. This prohibition on separate sale or finance of the ADU shall not apply to an ADU in a building that consisted entirely of condominium units as of July 11, 2013, and has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the Administrative Code since July 11, 1996. This prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) **Monitoring Program.**

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

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

(3) **Department Report.** As part of the annual Housing Inventory, the Department shall report the types of units being developed pursuant to this Section 207.1, their affordability rates, their use as Short-Term Residential Rentals, and such additional information as the Director or the Board of Supervisors determines would inform decision makers and the public on the effectiveness and implementation of this Section 207.1, and shall include recommendations for any amendments to the requirements of this Section 207.1.

SEC. 207.2 STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.

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

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

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

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

(2) For projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any objective

architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter.

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

(4) No parking is required for the ADU.

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

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

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

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

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

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

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

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

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

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

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

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

(D) The proposed ADU is new construction.

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

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

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

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

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

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

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

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

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

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

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

(e) **Specific Controls for State ADUs.** The purpose of this subsection 207.2(e) is implement California Government Code Sections 65852.2(a) through (d), which require

streamlined, ministerial approval of ADUs meeting certain standards ("State ADUs"). An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling, and that is constructed pursuant to this subsection 207.2(e), shall meet all of the following requirements, in addition to the requirements of subsection 207.2(b) and any other applicable standards. Provided, however, that the City shall not impose any requirement for a zoning clearance or separate zoning review, any minimum or maximum size for an ADU, any size based upon a percentage of the proposed or existing primary dwelling, or any limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this subsection 207.2(e) shall meet the following conditions:

(1) Only one ADU will be constructed.

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

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

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

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

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

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

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

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

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

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

(B) A height of 18 feet for a detached ADU on a lot with an existing or proposed dwelling that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as defined in Section 21155 of the California Public Resources

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

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

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

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

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

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

(i) **Rental; Restrictions on Subdivisions.** An ADU or JADU constructed pursuant to this Section 207.2 may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code). Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU or JADU authorized under this Section 207.2 shall not be subdivided in a manner that would

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

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

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

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

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

(k) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this Section 207.2, where the ADU or JADU is smaller than 750 square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for

all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit.

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

* * * *

(b) **Applicability.**

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

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

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

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

* * * *

SEC. 207.7. REQUIRED MINIMUM DWELLING UNIT MIX.

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

(b) **Applicability.**

(1) This Section 207.7 shall apply to all applications for building permits and/or Planning Commission entitlements that propose the creation of 10 or more Dwelling Units in all districts that allow residential uses, unless that project is located in the RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use Districts, or in an area or Special Use District with higher specific bedroom mix requirements, or is a HOME SF project subject to the requirements of Planning Code Section 206.3.

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

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

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

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

* * * *

SEC. 1005. CONFORMITY AND PERMITS.

* * * *

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

* * * *

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

(10) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of ~~subs~~Section 207.2~~(c)(6)~~ of this Code.

* * * *

SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

* * * *

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

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

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

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

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

Section 3. Articles 1, 2, 3, 7, and 8 of the Planning Code are hereby amended by replacing all references to Planning Code “subsection 207(c)(4)” and “section 207(c)(4)” in each of the Sections, subsections, and tables listed below with the term “Section 207.1”. If any

references in the Planning Code to “subsection 207(c)(4)” and “section 207(c)(4)” have been inadvertently omitted from the above list, the City Attorney is authorized to cause such references to be changed to “Section 207.1”.

- Subsection 134(f)
- Subsection 138.1(c)(1)
- Subsection 140(c)(2)
- Subsection 172(a)
- Table 209.1, Note 6
- Table 209.2, Note 7
- Table 209.3, Note 7
- Table 209.4, Note 7
- Table 210.1, Note 5
- Table 210.2, Note 7
- Table 210.4, Note 3
- Subsection 307(l) (2 references)
- Section 710
- Table 710 (2 references)
- Section 711
- Table 711 (2 references)
- Section 712
- Table 712 (2 references)
- Section 713
- Table 713 (2 references)
- Section 714
- Table 714 (2 references)

- Section 715
- Table 715 (2 references)
- Section 716
- Table 716 (2 references)
- Section 717
- Table 717 (2 references)
- Section 718
- Table 718 (2 references)
- Section 719
- Table 719 (2 references)
- Table 720
- Table 721
- Section 722
- Table 722 (2 references)
- Section 723
- Table 723 (2 references)
- Section 724
- Table 724 (2 references)
- Section 725
- Table 725 (2 references)
- Section 726
- Table 726 (2 references)
- Section 727
- Table 727 (2 references)
- Section 728

- Table 728 (2 references)
- Section 729
- Table 729 (2 references)
- Section 730
- Table 730 (2 references)
- Table 731 (2 references)
- Table 732 (2 references)
- Table 733 (2 references)
- Table 734 (2 references)
- Section 735
- Table 735 (2 references)
- Section 736
- Table 736 (2 references)
- Section 737
- Table 737 (2 references)
- Section 738
- Table 738 (2 references)
- Section 739
- Table 739 (2 references)
- Section 740
- Table 740 (2 references)
- Section 741
- Table 741 (2 references)
- Section 742
- Table 742 (2 references)

- Section 743
- Table 743 (2 references)
- Section 744
- Table 744 (2 references)
- Section 745
- Table 745 (2 references)
- Table 750 (2 references)
- Table 751 (2 references)
- Section 752
- Table 752 (2 references)
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- Table 762 (2 references)
- Table 763 (2 references)
- Section 764
- Table 764 (2 references)
- Section 827
- Table 827 (2 references)
- Section 828
- Section 829
- Table 829 (2 references)
- Table 830
- Section 831
- Section 832
- Section 833
- Section 834
- Section 835
- Section 836
- Section 837
- Section 838
- Section 839
- Section 840

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

- Subsection 138.1(c)(1)
- Table 209.1, Note 6
- Table 209.2, Note 7
- Table 209.3, Note 7
- Table 209.4, Note 7
- Table 210.1, Note 5
- Table 210.2, Note 7
- Table 210.4, Note 3
- Subsection 311(b)
- Table 710 (2 references)
- Table 711 (2 references)
- Table 712 (2 references)
- Table 713 (2 references)
- Table 714 (2 references)
- Table 715 (2 references)
- Table 716 (2 references)
- Table 717 (2 references)
- Table 718 (2 references)
- Table 719 (2 references)

- Table 720
- Table 721
- Table 722 (2 references)
- Table 723 (2 references)
- Table 724 (2 references)
- Table 725 (2 references)
- Table 726 (2 references)
- Section 727
- Table 727 (2 references)
- Table 728 (2 references)
- Table 729 (2 references)
- Table 730 (2 references)
- Table 731 (2 references)
- Table 732 (2 references)
- Table 733 (2 references)
- Table 734 (2 references)
- Section 735
- Table 735 (2 references)
- Section 736
- Table 736 (2 references)
- Section 737
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- Section 738
- Table 738 (2 references)
- Section 739

- Table 739 (2 references)
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- Table 744 (2 references)
- Section 745
- Table 745 (2 references)
- Table 750 (2 references)
- Table 751 (2 references)
- Section 752
- Table 752 (2 references)
- Table 753 (2 references)
- Table 754 (2 references)
- Table 755 (2 references)
- Table 756 (2 references)
- Table 757 (2 references)
- Table 758 (2 references)
- Table 759 (2 references)
- Table 760 (2 references)

- Table 761 (2 references)
- Table 762 (2 references)
- Table 763 (2 references)
- Section 764
- Table 764 (2 references)
- Subsection 1005(e)(10)
- Subsection 1110(g)(4)

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

SEC. 37.2. DEFINITIONS.

* * * *

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

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

would sever, substantially reduce, or remove a housing service, pursuant to the procedures set forth in Ssubsection 207.1(c)(4)(C)(iii). The issuance of a permit for construction of an Accessory Dwelling Unit does not, in and of itself, constitute a just cause for the purpose of severing a housing service.

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

The term "rental units" shall not include:

* * * *

(4) Except as provided in subsections (A)-(E), dwelling units whose rents are controlled or regulated by any government unit, agency, or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development; provided, however, that units in unreinforced masonry buildings which have undergone seismic strengthening in accordance with Building Code

Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the ordinance is not in conflict with the seismic strengthening bond program or with the program's loan agreements or with any regulations promulgated thereunder;

* * * *

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

* * * *

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

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

* * * *

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

* * * *

(9) Additional Requirements.

* * * *

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

* * * *

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

SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.

* * * *

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

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

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

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

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

Section ~~3~~8. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section ~~4~~9. Scope of Ordinance. Except as stated in Sections 3 and 4 of this ordinance, i~~I~~n enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section ~~5~~10. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the California Government Code.

Section 11. Corrected Presentation of Existing Code. On March 20, 2023, the Land Use and Transportation Committee created this ordinance by duplicating Board File No.

210585. 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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FILE NO. 230310

REVISED LEGISLATIVE DIGEST
(Amended in Committee – March 4, 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 ministerial 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;
- Under the City's Hybrid ADU program, permitting up to three ADUs (one ADU converted from existing space, one detached ADU, and one Junior ADU) meeting certain requirements on lots containing a proposed or existing single-family home;
- 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 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 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 March 20, 2023, the Land Use and Transportation Committee of the Board of Supervisors created this ordinance by duplicating the ordinance in Board File No. 210585. This legislative digest reflects amendments made to this ordinance by the Land Use and Transportation Committee on March 20, 2023, February 5, 2023, and March 4, 2024.

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San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

February 29, 2024

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

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

Planning Commission Recommendation: **Approval with Modification**

Dear Ms. Calvillo and Mayor Breed,

On February 29, 2024, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Mayor Breed that would amend various sections of the Planning Code. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Clarify that ADUs built within Article 10 or Article 11 individual landmarks or in a Historic or Conservation district trigger the notification requirements of Article 10 and Article 11 and not Section 311.

2. Retain the existing 311, Article 10, and Article 11 notification requirements for ADUs.

The proposed Ordinance has been determined to be within the scope of the analysis within the San Francisco Housing Element 2022 Update FEIR, certified November 17, 2022 2019-016230ENV.

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

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

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

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

Attachments :
Planning Commission Resolution
Planning Department Executive Summary

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION RESOLUTION NO. 21527

HEARING DATE: FEBRUARY 29, 2024

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

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE PLANNING CODE TO CLARIFY THE MINISTERIAL 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.

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

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 29, 2024; and,

WHEREAS, the proposed Ordinance has been determined to be within the scope of the analysis within the San Francisco Housing Element 2022 Update FEIR, certified November 17, 2022 2019-016230ENV; and

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

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

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

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

MOVED, that the Planning Commission hereby approves with modifications the proposed ordinance. The Commission's proposed recommendation are as follows:

1. Clarify that ADUs built within Article 10 or Article 11 individual landmarks or in a Historic or Conservation district trigger the notification requirements of Article 10 and Article 11 and not Section 311.

2. Retain the existing 311, Article 10, and Article 11 notification requirements for ADUs.

Findings

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

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

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

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

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1.A
Ensure housing stability and healthy homes.

OBJECTIVE 4.A
Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B
Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C
Diversify housing types for all cultures, family structures, and abilities.

POLICY 4

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

POLICY 26

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

POLICY 28

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

POLICY 31

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

POLICY 32

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

IMPLEMENTATION ACTION 7.4.6

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

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

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

Planning Code Section 101 Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

   The proposed Ordinance would not have an adverse effect on the City's parks and open space and their

access to sunlight and vistas.

Planning Code Section 302 Findings.

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

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 29, 2024.

Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2024.02.29 14:55:59
-08'00'

Jonas P. Ionin
Commission Secretary

AYES:	Braun, Ruiz, Imperial, Koppel, Moore, Diamond
NOES:	None
ABSENT:	None
ADOPTED:	February 29, 2024

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

MEMO TO THE PLANNING COMMISSION

HEARING DATE: February 29, 2024

90-Day Deadline: May 7, 2024

Project Name:	State-Mandated Accessory Dwelling Unit Controls
Case Number:	2023-003061PCA [Board File No. 230310]
Initiated by:	Mayor Breed / Introduced March 20, 2023
Staff Contact:	Veronica Flores, Legislative Affairs veronica.flores@sfgov.org, 628-652-7525
Reviewed by:	Aaron D Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, (628) 652-7533
Environmental Review:	San Francisco Housing Element 2022 Update FEIR, certified November 17, 2022 2019-016230ENV

Recommendation:	Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings.

Background

The proposed Ordinance previously appeared in front of the Planning Commission on September 28, 2023. The Executive Summary for that hearing is included under Exhibit C. Additional amendments were adopted at the Land Use and Transportation Committee hearing on February 5, 2024 and the proposed Ordinance was referred back to the Planning Commission. Most of the additional amendments are in response to the State Housing and Community Development Agency's (HCD's) review of Ordinance No. 053-23 in their letter dated October 26, 2023 (see Exhibit D). That Ordinance was the prior State ADU legislation that became effective in May of 2023, and is

currently reflected in the Planning Code. The proposed Ordinance also includes minor amendments and clarifications.

Pro-Housing Designation

San Francisco funds 30% of the total cost of producing affordable housing. The remaining funds come from State and Federal sources. The competition for State funds is significant. Jurisdictions with a "Pro-Housing Designation (PHD)" receive additional points when applying for competitive state funding. Upon review of San Francisco's application for the PHD, HCD has determined these proposed ADU changes are required to meet the criteria for Pro-Housing Designation. There are two funding programs that the PHD will affect in the next month: the Affordable Housing and Sustainable Communities (applications due March 19) and the Pro-Housing Incentives Program (applications due March 15). If San Francisco can demonstrate that we meet the criteria for a Pro-Housing Designation by March 1, San Francisco applicants will have a significantly better chance of getting state funding to produce hundreds of units of affordable housing.

THE WAY CODE WAS PRESENTED DURING THE 09/28/23 PLANNING COMMISSION HEARING	THE WAY IT IS BASED ON NEW STATE LAWS EFFECTIVE 01/01/23 AND BASED ON HCD FEEDBACK
AMENDMENTS REQUIRED BY HCD	
A Junior ADU (JADU) must be owner-occupied unless the owner resides in the remaining portion of the structure.	Clarifies that JADU owner-occupancy is not required if the owner is another governmental agency, land trust, or housing organization.
Planning Code Section 136 states that if an ADU is proposed within a single-family home, the rear yard must be 25 percent of the lot depth, or 15 feet, whichever is greater. Section 136 is silent on the lot coverage allowances for the construction of an ADU that is no greater than 800 square feet with four-foot side and rear setbacks.	Clarify and explicitly note that the lot coverage requirements of Planning Code Section 136 do not prohibit the construction of an ADU that is no greater than 800 square feet with four-foot side and rear setbacks. (Clarification only)
State-Mandated ADUs proposed within historic resources are subject to objective architectural review standards.	The proposed Ordinance emphasizes that any architectural review standards adopted by the Historic Preservation Commission that are applicable to State-Mandated ADUs must remain objective. Additional findings are also added to explain why the City's ADU controls comply with applicable requirements.
The Hybrid ADU Program permits the construction of up to two ADUs within a single-family dwelling. This may be either an ADU converted from existing living space *or* a detached ADU, plus an additional JADU.	The Hybrid ADU program is amended to permit the construction of up to three ADUs within a single-family dwelling. This allows a converted, detached, and JADU.

The Code states that "the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less…"	The Code is amended to match the State's more comprehensive list of requirements that do not permit construction of at least an 800 square foot ADU with four-foot side and rear setbacks. (Clarification only)
State ADUs require notice to a tenant(s) of the property for any ADUs or JADUs proposed on a lot containing a proposed or existing single-family dwelling.	Per HCD's direction, the notification requirement is removed for State-Mandated ADUs.
OTHER AMENDMENTS AND CLARIFICATIONS	
ADUs and JADUs under the Hybrid Program cannot seek a Planning Code waiver under the Local ADU Program. Such waivers typically include waivers from the open space or exposure requirements of the Planning Code.	This is simplified to clarify and explicitly note that Hybrid ADUs must comply with applicable Planning Code standards, including open space, exposure, and buildable area.
The Hybrid ADU Program is silent on the permitted density.	There is a clarifying amendment (no substantive change) to the Hybrid ADU program controls clarifying that adding an ADU or JADU does not exceed the allowable density on the lot.
The Local ADU projects are generally exempt from 311 notice. However, Article 10 and Article 11 notice is required if the existing building or authorized detached structure is on the same lot as an Article 10 or Article 11 individual landmark or is in an Article 10 or Article 11 District.	The proposed Ordinance would also require 311 notice if the existing building or authorized detached structure is on the same lot as a property that is listed in or previously determined to be eligible in the California Register of Historic Places or designated individually or as part of a historic or conservation district under Article 10 or Article 11.
State and Hybrid ADU Programs require the applicant to record a Notice of Special Restrictions (NSR). The NSR states that the ADU may be rented out and shall be subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance and may not be subdivided.	Removes the requirement to record an NSR under the State and Hybrid ADU Programs, except for the recordation of JADUs, as required per State law.

Recommendation

The Department recommends that the Commission *approve with modification* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Clarify that ADUs built within Article 10 or Article 11 individual landmarks or in a Historic or Conservation

district trigger the notification requirements of Article 10 and Article 11 and not Section 311.

2. Retain the existing 311, Article 10, and Article 11 notification requirements for ADUs.

Basis for Recommendation

The Department supports the overall goals of this Ordinance because of it supports the Housing Element's goals to increase housing choice in San Francisco. Specifically, the Ordinance refines the ministerial ADU programs to make the Planning Code consistent with State law. Additionally, the proposed Ordinance responds to HCD's latest feedback. These amendments are required to receive the Pro-Housing Designation from HCD. However, staff believes the proposed Ordinances would benefit from the following recommended modifications:

Recommendation 1: Clarify that ADUs built within Article 10 or Article 11 individual landmarks or in a Historic or Conservation district trigger the notification requirements of Article 10 and Article 11 and not Section 311.

With the passage of the Constraint's Reduction Ordinance, projects outside of the Priority Equity Geographies SUD that add units, including ADUs, are exempt from 311 notification. Inside the Priority Equity Geographies SUD, local ADU projects are generally exempt from 311 notice if they are constructed entirely within the existing built envelope, of an existing building or authorized detached structure on the same lot, or where an existing detached garage or storage structure has been expanded to add dormers. The Department interpretation is that ADUs built within Article 10 and Article 11 individual landmarks or in a Historic or Conservation trigger notice requirements under Article 10 and Article 11, but not 311 notice. Article 10 and Article 11 notices include hearing notices for Certificates of Appropriateness (CoA) or Permits to Alter (PtA). The recommendation is to note this explicitly in the Code to avoid confusion.

Recommendation 2: Retain the existing 311, Article 10, and Article 11 notification requirements for ADUs.

As clarified above, 311 notice is generally not required for ADUs, but any applicable historic preservation notice is. The proposed Ordinance would require 311 notice for ADUs on the same lot as properties listed in or previously determined to be eligible for listing in the California Register of Historic Places or designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11. This is a major departure from the Department practice today and would impact more than 10,000 properties.

The Department believes the intent was to expand the types of historic resources that the objective architectural standards apply to, not to expand 311 notice requirements for ADUs. The objective architectural review standards are applicable to properties listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11. The Department is amenable to also applying the objective architectural review standards to properties previously determined to be eligible in the California Register of Historic Places. As drafted, however, the proposed Ordinance would trigger 311 notice for all these historic resources. This would add an additional requirement and additional time to the review within the required 120 day-timeframe.

Attachments:

Exhibit A:	Draft Planning Commission Resolution
Exhibit B:	Board of Supervisors File No. 230310
Exhibit C:	Executive Summary from September 28, 2023
Exhibit D:	Response letter from HCD dated October 26, 2023

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EXHIBIT A

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: February 29, 2024

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

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE PLANNING CODE TO CLARIFY THE MINISTERIAL 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.

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

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 29, 2024; and,

WHEREAS, the proposed Ordinance has been determined to be within the scope of the analysis within the San Francisco Housing Element 2022 Update FEIR, certified November 17, 2022 2019-016230ENV; and

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

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

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

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

MOVED, that the Planning Commission hereby approves with modifications the proposed ordinance. The Commission's proposed recommendation are as follows:

1. Clarify that ADUs built within Article 10 or Article 11 individual landmarks or in a Historic or Conservation district trigger the notification requirements of Article 10 and Article 11 and not Section 311.

2. Retain the existing 311, Article 10, and Article 11 notification requirements for ADUs.

Findings

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

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

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

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

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1.A
Ensure housing stability and healthy homes.

OBJECTIVE 4.A
Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B
Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C
Diversify housing types for all cultures, family structures, and abilities.

POLICY 4
Facilitate the legalization of unauthorized dwelling units while improving their safety and habitability.

POLICY 26
Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State-and local-required timelines, especially for 100% affordable housing and shelter projects.

POLICY 28
Affirm compliance in State housing law, requirements, and intent by strengthening data collection, clarifying definitions, and further supporting implementation.

POLICY 31
Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).

POLICY 32
Promote and facilitate aging in place for seniors and multi-generational living that supports extended families and communal households.

IMPLEMENTATION ACTION 7.4.6
Once adopted, submit the ADU ordinance to HCD and revise the ordinance based on HCD's review as needed.

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

The General Plan identifies ADUs as an effective way to increase housing choice in San Francisco. This Ordinance aligns with the Housing Element's objective the proposed Ordinance meets other objectives to increase housing in lower-density areas and to streamline ADU permit review processes. Further, this Ordinance seeks to make our local Code consistent with State law. This Ordinance directly responds to Implementation Action Item 7.4.6

which requires us to submit the ADU Ordinance to HCD for their review and comment. Changes have been made in response to HCD's initial comments. This Ordinance addresses the remaining outstanding issues that the California Department of Housing and Community Development (HCD) needs to approve the City's Pro-Housing designation. Attaining this designation will help unlock state affordable housing funding and other resources such as Municipal Transportation Agency (MTA) grants. This grant money could also unlock grant monies which could provide financial support for professional services and construction of units that serve low-income households, as noted in Implementation Action Item 7.4.3.

Planning Code Section 101 Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

Planning Code Section 302 Findings.

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

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 29, 2024.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 29, 2024

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[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 ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings ~~and to permit certain ADUs in the rear yard under the City's local, discretionary approval program~~; ~~affirming the Planning Department's determinationmaking findings~~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.

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

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

Section 1. Findings.

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

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

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

(~~bc~~b) On ~~_____~~September 28, 2023, the Planning Commission, in Resolution No. ~~_____~~21397, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. ~~_____~~230310, and is incorporated herein by reference.

(~~cd~~c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons stated in Planning Commission Resolution No. ~~_____~~21397.

(d) On October 18, 2023, the Building Inspection Commission considered this ordinance at a duly noticed public hearing pursuant to Charter Section 4.121.

(e) No local findings are required under California Health and Safety Code Section 17958. 7 because the amendments to the Building Code contained in this ordinance do not regulate materials or manner of construction or repair, and instead relate in their entirety to administrative procedures, which are expressly excluded from the definition of a "building standard" by California Health and Safety Code Section 18909(c).

(f) This ordinance amends the Planning Code to restate existing law that any architectural review standards adopted by the Historic Preservation Commission that are applicable to State-mandated Accessory Dwelling Units ("ADU") must remain objective. California Government Code Section 65852.2, subdivision (a)(1)(b)(i) broadly permits the City to impose objective architectural review standards on ADUs seeking approval under the City's State ADU program. This grant of authority is separate from, and in addition to, subdivision (a)(1(b)(i)'s authorization of local "standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources." Furthermore, California Government Code Section 65852.2, subdivision (e)(7) also broadly permits the City

to impose objective standards, "including, but not limited to . . . historic standards" on ADUs under the City's Hybrid ADU program. State ADU law therefore authorizes the City to impose objective architectural review standards on ADUs seeking approval under either of the City's State-mandated programs.

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

SEC. 102. DEFINITIONS.

* * * *

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

Dwelling Unit, Junior Accessory, or JADU. A Dwelling Unit that meets all the requirements of Section 207.2~~(c)(6)~~, and that:

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

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

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

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

(e) is owner-occupied, unless the owner resides in the remaining portion of the structure; provided, however, that owner-occupancy shall not be required if the owner is a governmental agency, land trust, or housing organization;

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

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

* * * *

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

* * * *

(c) The permitted obstructions shall be as follows:

* * * *

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

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

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

* * * *

SEC. 155.1. BICYCLE PARKING: DEFINITIONS AND STANDARDS.

* * * *

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

* * * *

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

*** * * ***

SEC. 207. DWELLING UNIT DENSITY LIMITS.

* * * *

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

* * * *

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

~~(A) Definition. An "Accessory Dwelling Unit" (ADU) is defined in Section 102.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(G) Waiver of Code Requirements; Applicability of Rent Ordinance. Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant a complete or partial waiver of the density limits and bicycle parking, rear yard, exposure, or open space standards of this Code for ADUs constructed within an existing building, and may grant a waiver of the density limits of this Code for ADUs constructed within a proposed building. If the Zoning Administrator grants a complete or partial waiver of the requirements of this Code and the subject lot contains any Rental Units at the time an application for a building~~

~~permit is filed for construction of the ADU(s), the property owner(s) shall enter into a Regulatory Agreement with the City under subsection (c)(4)(H) subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.~~

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

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

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

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

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

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

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

~~(I) Monitoring Program.~~

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

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

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

* * * *

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

~~(A) Applicability. This subsection 207(c)(6) shall apply to the construction of ADUs and Junior Accessory Dwelling Units ("JADUs") (as defined in Section 102) in existing or proposed dwellings, or in a detached structure on the same lot, if the ADU meets the applicable requirements of this subsection207(c)(6). An ADU constructed pursuant to this subsection is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding an ADU or JADU in compliance with this subsection 207(c)(6) does not exceed the allowable density for the lot. Unless otherwise specified, for purposes of this subsection 207(c)(6), a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot. If construction of the ADU will not meet the requirements of this subsection, the ADU is regulated pursuant to subsection 207(c)(4) and not this subsection 207(c)(6).~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~d. The proposed ADU is new construction.~~

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

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

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

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

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

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

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

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

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

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

~~(D) Specific Controls for Streamlined ADUs. The purpose of this subsection 207(c)(6)(D) is implement California Government Code Sections 65852.2(a) through (d), which requires streamlined, ministerial approval of ADUs meeting certain standards ("Streamlined ADUs"). An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling, and that is constructed pursuant to this subsection 207(c)(6)(D), shall meet all of the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards. Provided,~~

~~however, that the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this subsection 207(c)(6)(D) shall meet the following conditions:~~

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

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

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

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

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

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

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

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

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

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

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

~~(ii) Cause a notice describing the proposed project to be posted on the subject property for at least 15 days, cause a written notice describing the proposed project to be mailed to the tenants of the subject property, and submit proof of these notices to the Planning Department as part of the application to construct an ADU or JADU. These~~

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

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

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

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

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

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

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

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

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

~~(K) Fees. No impact fees shall be imposed on ADUs or JADUs authorized under this subsection 207(c)(6), where the ADU or JADU is smaller than seven hundred and fifty square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units~~

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

* * * *

SEC. 207.1 LOCAL ACCESSORY DWELLING UNIT PROGRAM.

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

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

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

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

(2) The Department shall not approve an application for construction of an ADU where a tenant on the lot was evicted pursuant to Administrative Code Sections 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the application for a building permit to construct the ADU, or where a tenant was evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the application for a building permit to construct the ADU. This

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

(3) Prior to submitting an application to construct an ADU under this Section 207.1, the property owner shall file with the Rent Board a written declaration, signed under penalty of perjury, demonstrating that the project will comply with the requirements of Administrative Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or removal of a housing service. The Rent Board shall determine the form and content of said declaration, which shall include the following information: (i) a description of any housing services supplied in connection with the use or occupancy of any units on the subject property that are located in the area of the property or building where the ADU would be constructed; (ii) whether construction of the ADU would result in the severance, substantial reduction, or removal of any such housing services; and (iii) whether any of the just causes for eviction under Administrative Code Section 37.9(a) would apply. The property owner shall also file a copy of the notice required under Section 207.1(j) with the declaration.

(4) Tenants at the subject property may contest the information in the declaration required by subsection 207.1(c)(3) by petitioning for a written determination from the Rent Board verifying the presence and defining characteristics of the housing service or services in question, and whether any such housing services would be severed, substantially reduced, or removed by the project as proposed. Petitions must be filed with the Rent Board within 30 calendar days after the notice required under Section 207.1(j) has been provided. If no such petition is timely filed, the Rent Board shall promptly transmit the declaration to the

Planning Department. If any such petition is timely filed, the Rent Board shall endeavor to transmit the declaration and its final written determination on the petition to the Planning Department within 90 calendar days of receipt of said petition. The Department shall not approve an application to construct an ADU under this Section 207.1 unless (i) the Rent Board has transmitted the declaration and final written determination required by subsections (c)(3) and (c)(4), and (ii) the materials transmitted by the Rent Board indicate that construction of the ADU would not result in the severance, substantial reduction, or removal without just cause of any tenant housing service set forth in Administrative Code Section 37.2(r) that is supplied in the area of the property or building where the ADU would be constructed, unless the property owner demonstrates that the tenant supplied with that housing service has given their express written consent for the severance, substantial reduction, or removal of the housing service.

(5) Except as provided in subsections (6), (7), and (8) below, an ADU shall be constructed (i) entirely within the buildable area of an existing lot, provided that the ADU does not include a vertical addition, or (ii) within the built envelope of an existing and authorized detached garage, storage structure, or other detached structure on the same lot. For purposes of this subsection 207.1, a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot. For purposes of this subsection 207.1, the "built envelope" shall include the open area under an existing and authorized cantilevered room or room built on columns; decks, except for decks that are supported by columns or walls other than the building wall to which they are attached and are multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be against a blank neighboring wall at the property line and not visible from any off-site location; as these spaces exist as of July 11, 2016. An ADU constructed entirely within the existing built envelope, as defined in this subsection 207.1, along with permitted obstructions allowed in

Section 136(c)(32), of an existing building or authorized detached structure on the same lot, or where an existing detached garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code unless the existing building or authorized detached structure on the same lot is listed in or previously determined to be eligible for listing in the California Register of Historic Places, or designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, in which case the notification requirements will apply. If an ADU will be constructed under a cantilevered room or deck that encroaches into the required rear yard, a pre-application meeting that complies with the Planning Commission's Pre-Application policy is required.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU authorized under this Section 207.1 shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership. This prohibition on separate sale or finance of the ADU shall not apply to an ADU in a building that consisted entirely of condominium units as of July 11, 2013, and has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the Administrative Code since July 11, 1996. This prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) **Monitoring Program.**

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

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

(3) **Department Report.** As part of the annual Housing Inventory, the Department shall report the types of units being developed pursuant to this Section 207.1, their affordability rates, their use as Short-Term Residential Rentals, and such additional information as the Director or the Board of Supervisors determines would inform decision makers and the public on the effectiveness and implementation of this Section 207.1, and shall include recommendations for any amendments to the requirements of this Section 207.1.

SEC. 207.2 STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.

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

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

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

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

(2) For projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any objective

architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter.

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

(4) No parking is required for the ADU.

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

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

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

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

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

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

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

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

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

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

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

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

(D) The proposed ADU is new construction.

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

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

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

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

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

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

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

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

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

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

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

(e) **Specific Controls for State ADUs.** The purpose of this subsection 207.2(e) is implement California Government Code Sections 65852.2(a) through (d), which require

streamlined, ministerial approval of ADUs meeting certain standards ("State ADUs"). An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling, and that is constructed pursuant to this subsection 207.2(e), shall meet all of the following requirements, in addition to the requirements of subsection 207.2(b) and any other applicable standards. Provided, however, that the City shall not impose any requirement for a zoning clearance or separate zoning review, any minimum or maximum size for an ADU, any size based upon a percentage of the proposed or existing primary dwelling, or any limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this subsection 207.2(e) shall meet the following conditions:

(1) Only one ADU will be constructed.

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

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

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

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

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

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

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

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

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

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

(B) A height of 18 feet for a detached ADU on a lot with an existing or proposed dwelling that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as defined in Section 21155 of the California Public Resources

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

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

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

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

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

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

(i) **Rental; Restrictions on Subdivisions.** An ADU or JADU constructed pursuant to this Section 207.2 may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code). Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU or JADU authorized under this Section 207.2 shall not be subdivided in a manner that would

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

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

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

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

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

(k) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this Section 207.2, where the ADU or JADU is smaller than 750 square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for

all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit.

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

* * * *

(b) **Applicability.**

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

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

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

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

* * * *

SEC. 207.7. REQUIRED MINIMUM DWELLING UNIT MIX.

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

(b) **Applicability.**

(1) This Section 207.7 shall apply to all applications for building permits and/or Planning Commission entitlements that propose the creation of 10 or more Dwelling Units in all districts that allow residential uses, unless that project is located in the RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use Districts, or in an area or Special Use District with higher specific bedroom mix requirements, or is a HOME SF project subject to the requirements of Planning Code Section 206.3.

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

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

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

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

* * * *

SEC. 1005. CONFORMITY AND PERMITS.

* * * *

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

* * * *

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

(10) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of ~~subs~~Section 207.2~~(c)(6)~~ of this Code.

* * * *

SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

* * * *

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

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

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

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

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

Section 3. Articles 1, 2, 3, 7, and 8 of the Planning Code are hereby amended by replacing all references to Planning Code “subsection 207(c)(4)” and “section 207(c)(4)” in each of the Sections, subsections, and tables listed below with the term “Section 207.1”. If any

references in the Planning Code to “subsection 207(c)(4)” and “section 207(c)(4)” have been inadvertently omitted from the above list, the City Attorney is authorized to cause such references to be changed to “Section 207.1”.

- Subsection 134(f)
- Subsection 138.1(c)(1)
- Subsection 140(c)(2)
- Subsection 172(a)
- Table 209.1, Note 6
- Table 209.2, Note 7
- Table 209.3, Note 7
- Table 209.4, Note 7
- Table 210.1, Note 5
- Table 210.2, Note 7
- Table 210.4, Note 3
- Subsection 307(l) (2 references)
- Section 710
- Table 710 (2 references)
- Section 711
- Table 711 (2 references)
- Section 712
- Table 712 (2 references)
- Section 713
- Table 713 (2 references)
- Section 714
- Table 714 (2 references)

- Section 715
- Table 715 (2 references)
- Section 716
- Table 716 (2 references)
- Section 717
- Table 717 (2 references)
- Section 718
- Table 718 (2 references)
- Section 719
- Table 719 (2 references)
- Table 720
- Table 721
- Section 722
- Table 722 (2 references)
- Section 723
- Table 723 (2 references)
- Section 724
- Table 724 (2 references)
- Section 725
- Table 725 (2 references)
- Section 726
- Table 726 (2 references)
- Section 727
- Table 727 (2 references)
- Section 728

- Table 728 (2 references)
- Section 729
- Table 729 (2 references)
- Section 730
- Table 730 (2 references)
- Table 731 (2 references)
- Table 732 (2 references)
- Table 733 (2 references)
- Table 734 (2 references)
- Section 735
- Table 735 (2 references)
- Section 736
- Table 736 (2 references)
- Section 737
- Table 737 (2 references)
- Section 738
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- Table 739 (2 references)
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- Table 741 (2 references)
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- Table 750 (2 references)
- Table 751 (2 references)
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- Table 762 (2 references)
- Table 763 (2 references)
- Section 764
- Table 764 (2 references)
- Section 827
- Table 827 (2 references)
- Section 828
- Section 829
- Table 829 (2 references)
- Table 830
- Section 831
- Section 832
- Section 833
- Section 834
- Section 835
- Section 836
- Section 837
- Section 838
- Section 839
- Section 840

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

- Subsection 138.1(c)(1)
- Table 209.1, Note 6
- Table 209.2, Note 7
- Table 209.3, Note 7
- Table 209.4, Note 7
- Table 210.1, Note 5
- Table 210.2, Note 7
- Table 210.4, Note 3
- Subsection 311(b)
- Table 710 (2 references)
- Table 711 (2 references)
- Table 712 (2 references)
- Table 713 (2 references)
- Table 714 (2 references)
- Table 715 (2 references)
- Table 716 (2 references)
- Table 717 (2 references)
- Table 718 (2 references)
- Table 719 (2 references)

- Table 720
- Table 721
- Table 722 (2 references)
- Table 723 (2 references)
- Table 724 (2 references)
- Table 725 (2 references)
- Table 726 (2 references)
- Section 727
- Table 727 (2 references)
- Table 728 (2 references)
- Table 729 (2 references)
- Table 730 (2 references)
- Table 731 (2 references)
- Table 732 (2 references)
- Table 733 (2 references)
- Table 734 (2 references)
- Section 735
- Table 735 (2 references)
- Section 736
- Table 736 (2 references)
- Section 737
- Table 737 (2 references)
- Section 738
- Table 738 (2 references)
- Section 739

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- Section 742
- Table 742 (2 references)
- Section 743
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- Table 744 (2 references)
- Section 745
- Table 745 (2 references)
- Table 750 (2 references)
- Table 751 (2 references)
- Section 752
- Table 752 (2 references)
- Table 753 (2 references)
- Table 754 (2 references)
- Table 755 (2 references)
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- Table 757 (2 references)
- Table 758 (2 references)
- Table 759 (2 references)
- Table 760 (2 references)

- Table 761 (2 references)
- Table 762 (2 references)
- Table 763 (2 references)
- Section 764
- Table 764 (2 references)
- Subsection 1005(e)(10)
- Subsection 1110(g)(4)

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

SEC. 37.2. DEFINITIONS.

* * * *

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

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

would sever, substantially reduce, or remove a housing service, pursuant to the procedures set forth in Ssubsection 207.1(c)(4)(C)(iii). The issuance of a permit for construction of an Accessory Dwelling Unit does not, in and of itself, constitute a just cause for the purpose of severing a housing service.

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

The term "rental units" shall not include:

* * * *

(4) Except as provided in subsections (A)-(E), dwelling units whose rents are controlled or regulated by any government unit, agency, or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development; provided, however, that units in unreinforced masonry buildings which have undergone seismic strengthening in accordance with Building Code

Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the ordinance is not in conflict with the seismic strengthening bond program or with the program's loan agreements or with any regulations promulgated thereunder;

* * * *

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

* * * *

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

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

* * * *

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

* * * *

(9) Additional Requirements.

* * * *

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

* * * *

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

SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.

* * * *

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

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

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

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

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

Section ~~3~~8. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section ~~4~~9. Scope of Ordinance. Except as stated in Sections 3 and 4 of this ordinance, i~~I~~n enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section ~~5~~10. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the California Government Code.

Section 11. Corrected Presentation of Existing Code. On March 20, 2023, the Land Use and Transportation Committee created this ordinance by duplicating Board File No.

210585. 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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EXHIBIT C

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

EXECUTIVE SUMMARY
PLANNING CODE TEXT AMENDMENT

HEARING DATE: September 28, 2023

90-Day Deadline: December 29, 2023

Project Name:	State-Mandated Accessory Dwelling Unit Controls
Case Number:	2023-003061PCA [Board File No. 230310]
Initiated by:	Mayor Breed / Introduced March 20, 2023
Staff Contact:	Veronica Flores, Legislative Affairs veronica.flores@sfgov.org, 628-652-7525
Reviewed by:	Aaron D Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, (628) 652-7533
Environmental Review:	Addendum to FEIR - Addendum No. 9 to the Final EIR, dated September 9, 2022 to the 2004 and 2009 Housing Element Final EIR certified April 24, 2014 - 2007.125E DEIR1 and 2007.125E DEIR2 .

Recommendation:	Approval

Planning Code Amendment

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

THE WAY CODE IS WRITTEN BASED ON STATE LAW PRE-01/01/23	THE WAY IT IS BASED ON NEW STATE LAWS EFFECTIVE 01/01/23
Timeline: The City has 60 days to act on State-Mandated ADUs.	The City has 60 days *to approve or deny* State-Mandated ADUs (instead of *to act*). The application is deemed approved if no action is taken within 60 days. Language regarding tolling is explicitly added to the Ordinance for when the applicant owes us information. This language has been moved from the Planning Code to Building Code because the Department of Building Inspection (DBI) is the permit-issuing agency.
Height: Up to 16 feet for Attached or Detached ADUs	Up to 16 feet in general for a Detached ADU Up to 18 feet: Allowed if the proposed ADU is within ½ mile of major transit stop or a high-quality transit corridor[1] -or- the property already has a MFD Up to 25 feet: Allowed if the ADU is attached to the primary dwelling, or up to the underlying height district (whichever is lower), but only up to two stories high
Detached ADUs: Detached ADUs are prohibited from sharing a structural wall with the primary dwelling or with any other structure on the property.	Per HCD's interpretation of "detached" ADUs, the "Detached ADUs" definition would be revised to clarify it cannot share any structural walls with the primary structure. Therefore, Detached ADUs may share a structural wall with other structures on the property.
Permits for the demolition of a garage typically do not require notice per Planning Code (except if an Unauthorized Dwelling exists) and could potentially be approved over-the-counter.	Notice for the demolition of the garage being replaced with an ADU is not required, unless it is located within Article 10 or Article 11. This language has been copied into Building Code because it may trigger a DBI notice for this scope of work.
Hybrid ADUs: Hybrid ADUs are only permitted within existing or proposed single-family dwelling (SFD), or within an *existing* multi-family dwelling (MFD).	Hybrid ADUs are also permitted within *proposed* MFD. In the case of a Hybrid ADU within an existing MFD with a side or rear setback of less than 4 feet, the

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

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

Anticipated Amendments

This file was duplicated from Board File No. 210585 on March 20, 2023 at the Land Use and Transportation Committee hearing. During that hearing, only one amendment[2] was included in the duplicate file with the intent of incorporating all the other changes from State laws effective January 1, 2023 following the hearing. The draft Ordinance included in Exhibit C reflects these other changes, as well as additional clean-up changes recommended by the Planning Department and endorsed by the Mayor's Office.

Background

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

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

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

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

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

Issues and Considerations

Housing Choice

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

Timeline for Review

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

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

New Height Limits

State law allows increased height limits for the following circumstances:

- Up to 18 feet if the proposed ADU is within ½ mile of major transit stop or a high-quality transit corridor[3],
- Up to 18 feet if the property already has an existing multi-family dwelling, or
- Up to 25 feet if the proposed ADU is attached the primary dwelling, or up to the underlying height limit of the property, whichever is lower.

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

General Plan Compliance

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

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

Racial and Social Equity Analysis

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

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

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

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

Implementation

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

Recommendation

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

Basis for Recommendation

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

Required Commission Action

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

Environmental Review

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

Public Comment

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

Attachments:

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

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EXHIBIT D

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

October 26, 2023

Rich Hillis, Planning Director
Planning Department
City of San Francisco
49 South Van Ness Avenue
San Francisco, CA 94103

Dear Planning Director Hillis:

RE: Review of San Francisco's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2)

Thank you for submitting the City and County of San Francisco's (City) accessory dwelling unit (ADU) Ordinance No. 053-23 (Ordinance) adopted April 21, 2023, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and is submitting these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the Ordinance does not comply with section 65852.2 in the manner noted below. Under that statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than November 27, 2023.

The Ordinance addresses many statutory requirements, and HCD commends the City's Local Program that allows, under certain conditions, unlimited ADUs and supports removing roadblocks to safe and affordable housing through such programs. However, there is not a clear distinction between the City's Local Program and the State Mandated Program which would allow for an applicant to choose their desired pathway. In addition, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

- Section 102 – *Definitions / JADU* – The Ordinance defines a junior accessory dwelling unit (JADU) as a Dwelling Unit meeting the requirements of subsection 207(c)(6) and is "owner-occupied, unless the owner resides in the remaining portion of the structure." Government Code section 65852.22, subdivision (a)(2), does not require owner-occupancy if the owner is another governmental agency, land trust, or housing organization. The Ordinance must be amended to reflect when owner-occupancy is not required.

- Section 136(c)(32) – *Lot Depth* – The Ordinance provides that if an ADU is proposed for a single-family home, the rear yard must be 25 percent of the lot depth but in no case less than 15 feet. Government Code section 65852.2, subdivision (c)(2)(C),

prohibits any requirements on lot coverage that does not permit at least an 800 square-foot ADU with four-foot side and rear setbacks. The Ordinance must be amended to make clear an 800 square-foot ADU is allowed notwithstanding any limits on rear yard percentage or depth.

- Section 207(c)(6)(A) – *Applicability* – The Ordinance states, "If construction of the ADU will not meet the requirements of this subsection, the ADU is regulated pursuant to subsection 207(c)(4) and not this subsection 207(c)(6)." The programs presented here – the State Mandated Program and the Local Program – are not sufficiently distinct and do not appear to allow applicants to choose which route they would like to take regarding their ADU or JADU application. The State Mandated Program implements State ADU Law, which creates two paths. First, Government Code section 65852.2, subdivision (a)(3)(A), provides that "[a] permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing…." Second, Subdivision (e)(1) provides that "notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit" for ADUs meeting the requirements under (e)(1). The Local Program creates yet another path. The City must amend the Ordinance to make it clear that there are distinct and separate paths for the development of ADUs and to allow applicants, at their election, to participate in either the State Mandated Program or the Local Program. The City may not automatically transfer an application to Section 207 (c)(4) if the application does not meet the requirements of section 207 (c)(6).

- Section 207(c)(6)(B)(ii) – *Historic Designation* – The Ordinance states that "[f]or projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter." These standards under Government Code section 65852.2, subdivision (a)(1)(B), apply to ADUs permitted under section 65852.2, subdivisions (a)-(d); however, ADUs under section (c)(6) of the Ordinance apply to state mandated ADUs permitted under Government Code section 65852.2, subdivision (e). These historic designation standards must be moved to section 207(c)(4) of the Ordinance. Further, under Government Code section 65852.2, subdivision (a)(1)(B), only the California Register of Historic Resources may be used to restrict ADUs. Utilizing a local register of historic resources, or a special district, could preclude ADUs from being created in those areas. Therefore, the City must amend this section to remove the other restriction on special districts or significant lots and move these standards to section 207(c)(4) of the Ordinance.

- 207(c)(6)(C)(i)(b), (c)(6)(C)(ii)(b), 207(c)(6)(D)(i) and (c)(6)(D)(iii) – *Number of ADUs* – The Ordinance states that "[o]nly one ADU and one JADU is permitted per lot" in

(c)(6)(C)(i)(b) and "[t]he lot on which the ADU is proposed does not contain another ADU, but may contain a JADU" in (c)(6)(C)(ii)(b). However, under Government Code section 65852.2, subdivision (e), which this section of the Ordinance is intended to implement, a residential lot may create a minimum of one ADU converted from existing space; one new construction, detached ADU under 800 square feet; and one JADU. Therefore, the City must amend these sections to allow for at least by-right units.

Additionally, the Ordinance states that "[o]nly one ADU will be constructed" in (c)(6)(D)(i) and "[t]he lot on which the ADU is proposed does not contain another ADU or JADU" in (c)(6)(D)(iii). The Ordinance allows only one ADU per lot; however, units created within the proposed or existing space of a primary dwelling, or an existing accessory structure would be created pursuant to Government Code 65852.2, subdivision (e)(1)(A). Subdivision (e) allows for a combination of units to be created such that there may be up to three additional dwelling units. Therefore, the City must amend this section to remove this restriction.

- 207(c)(6)(C)(ii)(e), (c)(6)(C)(iv)(c), & (c)(6)(D)(ix) – *Height Restrictions* – The Ordinance requires "a height no greater than sixteen feet." However, Government Code section 65852.2, subdivision (c)(2)(D), allows for a height of 16, 18, 20, or 25 feet, as applicable. The City must amend the Ordinance to comply with State ADU Law.

- 207(c)(6)(D) – *Subdivision (c)(2)(C) Restrictions* – The Ordinance states that "the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less…." However, Government Code section 65852.2, subdivision (c)(2)(C), is more comprehensive, stating that "a local agency shall not establish by ordinance…[a]ny requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." Imposing additional planning reviews or front setbacks which could preclude ADUs of 800 square feet or less would violate statute. Therefore, the City must amend this section to include these items.

- 207(c)(6)(E)(ii) – *Notification* – The Ordinance states that prior to permit application, a property owner must "[c]ause a notice describing the proposed project to be posted on the subject property for at least 15 days…." However, Government Code section 65852.2, subdivision (a)(7), states that "[n]o other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision." Requiring 15 days of notification prior to the submittal

of an application for an ADU would cause an undue delay in the permitting process. Therefore, the City must remove this requirement.

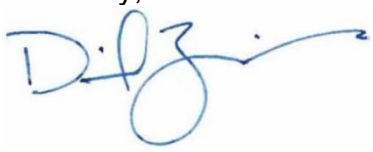
- 207(c)(6)(F) – *Review and Approval* – The Ordinance states that "[t]he City shall act on an application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in this subsection 207(c)(6)." However, "act on" is outdated language, and as of January 1, 2023, Government Code section 65852.2, subdivision (a)(3), states that "[t]he permitting agency shall either ***approve or deny*** the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days…." (Emphasis added.) Therefore, the City must amend this language to comply with the updated State ADU Law.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City's response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

HCD appreciates the City's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Tyler Galli, of our staff, at (916) 776-7613 or at Tyler.Galli@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

October 12, 2023

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

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

Planning Commission Recommendation: **Approval with Modification**

Dear Ms. Calvillo and Mayor Breed,

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

The Commission's proposed modifications were as follows:

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

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

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

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

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

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

Attachments :
Planning Commission Resolution
Planning Department Executive Summary

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION RESOLUTION NO. 21397

HEARING DATE: SEPTEMBER 28, 2023

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

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CLARIFY THE MINISTERIAL APPROVAL PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS (ADUS) MEETING CERTAIN REQUIREMENTS IN SINGLE-FAMILY AND MULTIFAMILY BUILDINGS AND TO PERMIT CERTAIN ADUS IN THE REAR YARD UNDER THE CITY'S LOCAL, DISCRETIONARY APPROVAL PROGRAM; MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

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

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

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

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

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

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

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

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

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

Findings

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

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

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

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

General Plan Compliance

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

HOUSING ELEMENT

OBJECTIVE 1.A
Ensure housing stability and healthy homes.

OBJECTIVE 4.A
Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

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

OBJECTIVE 4.C

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

POLICY 4

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

POLICY 26

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

POLICY 28

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

POLICY 31

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

POLICY 32

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

IMPLEMENTATION ACTION 7.4.6

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

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

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

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

Planning Code Section 101 Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

Planning Code Section 302 Findings.

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

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

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

Jonas P. Ionin
Commission Secretary

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

AYES: Braun, Ruiz, Diamond, Koppel, Tanner

NOES: Imperial, Moore

ABSENT: None

ADOPTED: September 28, 2023

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San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

EXECUTIVE SUMMARY
PLANNING CODE TEXT AMENDMENT

HEARING DATE: September 28, 2023

90-Day Deadline: December 29, 2023

Project Name:	State-Mandated Accessory Dwelling Unit Controls
Case Number:	2023-003061PCA [Board File No. 230310]
Initiated by:	Mayor Breed / Introduced March 20, 2023
Staff Contact:	Veronica Flores, Legislative Affairs veronica.flores@sfgov.org, 628-652-7525
Reviewed by:	Aaron D Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, (628) 652-7533
Environmental Review:	Addendum to FEIR - Addendum No. 9 to the Final EIR, dated September 9, 2022 to the 2004 and 2009 Housing Element Final EIR certified April 24, 2014 - 2007.125E DEIR1 and 2007.125E DEIR2 .

Recommendation:	Approval

Planning Code Amendment

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

THE WAY CODE IS WRITTEN BASED ON STATE LAW PRE-01/01/23	THE WAY IT IS BASED ON NEW STATE LAWS EFFECTIVE 01/01/23
Timeline: The City has 60 days to act on State-Mandated ADUs.	The City has 60 days *to approve or deny* State-Mandated ADUs (instead of *to act*). The application is deemed approved if no action is taken within 60 days. Language regarding tolling is explicitly added to the Ordinance for when the applicant owes us information. This language has been moved from the Planning Code to Building Code because the Department of Building Inspection (DBI) is the permit-issuing agency.
Height: Up to 16 feet for Attached or Detached ADUs	Up to 16 feet in general for a Detached ADU Up to 18 feet: Allowed if the proposed ADU is within ½ mile of major transit stop or a high-quality transit corridor[1] -or- the property already has a MFD Up to 25 feet: Allowed if the ADU is attached to the primary dwelling, or up to the underlying height district (whichever is lower), but only up to two stories high
Detached ADUs: Detached ADUs are prohibited from sharing a structural wall with the primary dwelling or with any other structure on the property.	Per HCD's interpretation of "detached" ADUs, the "Detached ADUs" definition would be revised to clarify it cannot share any structural walls with the primary structure. Therefore, Detached ADUs may share a structural wall with other structures on the property.
Permits for the demolition of a garage typically do not require notice per Planning Code (except if an Unauthorized Dwelling exists) and could potentially be approved over-the-counter.	Notice for the demolition of the garage being replaced with an ADU is not required, unless it is located within Article 10 or Article 11. This language has been copied into Building Code because it may trigger a DBI notice for this scope of work.
Hybrid ADUs: Hybrid ADUs are only permitted within existing or proposed single-family dwelling (SFD), or within an *existing* multi-family dwelling (MFD).	Hybrid ADUs are also permitted within *proposed* MFD. In the case of a Hybrid ADU within an existing MFD with a side or rear setback of less than 4 feet, the

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

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

Anticipated Amendments

This file was duplicated from Board File No. 210585 on March 20, 2023 at the Land Use and Transportation Committee hearing. During that hearing, only one amendment[2] was included in the duplicate file with the intent of incorporating all the other changes from State laws effective January 1, 2023 following the hearing. The draft Ordinance included in Exhibit C reflects these other changes, as well as additional clean-up changes recommended by the Planning Department and endorsed by the Mayor's Office.

Background

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

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

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

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

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

Issues and Considerations

Housing Choice

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

Timeline for Review

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

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

New Height Limits

State law allows increased height limits for the following circumstances:

- Up to 18 feet if the proposed ADU is within ½ mile of major transit stop or a high-quality transit corridor[3],
- Up to 18 feet if the property already has an existing multi-family dwelling, or
- Up to 25 feet if the proposed ADU is attached the primary dwelling, or up to the underlying height limit of the property, whichever is lower.

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

General Plan Compliance

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

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

Racial and Social Equity Analysis

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

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

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

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

Implementation

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

Recommendation

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

Basis for Recommendation

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

Required Commission Action

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

Environmental Review

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

Public Comment

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

Attachments:

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

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EXHIBIT A

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: September 28, 2023

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

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CLARIFY THE MINISTERIAL APPROVAL PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS (ADUS) MEETING CERTAIN REQUIREMENTS IN SINGLE-FAMILY AND MULTIFAMILY BUILDINGS AND TO PERMIT CERTAIN ADUS IN THE REAR YARD UNDER THE CITY'S LOCAL, DISCRETIONARY APPROVAL PROGRAM; MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

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

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

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

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

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

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

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

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

Findings

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

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

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

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

General Plan Compliance

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

HOUSING ELEMENT

OBJECTIVE 1.A
Ensure housing stability and healthy homes.

OBJECTIVE 4.A
Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B
Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

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

POLICY 4

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

POLICY 26

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

POLICY 28

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

POLICY 31

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

POLICY 32

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

IMPLEMENTATION ACTION 7.4.6

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

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

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

Planning Code Section 101 Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

buildings.

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

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

Planning Code Section 302 Findings.

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

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

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

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: September 28, 2023

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

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

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

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

Section 1. Findings.

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

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

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

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

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

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

SEC. 102. DEFINITIONS.

* * * *

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

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

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

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

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

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

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

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

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

* * * *

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

* * * *

(c) The permitted obstructions shall be as follows:

* * * *

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

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

* * * *

SEC. 207. DWELLING UNIT DENSITY LIMITS.

* * * *

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

* * * *

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

(A) **Definition.** An "Accessory Dwelling Unit" (ADU) is defined in Section 102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(x*i*) Notwithstanding any other provision of this Code, an ~~*Accessory Dwelling Unit*~~*ADU* authorized under this Section 207(c)(4) may not be merged with an original unit(s).

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

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

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

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

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

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

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

(E) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ~~*Accessory Dwelling Unit*~~*ADU* authorized under this Section 207(c)(4) shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership.~~*; provided, however, that t*~~*T*his prohibition on separate sale or finance of the ADU shall not apply to *an ADU in* a building that ~~*(i) within three years prior to July 11, 2016 was an existing*~~*consisted entirely of* condominium ~~*with no Rental Unit as defined in Section 37.2(r) of the Administrative Code*~~*units as of July 11, 2013*, and ~~*(ii)*~~ has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the Administrative Code ~~*within 10 years prior to*~~*since* July 11, ~~*201*~~*199*6. *This prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.*

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

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

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

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

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

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

(G) **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant ~~*an Accessory Dwelling Unit*~~ a complete or partial waiver of the density limits and bicycle parking, rear yard, exposure, or open space standards of this Code *for ADUs constructed within an existing building, and may grant a waiver of the density limits of this Code for ADUs constructed within a proposed building*. If the Zoning Administrator grants a complete or partial waiver of the

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

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

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

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

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

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

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

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

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

(I) **Monitoring Program.**

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

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

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

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

* * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Only one ADU and one JADU is permitted per lot.

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

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

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

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

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

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

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

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

d. The proposed ADU is new construction.

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

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

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

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

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

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

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

b. The proposed ADU is detached from the multifamily dwelling.

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

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

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

(i) Only one ADU will be constructed.

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

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

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

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

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

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

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

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

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

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

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

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

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

*(F) **Permit Application Review and Approval.** The City shall act on an application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in this subsection 207(c)(6). No requests for discretionary review shall be accepted by the Planning Department for permit applications meeting the requirements of this subsection 207(c)(6). The Planning Commission shall not hold a public hearing for discretionary review of permit applications meeting the requirements of this subsection 207(c)(6). Permit applications meeting the requirements of this subsection 207(c)(6) shall not be subject to the notification or review requirements of Section 311 of this Code.*

*(G) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the Department under this subsection 207(c)(6) shall be as set forth in Section 8 of the Business and Tax Regulations Code.*

*(H) **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this subsection 207(c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject lot.*

*(I) **Rental; Restrictions on Subdivisions.** The following restrictions shall be recorded as a Notice of Special Restriction on the subject lot on which an ADU or JADU is constructed under this subsection 207(c)(6) and shall be binding on all future owners and successors in interest:*

(i) An ADU or JADU constructed pursuant to this subsection 207(c)(6) may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).

(ii) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU or JADU authorized under this subsection 207(c)(6) shall not be subdivided in a manner that would allow for the ADU or JADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership, except that this prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.

(iii) The size and attributes of a JADU constructed pursuant to this subsection 207(c)(6) shall comply with the requirements of this subsection 207(c)(6) and Government Code 65852.22.

*(J) **Department Report.** In addition to the information required by subsection 207(c)(4)(I)(iii), the annual Housing Inventory shall include a description and evaluation of the number and types of units being developed pursuant to this subsection (c)(6), their affordability rates, and such other information as the Director or the Board of Supervisors determines would inform decision makers and the public.*

*(K) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this subsection 207(c)(6), where the ADU or JADU is smaller than seven hundred and fifty square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit.*

* * * *

SEC. 1005. CONFORMITY AND PERMITS.

* * * *

(e) After receiving a permit application from the Central Permit Bureau in accordance with the preceding subsection, the Department shall ascertain whether a Certificate of Appropriateness is required or has been approved for the work proposed in such permit application. If a Certificate of Appropriateness is required and has been issued, and if the permit application conforms to the work approved in the Certificate of Appropriateness, the permit application shall be processed without further reference to this Article 10. If a Certificate of Appropriateness is required and has not been issued, or if the permit application does not conform to what was approved, the permit application shall be disapproved or held by the Department until such time as conformity does exist either through modifications to the proposed work or through the issuance of an amended or new Certificate of Appropriateness. Notwithstanding the foregoing, in the following cases the Department shall process the permit application without further reference to this Article 10:

* * * *

(9) When the application is for a permit to install a City-sponsored Landmark plaque to a landmark or district, provided that the improvements conform to the requirements outlined in Section 1006.6 of this Code.*; or*

(10) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of subsection 207(c)(6) of this Code.

* * * *

SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

* * * *

(g) Notwithstanding the foregoing, in the following cases the Department may process the permit application without further reference to this Article 11:

(1) When the application is for a permit for ordinary maintenance and repairs only. For the purpose of this Article 11, "ordinary maintenance and repairs" shall mean any work, the sole purpose and effect of which is to correct deterioration, decay or damage of existing materials, including repair of damage caused by fire or other disaster.

(2) When the application is for a permit to construct any new or replacement structures on a site where a Significant or Contributory Building has been lawfully demolished pursuant to this Code and the site is not within a designated Conservation District; or

(3) When the application is for a permit to make interior alterations only and does not constitute a demolition as defined in this Article, unless the Planning Department has determined that the proposed interior alterations may result in any visual or material impact to the exterior of the building or when the designating ordinance or applicable Appendix in this Article requires review of such interior alterations.*; or*

(4) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of subsection 207(c)(6) of this Code.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 5. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the California Government Code.

Section 6. Corrected Presentation of Existing Code. Some prior versions of this ordinance inadvertently failed to accurately reflect recent amendments to section 207 of the Planning Code enacted by Ordinance Nos. 208-21 and 209-21. This version of this ordinance has been updated to accurately represent those recent amendments as existing text of the Planning Code. Said revisions do not change the substance of this ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: /s/ Peter R. Miljanich
PETER R. MILJANICH
Deputy City Attorney

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[Administrative Code, Business and Tax Regulations, Planning Code - State-Mandated Accessory Dwelling Unit Controls]

Ordinance amending the Administrative Code, Building Code, Business and Tax Regulations Code, and Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings ~~and to permit certain ADUs in the rear yard under the City's local, discretionary approval program~~; ~~affirming the Planning Department's determinationmaking findings~~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.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) ~~On April 24, 2014, the Planning Commission certified the 2004 and 2009 Housing Element Final Environmental Impact Report ("Final EIR") in accordance with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), the CEQA Guidelines (California Code of Regulations Title 14, Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code. Subsequent to the adoption~~

~~of the Final EIR, the City has approved and incorporated eight addenda into the analysis of the Final EIR and made requisite findings under CEQA.The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms this determination.~~The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms this determination.

~~(b) The Planning Department prepared Addendum No. 9 to the Final EIR, dated September 9, 2022 ("Addendum"). The Addendum evaluates the environmental effects of the actions contemplated in this ordinance, which are an implementing program of the Project evaluated in the Final EIR. The Addendum determines that: these actions would not cause new significant impacts that were not identified in the Final EIR; these actions would not cause significant impacts that were previously identified in the Final EIR to become substantially more severe; no new mitigation measures would be necessary to reduce significant impacts; no changes have occurred with respect to circumstances surrounding these actions that would cause significant environmental impacts to which these actions would contribute considerably; and no new information has become available that shows that these actions would cause significant environmental impacts. For these reasons, no subsequent or supplemental environmental review is required. The Board of Supervisors has reviewed and considered the Final EIR and the Addendum, and the Planning Department's determination is on file with the Clerk of the Board of Supervisors in File No. 210585 and is incorporated herein by reference.~~

(~~bc~~b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

(~~cd~~c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons stated in Planning Commission Resolution No. _____.

(d) On _____, 2023, the Building Inspection Commission considered this ordinance at a duly noticed public hearing pursuant to Charter Section D3. 750-5.

(e) No local findings are required under California Health and Safety Code Section 17958. 7 because the amendments to the Building Code contained in this ordinance do not regulate materials or manner of construction or repair, and instead relate in their entirety to administrative procedures, which are expressly excluded from the definition of a "building standard" by California Health and Safety Code Section 18909(c).

Section 2. The Planning Code is hereby amended by revising Sections 102, 136, 155.1, 207, 1005, and 1110, and adding Sections 207.1 and 207.2, to read as follows:

SEC. 102. DEFINITIONS.

* * * *

Dwelling Unit, Accessory, or ADU. Also known as a Secondary Unit or In-Law Unit, is a Dwelling Unit that meets all the requirements of subsection 207.1~~(c)(4)~~ or subsection 207.2~~(c)(6)~~ and that is accessory to at least one other Dwelling Unit on the same lot. A detached ADU shall not share structural walls with ~~either~~ the primary structure ~~or any other~~

~~structure~~ on the lot. Height for detached ADUs located outside the buildable area shall be measured from existing grade at any given point to either a) the highest point of a finished roof in the case of a flat roof or b) the average height of a pitched roof or stepped roof, or similarly sculptured roof form. Height for detached ADUs located outside the buildable area shall not be eligible for any exemptions described in Planning Code subsection 260(b).

Dwelling Unit, Junior Accessory, or JADU. A Dwelling Unit that meets all the requirements of subsection 207.2~~(c)(6)~~, and that:

(a) is accessory to at least one other Dwelling Unit on the same lot;

(b) is no more than 500 square feet of Gross Floor Area;

(c) is contained entirely within an existing or proposed single-family structure;

(d) may include separate sanitation facilities, or may share sanitation facilities with the existing structure;

(e) is owner-occupied, unless the owner resides in the remaining portion of the structure;

(f) includes an entrance to the Junior Accessory Dwelling Unit that is separate from the main entrance to the proposed or existing single-family structure; and

(g) includes an efficiency kitchen that meets the requirements of Government Code Section 65852.22(a)(6), including a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling Unit.

* * * *

SEC. 136. OBSTRUCTIONS OVER STREETS AND ALLEYS AND IN REQUIRED SETBACKS, YARDS, AND USABLE OPEN SPACE.

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* * * *

(c) The permitted obstructions shall be as follows:

* * * *

(32) Infill under decks and cantilevered rooms when adding an Accessory Dwelling Unit; provided, however, that such infill shall comply with Section 207.1~~(c)(4)~~ or Section 207.2~~(c)(6)~~ of this Code, whichever is applicable; and provided further that if the ADU is proposed for a single-family home, the rear yard must be 25% of the lot depth but in no case less than 15 feet.

(33) One detached Accessory Dwelling Unit that complies with the requirements of Planning Code subsection 207.1(c)~~(15)(4)(xii)~~.

* * * *

SEC. 155.1. BICYCLE PARKING: DEFINITIONS AND STANDARDS.

* * * *

(b) **Standards for Location of Bicycle Parking Spaces.** These standards apply to all bicycle parking subject to Section 155.2, as well as bicycle parking for City-owned and leased buildings, parking garages and parking lots subject to Section 155.3. Bicycle racks shall be located in highly visible areas as described in subsections below in order to maximize convenience and minimize theft and vandalism. For Accessory Dwelling Units, the requirements of this subsection (b) may be modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and 207.1~~(c)(4)(G)~~.

* * * *

(c) **Design Standards for Bicycle Parking Spaces.** These design standards apply to all bicycle parking spaces subject to Sections 155.2 and 155.3. Bicycle parking shall follow the design standards established in Zoning Administrator Bulletin No. 9, which includes specific

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requirements on bicycle parking layout and acceptable types of Class 1 and Class 2 bicycle parking spaces. For Accessory Dwelling Units, the requirements of this subsection (c) may be modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and 207.1~~(c)(4)(G)~~.

* * * *

SEC. 207. DWELLING UNIT DENSITY LIMITS.

* * * *

(c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations under this Section 207 shall be made in the following circumstances:

* * * *

(4) The exception to Dwelling Unit density limits for certain Accessory Dwelling Units under the City's Local Accessory Dwelling Unit Program are contained in Section 207.1 of this Code ~~***Accessory Dwelling Units – Local Program: Accessory Dwelling Units in Multifamily Buildings and Accessory Dwelling Units in Single-Family Homes That Do Not Strictly Meet the Requirements in subsection (c)(6).***~~

~~*(A) **Definition.** An "Accessory Dwelling Unit" (ADU) is defined in Section 102.*~~

~~*(B) **Applicability.** This subsection (c)(4) shall apply to the construction of ADUs on all lots located within the City and County of San Francisco in areas that allow residential use, except ADUs regulated by subsection (c)(6) below.*~~

~~*(C) **Controls on Construction.** An ADU regulated by this subsection (c)(4) is permitted to be constructed in an existing or proposed building under the following conditions:*~~

~~*(i) For lots that have four existing Dwelling Units or fewer, or where the zoning would permit the construction of four or fewer Dwelling Units, one ADU is permitted. For lots*~~

~~*that have more than four existing Dwelling Units or are undergoing seismic retrofitting under subsection (c)(4)(F) below, or where the zoning would permit the construction of more than four Dwelling Units, there is no limit on the number of ADUs permitted, as long as all other health and safety requirements are met.*~~

~~*(ii) The Department shall not approve an application for construction of an ADU where a tenant on the lot was evicted pursuant to Administrative Code Sections 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the application for a building permit to construct the ADU, or where a tenant was evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the application for a building permit to construct the ADU. This subsection (c)(4)(C)(ii) shall not apply if the tenant was evicted under Section 37.9(a)(11) or 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Department and to the Residential Rent Stabilization and Arbitration Board (Rent Board) a declaration from the property owner or the tenant certifying that the property owner notified the tenant of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.*~~

~~*(iii) Prior to submitting an application to construct an ADU under this subsection (c)(4), the property owner shall file with the Rent Board a written declaration, signed under penalty of perjury, demonstrating that the project will comply with the requirements of Administrative Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or removal of a housing service. The Rent Board shall determine the form and content of said declaration, which shall include the following information: (1) a description of any housing services supplied in connection with the use or occupancy of any units on the subject property that are located in the area of the property or building where the ADU would be constructed; (2) whether construction of the ADU would result in the severance, substantial reduction, or removal of any such housing services; and (3) whether any of the*~~

DRAFT

~~*just causes for eviction under Administrative Code Section 37.9(a) would apply. The property owner shall also file a copy of the notice required under Section 207(c)(4)(J) with the declaration.*~~

~~*(iv) Tenants at the subject property may contest the information in the declaration required by subsection 207(c)(4)(C)(iii) by petitioning for a written determination from the Rent Board verifying the presence and defining characteristics of the housing service or services in question, and whether any such housing services would be severed, substantially reduced, or removed by the project as proposed. Petitions must be filed with the Rent Board within 30 calendar days after the notice required under subsection 207(c)(4)(J) has been provided. If no such petition is timely filed, the Rent Board shall promptly transmit the declaration to the Planning Department. If any such petition is timely filed, the Rent Board shall endeavor to transmit the declaration and its final written determination on the petition to the Planning Department within 90 calendar days of receipt of said petition. The Department shall not approve an application to construct an ADU under this subsection (c)(4) unless (1) the Rent Board has transmitted the declaration and final written determination required by subsections (c)(4)(C)(iii) and (c)(4)(C)(iv), and (2) the materials transmitted by the Rent Board indicate that construction of the ADU would not result in the severance, substantial reduction, or removal without just cause of any tenant housing service set forth in Administrative Code Section 37.2(r) that is supplied in the area of the property or building where the ADU would be constructed, unless the property owner demonstrates that the tenant supplied with that housing service has given their express written consent for the severance, substantial reduction, or removal of the housing service.*~~

~~*(v) Except as provided in subsections (vi), (vii), and (xiv) below, an ADU shall be constructed a. entirely within the buildable area of an existing lot, provided that the ADU does not include a vertical addition, or b. within the built envelope of an existing and authorized detached garage, storage structure, or other detached structure on the same lot. For purposes of this subsection 207(c)(4), a "detached" structure or ADU shall not share structural walls with either the primary*~~

DRAFT

~~*structure or any other structure on the lot. For purposes of this subsection 207(c)(4)(C)(v), the "built envelope" shall include the open area under an existing and authorized cantilevered room or room built on columns; decks, except for decks that are supported by columns or walls other than the building wall to which they are attached and are multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be against a blank neighboring wall at the property line and not visible from any off-site location; as these spaces exist as of July 11, 2016. An ADU constructed entirely within the existing built envelope, as defined in this subsection 207(c)(4)(C)(v), along with permitted obstructions allowed in Section 136(c)(32), of an existing building or authorized detached structure on the same lot, or where an existing detached garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code unless the existing building or authorized detached structure on the same lot is an Article 10 or Article 11 individual landmark or is in an Article 10 or Article 11 District, in which case the notification requirements will apply. If an ADU will be constructed under a cantilevered room or deck that encroaches into the required rear yard, a pre-application meeting that complies with the Planning Commission's Pre-Application policy is required.*~~

~~*(vi) When a detached garage, storage, or other auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the detached garage, storage structure, or other auxiliary structure is in the required rear yard.*~~

~~*(vii) On a corner lot, a legal detached nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.*~~

~~*(viii) ADUs shall comply with any applicable controls in Planning Code Section 134(f).*~~

DRAFT

~~*(ix) An ADU shall not be constructed using space from an existing Dwelling Unit, except that an ADU may expand into habitable space on the ground or basement floors provided that it does not exceed 25% of the total gross square footage of such space on the ground and basement floors. The Zoning Administrator may waive this 25% limitation if (1) the resulting space would not be usable or would be impractical to use for other reasonable uses, including, but not limited to, storage or bicycle parking or (2) waiving the limitation would help relieve any negative layout issues for the proposed ADU.*~~

~~*(x) An existing building undergoing seismic retrofitting may be eligible for a height increase pursuant to subsection (c)(4)(F) below.*~~

~~*(xi) Notwithstanding any other provision of this Code, an ADU authorized under this Section 207(c)(4) may not be merged with an original unit(s).*~~

~~*(xii) An ADU shall not be permitted in any building in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would eliminate or reduce a ground-story retail space, unless the Accessory Dwelling Unit is a Designated Child Care Unit, as defined in Section 102, and meets all applicable standards of Planning Code Section 414A.6(e).*~~

~~*(xiii) An Accessory Dwelling Unit shall not be permitted under this subsection (c)(4) if it would result in the reduction or removal of on-site laundry service, unless that laundry service is replaced with at least the same number or capacity of washers and dryers within the same building and as accessible as before to all building tenants.*~~

~~*(xiv) An application for a permit solely to construct an ADU in a proposed building pursuant to this subsection 207(c)(4)(C) shall not be subject to the notification requirements of Section 311 of this Code; however, any application for a permit to construct the proposed building shall be subject to any applicable notification requirements of Section 311 of this Code.*~~

DRAFT

~~(xv) In addition to any ADUs permitted under this Section 207(c)(4) within the primary structure, one detached ADU shall be permitted within the required rear yard if it complies with the following requirements:~~

~~a. The proposed ADU is located at least four feet from the side and rear lot lines and has a height no greater than sixteen feet.~~

~~b. The Gross Floor Area of a detached ADU that provides one bedroom or less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides more than one bedroom shall not exceed 1,000 square feet.~~

~~(D) **Prohibition of Short-Term Rentals**. An ADU shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code, which restriction shall be recorded as a Notice of Special Restriction on the subject lot.~~

~~(E) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU authorized under this Section 207(c)(4) shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership. This prohibition on separate sale or finance of the ADU shall not apply to an ADU in a building that consisted entirely of condominium units as of July 11, 2013, and has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the Administrative Code since July 11, 1996. This prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.~~

~~(F) **Buildings Undergoing Seismic Retrofitting.** For ADUs on lots with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the following additional provision applies: If allowed by the Building~~

DRAFT

~~*Code, a building in which an ADU is constructed may be raised up to three feet to create ground floor ceiling heights suitable for residential use. Such a raise in height*~~

~~*(i) Shall be exempt from the notification requirements of Section 311 of this Code; and*~~

~~*(ii) May expand a noncomplying structure, as defined in Section 180(a)(2) of this Code and further regulated in Sections 172, 180, and 188, without obtaining a variance for increasing the discrepancy between existing conditions on the lot and the required standards of this Code.*~~

~~*(iii) On lots where an ADU is added in coordination with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the building and the new ADU shall maintain any eligibility to enter the condo-conversion lottery and may only be subdivided if the entire property is selected on the condo-conversion lottery.*~~

~~*(iv) Pursuant to subsection (4)(C)(i), there is no limit on the number of ADUs that are permitted to be added in connection with a seismic retrofit, as long as all health and safety requirements are met.*~~

~~*(G) **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant a complete or partial waiver of the density limits and bicycle parking, rear yard, exposure, or open space standards of this Code for ADUs constructed within an existing building, and may grant a waiver of the density limits of this Code for ADUs constructed within a proposed building. If the Zoning Administrator grants a complete or partial waiver of the requirements of this Code and the subject lot contains any Rental Units at the time an application for a building permit is filed for construction of the ADU(s), the property owner(s) shall enter into a Regulatory Agreement with the City under subsection (c)(4)(H)*~~

~~*subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.*~~

~~*(H) **Regulatory Agreements.** A Regulatory Agreement required by subsection (c)(4)(G) as a condition of approval of an Accessory Dwelling Unit shall contain the following:*~~

~~*(i) a statement that the ADU(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in consideration for a complete or partial waiver of the density limits, and/or bicycle parking, rear yard, exposure, or open space standards of this Code or other direct financial contribution or other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement"); and*~~

~~*(ii) a description of the complete or partial waiver of Code requirements granted by the Zoning Administrator or other direct financial contribution or form of assistance provided to the property owner; and*~~

~~*(iii) a description of the remedies for breach of the Agreement and other provisions to ensure implementation and compliance with the Agreement.*~~

~~*(iv) The property owner and the Planning Director (or the Director's designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The Agreement shall be executed prior to the City's issuance of the First Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building Code.*~~

~~*(v) Following execution of the Regulatory Agreement by all parties and approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded against the property and shall be binding on all future owners and successors in interest.*~~

DRAFT

~~*Any Regulatory Agreement entered into under this Section 207(c)(4) shall not preclude a landlord from establishing the initial rental rate pursuant to Section 1954.53 of the Costa Hawkins Rental Housing Act.*~~

~~*(I) **Monitoring Program.***~~

~~*(i) **Monitoring and Enforcement of Unit Affordability.** The Department shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized to be constructed by this subsection 207(c)(4) and shall use such data to enforce the requirements of the Regulatory Agreements entered into pursuant to subsection (c)(4)(H). Property owners shall provide the Department with rent information as requested by the Department. The Board of Supervisors recognizes that property owners and tenants generally consider rental information sensitive and do not want it publicly disclosed. The intent of the Board is for the Department to obtain the information for purposes of monitoring and enforcement but that its public disclosure is not linked to specific individuals or units. The Department shall consult with the City Attorney's Office with respect to the legal requirements to determine how best to achieve the intent of the Board.*~~

~~*(ii) **Monitoring of Prohibition on Use as Short Term Rentals.** The Department shall collect data on the use of ADUs authorized to be constructed by this subsection (c)(4) as Short-Term Residential Rentals, as that term is defined in Administrative Code Section 41A.4, and shall use such data to evaluate and enforce Notices of Special Restriction pursuant to subsection 207(c)(4)(D) and the requirements of Administrative Code Chapter 41A.*~~

~~*(iii) **Department Report.** As part of the annual Housing Inventory, the Department shall report the types of units being developed pursuant to this subsection 207(c)(4), their affordability rates, their use as Short-Term Residential Rentals, and such additional information as the Director or the Board of Supervisors determines would inform decision makers and the public on the effectiveness and implementation of this subsection 207(c)(4), and shall include recommendations for any amendments to the requirements of this Section 207(c)(4).*~~

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* * * *

(6) The exception to Dwelling Unit density limits for certain Accessory Dwelling Units under the State-Mandated Accessory Dwelling Unit Program are contained in Section 207.2 of this Code. ~~***Accessory Dwelling Units - State Mandated Program: Accessory Dwelling Units in Existing or Proposed Dwellings or in a Detached Structure on the Same Lot.***~~

~~*(A) **Applicability.** This subsection 207(c)(6) shall apply to the construction of ADUs and Junior Accessory Dwelling Units ("JADUs") (as defined in Section 102) in existing or proposed dwellings, or in a detached structure on the same lot, if the ADU meets the applicable requirements of this subsection207(c)(6). An ADU constructed pursuant to this subsection is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding an ADU or JADU in compliance with this subsection 207(c)(6) does not exceed the allowable density for the lot. Unless otherwise specified, for purposes of this subsection 207(c)(6), a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot. If construction of the ADU will not meet the requirements of this subsection, the ADU is regulated pursuant to subsection 207(c)(4) and not this subsection 207(c)(6).*~~

~~*(B) **General Controls on Construction.** An ADU constructed pursuant to this subsection (c)(6) shall meet all of the following:*~~

~~*(i) The ADU must have independent exterior access from the existing or proposed primary dwelling or existing accessory structure, and side and rear setbacks sufficient for fire safety.*~~

~~*(ii) For projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic*~~

DRAFT

~~*resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter.*~~

~~*(iii) All applicable requirements of San Francisco's health and safety codes shall apply, including but not limited to the Building and Fire Codes.*~~

~~*(iv) No parking is required for the ADU.*~~

~~*(C) **Specific Controls for Ministerial ADUs.** The purpose of this subsection 207(c)(6)(C) is to implement California Government Code Sections 65852.2(e) and 65852.22, which requires ministerial consideration of ADUs and JADUs that meet certain standards ("Ministerial ADUs"). ADUs and JADUs shall strictly meet the requirements set forth in this subsection (c)(6)(C) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G). The City shall approve ADUs and JADUs meeting the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards:*~~

~~*(i) **ADUs and JADUs within proposed space of a proposed single-family dwelling or within existing space of a single-family dwelling or accessory structure meeting the following conditions:***~~

~~*a. The lot on which the ADU or JADU is proposed contains an existing or proposed single-family dwelling.*~~

~~*b. Only one ADU and one JADU is permitted per lot.*~~

~~*c. Each proposed ADU and JADU includes an entrance that is separate from the entrance to the existing or proposed dwelling.*~~

~~*d. Side and rear setbacks will be sufficient for fire safety.*~~

~~*e. If an ADU is proposed, it will be within the existing space of a single-family dwelling or accessory structure, or within the space of a proposed single-family dwelling, or it will require an addition of no more than 150 square feet to an existing accessory structure to accommodate ingress and egress.*~~

DRAFT

~~*f. If a JADU is proposed, it meets the requirements of California Government Code Section 65852.22.*~~

~~*(ii)* ***Detached, new construction ADUs on lot containing a proposed or existing single-family dwelling meeting the following conditions:***~~

~~*a. The lot on which the detached ADU is proposed contains an existing or proposed single-family dwelling.*~~

~~*b. The lot on which the ADU is proposed does not contain another ADU, but may contain a JADU.*~~

~~*c. The proposed ADU is detached from the single-family dwelling and any other structure.*~~

~~*d. The proposed ADU is new construction.*~~

~~*e. The proposed ADU is located at least four feet from the side and rear lot lines, is no greater than 800 square feet in Gross Floor Area, and has a height no greater than sixteen feet.*~~

~~*(iii)* ***ADUs within existing space of a multifamily dwelling meeting the following conditions:***~~

~~*a. The lot on which the ADU is proposed contains an existing multifamily dwelling.*~~

~~*b. The ADU is proposed within a portion of the multifamily dwelling structure that is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.*~~

~~*c. The total number of ADUs within the dwelling structure would not exceed twenty-five percent of the existing number of primary dwelling units within the structure, provided that all multifamily dwelling structures shall be permitted to have at least one ADU pursuant to this subsection 207(c)(6)(C)(iii) if all other applicable standards are met.*~~

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~~*(iv) **Detached, new construction ADUs on lot containing multifamily dwelling meeting the following conditions:***~~

~~*a. The lot on which the ADU is proposed contains an existing multifamily dwelling.*~~

~~*b. The proposed ADU is detached from the multifamily dwelling.*~~

~~*c. The proposed ADU is located at least four feet from the side and rear lot lines and has a height no greater than eighteen feet.*~~

~~*d. No more than two ADUs shall be permitted per lot pursuant to this subsection 207(c)(6)(C)(iv).*~~

~~*(D) **Specific Controls for Streamlined ADUs.** The purpose of this subsection 207(c)(6)(D) is implement California Government Code Sections 65852.2(a) through (d), which requires streamlined, ministerial approval of ADUs meeting certain standards ("Streamlined ADUs"). An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling, and that is constructed pursuant to this subsection 207(c)(6)(D), shall meet all of the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards. Provided, however, that the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this subsection 207(c)(6)(D) shall meet the following conditions:*~~

~~*(i) Only one ADU will be constructed.*~~

~~*(ii) The ADU will be located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling.*~~

~~*(iii) The lot on which the ADU is proposed does not contain another ADU or JADU.*~~

~~*(iv) The ADU is either a. attached to or will be constructed entirely within the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or an accessory structure on the same lot, or b. attached to or will be constructed entirely within a proposed or legally existing detached structure on the same lot, or c. detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.*~~

~~*(v) If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that provides one bedroom or less shall not exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 850 square feet, whichever is greater. If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that provides more than one bedroom shall not exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 1,000 square feet, whichever is greater.*~~

~~*(vi) The Gross Floor Area of a detached ADU that provides one bedroom or less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides more than one bedroom shall not exceed 1,000 square feet.*~~

~~*(vii) **Setbacks.** No setback is required for an ADU located within an existing living area or an existing accessory structure, or an ADU that replaces an existing structure and is located in the same location and constructed to the same dimensions as the structure being replaced. A setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is not converted from either an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.*~~

~~*(viii) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, replacement of those offstreet parking spaces is not required.*~~

~~*(ix) The ADU shall not exceed a height of 16 feet.*~~

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~~*(E) **Notification requirements for ADUs on a lot containing a proposed or existing single-family dwelling.** Prior to submitting an application to construct an ADU or JADU on a lot containing a proposed or existing single-family dwelling under subsection 207(c)(6)(D), the property owner shall notify all tenants on the subject property of the application, including tenants of the subject property in unauthorized residential units. The property owner shall satisfy this notification requirement in one of the following two ways.*~~

~~*(i) Comply with the requirements of the Building Code and applicable Department of Building Inspection screening forms, and submit a copy of any applicable Department of Building Inspection Screening forms to the Planning Department as part of the application to construct an ADU or JADU; or*~~

~~*(ii) Cause a notice describing the proposed project to be posted on the subject property for at least 15 days, cause a written notice describing the proposed project to be mailed to the tenants of the subject property, and submit proof of these notices to the Planning Department as part of the application to construct an ADU or JADU. These notices shall have a format and content determined by the Zoning Administrator, and shall generally describe the project, including the number and location of the proposed ADU and JADU. These notices shall describe how to obtain additional information regarding the project and provide contact information for the Planning Department that complies with the requirements of the Language Access Ordinance, Chapter 91 of the Administrative Code, to provide vital information about the Planning Department's services or programs in the languages spoken by a Substantial Number of Limited English Speaking Persons, as defined in Chapter 91.*~~

~~*(F) **Permit Application Review and Approval.** The City shall act on an application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in this subsection 207(c)(6). No requests for discretionary*~~

DRAFT

~~*review shall be accepted by the Planning Department for permit applications meeting the requirements of this subsection 207(c)(6). The Planning Commission shall not hold a public hearing for discretionary review of permit applications meeting the requirements of this subsection 207(c)(6). Permit applications meeting the requirements of this subsection 207(c)(6) shall not be subject to the notification or review requirements of Section 311 of this Code.*~~

~~*(G) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the Department under this subsection 207(c)(6) shall be as set forth in Section 8 of the Business and Tax Regulations Code.*~~

~~*(H) **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this subsection 207(c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject lot.*~~

~~*(I) **Rental; Restrictions on Subdivisions.** The following restrictions shall be recorded as a Notice of Special Restriction on the subject lot on which an ADU or JADU is constructed under this subsection 207(c)(6) and shall be binding on all future owners and successors in interest:*~~

~~*(i) An ADU or JADU constructed pursuant to this subsection 207(c)(6) may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).*~~

~~*(ii) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU or JADU authorized under this subsection 207(c)(6) shall not be subdivided in a manner that would allow for the ADU or JADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership, except that this prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.*~~

DRAFT

~~*(iii) The size and attributes of a JADU constructed pursuant to this subsection 207(c)(6) shall comply with the requirements of this subsection 207(c)(6) and Government Code 65852.22.*~~

~~*(J) **Department Report.** In addition to the information required by subsection 207(c)(4)(I)(iii), the annual Housing Inventory shall include a description and evaluation of the number and types of units being developed pursuant to this subsection (c)(6), their affordability rates, and such other information as the Director or the Board of Supervisors determines would inform decision makers and the public.*~~

~~*(K) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this subsection 207(c)(6), where the ADU or JADU is smaller than seven hundred and fifty square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit.*~~

* * * *

SEC. 207.1 LOCAL ACCESSORY DWELLING UNIT PROGRAM.

(a) **Exception to Dwelling Unit Density Limits for Certain Accessory Dwelling Units Under City's Local Program.** An exception to the calculations under Section 207 of this Code shall be made for Accessory Dwelling Units ("ADUs"), as defined in Section 102 of this Code, meeting the requirements of this Section 207.1.

(b) **Applicability.** This Section 207.1 shall apply to the construction of ADUs on all lots located within the City and County of San Francisco in areas that allow residential use, except ADUs regulated by the State-Mandated Program under Section 207.2 of this Code.

(c) **Controls on Construction.** An ADU regulated by this Section 207.1 is permitted to be constructed in an existing or proposed building under the following conditions:

(1) For lots that have four existing Dwelling Units or fewer, or where the zoning would permit the construction of four or fewer Dwelling Units, one ADU is permitted. For lots that have more than four existing Dwelling Units or are undergoing seismic retrofitting under subsection 207.1(f) below, or where the zoning would permit the construction of more than four Dwelling Units, there is no limit on the number of ADUs permitted, as long as all other health and safety requirements are met.

(2) The Department shall not approve an application for construction of an ADU where a tenant on the lot was evicted pursuant to Administrative Code Sections 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the application for a building permit to construct the ADU, or where a tenant was evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the application for a building permit to construct the ADU. This subsection (c)(2) shall not apply if the tenant was evicted under Section 37.9(a)(11) or 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Department and to the Residential Rent Stabilization and Arbitration Board (Rent Board) a declaration from the property owner or the tenant certifying that the property owner notified the tenant of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.

(3) Prior to submitting an application to construct an ADU under this Section 207.1, the property owner shall file with the Rent Board a written declaration, signed under penalty of perjury, demonstrating that the project will comply with the requirements of Administrative Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or removal of a housing service. The Rent Board shall determine the form and content of said declaration, which shall include the following information: (1) a description of any housing services supplied in connection with the use or occupancy of any units on the subject property

that are located in the area of the property or building where the ADU would be constructed; (2) whether construction of the ADU would result in the severance, substantial reduction, or removal of any such housing services; and (3) whether any of the just causes for eviction under Administrative Code Section 37.9(a) would apply. The property owner shall also file a copy of the notice required under Section 207.1(j) with the declaration.

(4) Tenants at the subject property may contest the information in the declaration required by subsection 207.1(c)(3) by petitioning for a written determination from the Rent Board verifying the presence and defining characteristics of the housing service or services in question, and whether any such housing services would be severed, substantially reduced, or removed by the project as proposed. Petitions must be filed with the Rent Board within 30 calendar days after the notice required under Section 207.1(j) has been provided. If no such petition is timely filed, the Rent Board shall promptly transmit the declaration to the Planning Department. If any such petition is timely filed, the Rent Board shall endeavor to transmit the declaration and its final written determination on the petition to the Planning Department within 90 calendar days of receipt of said petition. The Department shall not approve an application to construct an ADU under this Section 207.1 unless (1) the Rent Board has transmitted the declaration and final written determination required by subsections (c)(3) and (c)(4), and (2) the materials transmitted by the Rent Board indicate that construction of the ADU would not result in the severance, substantial reduction, or removal without just cause of any tenant housing service set forth in Administrative Code Section 37.2(r) that is supplied in the area of the property or building where the ADU would be constructed, unless the property owner demonstrates that the tenant supplied with that housing service has given their express written consent for the severance, substantial reduction, or removal of the housing service.

DRAFT

(5) Except as provided in subsections (6), (7), and (8) below, an ADU shall be constructed a. entirely within the buildable area of an existing lot, provided that the ADU does not include a vertical addition, or b. within the built envelope of an existing and authorized detached garage, storage structure, or other detached structure on the same lot. For purposes of this subsection 207(c)(4), a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot. For purposes of this subsection 207(c)(5), the "built envelope" shall include the open area under an existing and authorized cantilevered room or room built on columns; decks, except for decks that are supported by columns or walls other than the building wall to which they are attached and are multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be against a blank neighboring wall at the property line and not visible from any off-site location; as these spaces exist as of July 11, 2016. An ADU constructed entirely within the existing built envelope, as defined in this subsection 207(c)(5), along with permitted obstructions allowed in Section 136(c)(32), of an existing building or authorized detached structure on the same lot, or where an existing detached garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code unless the existing building or authorized detached structure on the same lot is an Article 10 or Article 11 individual landmark or is in an Article 10 or Article 11 District, in which case the notification requirements will apply. If an ADU will be constructed under a cantilevered room or deck that encroaches into the required rear yard, a pre-application meeting that complies with the Planning Commission's Pre-Application policy is required.

(6) When a detached garage, storage, or other auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the detached garage, storage structure, or other auxiliary structure is in the required rear yard.

(7) On a corner lot, a legal detached nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.

(8) ADUs shall comply with any applicable controls in Planning Code Section 134(f).

(9) An ADU shall not be constructed using space from an existing Dwelling Unit, except that an ADU may expand into habitable space on the ground or basement floors provided that it does not exceed 25% of the total gross square footage of such space on the ground and basement floors. The Zoning Administrator may waive this 25% limitation if (1) the resulting space would not be usable or would be impractical to use for other reasonable uses, including, but not limited to, storage or bicycle parking or (2) waiving the limitation would help relieve any negative layout issues for the proposed ADU.

(10) An existing building undergoing seismic retrofitting may be eligible for a height increase pursuant to subsection 207.1(f) below.

(11) Notwithstanding any other provision of this Code, an ADU authorized under this Section 207.1 may not be merged with an original unit(s).

(12) An ADU shall not be permitted in any building in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would eliminate or reduce a ground-story retail space, unless the Accessory Dwelling Unit is a Designated Child Care Unit, as defined in Section 102, and meets all applicable standards of Planning Code Section 414A.6(e).

(13) An Accessory Dwelling Unit shall not be permitted under this subsection (c)(4) if it would result in the reduction or removal of on-site laundry service, unless that

DRAFT

laundry service is replaced with at least the same number or capacity of washers and dryers within the same building and as accessible as before to all building tenants.

(14) An application for a permit solely to construct an ADU in a proposed building pursuant to this subsection 207.1(c) shall not be subject to the notification requirements of Section 311 of this Code; however, any application for a permit to construct the proposed building shall be subject to any applicable notification requirements of Section 311 of this Code.

(15) In addition to any ADUs permitted under this Section 207.1 within the primary structure, one detached ADU shall be permitted within the required rear yard if it complies with the following requirements:

(A) The proposed ADU is located at least four feet from the side and rear lot lines and has a height no greater than sixteen feet.

(B) The Gross Floor Area of a detached ADU that provides one bedroom or less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides more than one bedroom shall not exceed 1,000 square feet.

(d) **Prohibition of Short-Term Rentals**. An ADU shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code, which restriction shall be recorded as a Notice of Special Restriction on the subject lot.

(e) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU authorized under this Section 207.1 shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership. This prohibition on separate sale or finance of the ADU shall not apply to an ADU in a building that consisted entirely of condominium units as of July 11, 2013, and has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the

Administrative Code since July 11, 1996. This prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.

(f) **Buildings Undergoing Seismic Retrofitting.** For ADUs on lots with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the following additional provision applies: If allowed by the Building Code, a building in which an ADU is constructed may be raised up to three feet to create ground floor ceiling heights suitable for residential use. Such a raise in height

(1) Shall be exempt from the notification requirements of Section 311 of this Code; and

(2) May expand a noncomplying structure, as defined in Section 180(a)(2) of this Code and further regulated in Sections 172, 180, and 188, without obtaining a variance for increasing the discrepancy between existing conditions on the lot and the required standards of this Code.

(3) On lots where an ADU is added in coordination with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the building and the new ADU shall maintain any eligibility to enter the condo-conversion lottery and may only be subdivided if the entire property is selected on the condo-conversion lottery.

(4) Pursuant to subsection 207.1(c)(1), there is no limit on the number of ADUs that are permitted to be added in connection with a seismic retrofit, as long as all health and safety requirements are met.

(g) **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant a complete or partial waiver of the density limits and bicycle parking, rear yard, exposure, or open space standards of this Code for ADUs constructed within an existing building, and may grant a waiver of the density limits of this Code for ADUs constructed within a proposed building. If the Zoning Administrator grants a complete or partial waiver of the requirements of this Code and the subject lot contains any Rental Units at the time an application for a building permit is filed for construction of the ADU(s), the property owner(s) shall enter into a Regulatory Agreement with the City under subsection 207.1(h) subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.

(h) **Regulatory Agreements.** A Regulatory Agreement required by subsection 207.1(g) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

(1) a statement that the ADU(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in consideration for a complete or partial waiver of the density limits, and/or bicycle parking, rear yard, exposure, or open space standards of this Code or other direct financial contribution or other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement"); and

(2) a description of the complete or partial waiver of Code requirements granted by the Zoning Administrator or other direct financial contribution or form of assistance provided to the property owner; and

(3) a description of the remedies for breach of the Agreement and other provisions to ensure implementation and compliance with the Agreement.

(4) The property owner and the Planning Director (or the Director's designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The Agreement shall be executed prior to the City's issuance of the First Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building Code.

(5) Following execution of the Regulatory Agreement by all parties and approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded against the property and shall be binding on all future owners and successors in interest.

Any Regulatory Agreement entered into under this Section 207.1 shall not preclude a landlord from establishing the initial rental rate pursuant to Section 1954.53 of the Costa Hawkins Rental Housing Act.

(i) **Monitoring Program.**

(1) **Monitoring and Enforcement of Unit Affordability.** The Department shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized to be constructed by this Section 207.1 and shall use such data to enforce the requirements of the Regulatory Agreements entered into pursuant to subsection 207.1(h). Property owners shall provide the Department with rent information as requested by the Department. The Board of Supervisors recognizes that property owners and tenants generally consider rental information sensitive and do not want it publicly disclosed. The intent of the Board is for the Department to obtain the information for purposes of monitoring and enforcement but that its public disclosure is not linked to specific individuals or units. The Department shall consult with the City Attorney's Office with respect to the legal requirements to determine how best to achieve the intent of the Board.

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(2) **Monitoring of Prohibition on Use as Short Term Rentals.** The Department shall collect data on the use of ADUs authorized to be constructed by this Section 207.1 as Short-Term Residential Rentals, as that term is defined in Administrative Code Section 41A.4, and shall use such data to evaluate and enforce Notices of Special Restriction pursuant to Section 207.1(d) and the requirements of Administrative Code Chapter 41A.

(3) **Department Report.** As part of the annual Housing Inventory, the Department shall report the types of units being developed pursuant to this subsection 207.1, their affordability rates, their use as Short-Term Residential Rentals, and such additional information as the Director or the Board of Supervisors determines would inform decision makers and the public on the effectiveness and implementation of this Section 207.1, and shall include recommendations for any amendments to the requirements of this Section 207.1.

SEC. 207.2 STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.

(a) **Exception to Dwelling Unit Density Limits for Certain Accessory Dwelling Units Under the State-Mandated Program.** An exception to the calculations under Section 207 of this Code shall be made for Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs"), as defined in Section 102 of this Code, meeting the requirements of this Section 207.2. The purpose of this Section 207.2 is to implement California Government Code Sections 65852.2 and 65852.22, which require ministerial consideration of ADUs and JADUs that meet certain standards.

(b) **Applicability.** This Section 207.2 shall apply to the construction of ADUs and JADUs in existing or proposed dwellings, or in a detached structure on the same lot, if the ADU meets the applicable requirements of this Section 207.2. An ADU constructed pursuant to this Section is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding an ADU or JADU in compliance with this Section 207.2

does not exceed the allowable density for the lot. Unless otherwise specified, for purposes of this subsection Section 207.2, a "detached" structure or ADU shall not share structural walls with the primary structure on the lot. If construction of the ADU will not meet the requirements of this Section, the ADU is regulated pursuant to Section 207.1 and not this Section 207.2.

(c) **General Controls on Construction.** An ADU constructed pursuant to this Section 207.2 shall meet all of the following:

(1) The ADU must have independent exterior access from the existing or proposed primary dwelling or existing accessory structure, and side and rear setbacks sufficient for fire safety.

(2) For projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter.

(3) All applicable requirements of San Francisco's health and safety codes shall apply, including but not limited to the Building and Fire Codes.

(4) No parking is required for the ADU.

(d) **Specific Controls for Hybrid ADUs.** The purpose of this subsection 207.2(d) is to implement California Government Code Sections 65852.2(e) and 65852.22, which require ministerial consideration of ADUs and JADUs that meet certain standards ("Hybrid ADUs"). California Government Code Section 65852.2(e)(7) authorizes the City to impose objective standards, including, but not limited to, design, development, and historic standards, on ADUs approved under this subsection 207.2(d). ADUs and JADUs shall strictly meet the requirements set forth in this subsection 207.2(d) without requiring a waiver of Code

requirements pursuant to subsection 207.1(g). The City shall approve ADUs and JADUs meeting the following requirements, in addition to the requirements of subsection 207.2(b) and any other applicable standards:

(1) **ADUs and JADUs within proposed space of a proposed single-family dwelling or within existing space of a single-family dwelling or accessory structure meeting the following conditions:**

(A) The lot on which the ADU or JADU is proposed contains an existing or proposed single-family dwelling.

(B) Only one ADU and one JADU is permitted per lot.

(C) Each proposed ADU and JADU includes an entrance that is separate from the entrance to the existing or proposed dwelling.

(D) Side and rear setbacks will be sufficient for fire safety.

(E) If an ADU is proposed, it will be within the existing space of a single-family dwelling or accessory structure, or within the space of a proposed single-family dwelling, or it will require an addition of no more than 150 square feet to an existing accessory structure to accommodate ingress and egress.

(F) If a JADU is proposed, it meets the requirements of Planning Code Section 102 and California Government Code Section 65852.22.

(2) **Detached, new construction ADUs on lot containing a proposed or existing single-family dwelling meeting the following conditions:**

(A) The lot on which the detached ADU is proposed contains an existing or proposed single-family dwelling.

(B) The lot on which the ADU is proposed does not contain another ADU, but may contain a JADU.

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(C) The proposed ADU is detached from the single-family dwelling and any other structure.

(D) The proposed ADU is new construction.

(E) The proposed ADU is located at least four feet from the side and rear lot lines, is no greater than 800 square feet in Gross Floor Area, and does not exceed the applicable height limit contained in subsection 207.2(e)(9).

(3) **ADUs within existing space of a multifamily dwelling meeting the following conditions:**

(A) The lot on which the ADU is proposed contains an existing multifamily dwelling.

(B) The ADU is proposed within a portion of the multifamily dwelling structure that is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

(C) The total number of ADUs within the dwelling structure would not exceed twenty-five percent of the existing number of primary dwelling units within the structure, provided that all multifamily dwelling structures shall be permitted to have at least one ADU pursuant to this subsection 207.2(d)(3) if all other applicable standards are met.

(4) **Detached, new construction ADUs on lot containing a proposed or existing multifamily dwelling meeting the following conditions:**

(A) The lot on which the ADU is proposed contains a proposed or existing multifamily dwelling.

(B) The proposed ADU is detached from the multifamily dwelling.

(C) The proposed ADU is located at least four feet from the side and rear lot lines, except that if the existing multifamily dwelling has a side or rear setback of less than four feet, modification of the existing multifamily dwelling shall not be required as a

condition of approving a proposed ADU that otherwise satisfies the requirements of this subsection 207.2(c)(4).

(D) The proposed ADU does not exceed the applicable height limit contained in subsection 207.2(e)(9).

(E) No more than two ADUs shall be permitted per lot pursuant to this subsection 207.2(c)(4).

(e) **Specific Controls for State ADUs.** The purpose of this subsection 207.2(d) is implement California Government Code Sections 65852.2(a) through (d), which require streamlined, ministerial approval of ADUs meeting certain standards ("State ADUs"). An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling, and that is constructed pursuant to this subsection 207.2(e), shall meet all of the following requirements, in addition to the requirements of subsection 207.2(b) and any other applicable standards. Provided, however, that the City shall not impose limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this subsection 207(e) shall meet the following conditions:

(1) Only one ADU will be constructed.

(2) The ADU will be located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling.

(3) The lot on which the ADU is proposed does not contain another ADU or JADU.

(4) The ADU is either (A) attached to or will be constructed entirely within the proposed or existing primary dwelling, including attached garages, storage areas, or similar

uses, or an accessory structure on the same lot, or (B) attached to or will be constructed entirely within a proposed or legally existing detached structure on the same lot, or (C) detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(5) If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that provides one bedroom or less shall not exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 850 square feet, whichever is greater. If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that provides more than one bedroom shall not exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 1,000 square feet, whichever is greater.

(6) The Gross Floor Area of a detached ADU that provides one bedroom or less shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides more than one bedroom shall not exceed 1,000 square feet.

(7) **Setbacks.** No setback is required for an ADU located within an existing living area or an existing accessory structure, or an ADU that replaces an existing structure and is located in the same location and constructed to the same dimensions as the structure being replaced. A setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is not converted from either an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(8) **Garages.** When a garage, carport, or covered parking structure is proposed to be demolished in conjunction with the construction of an ADU or converted to an ADU, replacement of those offstreet parking spaces is not required; and a permit to demolish a detached garage that is to be replaced with an ADU shall be reviewed with the application to construct the ADU and issued at the same time.

(9) **Height limits.** The ADU shall not exceed the following height limits:

(A) A height of 16 feet for a detached ADU on a lot with an existing or proposed dwelling.

(B) A height of 18 feet for a detached ADU on a lot with an existing or proposed dwelling that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as defined in Section 21155 of the California Public Resources Code. An additional two feet in height shall be permitted to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling.

(C) A height of 18 feet for a detached ADU on a lot with an existing or proposed multifamily, multi-story dwelling.

(D) A height of 25 feet or the applicable height limit for the primary dwelling, whichever is lower, for an ADU that is attached to the primary dwelling, except that the ADU shall not exceed two stories.

(f) **Notification requirements for ADUs on a lot containing a proposed or existing single-family dwelling.** Prior to submitting an application to construct an ADU or JADU on a lot containing a proposed or existing single-family dwelling under subsection 207.2 (e), the property owner shall notify all tenants on the subject property of the application, including tenants of the subject property in unauthorized residential units. The property owner shall satisfy this notification requirement in one of the following two ways.

(1) Comply with the requirements of the Building Code and applicable Department of Building Inspection screening forms, and submit a copy of any applicable Department of Building Inspection Screening forms to the Planning Department as part of the application to construct an ADU or JADU; or

(2) Cause a notice describing the proposed project to be posted on the subject property for at least 15 days, cause a written notice describing the proposed project to be mailed to the tenants of the subject property, and submit proof of these notices to the

Planning Department as part of the application to construct an ADU or JADU. These notices shall have a format and content determined by the Zoning Administrator, and shall generally describe the project, including the number and location of the proposed ADU and JADU. These notices shall describe how to obtain additional information regarding the project and provide contact information for the Planning Department that complies with the requirements of the Language Access Ordinance, Chapter 91 of the Administrative Code, to provide vital information about the Planning Department's services or programs in the languages spoken by a Substantial Number of Limited English Speaking Persons, as defined in Chapter 91.

(3) Written and posted notice shall not be required for the demolition of a detached garage that is to be replaced with an ADU, unless the property is located within a historic or conservation district pursuant to Article 10 or Article 11 of this Code.

(g) **Permit Application Review and Approval.** No requests for discretionary review shall be accepted by the Planning Department for permit applications meeting the requirements of this Section 207.2. The Planning Commission shall not hold a public hearing for discretionary review of permit applications meeting the requirements of this Section 207.2. Permit applications meeting the requirements of this Section 207.2 shall not be subject to the notification or review requirements of Section 311 of this Code.

(h) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the Department under this Section 207.2 shall be as set forth in Section 8 of the Business and Tax Regulations Code.

(i) **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this Section 207.2 shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject lot.

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(j) **Rental; Restrictions on Subdivisions.** The following restrictions shall be recorded as a Notice of Special Restriction on the subject lot on which an ADU or JADU is constructed under this Section 207.2 and shall be binding on all future owners and successors in interest:

(1) An ADU or JADU constructed pursuant to this subsection 207.2 may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).

(2) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU or JADU authorized under this Section 207.2 shall not be subdivided in a manner that would allow for the ADU or JADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership, except that this prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.

(3) The size and attributes of a JADU constructed pursuant to this Section 207.2 shall comply with the requirements of this Section 207.2 and Government Code 65852.22.

(j) **Department Report.** In addition to the information required by subsection 207.1(i)(3), the annual Housing Inventory shall include a description and evaluation of the number and types of units being developed pursuant to this Section 207.2, their affordability rates, and such other information as the Director or the Board of Supervisors determines would inform decision makers and the public.

(k) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this subsection 207.2, where the ADU or JADU is smaller than seven hundred and fifty square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units or

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fewer. Impact fees for all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit.

SEC. 1005. CONFORMITY AND PERMITS.

* * * *

(e) After receiving a permit application from the Central Permit Bureau in accordance with the preceding subsection, the Department shall ascertain whether a Certificate of Appropriateness is required or has been approved for the work proposed in such permit application. If a Certificate of Appropriateness is required and has been issued, and if the permit application conforms to the work approved in the Certificate of Appropriateness, the permit application shall be processed without further reference to this Article 10. If a Certificate of Appropriateness is required and has not been issued, or if the permit application does not conform to what was approved, the permit application shall be disapproved or held by the Department until such time as conformity does exist either through modifications to the proposed work or through the issuance of an amended or new Certificate of Appropriateness. Notwithstanding the foregoing, in the following cases the Department shall process the permit application without further reference to this Article 10:

* * * *

(9) When the application is for a permit to install a City-sponsored Landmark plaque to a landmark or district, provided that the improvements conform to the requirements outlined in Section 1006.6 of this Code; or

(10) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of subsection 207.2~~(c)(6)~~ of this Code.

* * * *

SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

* * * *

(g) Notwithstanding the foregoing, in the following cases the Department may process the permit application without further reference to this Article 11:

(1) When the application is for a permit for ordinary maintenance and repairs only. For the purpose of this Article 11, "ordinary maintenance and repairs" shall mean any work, the sole purpose and effect of which is to correct deterioration, decay or damage of existing materials, including repair of damage caused by fire or other disaster.

(2) When the application is for a permit to construct any new or replacement structures on a site where a Significant or Contributory Building has been lawfully demolished pursuant to this Code and the site is not within a designated Conservation District; or

(3) When the application is for a permit to make interior alterations only and does not constitute a demolition as defined in this Article, unless the Planning Department has determined that the proposed interior alterations may result in any visual or material impact to the exterior of the building or when the designating ordinance or applicable Appendix in this Article requires review of such interior alterations; or

(4) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of subsection 207.2~~(c)(6)~~ of this Code.

Section 3. Articles 1, 2, 3, 7, and 8 of the Planning Code ares hereby amended by replacing all references to Planning Code “subsection 207(c)(4)” and “section 207(c)(4)” in each of the Sections listed below with the term “Section 207.1”:

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Section 4. Articles 1, 2, 3, 7, and 8 of the Planning Code ares hereby amended by replacing all references to Planning Code "subsection 207(c)(6)" and "section 207(c)(6)" in each of the Sections listed below with the term "Section 207.2":

Section 5. The Administrative Code is hereby amended by revising Section 37.2, to read as follows:

SEC. 37.2. DEFINITIONS.

* * * *

(r) Rental Units. All residential dwelling units in the City together with the land and appurtenant buildings thereto, and all housing services, privileges, furnishings, and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.

Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks, patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed from the tenancy by the landlord without just cause as required by Section 37.9(a). Any severance, substantial reduction or removal of a housing service, even if permitted under Section 37.9(a), shall be offset by a corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent Board to determine the amount of the rent reduction. In addition, a tenant may petition the Rent Board for a determination on whether an Accessory Dwelling Unit proposed to be constructed under Planning Code Section 207.1~~(c)(4)~~ would sever, substantially reduce, or remove a housing service, pursuant to the procedures

set forth in subsection 207.1~~(c)(4)(C)(iii)~~. The issuance of a permit for construction of an Accessory Dwelling Unit does not, in and of itself, constitute a just cause for the purpose of severing a housing service.

Notwithstanding the preceding paragraph, a landlord may temporarily sever one or more housing services listed in that paragraph in order to perform seismic work required by Building Code "Mandatory Earthquake Retrofit of Wood-Frame Buildings" ("mandatory seismic work") if: (1) the landlord has given the notice to temporarily sever as required by Administrative Code Section 65A.2; (2) the landlord has obtained all necessary permits on or before the date the notice to temporarily sever is given; (3) the housing service(s) will only be severed for the minimum time required to complete the mandatory seismic work and in no event for a longer period than provided by Building Code Section 106A.4.4, Table B; and (4) the temporarily severed housing service(s) will be fully restored immediately upon completion of the mandatory seismic work. For such temporary severance of one or more of the specified housing services due to mandatory seismic work required by Building Code Chapter 34B, tenants will not be entitled to a reduction in rent, but tenants shall be entitled to either compensation or a substitute housing service as provided in Administrative Code Chapter 65A.

The term "rental units" shall not include:

* * * *

(4) Except as provided in subsections (A)-(E), dwelling units whose rents are controlled or regulated by any government unit, agency, or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development; provided, however, that units in unreinforced masonry buildings which have undergone seismic strengthening in accordance with Building Code Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the

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ordinance is not in conflict with the seismic strengthening bond program or with the program's loan agreements or with any regulations promulgated thereunder;

* * * *

(D) The term “rental units” shall include (i) Accessory Dwelling Units constructed pursuant to Section 207.1~~(c)(4)~~ of the Planning Code and that have received a complete or partial waiver of the density limits and the parking, rear yard, exposure, or open space standards from the Zoning Administrator pursuant to Planning Code Section 307(l), and (ii) New Unit(s) constructed and funded pursuant to Administrative Code Chapter 85.

* * * *

Section 6. The Business and Tax Regulations Code is hereby amended by revising Sections 8 and 26, to read as follows:

SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.

* * * *

(e) Appeals shall be taken by filing a notice of appeal with the Board of Appeals and paying to said Board at such time a filing fee as follows:

* * * *

(9) Additional Requirements.

* * * *

(C) Except as otherwise specified in this subsection (e)(9)(C), the Board of Appeals shall fix the time and place of hearing, which shall be not less than 10 nor more than 45 days after the filing of said appeal, and shall act thereon not later than 60 days after such filing or a reasonable time thereafter.

* * * *

(iii) In the case of a decision on a permit application made pursuant to Planning Code Section 207.2~~, subsection (c)(6)~~, the Board of Appeals shall set the hearing not less than 10 days after the filing of said appeal, shall act thereon not more than 30 days after such filing, and shall not entertain a motion for rehearing.

SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.

* * * *

(f) Notwithstanding subsection (a), the provisions of Planning Code Section 207.2~~,~~ ~~subsection (c)(6),~~ shall govern actions taken on the granting, denial, amendment, suspension, and revocation of permits regulated under that S~~subs~~ection 207.2~~(c)(6)~~, not the standards set forth in subsection (a) of this Section 26.

* * * *

Section 7. The Building Code is hereby amended by adding Section 106A.1.19, to read as follows:

106A.1.19 State-Mandated Accessory Dwelling Unit Program. California Government Code Sections 65852.2 and 65852.22 require expedited, ministerial consideration of Acessory Dwelling Units ("ADUs") and Junior Acessory Dwelling Units ("JADUs") that meet the requirements of Planning Code Section 207.2.

106A.1.19.1 Permit Application Review and Approval. The City shall approve or deny an application for a permit to construct an ADU or JADU on a lot containing an existing dwelling within 60 days from receipt of the complete application if the proposed construction fully complies with the requirements set forth in Planning Code Section 207.2 and any other applicable requirements. If the applicant requests a delay, the 60-day time period shall be

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tolled for the period of the delay. If the City has not approved or denied the completed application within 60 days, the application shall be deemed approved.

106A.1.19.2 Notice of Garage Demolition. Written and posted notice shall not be required for the demolition of a detached garage that is to be replaced with an ADU, unless the property is located within a historic or conservation district pursuant to Article 10 or Article 11 of the Planning Code.

Section ~~3~~8. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section ~~4~~9. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section ~~5~~10. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the California Government Code.

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Section 11. Corrected Presentation of Existing Code. On March 20, 2023, the Land Use and Transportation Committee created this ordinance by duplicating Board File No. 210585. 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:
DENNIS J. HERRERA, City Attorney

By: /s/ Peter R. Miljanich
PETER R. MILJANICH
Deputy City Attorney

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San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

September 7, 2021

Ms. Angela Calvillo, Clerk
Honorable Mayor Breed
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2021-006260PCA:
State-Mandated Accessory Dwelling Unit Controls
Board File No. 210585

Planning Commission Recommendation: **Approval with Modification**

Dear Ms. Calvillo and Mayor Breed,

On September 1, 2021 and September 2, 2021, the Historic Preservation Commission and Planning Commission, respectively, conducted duly noticed public hearings to consider the proposed Ordinance, introduced by Mayor Breed, that would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units meeting certain requirements in single-family and multifamily buildings. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

Under the Local ADU Program, in addition to ADUs within the primary structure, also allow a detached ADU within the required rear yard, following State law parameters.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they would not result in a physical change in the environment.

Mayor Breed, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Digitally signed by Daniel A. Sider
Date: 2021.09.07 11:39:16 -07'00'
Adobe Acrobat version: 2021.005.20058

Daniel A. Sider, AICP
Chief of Staff

for

Aaron D. Starr
Manager of Legislative Affairs

cc: Peter Miljanich, Deputy City Attorney
Andres Power, Policy Director to Mayor Breed
Sophia Kittler, Mayor's Liaison to the Board of Supervisors
Erica Major, Office of the Clerk of the Board

Attachments :
Historic Preservation Commission Resolution
Planning Commission Resolution
Executive Summary

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

HISTORIC PRESERVATION COMMISSION
RESOLUTION NO. 1197

Project Name: State-Mandated Accessory Dwelling Unit Controls
Case Number: 2021-006260PCA [Board File No. 210585]
Initiated by: Mayor Breed / Introduced June 8, 2021
Staff Contact: Veronica Flores, Legislative Affairs
veronica.flores@sfgov.org, (628) 652-7525
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION RECOMMENDING APPROVAL WITH MODIFICATION OF A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO CLARIFY THE MINISTERIAL APPROVAL PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS 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.

WHEREAS, on June 8, 2021 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 210585, which would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units meeting certain requirements in single-family and multifamily buildings;

WHEREAS, the Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 1, 2021; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

WHEREAS, the Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Commission hereby recommends approval with modification of the proposed ordinance. The Commission's proposed recommendation is as follows:

1. Under the Local ADU Program, in addition to ADUs within the primary structure, also allow a detached ADU within the required rear yard following State law parameters.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that the proposed Ordinance supports the Housing Element's goals to ensure adequate housing for current and future San Franciscans by increasing the potential for new Accessory Dwelling Units.

2. The Commission finds that the proposed Ordinance will help align the Planning Code with the State Law.

3. The Commission finds that the proposed Ordinance will further streamline the ADU review process and clarify current processes. Such changes will make the City's ADU program more effective and flexible.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.5
Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.

OBJECTIVE 3
PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.4
Preserve "naturally affordable" housing types, such as smaller and older ownership units.

The proposed Ordinance retains existing housing units and prioritizes permanently affordable housing. Additionally, the proposed amendments would expand the ADU program and make the addition of ADU's more feasible.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

   The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

   The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

   The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

   The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

   The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an

earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved.

   The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby RECOMMENDS APPROVAL WITH MODIFICATION of the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 1, 2021.

Jonas P Ionin Digitally signed by Jonas P Ionin Date: 2021.09.07 09:26:09 -07'00'

Jonas P. Ionin
Commission Secretary

AYES: Wright, Nageswaran, Black, Foley, Johns, So, Matsuda

NOES: None

ABSENT: None

ADOPTED: September 1, 2021

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San Francisco Planning

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San Francisco, CA 94103
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PLANNING COMMISSION RESOLUTION NO. 20971

Project Name:	State-Mandated Accessory Dwelling Unit Controls
Case Number:	2021-006260PCA [Board File No. 210585]
Initiated by:	Mayor Breed / Introduced June 8, 2021
Staff Contact:	Veronica Flores, Legislative Affairs veronica.flores@sfgov.org, (628) 652-7525
Reviewed by:	Aaron D Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO CLARIFY THE MINISTERIAL APPROVAL PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS 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.

WHEREAS, on June 8, 2021 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 210585, which would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units meeting certain requirements in single-family and multifamily buildings;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 2, 2021; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby approves with modification the proposed ordinance. The Commission's proposed recommendation is as follows:

1. Under the Local ADU Program, in addition to ADUs within the primary structure, also allow a detached ADU within the required rear yard following State law parameters.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that the proposed Ordinance supports the Housing Element's goals to ensure adequate housing for current and future San Franciscans by increasing the potential for new Accessory Dwelling Units.

2. The Commission finds that the proposed Ordinance will help align the Planning Code with the State Law.

3. The Commission finds that the proposed Ordinance will further streamline the ADU review process and clarify current processes. Such changes will make the City's ADU program more effective and flexible.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.5
Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.

OBJECTIVE 3
PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.4
Preserve "naturally affordable" housing types, such as smaller and older ownership units.

The proposed Ordinance retains existing housing units and prioritizes permanently affordable housing. Additionally, the proposed amendments would expand the ADU program and make the addition of ADU's more feasible.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

   The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

   The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

   The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

   The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

   The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an

earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved.

   The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATION the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 2, 2021.

Jonas P Ionin Digitally signed by Jonas P Ionin Date: 2021.09.07 09:26:58 -07'00'

Jonas P. Ionin
Commission Secretary

AYES: Tanner, Diamond, Fung, Imperial, Moore, Koppel

NOES: None

ABSENT: Chan

ADOPTED: September 2, 2021

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San Francisco Planning

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San Francisco, CA 94103
628.652.7600
www.sfplanning.org

EXECUTIVE SUMMARY
PLANNING CODE TEXT AMENDMENT

HEARING DATE: September 1, 2021

90-Day Deadline: September 9, 2021

Project Name:	State-Mandated Accessory Dwelling Unit Controls
Case Number:	2021-006260PCA [Board File No. 210585]
Initiated by:	Mayor Breed / Introduced June 8, 2021
Staff Contact:	Veronica Flores, Legislative Affairs Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 628-652-7533
Recommendation:	Approval

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multi-family buildings. The changes in the proposed Ordinance are required to bring the Planning Code into compliance with State law.

Before comparing the changes between the Planning Code today and the proposed Ordinance, it is important to understand that there are now two different categories of ADUs under State law. The City is required to act on all these ADUs within 60 days of receipt of a complete application and shall be ministerial. These State-Mandated ADUs have no discretionary action, are not subject to review under the California Environmental Quality Act (CEQA), no subjective design review, and have a shortened appeal window. A brief description is included below to help clarify the comparisons in the following table. In efforts to clarify the different types of ADUs, the names have been simplified since the November 2020 Commission hearings as follows.

- State Program (known as Streamlined ADUs in the proposed Ordinance): These ADUs are the most permissive in that the City has no ability to require Code compliance for anything that is not listed in State law; however, State Program ADUs are only permitted on properties where there are no other ADUs. This program allows one ADU (conversion, attached, or detached) per lot.
- Hybrid Program (known as Ministerial ADUs in the proposed Ordinance): These ADUs need to comply with all Planning Code requirements (e.g. rear yard, exposure, etc.), except for density and cannot

require a waiver. Number of ADUs (conversion, detached, and/or junior) allowed per this program varies. This most closely resembles what is allowed today under the Section 207(c)(6) or previously known as "No Waiver ADUs". Additionally, Hybrid Program ADUs include a new type of ADU for existing and proposed single-family dwellings called the Junior ADU (JADU), which is described below.

- Junior ADUs: Junior ADUs would be allowed within existing or proposed single-family dwellings. General eligibility requirements include, but are not limited to, the following:
  - Converting no more than 500 square feet of the existing or proposed single-family dwelling;
  - Owner occupancy in either the primary unit or JADU;
  - An entrance that is separate from the main entrance of the primary unit;
  - Must include an efficiency kitchen; and
  - May or may not include shared sanitation facilities.

For further details, see the ADU Programs Comparison Handout available on the Planning Department website.

The Way It Is Now	**The Way It Would Be**
Review timeline: The Department is required to complete review of an ADU within 120 days from receipt of a complete application.	The City would be required to act on a permit for an ADU or JADU under State law within 60 days from receipt of a complete application.
Articles 10 and 11: ADUs proposed within Article 10 and 11 buildings and districts would be required to comply with architectural review standards as adopted by the Historic Preservation Commission. These projects are not subject to the Certificate of Appropriateness or Permit to Alter review processes.	Articles 10 and 11 would explicitly exempt State and Hybrid Program ADUs and JADUs proposed within landmark buildings and districts from Certificate of Appropriateness and Permit to Alter review processes.
Planning Code compliance: State-Mandated ADUs (also known as No Waiver ADUs) must comply with all Planning Code requirements except for density limitations.	Hybrid Program ADUs would still require Planning Code compliance except for density. However, State Program ADUs would not be required to comply with Planning Code requirements that are not listed in State law.
Impact fees: All ADUs are subject to impact fees, which are calculated based on standard thresholds such as adding a new unit or square footage.	State and Hybrid Program ADUs smaller than 750 square feet would be exempt from impact fees. State and Hybrid Program ADUs proposed on properties with three or fewer units would also be exempt from impact fees. State and Hybrid Program ADUs 750 square feet or larger would be subject to a reduced impact fee. The reduced impact fee would be based on the ADU's proportion in relation to the primary unit for single-family dwellings, or the average of existing units for multi-family dwellings.
Noticing for single-family dwellings: All ADUs proposed within existing or new construction single-family dwellings require a 30-day notice posted at the	ADUs proposed within an existing or new construction single-family dwelling that have tenant(s) would be required to complete either a) the

The Way It Is Now	The Way It Would Be
property, a mailed notice, and an online notice. The Planning Department issues such notices during the 120-day review timeframe.	Department of Building Inspection (DBI) Screening Form, if applicable or b) if the DBI Screening Form is not applicable, send a notice per the Planning Code requirements. Proof of this notice needs to be submitted with a complete application.
Density: One ADU is permitted in an existing or new construction single-family dwelling or existing authorized detached structure. Proposed ADUs may be located within non-habitable space and may take habitable space away from an existing dwelling.	One State Program ADU (conversion, attached, or detached) would be permitted for existing or proposed single- or multi-family dwellings so long as there are no other ADUs on the properties. Hybrid Program ADUs would be permitted as follows: Existing or new construction single-family dwellings or existing authorized detached structures would be permitted to add one ADU (conversion or detached) and/or one JADU. Existing multi-family dwellings would be permitted to add either 1) one conversion ADU or up to 25% of the existing number of legal dwelling units within the primary structure, whichever is greater, or 2) up to two detached ADUs.
Size restrictions: ADUs proposed within an existing or proposed single-family dwelling or within an existing authorized detached structure are limited to 1,200 square feet in size.	Hybrid Program detached ADUs would be permitted up to 800 square feet for properties with existing or proposed single-family dwellings. JADUs would be permitted up to 500 square feet within existing or proposed single-family dwellings. State Program detached ADUs would be permitted up to 850 square feet for studio and one-bedrooms and up to 1,000 square feet for two or more bedrooms for existing or proposed single- or multi-family dwellings. Additionally, if there is an existing dwelling, State Program attached ADUs have the following size restrictions: a) studios and 1-bedroom ADUs would be permitted up to 850 sf or 50% of existing primary dwelling, whichever is greater and b) ADUs with two or more bedrooms would be permitted up to 1,000 sf or 50% of existing primary dwelling, whichever is greater.
Expansions: Existing authorized detached structures may be expanded with dormers. If said structure is	The specific provisions related to expansions on existing authorized detached structures would be removed since detached ADUs would be permitted

The Way It Is Now	The Way It Would Be
located on a corner lot, an additional story above the existing footprint is permitted.	per State law. However, Hybrid Program ADUs on properties with an existing or proposed single-family dwelling may expand an existing authorized detached structure by up to 150 square feet to accommodate ingress/egress.
Height: ADUs must comply with the height requirements	State Program ADUs (attached and detached) would be limited to 16 feet in height. Hybrid Program detached ADUs would be limited to 16 feet in height. Further, detached ADUs located outside of the buildable area (only allowed under the State Program) would be measured from existing grade at any given point to either a) the highest point of a finished roof in the case of a flat roof or b) the average height of a pitched roof or stepped roof, or similarly sculptured roof form.
Setbacks: ADUs must comply with all required setbacks.	State Program ADUs (attached and detached) would require a setback of four feet from the side and rear property lines. No setback is required if the ADU is located within an existing living area or an existing accessory structure, or an ADU that replaces an existing structure, is in the same location, and constructed to the same dimensions as the structure being replaced. Hybrid Program detached ADUs would require a setback of four feet from the side and rear property lines and need to comply with all local Planning Code setback requirements.
TECHNICAL CLARIFICATIONS FOR LOCAL PROGRAM	
Noticing for Waiver Program: Notice is required for new construction or expansions that are not exempt from noticing.	Notice would only be required for any proposed new construction building, not for any scopes of work related to the ADU itself.
Waivers: Waivers may be granted for ADUs added to existing buildings under the Waiver Program.	Waivers may only be granted for ADUs proposed within existing buildings. ADUs proposed within new construction buildings may only be granted the density waiver.

Background

The State Legislature has deemed ADUs a valuable and affordable form of housing in California. The state's ADU laws have been amended several times to revise the requirements and make the approval of an ADU less discretionary.

San Francisco first adopted a local ADU program in 2014 and made several updates since the initial inception both in response to changes to the State law and to improve the City's local ADU program. The most recent ADU changes prior to this Ordinance occurred in 2019, which allowed ADUs in new construction. The proposed Ordinance will update San Francisco's ADU programs to comply with the latest amendments to the State law, per Section 3 of Senate Bill 13, Section 2 of Assembly Bill 68, and Section 1.5 of Assembly Bill 881, all of which were effective beginning January 1, 2020. The proposed Ordinance also incorporates changes made to State law under Assembly Bill 3182, which was effective beginning January 1, 2021. All these changes are required to bring our local code into compliance with State law. Additionally, the proposed Ordinance will clarify the ministerial approval process, restructure the Code to make it more legible to read, and provide technical clarifications.

This Ordinance is the continuation of Board File 201008 which was filed on May 3, 2021. The only changes within this new Ordinance compared to the prior Ordinance includes clarifications or changes required by State law, as well as incorporating the recommended modification from both the Historic Preservation and Planning Commissions from the November 2020 hearings.

Issues and Considerations

Housing Stock

San Francisco and the Bay Area have a housing shortage. The Planning Department is working to meet these housing needs. In the City's Housing Element, Objective One specifically cites ADUs as an effective way to add to the housing stock. The ADU program helps create new dwelling units, mostly through infill efforts. The initial ADU pilot program in the Castro District in 2014 has now grown into the robust ADU programs of today. This is a testament to the success of the ADUs and why the ADU program continues to grow and evolve. The Ordinance will build on these efforts by allowing for more opportunities to build ADUs.

> The Housing Element cites Accessory Dwelling Units as an effective and inexpensive way to realize greater housing potential and add to the housing stock.

Ministerial Overview

The latest State law amendments clarify the ministerial review for ADUs in single-family and multi-family dwellings. Ministerial review for such ADUs is defined as follows:

- No subjective design review except for standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places
- Not subject to review under the California Environmental Quality Act (CEQA)
- Not subject to Planning Code Section 311 neighborhood notification requirements
- No discretionary review opportunity

Additionally, the State-Mandated ADUs are also subject to a shortened appeal window requiring that the appeal be heard within 10-30 days from appeal filing.

Another important distinction is that ADUs approved under State law are not subject to the rent stabilization provisions of the San Francisco Rent Ordinance. ADUs added under the Local ADU Program are subject to Rent Control when a complete or partial waiver, or an administrative exception, is granted from the Planning Code requirements and when the lot contains a Rental Unit. State-Mandated ADUs do not receive waivers and thus there is no opportunity to impose Rent Control on such ADUs.

While these ministerial ADUs are subject to State law, we are still maximizing the number of ADUs we can subject to Rent Control. In some cases, the Local ADU Program offers more opportunities for ADUs, including potentially an unlimited number of ADUs in certain cases. If the property is eligible for more than one program, the property owner will be able to decide which program best suits their needs.

Ability to be Less Restrictive

The proposed Ordinance is implementing only what is required by State law, except for the following items:

- *Exempting impact fees for State and Hybrid Program ADUs proposed on properties with three or fewer units.* The proposed Ordinance exempts more ADUs from impact fees than required by State law in efforts to incentivize more ADUs.

- *The way height is measured for Hybrid Program detached ADUs.* The proposed Ordinance clarifies this height measurement as it is not currently defined under State law.

State law permits local jurisdictions to legislate changes that are less restrictive, so long as the minimum requirements under State law are still allowed. The Department recommends the Commission consider potential changes (if any) at a later date.

Junior ADUs

State law introduces a new type of ADU within single-family dwellings: a Junior ADU (JADU), which can convert up to 500 square feet of habitable space from the primary unit. The JADU requires their own entrance separate from the main entrance of the primary dwelling and an efficiency kitchen for the ADU.

This proposed change better accommodates multi-generational households, which has been a recurring concern for San Francisco residents. Intergenerational living has increased further under the current COVID-19 conditions and job uncertainties. However, JADUs are a stark contrast to the current "Zoning Administrator Bulletin: Rooms Down" policy, a set of standards that encourages additional habitable space on the ground floor of residential buildings without creating illegal units. The JADU option now allows for an efficiency kitchen in the additional habitable space on the ground floor, discounting the Rooms Down policy that currently prevents this. The Rooms Down Policy was reevaluated, party due to the new State law changes, and has recently been repealed as described below.

Update on Zoning Administrator Interpretations

Pursuant to Planning Code Section 307(a), the Zoning Administrator issues rules, regulations, and interpretations they deem necessary to administer and enforce the provisions of the Code. Formal interpretations are listed within the Planning Code, as well as a series of topical bulletins (i.e. neighborhood notice, bicycle parking, affordable housing, etc.).

During the November 2020 hearings, the Zoning Administrator provided a brief preview of forthcoming interpretations. On March 22, 2021, the Zoning Administrator issued a sizeable set of amendments to existing interpretations and bulletins which are available in a memo on the Planning Department website. Many of these interpretations pertain to housing-related definitions and controls, including those related to ADUs. The need for these amendments and new interpretations stem from new local and state programs in recent years (i.e. ADUs, Unauthorized Dwelling Units, density bonus programs, etc.), new types of development proposals, and the evolving nature and impacts of the COVID-19 pandemic.

Most of these interpretations are technical and minor in nature, but some will have potentially greater impact. Specifically, the "Rooms Down" bulletin (Zoning Administrator Bulletin No. 1), which limits the development of ground floor spaces in existing Dwelling Units to help prevent the creation of Unauthorized Dwelling Units has been repealed. This transition serves to better respond to our evolving ADU programs and the Code requirement to legalize Unauthorized Dwelling Units. Additional interpretations relate to dwelling unit exposure, housing-related definitions (i.e. Dwelling Unit and Group Housing), and a variety of other issues.

Delegation Agreement and Historic Preservation

Since the November 2020 hearings, staff revised the Historic Preservation Delegation Agreement, including items related to review of ADUs. State law allows the local jurisdictions to implement objective architectural review standards. The Historic Preservation Commission adopted "Accessory Dwelling Units Architectural Review Standards" via Resolution No. 1041 on April 3, 2019. Some of these objective standards now conflict with new State law requirements. During the November 4, 2020 State-Mandated ADUs hearing, the Historic Preservation and Planning Commissions expressed desire to retain reference to these objective review standards where appropriate. In response, the relevant objective review standards that are still compliant with State law have been incorporated into the Delegation Agreement. The revised Delegation Agreement appeared in front of the Historic Preservation Commission on August 4, 2021 and is now in effect.

Mid-Block Open Space

The proposed Ordinance permits Streamlined detached ADUs in the required rear yard so long as the ADU complies with the following requirements listed in the table below.

	State Detached ADUs
Number of ADUs permitted	1
Height	16 feet
Rear and side setbacks	4 feet
Square footage	850 for studio & 1-bedroom ADUs 1,000 for 2+ bedroom ADUs

These detached ADUs may encroach into the mid-block open space, pending on the proposed location of the ADU and the size of the lot. The required side and rear setbacks and height limitations per State law provide some relief between properties; however, some proposed ADUs may cause minor light or privacy issues that the Commission is typically concerned about. In the case where the proposed ADU complies with these requirements, the Commission would have no opportunity to weigh in on such concerns. If neighbors opposed the detached ADU within the mid-block open space, they would only be able to appeal directly to the Board of Appeals without the opportunity to make their case in front of Planning Commission like they can today. In the case of such an appeal, the Board of Appeals would not have discretion over the project and would be limited to verifying if the State law requirements were followed or not.

Hybrid Program detached ADUs still need to be located within the buildable area of the lot. In this case, the proposed location of the ADU(s) will likely still be in keeping with the general pattern of the neighborhood block.

Tenant Noticing

The Ordinance removes a noticing requirement for single-family dwellings that was added in 2019 and replaces it with new noticing requirements, which apply only if there is a tenant in a single-family home. No Waiver ADUs in single-family dwellings currently require a 30-day notice, even if there is no tenant. It is not logical to require sending a notice to the property owner if they are the only residents in the dwelling. If there is a tenant at the property, the Ordinance would require the property owner to submit one of the following with their permit application:

- A copy of a completed Department of Building Inspection Screening Form, if applicable.

- Posting a 15-day notice at the property and mailing the notice to all tenants. If electing this option, the notices must comply with the Planning Code requirements.

This change ensures that tenants are notified in advance of a new ADU permit and removes the unnecessary notice for owners when there are no tenants impacted. Additionally, the proposed Ordinance requires that this outreach is completed before the ADU permit application is submitted. This earlier timeframe would also help the City ensure the new 60-day review timeframe is met and would provide an earlier opportunity for any impacted tenant(s) to engage with property owner.

Supervisor Mandelman introduced a separate piece of legislation under Board File 210699, which is scheduled to appear before the Planning Commission on September 9, 2021. This Ordinance requires that all Local ADU Program applicants submit a declaration to the Rent Board with a written description of housing services that are located where the ADU(s) are proposed; whether ADU construction would result in severance, reduction, or removal of housing services; and the just cause for the aforementioned. Tenants would have the opportunity to contest the information provided in the declaration and petition the Rent Board for a written determination verifying the presence and defining characteristics of the housing service(s) in question. If no petition is filed, the Rent Board would have 30 days to transmit the declaration to Planning Department. If a petition is filed, the Rent Board would have 90 days to transmit the declaration and their written determination to the Planning Department. The Planning Department would not be able to approve an ADU under the Local Program if either 1) the Rent Board declaration is missing or 2) the Rent Board declaration indicates that the ADU construction would result in severance, reduction, or removal of housing services without just cause.

Timeline for Review

Since the launch of the initial ADU program, the Planning Department has improved efforts to more effectively and efficiently review ADU permits. To help facilitate review, the Planning Department has created a team of ADU specialists. Effective August 2018, Planning established an ADU counter with dedicated staff at the DBI permit center. Due to COVDI-19 related impacts, this physical counter has transitioned into electronic format and dedicated ADU planners are available for virtual appointments or via email.

The Planning Department has also collaborated more with other City agencies involved in the review of ADUs and introduced parallel review efforts. One of the biggest time-savings has been the "Roundtable" review where different City agencies meet and review ADU permits together. This allows the City to discuss any conflicting policies and provide applicants with consolidated comments. Additionally, staff review and this "Roundtable" have shifted to an electronic format during the COVID-19 pandemic to ensure the review timeframes are still met.

Beginning November 2020, the Planning Department took on the role of accepting and issuing all new ADU permits to temporarily assist DBI during the COVID-19 pandemic. This effort has led to truly concurrent review and numerous process improvements.

The State law (Senate Bill 1069), effective January 1, 2017, required jurisdictions to complete approval of Code-complying ADUs in single-family homes within 120 days. The proposed Ordinance requires jurisdictions to act on these ministerial ADU permits within 60 days of receipt of a complete application. The Department is unable to estimate how many or what percentage of ADU permits would trigger this new timeline; however, there has been much public and applicant interest in this Ordinance. That said, the Department will continue to refine internal review processes and work with other City agencies to ensure the new 60-day review timeframe is met.

General Plan Compliance

The General Plan identifies ADUs as an effective and inexpensive way to increase the housing supply. The Ordinance retains existing housing units and prioritizes permanently affordable housing. Additionally, the proposed amendments would expand the ADU program providing more opportunities to add to the housing stock.

Racial and Social Equity Analysis

The Planning Code amendments in the proposed Ordinance help clarify and provide more options to add ministerial ADUs. The ADU program provides a quicker, and often more financially feasible path for property owners to add to the housing stock and different types of housing. The proposed Ordinance includes a JADU, which requires an efficiency kitchen. This provides more options for multi-generational households, which is often found in communities of color, and allows seniors to age in place more easily within their same community and household. ADUs also help advance racial and social equity by allowing for more affordable dwellings due to their smaller sizes. Even if ADUs are less costly due to smaller square footages, ADUs are not typically rented at very low- or low-income AMI levels so there is still an affordability issue.

ADUs are permitted both within existing and new construction buildings. Naturally, adding ADUs within existing structures is much cheaper than new construction projects. However, households with lower incomes pursuing ADUs may experience disproportionate costs in general. The same permit and construction costs may require a much larger percentage of their income compared to moderate-income households. This may be a barrier for lower-income households to pursue ADUs, in which case they do not benefit from the ADU program or the proposed Ordinance. One consideration to help alleviate such financial burden may include a permit or fee waiver for low-income households. Supervisor Mar launched a pilot program in District 4 in September 2020 to provide professional services to 25 qualifying households interested in adding ADU(s) on their property using grant monies awarded by the State. The pilot program's goals include 1) providing services to lower-income households that otherwise would not be able to afford to hire an architect/developer and 2) to better understand what barriers lower-income households encounter when pursuing an ADU. If successful, the Department recommends the pilot program be modified and expanded to benefit the entire city, pending funding availability.

Implementation

The Department has determined that this Ordinance will impact our current implementation procedures in that State-Mandated ADUs will be subject to a 60-day review timeframe. This is half the time prescribed in Mayoral Directive No. 17-02 which required ADUs be acted upon within 120 days of receipt of a complete application. The Department already collaborates with other City agencies for ADU review. Below includes a list of changes and other measures the Department will take to help achieve the 60-day timeframe:

- This 60-day timeframe is more feasible for State Program ADUs, which requires less review time since staff would review the ADU based on the strict State law requirements, rather than for full Planning Code compliance.

- The City's fully concurrent electronic review allows all required Agencies to review ADU applications for completeness at the same time. This will help ensure the 60-day time clock only starts when we have all the required information.

- Today, staff issues the 30-day notice during the 120-day review timeframe for all single-family dwellings. For single-family dwellings with tenants, outreach and noticing would be required before submitting an application. This helps inform the tenant earlier, but also removes that noticing period from the 60-day clock.

Recommendation

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department supports the proposed Ordinance because it supports the Housing Element's goals to ensure adequate housing for current and future San Franciscans. Specifically, the Ordinance increases the potential for Accessory Dwelling Units by bringing the Planning Code into compliance with State law. These changes are

significant and far reaching as is, and before more relaxed controls are considered staff recommends only adopting what State law requires and then refining later after we can assess the program.

Update on Forthcoming Amendments

The Department is working on future legislation that would serve two primary purposes:

1. Reorganize the ADU Planning Code subsections. The ADU code subsection is currently housed within Planning Code Section 207, Dwelling Unit Density Limits. The ADU Programs have evolved tremendously since the original pilot program in the Castro. The goal is to take the ADU Program language within Section 207 and move it to its own section, like other density bonus programs such as HOME-SF. This move will make the ADU Programs section easier to read, understand, and use.

2. Incentivize the Local ADU Program. Recent changes to State law have been difficult to apply to San Francisco, which has a unique urban fabric compared to the rest of the State. In some cases, the height and building envelope permitted under State law do not match the neighborhood context, but the City has no choice but to approve if compliant with State law. Additionally, there is the concern that ADUs proposed under the State and Hybrid ADU Programs will not result in a Rent Control unit for the City. The Department is crafting ways to make it easier to apply for and more appealing to pursue an ADU under the Local Program.

The Department will continue working on this legislation with a goal to have it ready to be Initiated at Planning Commission during the 2021-2022 fiscal year.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

Exhibit A: Draft Historic Preservation Commission Resolution
Exhibit B: Board of Supervisors File No. 210585

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EXHIBIT A

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

HISTORIC PRESERVATION COMMISSION DRAFT RESOLUTION

HEARING DATE: September 1, 2021

Project Name:	State-Mandated Accessory Dwelling Unit Controls
Case Number:	2021-006260PCA [Board File No. 210585]
Initiated by:	Mayor Breed / Introduced June 8, 2021
Staff Contact:	Veronica Flores, Legislative Affairs veronica.flores@sfgov.org, (628) 652-7525
Reviewed by:	Aaron D Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO CLARIFY THE MINISTERIAL APPROVAL PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS 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.

WHEREAS, on June 8, 2021 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 210585, which would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units meeting certain requirements in single-family and multifamily buildings;

WHEREAS, the Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 1, 2021; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

WHEREAS, the Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Commission hereby approves the proposed ordinance.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that the proposed Ordinance supports the Housing Element's goals to ensure adequate housing for current and future San Franciscans by increasing the potential for new Accessory Dwelling Units.

2. The Commission finds that the proposed Ordinance will help align the Planning Code with the State Law.

3. The Commission finds that the proposed Ordinance will further streamline the ADU review process and clarify current processes. Such changes will make the City's ADU program more effective and flexible.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.5
Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.

OBJECTIVE 3
PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.4
Preserve "naturally affordable" housing types, such as smaller and older ownership units.

The proposed Ordinance retains existing housing units and prioritizes permanently affordable housing. Additionally, the proposed amendments would expand the ADU program and make the addition of ADU's more feasible.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

   The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

   The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

   The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

   The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

   The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an

earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved.

   The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 1, 2021

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: September 1, 2021

[Planning Code - State-Mandated Accessory Dwelling Unit Controls]

Ordinance amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units 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.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 210585 and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons stated in Planning Commission Resolution No. _____.

Section 2. The Planning Code is hereby amended by revising Sections 102, 207, 1005, and 1110, to read as follows:

SEC. 102. DEFINITIONS.

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Dwelling Unit, Accessory, *or ADU*. Also known as a Secondary Unit or In-Law Unit, is a Dwelling Unit that *meets all the requirements of subsection 207(c)(4) or subsection 207(c)(6) and that is accessory to at least one other Dwelling Unit on the same lot~~is constructed either entirely within the existing built envelope, the "living area" as defined in State law, or the buildable area of an existing or proposed building in areas that allow residential use; or is constructed within the existing built envelope of an existing and authorized auxiliary structure on the same lot~~. A detached ADU shall not share structural walls with either the primary structure or any other structure on the lot. Height for detached ADUs located outside the buildable area shall be measured from existing grade at any given point to either a) the highest point of a finished roof in the case of a flat roof or b) the average height of a pitched roof or stepped roof, or similarly sculptured roof form.*

Dwelling Unit, Junior Accessory, or JADU. *A Dwelling Unit that meets all the requirements of subsection 207(c)(6), and that:*

(a) is accessory to at least one other Dwelling Unit on the same lot;

(b) is no more than 500 square feet of Gross Floor Area;

(c) is contained entirely within an existing or proposed single-family structure;

(d) may include separate sanitation facilities, or may share sanitation facilities with the existing structure;

(e) is owner-occupied, unless the owner resides in the remaining portion of the structure;

(f) includes an entrance to the Junior Accessory Dwelling Unit that is separate from the main entrance to the proposed or existing single-family structure; and

(g) includes an efficiency kitchen that meets the requirements of Government Code Section 65852.22(a)(6), including a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling Unit.

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SEC. 207. DWELLING UNIT DENSITY LIMITS.

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(c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations under this Section 207 shall be made in the following circumstances:

* * * *

(4) ***Accessory Dwelling Units – Local*** ~~***Accessory Dwelling Unit***~~ **Program**; **Accessory Dwelling Units in Multifamily Buildings** ***and***~~**:**~~ **Accessory Dwelling Units in Single-Family Homes That Do Not Strictly Meet the Requirements in subsection (c)(6).**

(A) **Definition.** An "Accessory Dwelling Unit" (ADU) is defined in Section 102.

(B) **Applicability.** This subsection (c)(4) shall apply to the construction of ~~*Accessory Dwelling Units*~~*ADUs* on all lots located within the City and County of San Francisco

in areas that allow residential use, except ~~*that construction of an Accessory Dwelling Unit is*~~*ADUs* regulated by subsection (c)(6)*) below.*~~*, and not this subsection (c)(4), if all of the following circumstances exist:*~~

~~*(i) only one ADU will be constructed;*~~

~~*(ii) the ADU will be located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed single-family dwelling;*~~

~~*(iii) the ADU is either attached to or will be constructed entirely within the "living area" (as defined in subsection (c)(6)(B)(iii)) or the buildable area of an the proposed or existing primary dwelling single-family home, or constructed within the built envelope of an existing and authorized auxiliary structure on the same lot; provided, however, that (A) when a stand-alone garage, storage structure, or other auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the stand-alone garage, storage structure, or other auxiliary structure is in the required rear yard and (B) on a corner lot, a legal stand-alone nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.*~~

~~*(iv) the ADU will strictly meet the requirements set forth in subsection (c)(6) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G); and*~~

~~*(v) the permit application does not include seismic upgrade work pursuant to subsection (c)(4)(F).*~~

(C) **Controls on Construction.** An ~~*Accessory Dwelling Unit*~~*ADU* regulated by this subsection (c)(4) is permitted to be constructed in an existing or proposed building under the following conditions:

(i) For lots that have four existing Dwelling Units or fewer, or where the zoning would permit the construction of four or fewer Dwelling Units, one ADU is

permitted.~~;~~ ~~F~~for lots that have more than four existing Dwelling Units or are undergoing seismic retrofitting under subsection (c)(4)(F) below, or where the zoning would permit the construction of more than four Dwelling Units, there is no limit on the number of ADUs permitted, *as long as all other health and safety requirements are met.*~~; provided,~~

(ii) ~~however, that t~~The Department shall not approve an application for construction of an *ADU*~~Accessory Dwelling Unit in any building regulated by this subsection (c)(4)~~ where a tenant *on the lot was*~~has been~~ evicted pursuant to Administrative Code Sections 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the application for a building permit to construct the ADU, or where a tenant ~~has been~~*was* evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the application for a building permit to construct the ADU. This provision shall not apply if the tenant was evicted under Section 37.9(a)(11) or 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Department and to the Rent Board a declaration from the property owner or the tenant certifying that the property owner notified the tenant of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.

(ii*i*) Except as provided in subsections (iv~~ii~~) and (~~i~~v) below, an ~~Accessory Dwelling Unit~~*ADU* shall be constructed *a.* entirely within the buildable area of an existing lot, provided that the ADU does not exceed the existing height of ~~an existing~~*the* building *in which it is constructed*, or *b.* within the built envelope of an existing and authorized ~~stand-alone~~*detached* garage, storage structure, or other ~~auxiliary~~*detached* structure on the same lot~~, as the built envelope existed three years prior to the time the application was filed for a building permit to construct the ADU~~. *For purposes of this subsection 207(c)(4), a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot.*

For purposes of this ~~*provision*~~*subsection 207(c)(4)(C)(iii)*, the "built envelope" shall include the open area under a*n existing and authorized* cantilevered room or room built on columns; decks, except for decks that are supported by columns or walls other than the building wall to which they are attached and are multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be against a blank neighboring wall at the property line and not visible from any off-site location; as these spaces exist as of July 11, 2016.~~.~~ An ADU constructed entirely within the existing built envelope, as defined in this subsection *207(c)(4)(C)*(ii*i*), along with permitted obstructions allowed in Section 136(c)(32), of an existing building or authorized ~~*auxiliary*~~*detached* structure on the same lot, or where an existing ~~*stand-alone*~~*detached* garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code unless the existing building or authorized ~~*auxiliary*~~*detached* structure on the same lot *is an Article 10 or Article 11 individual landmark or* is in an Article 10 or Article 11 District, in which case the notification requirements will apply. If an ADU will be constructed under a cantilevered room or deck that encroaches into the required rear yard, a pre-application meeting between the applicant and adjacent neighbors for all the proposed work is required before the application may be submitted.

(i*v*~~*ii*~~) When a ~~*stand-alone*~~*detached* garage, storage, or other structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the ~~*stand-alone*~~*detached* garage, storage structure, or other auxiliary structure is in the required rear yard.

(~~*i*~~v) On a corner lot, a legal ~~*stand-alone*~~*detached* nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.

(*vi*) *ADUs shall comply with any applicable controls in Planning Code Section 134(f).*

(v*ii*) An ~~*Accessory Dwelling Unit*~~*ADU* shall not be constructed using space from an existing Dwelling Unit, except that an ADU may expand into habitable space on the ground or basement floors provided that it does not exceed 25% of the *total* gross square footage of such space *on the ground and basement floors*. The Zoning Administrator may waive this 25% limitation if (a) the resulting space would not be usable or would be impractical to use for other reasonable uses, includ~~*ed*~~*ing*, but not limited to, storage or bicycle parking or (b) waiving the limitation would help relieve any negative layout issues for the proposed ADU.

(vi*ii*) An existing building undergoing seismic retrofitting may be eligible for a height increase pursuant to subsection (c)(4)(F) below.

(~~*vii*~~*x*) Notwithstanding any other provision of this Code, an ~~*Accessory Dwelling Unit*~~*ADU* authorized under this Section 207(c)(4) may not be merged with an original unit(s).

(*x*~~*viii*~~) An ~~*Accessory Dwelling Unit*~~*ADU* shall not be permitted in any building in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would eliminate or reduce a ground-story retail ~~*or commercial*~~ space.

(xi) An application for a permit to construct an ADU in a proposed building pursuant to this subsection 207(c)(4)(C) shall not be subject to the notification requirements of Section 311 of this Code. The application for a permit to construct the proposed building shall be subject to any applicable notification requirements of Section 311 of this Code.

(D) **Prohibition of Short-Term Rentals**. An ~~*Accessory Dwelling Unit*~~*ADU* shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code, which restriction shall be recorded as a Notice of Special Restriction on the subject lot.

(E) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ~~*Accessory Dwelling Unit*~~*ADU* authorized under this Section 207(c)(4) shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership.~~*; provided, however, that t*~~*T*his prohibition on separate sale or finance of the ADU shall not apply to *an ADU in* a building that ~~*(i) within three years prior to July 11, 2016 was an existing*~~*consisted entirely of* condominium ~~*with no Rental Unit as defined in Section 37.2(r) of the Administrative Code*~~*units as of July 11, 2013*, and ~~*(ii)*~~ has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the Administrative Code ~~*within 10 years prior to*~~*since* July 11, ~~*201*~~*199*6. *This prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.*

(F) **Buildings Undergoing Seismic Retrofitting.** For ~~*Accessory Dwelling Units*~~*ADUs* on lots with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the following additional provision applies: If allowed by the Building Code, a building in which an ~~*Accessory Dwelling Unit*~~*ADU* is constructed may be raised up to three feet to create ground floor ceiling heights suitable for residential use. Such a raise in height

(i) Shall be exempt from the notification requirements of Section 311 of this Code; and

(ii) May expand a noncomplying structure, as defined in Section 180(a)(2) of this Code and further regulated in Sections 172, 180, and 188, without obtaining a variance for increasing the discrepancy between existing conditions on the lot and the required standards of this Code.

(iii) On lots where an ADU is added in coordination with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the building and the new ADU shall maintain any eligibility to enter the condo-conversion lottery and may only be subdivided if the entire property is selected on the condo-conversion lottery.

(iv) Pursuant to subsection (4)(C)(i), there is no limit on the number of ADUs that are permitted to be added in connection with a seismic retrofit*, as long as all health and safety requirements are met*.

(G) **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant ~~*an Accessory Dwelling Unit*~~ a complete or partial waiver of the density limits and bicycle parking, rear yard, exposure, or open space standards of this Code *for ADUs constructed within an existing building, and may grant a waiver of the density limits of this Code for ADUs constructed within a proposed building*. If the Zoning Administrator grants a complete or partial waiver of the requirements of this Code and the subject lot contains any Rental Units at the time an application for a building permit is filed for construction of the ~~*Accessory Dwelling Unit*~~*ADU*(s), the property owner(s) shall enter into a Regulatory Agreement with the City under subsection (c)(4)(H) subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.

(H) **Regulatory Agreements.** A Regulatory Agreement required by subsection (c)(4)(G) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

(i) a statement that the ADU(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in consideration for a complete or partial waiver of the density limits, and/or bicycle parking, rear yard, exposure, or open space standards of this Code or other direct financial contribution or other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement"); and

(ii) a description of the complete or partial waiver of Code requirements granted by the Zoning Administrator or other direct financial contribution or form of assistance provided to the property owner; and

(iii) a description of the remedies for breach of the Agreement and other provisions to ensure implementation and compliance with the Agreement.

(iv) The property owner and the Planning Director (or the Director's designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The Agreement shall be executed prior to the City's issuance of the First Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building Code.

(v) Following execution of the Regulatory Agreement by all parties and approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded against the property and shall be binding on all future owners and successors in interest.

Any Regulatory Agreement entered into under this Section 207(c)(4) shall not preclude a landlord from establishing the initial rental rate pursuant to Section 1954.53 of the Costa Hawkins Rental Housing Act.

(l) **Monitoring Program.**

(i) **Monitoring and Enforcement of Unit Affordability.** The Department shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized to be constructed by this subsection 207(c)(4) and shall use such data to enforce the requirements of the Regulatory Agreements entered into pursuant to subsection (c)(4)(H). Property owners shall provide the Department with rent information as requested by the Department. The Board of Supervisors recognizes that property owners and tenants generally consider rental information sensitive and do not want it publicly disclosed. The intent of the Board is for the Department to obtain the information for purposes of monitoring and enforcement but that its public disclosure is not linked to specific individuals or units. The Department shall consult with the City Attorney's Office with respect to the legal requirements to determine how best to achieve the intent of the Board.

(ii) **Monitoring of Prohibition on Use as Short Term Rentals.** The Department shall collect data on the use of ~~*Accessory Dwelling Units*~~*ADUs* authorized to be constructed by this subsection (c)(4) as Short-Term Residential Rentals, as that term is defined in Administrative Code Section 41A.4, and shall use such data to evaluate and enforce Notices of Special Restriction pursuant to subsection 207(c)(4)(D) and the requirements of Administrative Code Chapter 41A.

(iii) **Department Report.** *As part of the annual Housing Inventory, t*~~T~~he Department shall ~~*publish a*~~ report ~~*annually until April 1, 2019, that describes and evaluates*~~ the types of units being developed *pursuant to this subsection 207(c)(4),* ~~*and*~~ their affordability rates, ~~*as well as*~~ their use as Short-Term Residential Rentals, *and*~~*. The report shall contain*~~ such additional information as the Director or the Board of Supervisors determines would inform decision makers and the public on the effectiveness and implementation of this subsection *207*(c)(4), and *shall* include recommendations for any amendments to the requirements of this Section 207(c)(4).~~ *The Department shall transmit this report to the Board of Supervisors for its*

~~*review and public input. In subsequent years, this information on Accessory Dwelling Units shall be reported annually in the Housing Inventory.*~~

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(6) ***Accessory Dwelling Units -*** **State Mandated ~~*Accessory Dwelling Unit*~~ Program: Accessory Dwelling Units in Existing or Proposed ~~*Single-Family Homes*~~*Dwellings* or in a Detached ~~*Auxiliary*~~ Structure on the Same Lot.**

(A) **Applicability.** This subsection *207*(c)(6) shall apply to the construction of ~~*Accessory Dwelling Units*~~*ADUs and Junior Accessory Dwelling Units ("JADUs")* (as defined in Section 102) in existing or proposed ~~*single-family homes*~~*dwellings*, or in a detached ~~*auxiliary*~~ structure on the same lot, if the ADU meets the *applicable* requirements of this subsection*207(c)(6)*. An ADU constructed pursuant to this subsection is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding ~~*one*~~*an* ADU *or JADU in compliance with this subsection 207(c)(6)* ~~*to an existing or proposed single-family home or in a detached auxiliary structure on the same lot*~~ does not exceed the allowable density for the lot. *Unless otherwise specified, for purposes of this subsection 207(c)(6), a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot.* If construction of the ADU will not meet the requirements of this subsection ~~*and the ADU cannot be constructed without a waiver of Code requirements pursuant to subsection (c)(4)(G)*~~, the ADU is regulated pursuant to subsection *207*(c)(4) and not this subsection *207*(c)(6).

(B) ~~***Lots Zoned for Single-Family or Multifamily Use and Containing an Existing or Proposed Single-Family Home; ***~~***General*** **Controls on Construction.** An ~~*Accessory Dwelling Unit located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed single-family dwelling and*~~*ADU* constructed pursuant to this subsection (c)(6) shall meet all of the following:

~~*(i) The ADU will strictly meet the requirements set forth in this subsection (c)(6)(B) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G).*~~

~~*(ii) The permit application does not include seismic upgrade work pursuant to subsection (c)(4)(F).*~~

~~*(iii) Only one ADU will be constructed that is either attached to or will be constructed entirely within the "living area" (as defined in subsection (c)(6)(B)(iii)) or within the buildable area of the proposed or existing primary dwelling or, except as provided by subsections (B)(x) and (xi) below, within the built envelope of an existing and authorized auxiliary structure on the same lot. "Living area" means (as defined in Section 65852.2(i)(1) of the California Government Code) "the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory structure."*~~

(i~~v~~) The ADU must have independent exterior access from the existing or proposed primary dwelling or existing accessory structure, and side and rear setbacks sufficient for fire safety.

(*ii*~~v~~) For projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU *or JADU* shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter.

~~*(vi) The Department shall apply any design guidelines in the Code to the proposed project and review the design of the proposed project to ensure architectural compatibility with existing buildings on the subject lot.*~~

~~*(vii) No setback is required for an existing garage that is converted to an ADU.*~~

(~~v~~iii) All applicable requirements of San Francisco's health and safety codes shall apply, including but not limited to the Building and Fire Codes.

(*iv*~~ix~~) No parking is required for the ADU. ~~*If existing parking is demolished in order to construct the ADU, only the parking space required by this Code for the existing single-family home must be replaced, except that no replacement parking is required for An ADU approved pursuant to subsection 207(c)(6)(D). If replacement parking is required, it may be located in any configuration on the lot including but not limited to covered, uncovered, or tandem space or by the use of mechanical automobile parking lifts.*~~

~~*(x) When a stand-alone garage, storage, or other auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the stand-alone garage, storage structure, or other auxiliary structure is in the required required rear yard.*~~

~~*(xi) On a corner lot, a legal stand-alone nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.*~~

~~*(x) When the ADU involves expansion of the built envelope of an existing primary dwelling, or an expansion of the built envelope of an existing and authorized stand-alone garage, storage structure, or other auxiliary structure on the same lot, or the construction of a new detached auxiliary structure on the same lot, the total floor area of the ADU shall not exceed 1,200 square feet.*~~

~~*(C) **Permit Application Review and Approval.** The Department shall approve an application for a permit to construct an Accessory Dwelling Unit within 120 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in subsection (c)(6)(B). No requests for discretionary review shall be accepted by the Planning Department for permit applications meeting the requirements of this*~~

~~*subsection (c)(6). The Planning Commission shall not hold a public hearing for discretionary review of permit applications meeting the requirements of this subsection (c)(6). Permit applications meeting the requirements of this subsection (c)(6) shall not be subject to the notification or review requirements of Section 311 of this Code.*~~

~~*(D) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the Department under this subsection (c)(6) shall be as set forth in Section 8 of the Business and Tax Regulations Code.*~~

~~*(E) **Prohibition of Short-Term Rentals.** An Accessory Dwelling Unit authorized under this subsection (c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject lot.*~~

~~*(F) **Rental; Restrictions on Subdivisions.***~~

~~*(i) An ADU constructed pursuant to this subsection (c)(6) may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).*~~

~~*(ii) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an Accessory Dwelling Unit authorized under this subsection (c)(6) shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership.*~~

~~*(G) **Department Report.** In the report required by subsection (c)(4)(I)(iii), the Department shall include a description and evaluation of the number and types of units being developed pursuant to this subsection (c)(6), their affordability rates, and such other information as the Director or the Board of Supervisors determines would inform decision makers and the public.*~~

~~*(H) **Notification.** Upon determination that an application is in compliance with the standards of subsection 207(c)(6) of the Planning Code, the Planning Department shall cause a notice*~~

~~*to be posted on the site pursuant to rules established by the Zoning Administrator and shall cause a written notice describing the proposed project to be sent in the manner described below. This notice shall be in addition to any notices required by the Building Code and shall have a format and content determined by the Zoning Administrator. This notice shall include a description of the proposal compared to any existing improvements on the site with dimensions of the basic features, elevations and site plan of the proposed project including the position of any adjacent buildings, exterior dimensions and finishes, and a graphic reference scale, existing and proposed uses or commercial or institutional business name, if known. The notice shall describe the project review process and shall set forth the mailing date of the notice.*~~

~~*(i) Written notice shall be mailed to the project sponsor and tenants of the subject property. Written notice shall also be mailed to tenants of the subject property in unauthorized residential units.*~~

~~*(ii) The notification package for a project subject to notice under this subsection 207(c)(6) shall include a written notice and reduced-size drawings of the project. The written notice shall compare the proposed project to the existing conditions at the development lot. Change to basic features of the project that are quantifiable shall be disclosed on the written notice. The basic features of existing and proposed conditions shall include, where applicable, front setback, building depth, rear yard, depth side, setbacks, building height, number of stories, dwelling unit count and use of the building.*~~

~~*(iii) The written notice shall describe whether the project is a demolition, new construction or alteration project. If the project is an alteration, the type of alteration shall be described: horizontal, vertical, or both horizontal and vertical additions, and where the alteration is located.*~~

~~*(iv) A written project description shall be part of the notice. In addition, the notice shall describe the project review process, information on how to obtain additional information, and the contact information of the Planning Department.*~~

~~*(v) The building permit application number(s) shall be disclosed in the written notice.*~~

~~*(vi) 11x17 sized or equivalent drawings to scale shall be included with the written notice. The drawings shall illustrate the existing and proposed conditions in relationship to the adjacent properties. All dimensions and text throughout the drawings shall be legible. The drawings shall include a site plan, floor plans, and elevations documenting dimensional changes that correspond to the basic features included in the written notice. The existing and proposed site plan shall illustrate the project including the full lots and structures of the directly adjacent properties. The existing and proposed floor plans shall illustrate the location and removal of interior and exterior walls. The use of each room shall be labeled. Significant dimensions shall be provided to document the change proposed by the project. The existing and proposed elevations shall document the change in building volume: height and depth. Dimensional changes shall be documented, including overall building height and also parapets, penthouses, and other proposed vertical and horizontal building extensions. The front and rear elevations shall include the full profiles of the adjacent structures including the adjacent structures' doors, windows, and general massing. Each side elevation shall include the full profile of the adjacent building in the foreground of the project, and the adjacent windows, lightwells and general massing shall be illustrated.*~~

~~*(vii) **Language Access.** All forms of public notice provided pursuant to this subsection 207(c)(6)(H) shall comply with the requirements of the Language Access Ordinance, Chapter 91 of the Administrative Code, to provide vital information about the Planning Department's services or programs in the languages spoken by a Substantial Number of Limited English Speaking Persons, as defined in Chapter 91. The notices required by this subsection 207(c)(6)(H) shall contain*~~

~~*the information set forth in subsection 207(c)(6)(h)(ii)-(v) in the languages spoken by a Substantial Number of Limited English Speaking Persons, as defined in Administrative Code Chapter 91.*~~

~~*(viii) **Online Notice.** For 30 calendar days, on a publicly accessible website that is maintained by the Planning Department, the Planning Department shall provide a digital copy formatted to print on 11 x 17 inch paper of the posted notice, including the contents set forth in subsection 207(c)(6)(h)(ii)-(v) for the application; and digital copies of any architectural and/or site plans that are scaled and formatted to print on 11 x 17 inch paper, are consistent with Plan Submittal Guidelines maintained and published by the Planning Department, and that describe and compare, at a minimum, the existing and proposed conditions at the subject property, the existing and proposed conditions in relationship to adjacent properties, and that may include a site plan, floor plans, and elevations documenting dimensional changes required to describe the proposal.*~~

*(C) **Specific Controls for Ministerial ADUs.** The purpose of this subsection 207(c)(6)(C) is to implement California Government Code Sections 65852.2(e) and 65852.22, which requires ministerial consideration of ADUs and JADUs that meet certain standards ("Ministerial ADUs"). ADUs and JADUs shall strictly meet the requirements set forth in this subsection (c)(6)(C) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G). The City shall approve ADUs and JADUs meeting the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards:*

(i) ADUs and JADUs within proposed space of a proposed single-family dwelling or within existing space of a single-family dwelling or accessory structure meeting the following conditions:

a. The lot on which the ADU or JADU is proposed contains an existing or proposed single-family dwelling.

b. Only one ADU and one JADU is permitted per lot.

c. Each proposed ADU and JADU includes an entrance that is separate from the entrance to the existing or proposed dwelling.

d. Side and rear setbacks will be sufficient for fire safety.

e. If an ADU is proposed, it will be within the existing space of a single-family dwelling or accessory structure, or within the space of a proposed single-family dwelling, or it will require an addition of no more than 150 square feet to an existing accessory structure to accommodate ingress and egress.

f. If a JADU is proposed, it meets the requirements of California Government Code Section 65852.22.

(ii) Detached, new construction ADUs on lot containing a proposed or existing single-family dwelling meeting the following conditions:

a. The lot on which the detached ADU is proposed contains an existing or proposed single-family dwelling.

b. The lot on which the ADU is proposed does not contain another ADU, but may contain a JADU.

c. The proposed ADU is detached from the single-family dwelling and any other structure.

d. The proposed ADU is new construction.

e. The proposed ADU is located at least four feet from the side and rear lot lines, is no greater than 800 square feet in Gross Floor Area, and has a height no greater than sixteen feet.

(iii) ADUs within existing space of a multifamily dwelling meeting the following conditions:

a. The lot on which the ADU is proposed contains an existing multifamily dwelling.

b. The ADU is proposed within a portion of the multifamily dwelling structure that is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

c. The total number of ADUs within the dwelling structure would not exceed twenty-five percent of the existing number of primary dwelling units within the structure, provided that all multifamily dwelling structures shall be permitted to have at least one ADU pursuant to this subsection 207(c)(6)(C)(iii) if all other applicable standards are met.

(iv) ***Detached, new construction ADUs on lot containing multifamily dwelling meeting the following conditions:***

a. The lot on which the ADU is proposed contains an existing multifamily dwelling.

b. The proposed ADU is detached from the multifamily dwelling.

c. The proposed ADU is located at least four feet from the side and rear lot lines and has a height no greater than sixteen feet.

d. No more than two ADUs shall be permitted per lot pursuant to this subsection 207(c)(6)(C)(iv).

(D) ***Specific Controls for Streamlined ADUs.*** *The purpose of this subsection 207(c)(6)(D) is implement California Government Code Sections 65852.2(a) through (d), which requires streamlined, ministerial approval of ADUs meeting certain standards ("Streamlined ADUs"). An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling, and that is constructed pursuant to this subsection 207(c)(6)(D), shall meet all of the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards. Provided, however, that the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross*

Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this subsection 207(c)(6)(D) shall meet the following conditions:

(i) Only one ADU will be constructed.

(ii) The ADU will be located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling.

(iii) The lot on which the ADU is proposed does not contain another ADU or JADU.

(iv) The ADU is either a. attached to or will be constructed entirely within the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or an accessory structure on the same lot, or b. attached to or will be constructed entirely within a proposed or legally existing detached structure on the same lot, or c. detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(v) If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that provides one bedroom shall not exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 850 square feet, whichever is greater. If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that provides more than one bedroom shall not exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 1,000 square feet, whichever is greater.

(vi) The Gross Floor Area of a detached ADU that provides one bedroom shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides more than one bedroom shall not exceed 1,000 square feet.

*(vii) **Setbacks.** No setback is required for an ADU located within an existing living area or an existing accessory structure, or an ADU that replaces an existing structure and is located in the same location and constructed to the same dimensions as the structure being replaced. A setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is*

not converted from either an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, replacement of those offstreet parking spaces is not required.

(ix) The ADU shall not exceed a height of 16 feet.

(E) Notification requirements for ADUs on a lot containing a proposed or existing single-family dwelling. *Prior to submitting an application to construct an ADU or JADU on a lot containing a proposed or existing single-family dwelling under subsection 207(c)(6)(D), the property owner shall notify all tenants on the subject property of the application, including tenants of the subject property in unauthorized residential units. The property owner shall satisfy this notification requirement in one of the following two ways.*

(i) Comply with the requirements of the Building Code and applicable Department of Building Inspection screening forms, and submit a copy of any applicable Department of Building Inspection Screening forms to the Planning Department as part of the application to construct an ADU or JADU; or

(ii) Cause a notice describing the proposed project to be posted on the subject property for at least 15 days, cause a written notice describing the proposed project to be mailed to the tenants of the subject property, and submit proof of these notices to the Planning Department as part of the application to construct an ADU or JADU. These notices shall have a format and content determined by the Zoning Administrator, and shall generally describe the project, including the number and location of the proposed ADU and JADU. These notices shall describe how to obtain additional information regarding the project and provide contact information for the Planning Department that complies with the requirements of the Language Access Ordinance, Chapter 91 of the Administrative Code, to provide vital information about the Planning Department's services

or programs in the languages spoken by a Substantial Number of Limited English Speaking Persons, as defined in Chapter 91.

*(F) **Permit Application Review and Approval.** The City shall act on an application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in this subsection 207(c)(6). No requests for discretionary review shall be accepted by the Planning Department for permit applications meeting the requirements of this subsection 207(c)(6). The Planning Commission shall not hold a public hearing for discretionary review of permit applications meeting the requirements of this subsection 207(c)(6). Permit applications meeting the requirements of this subsection 207(c)(6) shall not be subject to the notification or review requirements of Section 311 of this Code.*

*(G) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the Department under this subsection 207(c)(6) shall be as set forth in Section 8 of the Business and Tax Regulations Code.*

*(H) **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this subsection 207(c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject lot.*

*(I) **Rental; Restrictions on Subdivisions.** The following restrictions shall be recorded as a Notice of Special Restriction on the subject lot on which an ADU or JADU is constructed under this subsection 207(c)(6) and shall be binding on all future owners and successors in interest**:***

(i) An ADU or JADU constructed pursuant to this subsection 207(c)(6) may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).

(ii) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU or JADU authorized under this subsection 207(c)(6) shall not be subdivided in a manner that would allow for the ADU or JADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership, except that this prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.

(iii) The size and attributes of a JADU constructed pursuant to this subsection 207(c)(6) shall comply with the requirements of this subsection 207(c)(6) and Government Code 65852.22.

*(J) **Department Report.** In addition to the information required by subsection 207(c)(4)(I)(iii), the annual Housing Inventory shall include a description and evaluation of the number and types of units being developed pursuant to this subsection (c)(6), their affordability rates, and such other information as the Director or the Board of Supervisors determines would inform decision makers and the public.*

*(K) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this subsection 207(c)(6), where the ADU or JADU is smaller than seven hundred and fifty square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit.*

* * * *

SEC. 1005. CONFORMITY AND PERMITS.

* * * *

(e) After receiving a permit application from the Central Permit Bureau in accordance with the preceding subsection, the Department shall ascertain whether a Certificate of Appropriateness is required or has been approved for the work proposed in such permit application. If a Certificate of Appropriateness is required and has been issued, and if the permit application conforms to the work approved in the Certificate of Appropriateness, the permit application shall be processed without further reference to this Article 10. If a Certificate of Appropriateness is required and has not been issued, or if the permit application does not conform to what was approved, the permit application shall be disapproved or held by the Department until such time as conformity does exist either through modifications to the proposed work or through the issuance of an amended or new Certificate of Appropriateness. Notwithstanding the foregoing, in the following cases the Department shall process the permit application without further reference to this Article 10:

* * * *

(9) When the application is for a permit to install a City-sponsored Landmark plaque to a landmark or district, provided that the improvements conform to the requirements outlined in Section 1006.6 of this Code~~.~~*; or*

(10) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of subsection 207(c)(6) of this Code.

* * * *

SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

* * * *

(g) Notwithstanding the foregoing, in the following cases the Department may process the permit application without further reference to this Article 11:

(1) When the application is for a permit for ordinary maintenance and repairs only. For the purpose of this Article 11, "ordinary maintenance and repairs" shall mean any work, the sole purpose and effect of which is to correct deterioration, decay or damage of existing materials, including repair of damage caused by fire or other disaster.

(2) When the application is for a permit to construct any new or replacement structures on a site where a Significant or Contributory Building has been lawfully demolished pursuant to this Code and the site is not within a designated Conservation District; or

(3) When the application is for a permit to make interior alterations only and does not constitute a demolition as defined in this Article, unless the Planning Department has determined that the proposed interior alterations may result in any visual or material impact to the exterior of the building or when the designating ordinance or applicable Appendix in this Article requires review of such interior alterations~~.~~*; or*

(4) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of subsection 207(c)(6) of this Code.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 5. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the California Government Code.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: /s/ Peter R. Miljanich
PETER R. MILJANICH
Deputy City Attorney

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San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

November 27, 2023

Mr. David Zisser
Assistant Deputy Director
Local Government Relations & Accountability
Housing Policy Development Division
California Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 552
Sacramento, CA 95833
via email to David.Zisser@hcd.ca.gov

Re: HCD Review of San Francisco's Accessory Dwelling Unit Ordinance No. 053-23

Dear Assistant Deputy Director Zisser,

Thank you for your October 26, 2023 transmittal of the California Department of Housing and Community Development's ("HCD") findings regarding San Francisco's accessory dwelling unit ("ADU") Ordinance No. 053-23. The purpose of this letter is to respond to those findings pursuant to California Government Code section 65852.2, subdivision (h)(2)(A). We appreciate your recognition of the City's local ADU approval program, and share HCD's goal of maximizing ADU production under the City's State-mandated ADU programs.

On September 28, 2023, the San Francisco Planning Commission recommended approval, with modifications, of a new proposed ADU ordinance contained in San Francisco Board of Supervisors File. No. 230310 (the "pending ADU ordinance"). That ordinance is now pending at the Land Use and Transportation Committee of the Board of Supervisors. HCD's October 26 letter requests nine amendments to the City's ADU ordinance. As explained further below, the pending ADU ordinance, if enacted with the modifications recommended by the Planning Commission, would address three of HCD's findings.

The Planning Department and Mayor Breed will seek additional amendments to the pending ADU ordinance to address HCD's remaining findings. Some of these additional amendments must be referred back to the City's Planning Commission under section 4.105 of the City's Charter and Planning Code section 302, subsection (d). We are confident that these anticipated changes to San Francisco's ADU approval process will conform the City's State-mandated ADU programs to State law requirements and further facilitate construction of this important type of housing. In the portion of this letter that follows, we restate HCD's findings and describe specifically how we propose to address each of them.

1. Section 102 – *Definitions / JADU* – The Ordinance defines a junior accessory dwelling unit (JADU) as a Dwelling Unit meeting the requirements of subsection 207(c)(6) and is "owner-occupied, unless the

owner resides in the remaining portion of the structure." Government Code section 65852.22, subdivision (a)(2), does not require owner-occupancy if the owner is another governmental agency, land trust, or housing organization. The Ordinance must be amended to reflect when owner-occupancy is not required.

Response. We will seek an amendment to the pending ADU ordinance to add an exception from the owner occupancy requirements in Government Code section 65852.22, subdivision (a)(2) into the Planning Code's definition of Junior ADU.

2. Section 136(c)(32) – *Lot Depth* – The Ordinance provides that if an ADU is proposed for a single-family home, the rear yard must be 25 percent of the lot depth but in no case less than 15 feet. Government Code section 65852.2, subdivision (c)(2)(C), prohibits any requirements on lot coverage that does not permit at least an 800 square-foot ADU with four-foot side and rear setbacks. The Ordinance must be amended to make clear an 800 square-foot ADU is allowed notwithstanding any limits on rear yard percentage or depth.

Response. Despite the language in question, the City does not currently enforce any lot depth requirements that do not permit at least an 800 square-foot ADU with four-foot side and rear setbacks, nor will it do so upon passage of the pending ADU ordinance. Nonetheless, we will seek a clarifying amendment to the pending ADU ordinance to be explicit that the 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.

3. Section 207(c)(6)(A) – *Applicability* – The Ordinance states, "If construction of the ADU will not meet the requirements of this subsection, the ADU is regulated pursuant to subsection 207(c)(4) and not this subsection 207(c)(6)." The programs presented here – the State Mandated Program and the Local Program – are not sufficiently distinct and do not appear to allow applicants to choose which route they would like to take regarding their ADU or JADU application. The State Mandated Program implements State ADU Law, which creates two paths. First, Government Code section 65852.2, subdivision (a)(3)(A), provides that "[a] permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing…." Second, Subdivision (e)(1) provides that "notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit" for ADUs meeting the requirements under (e)(1). The Local Program creates yet another path. The City must amend the Ordinance to make it clear that there are distinct and separate paths for the development of ADUs and to allow applicants, at their election, to participate in either the State Mandated Program or the Local Program. The City may not automatically transfer an application to Section 207 (c)(4) if the application does not meet the requirements of section 207 (c)(6).

Response. In addition to its Local ADU program, the City allows applicants to elect to participate in either of its two State-mandated ADU programs: the "Hybrid ADU" program, which implements Government Code section 65852.2, subdivision (e); and the "State ADU" program, which implements Government Code section 65852.2, subdivisions (a)-(d). The City does not require ADU permit applicants to participate in the Local ADU program, and does not automatically transfer permit applications from either of the State-mandated approval programs to the Local program. The City and the Planning Department maintain ADU-related websites that both identify all of the City's ADU programs and provide information to help applicants choose the most suitable approval

pathway for their ADU project.[1] The pending ADU ordinance, with the Planning Commission's recommended modifications, would further distinguish the City's State-Mandated ADU programs from the City's Local ADU program by relocating these programs to new, separate sections of the Planning Code and clarifying the text of the Code.

4. Section 207(c)(6)(B)(ii) – *Historic Designation* – The Ordinance states that "[f]or projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter." These standards under Government Code section 65852.2, subdivision (a)(1)(B), apply to ADUs permitted under section 65852.2, subdivisions (a)-(d); however, ADUs under section (c)(6) of the Ordinance apply to state mandated ADUs permitted under Government Code section 65852.2, subdivision (e). These historic designation standards must be moved to section 207(c)(4) of the Ordinance. Further, under Government Code section 65852.2, subdivision (a)(1)(B), only the California Register of Historic Resources may be used to restrict ADUs. Utilizing a local register of historic resources, or a special district, could preclude ADUs from being created in those areas. Therefore, the City must amend this section to remove the other restriction on special districts or significant lots and move these standards to section 207(c)(4) of the Ordinance.

Response. Government Code section 65852.2, subdivision (a)(1)(b)(i) broadly permits the City to impose objective architectural review standards on ADUs seeking approval under the City's State ADU program. This grant of authority is separate from, and in addition to, subdivision (a)(1(b)(i)'s authorization of local "standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources." Furthermore, Government Code section 65852.2, subdivision (e)(7) also broadly permits the City to impose objective standards, "including, but not limited to . . . historic standards" on ADUs under the City's Hybrid ADU program. State ADU law therefore authorizes the City to impose objective architectural review standards on ADUs seeking approval under either of the City's State-mandated programs. We will seek an amendment to the pending ADU ordinance to restate existing law that any architectural review standards adopted by the Historic Preservation Commission that are applicable to State-mandated ADUs must remain objective. We will also seek to add findings to the pending ADU ordinance to explain why the City's ADU controls comply with applicable requirements, pursuant to Government Code section 65852.2(h)(2)(B)(ii).

5. 207(c)(6)(C)(i)(b), (c)(6)(C)(ii)(b), 207(c)(6)(D)(i) and (c)(6)(D)(iii) – *Number of ADUs* – The Ordinance states that "[o]nly one ADU and one JADU is permitted per lot" in (c)(6)(C)(i)(b) and "[t]he lot on which the ADU is proposed does not contain another ADU, but may contain a JADU" in (c)(6)(C)(ii)(b). However, under Government Code section 65852.2, subdivision (e), which this section of the Ordinance is intended to implement, a residential lot may create a minimum of one ADU converted from existing space; one new construction, detached ADU under 800 square feet; and one JADU. Therefore, the City must amend these sections to allow for at least by-right units.

[1] For example, see https://sfplanning.org/accessory-dwelling-units and https://sf.gov/topics/accessory-dwelling-unit-adu. The Planning Department has prepared extensive materials to assist applicants seeking to construct an ADU, including a chart comparing the City's ADU programs, which may be found at https://sfplanning.org/sites/default/files/documents/adu/ADU_programs_comparison_chart.pdf.

Additionally, the Ordinance states that "[o]nly one ADU will be constructed" in (c)(6)(D)(i) and "[t]he lot on which the ADU is proposed does not contain another ADU or JADU" in (c)(6)(D)(iii). The Ordinance allows only one ADU per lot; however, units created within the proposed or existing space of a primary dwelling, or an existing accessory structure would be created pursuant to Government Code 65852.2, subdivision (e)(1)(A). Subdivision (e) allows for a combination of units to be created such that there may be up to three additional dwelling units. Therefore, the City must amend this section to remove this restriction.

Response. In order to comply with HCD's interpretation of Government Code section 65852.2, subdivision (e), we will seek amendments to the pending ADU ordinance to permit the construction of up to three ADUs that meet applicable requirements under the City's Hybrid ADU program.

6. 207(c)(6)(C)(ii)(e), (c)(6)(C)(iv)(c), & (c)(6)(D)(ix) – *Height Restrictions* – The Ordinance requires "a height no greater than sixteen feet." However, Government Code section 65852.2, subdivision (c)(2)(D), allows for a height of 16, 18, 20, or 25 feet, as applicable. The City must amend the Ordinance to comply with State ADU Law.

Response. To comply with the State ADU law requirements referenced in this finding, the Planning Commission recommended modifications to the pending ADU ordinance to increase height limits to 16, 18, 20, or 25 feet, as applicable.

7. 207(c)(6)(D) – *Subdivision (c)(2)(C) Restrictions* – The Ordinance states that "the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less…." However, Government Code section 65852.2, subdivision (c)(2)(C), is more comprehensive, stating that "a local agency shall not establish by ordinance…[a]ny requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." Imposing additional planning reviews or front setbacks which could preclude ADUs of 800 square feet or less would violate statute. Therefore, the City must amend this section to include these items.

Response. The City does not currently impose any zoning clearance, separate zoning review, or size requirements that do not permit construction of at least an 800 square foot ADU with four-foot side and rear setbacks, nor will it do so upon passage of the pending ADU ordinance. We will seek an amendment to the pending ADU ordinance to incorporate these additional restrictions on City authority into the text of the Planning Code.

8. 207(c)(6)(E)(ii) – *Notification* – The Ordinance states that prior to permit application, a property owner must "[c]ause a notice describing the proposed project to be posted on the subject property for at least 15 days…." However, Government Code section 65852.2, subdivision (a)(7), states that "[n]o other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use

permit under this subdivision." Requiring 15 days of notification prior to the submittal of an application for an ADU would cause an undue delay in the permitting process. Therefore, the City must remove this requirement.

Response. We will seek amendments to the pending ADU ordinance to remove this notification requirement for ADUs seeking approval under the City's State ADU approval pathway. Nonetheless, we note that Government Code section 65852.2, subdivision (e)(7) grants the City broad authority to impose objective standards, including reasonable notification requirements, on ADUs seeking approval under the City's Hybrid ADU approval pathway. To this end, we will also seek to add findings to the pending ADU ordinance to explain why the City's ADU controls comply with the applicable requirements, pursuant to Government Code section 65852.2(h)(2)(B)(ii).

9. 207(c)(6)(F) – *Review and Approval* – The Ordinance states that "[t]he City shall act on an application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in this subsection 207(c)(6)." However, "act on" is outdated language, and as of January 1, 2023, Government Code section 65852.2, subdivision (a)(3), states that "[t]he permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days…." (Emphasis added.) Therefore, the City must amend this language to comply with the updated State ADU Law.

Response. The pending ADU ordinance, with the Planning Commission's recommended modifications, would amend the Building Code to require the City to approve or deny a permit to construct an ADU or Junior ADU within 60 days from receipt of a complete application.

We look forward to continuing our collaboration with HCD to help achieve our shared goal of addressing the housing needs of the City and State.

Sincerely,

Rich Hillis
Director of Planning

CC (all electronic)
Mayor London Breed
Members of the Board of Supervisors
City Attorney David Chiu
Director Patrick O'Riordan, DBI
Neville Pereira, DBI
Lisa Gluckstein, Office of the Mayor
Judson True, Office of the Mayor
Tyler Galli, California Department of Housing and Community Development
Jamie Candelaria, California Department of Housing and Community Development

STATE ADU UPDATE

San Francisco Planning

Veronica Flores

March 2023

Land Use and Transportation Committee

STATE-MANDATED ADU BUCKETS

STATE

Allows only 1 ADU

Permitted in existing and proposed single-family or multi-family dwellings

Does not require Planning Code compliance

HYBRID

Allows at least 1 ADU, in some cases multiple

Permitted in existing and proposed single-family or existing multi-family dwellings

Most similar to status quo today and requires Planning Code compliance

STATE-MANDATED ADU BUCKETS

STATE

Allows only 1 ADU

Permitted in existing and proposed single-family or multi-family dwellings

Does not require Planning Code compliance

HYBRID

Allows at least 1 ADU, in some cases multiple

Permitted in existing and proposed single-family or existing multi-family dwellings

Most similar to status quo today and requires Planning Code compliance

JUNIOR ADU

A type of Ministerial ADU

JADU can convert up to 500 square feet of an existing or proposed single-family home into a JADU

ORDINANCE OVERVIEW

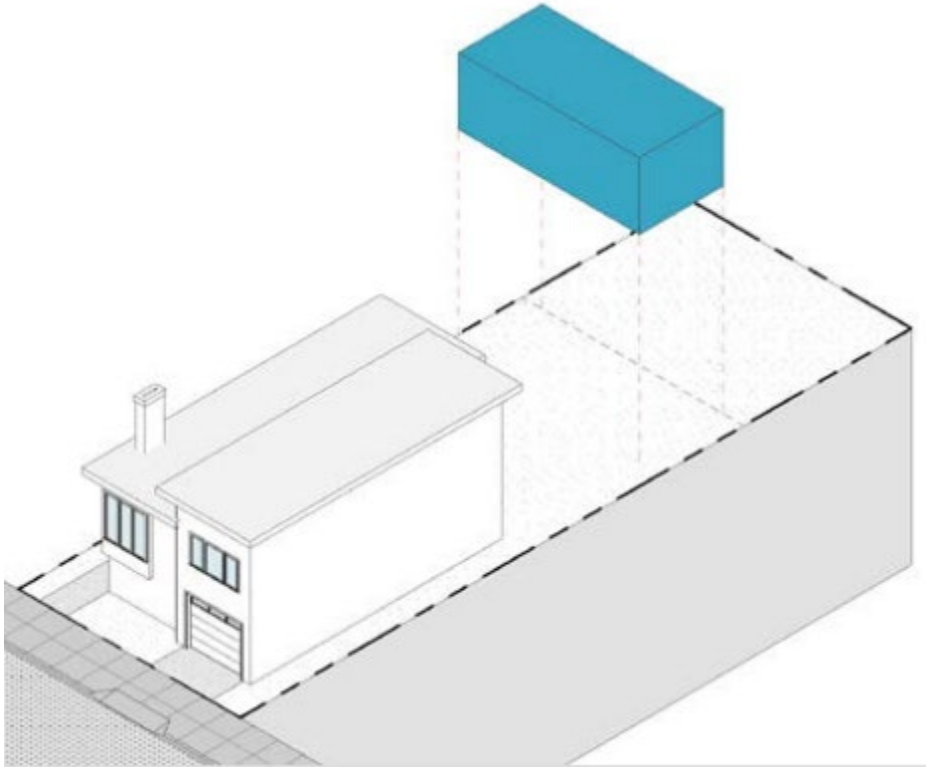
- Review timeframe would be 60 days (half of 120-day timeframe today)
- Articles 10 and 11 would explicitly exempt ADUs from Certificate of Appropriateness and Permit to Alter reviews
- Impact fees would be exempted or reduced
- Notice required for ADUs added to existing or proposed single-family homes would be removed and replaced with a notice prior to application submittal

CLARIFICATIONS TO AND CLEAN-UP FOR LOCAL ADU PROGRAM

- Waivers may only be granted for ADUs added to existing buildings. Only the density waiver may be granted for ADUs within new construction buildings.
- Clarify notice requirements are only required for new construction building itself, not for the ADU which is under a separate permit
- Detached ADUs located in the rear yard be measured from grade to either a) top of flat roof or b) mid-point of pitched roof

NEW CHANGE TO LOCAL ADU PROGRAM

- Allow one detached ADU in the rear yard under the Local ADU Program



San Francisco Planning

Veronica Flores
Senior Legislative Planner
San Francisco Planning

veronica.flores@sfgov.org
www.sfplanning.org

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: March 28, 2023

To: Planning Department / Commission

From: Erica Major, Clerk of the Land Use and Transportation Committee

Subject: Board of Supervisors Legislation Referral - File No. 230310
Planning Code - State-Mandated Accessory Dwelling Unit Controls

☒ California Environmental Quality Act (CEQA) Determination
(California Public Resources Code, Sections 21000 et seq.)
☒ Ordinance / Resolution
☐ Ballot Measure

CEQA clearance under Addendum No. 9 to the Final EIR, dated September 9, 2022 to the 2004 and 2009 Housing Element Final EIR certified 4/24/2014.

04/21/2023

☒ 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 Erica Major at Erica.Major@sfgov.org.

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

June 11, 2021

File No. 210585

Lisa Gibson
Environmental Review Officer
Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Dear Ms. Gibson:

On June 8, 2021, Mayor Breed submitted the following legislation:

File No. 210585

Ordinance amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units 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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

July 22, 2021 Joy Navarrete

FILE NO. 230742 RESOLUTION NO. 347-23

[Approval of a 180-Day Extension for Planning Commission Review of State-Mandated Accessory Dwelling Unit Controls (File No. 230310)]

Resolution extending by 180 days the prescribed time within which the Planning Commission may render its decision on an Ordinance (File No. 230310) amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings and to permit certain ADUs in the rear yard under the City's local, discretionary approval program; making findings under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

WHEREAS, On March 20, 2023, the Land Use and Transportation Committee duplicated this legislation from File No. 210585 amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings and to permit certain ADUs in the rear yard under the City's local, discretionary approval program; making findings under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.; and

WHEREAS, On or about April 3, 2023, the Clerk of the Board of Supervisors referred the proposed Ordinance to the Planning Commission; and

WHEREAS, The Planning Commission shall, in accordance with Planning Code, Section 306.4(d), render a decision on the proposed Ordinance within 90 days from the date of referral of the proposed amendment or modification by the Board to the Commission; and

WHEREAS, Failure of the Commission to act within 90 days shall be deemed to constitute disapproval; and

WHEREAS, The Board, in accordance with Planning Code, Section 306.4(d) may, by Resolution, extend the prescribed time within which the Planning Commission is to render its decision on proposed amendments to the Planning Code that the Board of Supervisors initiates; and

WHEREAS, Mayor Breed has requested additional time for the Planning Commission to review the proposed Ordinance; and

WHEREAS, The Board deems it appropriate in this instance to grant to the Planning Commission additional time to review the proposed Ordinance and render its decision; now, therefore, be it

RESOLVED, That by this Resolution, the Board hereby extends the prescribed time within which the Planning Commission may render its decision on the proposed Ordinance for approximately 180 additional days, until December 29, 2023.

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 230742 **Date Passed:** June 27, 2023

Resolution extending by 180 days the prescribed time within which the Planning Commission may render its decision on an Ordinance (File No. 230310) amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings and to permit certain ADUs in the rear yard under the City's local, discretionary approval program; making findings under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

June 27, 2023 Board of Supervisors - ADOPTED

Ayes: 10 - Chan, Dorsey, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton
Absent: 1 - Engardio

File No. 230742

I hereby certify that the foregoing Resolution was ADOPTED on 6/27/2023 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

7/6/23

Date Approved

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: February 7, 2024

To: Planning Department/Planning Commission

From: John Carroll, Assistant Clerk, Land Use and Transportation Committee

Subject: Board of Supervisors Legislation Referral - File No. 230310 Version 3
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)
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☐ 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.

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TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: March 28, 2023

To: Planning Department / Commission

From: Erica Major, Clerk of the Land Use and Transportation Committee

Subject: Board of Supervisors Legislation Referral - File No. 230310
Planning Code - 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

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(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)
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Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

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June 11, 2021

Planning Commission
Attn: Jonas Ionin
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Dear Commissioners:

On June 8, 2021, Mayor Breed introduced the following legislation:

File No. 210585

Ordinance amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units 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.

The proposed ordinance is being transmitted for review. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

c: Rich Hillis, Director
Scott Sanchez, Deputy Zoning Administrator
Corey Teague, Zoning Administrator
Lisa Gibson, Environmental Review Officer
Devyani Jain, Deputy Environmental Review Officer
Adam Varat, Acting Director of Citywide Planning
AnMarie Rodgers, Legislative Affairs
Dan Sider, Director of Executive Programs
Aaron Starr, Manager of Legislative Affairs
Joy Navarrete, Environmental Planning

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June 11, 2021

File No. 210585

Lisa Gibson
Environmental Review Officer
Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Dear Ms. Gibson:

On June 8, 2021, Mayor Breed submitted the following legislation:

File No. 210585

Ordinance amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units 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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

BOARD of SUPERVISORS

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M E M O R A N D U M

TO: Robert Collins, Executive Director, Rent Board
Patrick O'Riordan, Director, Department of Building Inspection

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: June 11, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on June 8, 2021:

File No. 210585

Ordinance amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units 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.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

cc: Patty Lee, Department of Building Inspection
John Murray, Department of Building Inspection

Member, Board of Supervisors
District 7

City and County of San Francisco

MYRNA MELGAR

DATE: March 7, 2024

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, March 12, 2024, as a Committee Report:

File No. 230310 **Various Codes - State-Mandated Accessory Dwelling Unit Controls**
Sponsor: Mayor

This matter will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, March 11, 2024, at 1:30 p.m.

City Hall · 1 Dr. Carlton B. Goodlett Place, Room 244 · San Francisco, California 94102-4689 · (415) 554-6516
TDD/TTY (415) 554-5227 · E-mail: Myrna.Melgar@sfgov.org

Member, Board of Supervisors
District 7

City and County of San Francisco

MYRNA MELGAR

DATE: February 28, 2024

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them be considered by the full Board on Tuesday, March 5, 2024, as Committee Reports:

File No. 240169	**Planning Code - Parcel Delivery Service** Sponsors: Chan; Dorsey, Stefani, Mandelman, Preston, Melgar and Engardio
File No. 230310	**Various Codes - State-Mandated Accessory Dwelling Unit Controls** Sponsor: Mayor

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, March 4, 2024, at 1:30 p.m.

City Hall · 1 Dr. Carlton B. Goodlett Place, Room 244 · San Francisco, California 94102-4689 · (415) 554-6516
TDD/TTY (415) 554-5227 · E-mail: Myrna.Melgar@sfgov.org

SPUR
San Francisco | San José | Oakland

Monday, February 5, 2024

Chair Melgar and Members of the Land Use Committee
San Francisco Board of Supervisors
1 Dr Carlton B Goodlett Place
San Francisco, CA 94102

RE: Support File #230310, State-Mandated Accessory Dwelling Unit Controls

Dear Chair Melgar and Land Use Committee members:

SPUR respectfully urges you to pass Board File 230310 today without continuances or delay, and with the amendments being proposed by the author. On paper, this ordinance merely creates consistency between California state law and the section of San Francisco's Planning Code which governs accessory dwelling units.

However, there is more to this item than is immediately obvious:

San Francisco is seeking a Prohousing Designation from the state–with conforming ADU legislation as the remaining criterion–that would improve the chances for AHSC funding of four key projects. The deadline for this next funding cycle is March 19th. **Passing this cleanup legislation quickly is essential to securing up to $200 million in desperately needed affordable housing and transportation funding from the state. If we do not pass this ordinance, we are likely to lose access and a competitive edge for a critical state funding source that will pay for affordable housing and transportation improvements.**

Specifically, the Affordable Housing & Sustainable Communities fund (AHSC) is a program administered by the state and funded by California cap & trade. AHSC is unique in that it is the only robust source of housing and transportation funding that is *not* subject to state budget cuts, making this an especially precious tool during deficit years. Every year, California totals up the revenue brought in during the cap and trade auction, and then separates out a percentage of that money to fund AHSC, which is then issued in competitive grants to fund projects that integrate affordable housing and bicycle, pedestrian, and public transportation improvements. This program also grants special weight to geographic areas that have been historically disadvantaged and lacking economic support and investment.

San Francisco has a long track record of performing well in this competitive program compared to other cities for many reasons: our sophisticated ecosystem of nonprofit community developers, local matching funds from the Housing Trust Fund, strong public transit infrastructure, and the ability to successfully build affordable housing that has no parking (which many cities don't, or can't). For example, in the last AHSC cycle, San Francisco was awarded nearly $90 million dollars to fund the Balboa A and Transbay 2 developments.

In 2023, funding from AHSC made it possible to deliver the following investments in San Francisco across those two developments:

- 350 total affordable and supportive housing units
- Onsite childcare, social services, healthcare, and job development
- Muni improvements to the 29 Sunset
- Two new BART cars for the regional system
- Extensive safety and accessibility upgrades to bicycle and pedestrian infrastructure in the area surrounding the developments

However, because this state funding program is competitive, the California Department of Housing and Community Development (HCD) has created a "Prohousing Designation" which awards bonus points to applications located in cities with policies in basic compliance with state housing laws and that encourage housing production. San Francisco has applied for a Prohousing Designation, and HCD has indicated that the only outstanding criterion for qualification lives in fixing San Francisco's process and standards for approving ADUs that are a part of our "state program" in a manner that is consistent with state law. This means that a Prohousing Designation – and therefore our access to highly competitive funds for the upcoming March 19th funding deadline – depends on the quick passage of the legislation before you today.

A Prohousing Designation for San Francisco has immediate funding implications for affordable housing. Four affordable housing projects, totaling 472 units, are certain to apply for AHSC funding in March. **Passing this legislation today and earning our Prohousing Designation from the state maximizes San Francisco's chances to be awarded up to $50 million per project, a potential funding grant to the City of up to $200 million across the following projects:**

  - 160 Freelon, 84 units, District 6;
  - Sunnydale Block 9, 100 units, District 11;
  - Potrero Yard Senior Housing, 103 units, District 9; and
  - 1939 Market, 185 units, District 8.

Time is of the essence in passing this ADU legislation so the City may receive the Prohousing Designation and allow these projects to be competitive for state funding and proceed to construction. In addition, the Prohousing Designation would allow San Francisco to qualify for the Prohousing Incentive Pilot Program, due March 15, which would qualify San Francisco for $1.5-2 million more in state funding for affordable housing.

SPUR understands that the ordinance before you today seems unrelated to funding subsidized affordable housing and transportation improvements. However: every grant of state funding is critical in the context of a constrained state budget and increasingly competitive affordable housing funding programs, and this ordinance passing could mean securing funding that, on a per year basis, is more significant than any of our local revenue bonds. As our organization continues to fight for increased affordable housing and transportation investment at the local, state, and federal levels, passing this ADU legislation will allow San Francisco the best chance possible to receive this funding and continue to build affordable, livable and sustainable communities for San Franciscans.

Respectfully,

Annie Fryman
Director of Special Projects
SPUR

From:	Christopher White
To:	Carroll, John (BOS)
Cc:	Melgar, Myrna (BOS); Peskin, Aaron (BOS); Preston, Dean (BOS); Horrell, Nate (BOS); Heiken, Emma (BOS); Kilgore, Preston (BOS)
Subject:	Land Use Committee Item 2: Support for Ordinance #230310
Date:	Friday, February 2, 2024 4:47:42 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Board President Peskin and Supervisors Melgar and Preston,

On behalf of the San Francisco Bicycle Coalition and our thousands of members and constituents in San Francisco, I write to strongly urge the Land Use Committee to support Ordinance #230310 without continuance, with all amendments required by the California Department of Housing and Community Development and authored by the Mayor. Passage of this ordinance will put the city in compliance with state housing law and allow it to receive its Pro Housing designation.

The State's Pro Housing designation is a new requirement for the Affordable Housing, Sustainable Communities program, which supports sorely needed affordable housing and, crucially for people in SF who bike, ensures that new developments funded by the program address sustainable transportation needs. San Francisco should be proud that projects in the city have seen a great deal of success getting funded by this competitive program.

Without passage of this ordinance, up to $60M of sorely needed money for sustainable transportation would be forfeited if SF were no longer eligible for the AHSC program in the coming round, in addition to as much as $140M for affordable housing. This is an urgent need, because on March 19, 2024, proposals are due to the state agency. Without the passage of this ordinance, San Francisco projects will be ineligible.

Given the urgent need for more affordable housing in San Francisco and more funding for sustainable transportation, we urge the committee to support the Ordinance, with amendments required by HCD to receive the Pro Housing designation and comply with state law.

Respectfully,

--

Christopher White
Interim Executive Director
Phone or text: (415) 295-2355 | christopher@sfbike.org
Pronouns: he, him, his

San Francisco Bicycle Coalition
Promoting the Bicycle for Everyday Transportation
1720 Market St.
San Francisco, CA 94102

From:	Ryan Patterson
To:	Carroll, John (BOS); MelgarStaff (BOS); Peskin, Aaron (BOS); Preston, Dean (BOS)
Subject:	Public Comment on Agenda Item 6 - SFBOS File No. 230310 - Planning, Business and Tax Regulations Codes - Accessory Dwelling Units in New Construction
Date:	Monday, December 11, 2023 2:21:38 PM
Attachments:	Planning Ltr 112723.pdf

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Dear Chair Melgar and Supervisors:

Our office represents Yes In My Back Yard (YIMBY Law) and Sonja Trauss, its executive director. We were disappointed to learn of the proposed ordinance's inconsistencies with state law – especially its imposition of new constraints on the creation of accessory dwelling units (ADUs).

As a preliminary matter, we object to the lack of notice of today's hearing on the Ordinance, despite having requested notice through the Board's Legistar legislative alerts system.

In particular, we object to the reduction of allowable square footage for state-law ADUs. There was no cap on the size of such ADUs on January 1, 2018. A limit of 1,200 square feet was subsequently imposed in Ordinance 116-19. Now, this proposed Ordinance would limit ADU size to 850 or 1,000 square feet. This would lessen the intensity of housing allowed in San Francisco in violation of state law.

SB 330 prohibits:

> Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing. (Gov. Code § 66300(b)(1)(A).)

Additionally, we object to the inconsistencies with state law identified in the Planning Department's letter of November 27, 2023 (attached). As discussed in the letter, a number of inconsistencies are itemized (1-9) and admitted but not resolved.

Further, there is no prohibition in state ADU law against ADUs that are attached to existing detached accessory structures. The proposed ordinance seeks to prohibit such ADUs, which is unlawful.

We urge the Board of Supervisors to eliminate the proposed inconsistencies with state law.

Very truly yours,

PATTERSON & O'NEILL, PC

Ryan Patterson

Attorneys for YIMBY Law and Sonja Trauss

Ryan J. Patterson
Patterson & O'Neill, PC
Main: (415) 907-9110
Direct: (415) 907-7701
Mobile: (530) 913-7609
Fax: (415) 907-7704
235 Montgomery Street, Suite 950
San Francisco, CA 94104
ryan@pattersononeill.com
www.pattersononeill.com

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San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

November 27, 2023

Mr. David Zisser
Assistant Deputy Director
Local Government Relations & Accountability
Housing Policy Development Division
California Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 552
Sacramento, CA 95833
via email to David.Zisser@hcd.ca.gov

Re: HCD Review of San Francisco's Accessory Dwelling Unit Ordinance No. 053-23

Dear Assistant Deputy Director Zisser,

Thank you for your October 26, 2023 transmittal of the California Department of Housing and Community Development's ("HCD") findings regarding San Francisco's accessory dwelling unit ("ADU") Ordinance No. 053-23. The purpose of this letter is to respond to those findings pursuant to California Government Code section 65852.2, subdivision (h)(2)(A). We appreciate your recognition of the City's local ADU approval program, and share HCD's goal of maximizing ADU production under the City's State-mandated ADU programs.

On September 28, 2023, the San Francisco Planning Commission recommended approval, with modifications, of a new proposed ADU ordinance contained in San Francisco Board of Supervisors File. No. 230310 (the "pending ADU ordinance"). That ordinance is now pending at the Land Use and Transportation Committee of the Board of Supervisors. HCD's October 26 letter requests nine amendments to the City's ADU ordinance. As explained further below, the pending ADU ordinance, if enacted with the modifications recommended by the Planning Commission, would address three of HCD's findings.

The Planning Department and Mayor Breed will seek additional amendments to the pending ADU ordinance to address HCD's remaining findings. Some of these additional amendments must be referred back to the City's Planning Commission under section 4.105 of the City's Charter and Planning Code section 302, subsection (d). We are confident that these anticipated changes to San Francisco's ADU approval process will conform the City's State-mandated ADU programs to State law requirements and further facilitate construction of this important type of housing. In the portion of this letter that follows, we restate HCD's findings and describe specifically how we propose to address each of them.

1. Section 102 – *Definitions / JADU* – The Ordinance defines a junior accessory dwelling unit (JADU) as a Dwelling Unit meeting the requirements of subsection 207(c)(6) and is "owner-occupied, unless the

owner resides in the remaining portion of the structure." Government Code section 65852.22, subdivision (a)(2), does not require owner-occupancy if the owner is another governmental agency, land trust, or housing organization. The Ordinance must be amended to reflect when owner-occupancy is not required.

Response. We will seek an amendment to the pending ADU ordinance to add an exception from the owner occupancy requirements in Government Code section 65852.22, subdivision (a)(2) into the Planning Code's definition of Junior ADU.

2. Section 136(c)(32) – *Lot Depth* – The Ordinance provides that if an ADU is proposed for a single-family home, the rear yard must be 25 percent of the lot depth but in no case less than 15 feet. Government Code section 65852.2, subdivision (c)(2)(C), prohibits any requirements on lot coverage that does not permit at least an 800 square-foot ADU with four-foot side and rear setbacks. The Ordinance must be amended to make clear an 800 square-foot ADU is allowed notwithstanding any limits on rear yard percentage or depth.

Response. Despite the language in question, the City does not currently enforce any lot depth requirements that do not permit at least an 800 square-foot ADU with four-foot side and rear setbacks, nor will it do so upon passage of the pending ADU ordinance. Nonetheless, we will seek a clarifying amendment to the pending ADU ordinance to be explicit that the 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.

3. Section 207(c)(6)(A) – *Applicability* – The Ordinance states, "If construction of the ADU will not meet the requirements of this subsection, the ADU is regulated pursuant to subsection 207(c)(4) and not this subsection 207(c)(6)." The programs presented here – the State Mandated Program and the Local Program – are not sufficiently distinct and do not appear to allow applicants to choose which route they would like to take regarding their ADU or JADU application. The State Mandated Program implements State ADU Law, which creates two paths. First, Government Code section 65852.2, subdivision (a)(3)(A), provides that "[a] permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing…." Second, Subdivision (e)(1) provides that "notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit" for ADUs meeting the requirements under (e)(1). The Local Program creates yet another path. The City must amend the Ordinance to make it clear that there are distinct and separate paths for the development of ADUs and to allow applicants, at their election, to participate in either the State Mandated Program or the Local Program. The City may not automatically transfer an application to Section 207 (c)(4) if the application does not meet the requirements of section 207 (c)(6).

Response. In addition to its Local ADU program, the City allows applicants to elect to participate in either of its two State-mandated ADU programs: the "Hybrid ADU" program, which implements Government Code section 65852.2, subdivision (e); and the "State ADU" program, which implements Government Code section 65852.2, subdivisions (a)-(d). The City does not require ADU permit applicants to participate in the Local ADU program, and does not automatically transfer permit applications from either of the State-mandated approval programs to the Local program. The City and the Planning Department maintain ADU-related websites that both identify all of the City's ADU programs and provide information to help applicants choose the most suitable approval

pathway for their ADU project.[1] The pending ADU ordinance, with the Planning Commission's recommended modifications, would further distinguish the City's State-Mandated ADU programs from the City's Local ADU program by relocating these programs to new, separate sections of the Planning Code and clarifying the text of the Code.

4. Section 207(c)(6)(B)(ii) – *Historic Designation* – The Ordinance states that "[f]or projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter." These standards under Government Code section 65852.2, subdivision (a)(1)(B), apply to ADUs permitted under section 65852.2, subdivisions (a)-(d); however, ADUs under section (c)(6) of the Ordinance apply to state mandated ADUs permitted under Government Code section 65852.2, subdivision (e). These historic designation standards must be moved to section 207(c)(4) of the Ordinance. Further, under Government Code section 65852.2, subdivision (a)(1)(B), only the California Register of Historic Resources may be used to restrict ADUs. Utilizing a local register of historic resources, or a special district, could preclude ADUs from being created in those areas. Therefore, the City must amend this section to remove the other restriction on special districts or significant lots and move these standards to section 207(c)(4) of the Ordinance.

Response. Government Code section 65852.2, subdivision (a)(1)(b)(i) broadly permits the City to impose objective architectural review standards on ADUs seeking approval under the City's State ADU program. This grant of authority is separate from, and in addition to, subdivision (a)(1(b)(i)'s authorization of local "standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources." Furthermore, Government Code section 65852.2, subdivision (e)(7) also broadly permits the City to impose objective standards, "including, but not limited to . . . historic standards" on ADUs under the City's Hybrid ADU program. State ADU law therefore authorizes the City to impose objective architectural review standards on ADUs seeking approval under either of the City's State-mandated programs. We will seek an amendment to the pending ADU ordinance to restate existing law that any architectural review standards adopted by the Historic Preservation Commission that are applicable to State-mandated ADUs must remain objective. We will also seek to add findings to the pending ADU ordinance to explain why the City's ADU controls comply with applicable requirements, pursuant to Government Code section 65852.2(h)(2)(B)(ii).

5. 207(c)(6)(C)(i)(b), (c)(6)(C)(ii)(b), 207(c)(6)(D)(i) and (c)(6)(D)(iii) – *Number of ADUs* – The Ordinance states that "[o]nly one ADU and one JADU is permitted per lot" in (c)(6)(C)(i)(b) and "[t]he lot on which the ADU is proposed does not contain another ADU, but may contain a JADU" in (c)(6)(C)(ii)(b). However, under Government Code section 65852.2, subdivision (e), which this section of the Ordinance is intended to implement, a residential lot may create a minimum of one ADU converted from existing space; one new construction, detached ADU under 800 square feet; and one JADU. Therefore, the City must amend these sections to allow for at least by-right units.

[1] For example, see https://sfplanning.org/accessory-dwelling-units and https://sf.gov/topics/accessory-dwelling-unit-adu. The Planning Department has prepared extensive materials to assist applicants seeking to construct an ADU, including a chart comparing the City's ADU programs, which may be found at https://sfplanning.org/sites/default/files/documents/adu/ADU_programs_comparison_chart.pdf.

Additionally, the Ordinance states that "[o]nly one ADU will be constructed" in (c)(6)(D)(i) and "[t]he lot on which the ADU is proposed does not contain another ADU or JADU" in (c)(6)(D)(iii). The Ordinance allows only one ADU per lot; however, units created within the proposed or existing space of a primary dwelling, or an existing accessory structure would be created pursuant to Government Code 65852.2, subdivision (e)(1)(A). Subdivision (e) allows for a combination of units to be created such that there may be up to three additional dwelling units. Therefore, the City must amend this section to remove this restriction.

Response. In order to comply with HCD's interpretation of Government Code section 65852.2, subdivision (e), we will seek amendments to the pending ADU ordinance to permit the construction of up to three ADUs that meet applicable requirements under the City's Hybrid ADU program.

6. 207(c)(6)(C)(ii)(e), (c)(6)(C)(iv)(c), & (c)(6)(D)(ix) – *Height Restrictions* – The Ordinance requires "a height no greater than sixteen feet." However, Government Code section 65852.2, subdivision (c)(2)(D), allows for a height of 16, 18, 20, or 25 feet, as applicable. The City must amend the Ordinance to comply with State ADU Law.

Response. To comply with the State ADU law requirements referenced in this finding, the Planning Commission recommended modifications to the pending ADU ordinance to increase height limits to 16, 18, 20, or 25 feet, as applicable.

7. 207(c)(6)(D) – *Subdivision (c)(2)(C) Restrictions* – The Ordinance states that "the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less…." However, Government Code section 65852.2, subdivision (c)(2)(C), is more comprehensive, stating that "a local agency shall not establish by ordinance…[a]ny requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." Imposing additional planning reviews or front setbacks which could preclude ADUs of 800 square feet or less would violate statute. Therefore, the City must amend this section to include these items.

Response. The City does not currently impose any zoning clearance, separate zoning review, or size requirements that do not permit construction of at least an 800 square foot ADU with four-foot side and rear setbacks, nor will it do so upon passage of the pending ADU ordinance. We will seek an amendment to the pending ADU ordinance to incorporate these additional restrictions on City authority into the text of the Planning Code.

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permit under this subdivision." Requiring 15 days of notification prior to the submittal of an application for an ADU would cause an undue delay in the permitting process. Therefore, the City must remove this requirement.

Response. We will seek amendments to the pending ADU ordinance to remove this notification requirement for ADUs seeking approval under the City's State ADU approval pathway. Nonetheless, we note that Government Code section 65852.2, subdivision (e)(7) grants the City broad authority to impose objective standards, including reasonable notification requirements, on ADUs seeking approval under the City's Hybrid ADU approval pathway. To this end, we will also seek to add findings to the pending ADU ordinance to explain why the City's ADU controls comply with the applicable requirements, pursuant to Government Code section 65852.2(h)(2)(B)(ii).

9. 207(c)(6)(F) – *Review and Approval* – The Ordinance states that "[t]he City shall act on an application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in this subsection 207(c)(6)." However, "act on" is outdated language, and as of January 1, 2023, Government Code section 65852.2, subdivision (a)(3), states that "[t]he permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days…." (Emphasis added.) Therefore, the City must amend this language to comply with the updated State ADU Law.

Response. The pending ADU ordinance, with the Planning Commission's recommended modifications, would amend the Building Code to require the City to approve or deny a permit to construct an ADU or Junior ADU within 60 days from receipt of a complete application.

We look forward to continuing our collaboration with HCD to help achieve our shared goal of addressing the housing needs of the City and State.

Sincerely,

Rich Hillis
Director of Planning

CC (all electronic)
Mayor London Breed
Members of the Board of Supervisors
City Attorney David Chiu
Director Patrick O'Riordan, DBI
Neville Pereira, DBI
Lisa Gluckstein, Office of the Mayor
Judson True, Office of the Mayor
Tyler Galli, California Department of Housing and Community Development
Jamie Candelaria, California Department of Housing and Community Development

From:	Ryan Patterson
To:	Carroll, John (BOS); MelgarStaff (BOS); Peskin, Aaron (BOS); Preston, Dean (BOS)
Subject:	Public Comment on Agenda Item 6 - SFBOS File No. 230310 - Planning, Business and Tax Regulations Codes - Accessory Dwelling Units in New Construction
Date:	Monday, December 11, 2023 2:21:38 PM
Attachments:	Planning Ltr 112723.pdf

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Dear Chair Melgar and Supervisors:

Our office represents Yes In My Back Yard (YIMBY Law) and Sonja Trauss, its executive director. We were disappointed to learn of the proposed ordinance's inconsistencies with state law – especially its imposition of new constraints on the creation of accessory dwelling units (ADUs).

As a preliminary matter, we object to the lack of notice of today's hearing on the Ordinance, despite having requested notice through the Board's Legistar legislative alerts system.

In particular, we object to the reduction of allowable square footage for state-law ADUs. There was no cap on the size of such ADUs on January 1, 2018. A limit of 1,200 square feet was subsequently imposed in Ordinance 116-19. Now, this proposed Ordinance would limit ADU size to 850 or 1,000 square feet. This would lessen the intensity of housing allowed in San Francisco in violation of state law.

SB 330 prohibits:

> Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing. (Gov. Code § 66300(b)(1)(A).)

Additionally, we object to the inconsistencies with state law identified in the Planning Department's letter of November 27, 2023 (attached). As discussed in the letter, a number of inconsistencies are itemized (1-9) and admitted but not resolved.

Further, there is no prohibition in state ADU law against ADUs that are attached to existing detached accessory structures. The proposed ordinance seeks to prohibit such ADUs, which is unlawful.

We urge the Board of Supervisors to eliminate the proposed inconsistencies with state law.

Very truly yours,

PATTERSON & O'NEILL, PC

Ryan Patterson

Attorneys for YIMBY Law and Sonja Trauss

Ryan J. Patterson
Patterson & O'Neill, PC
Main: (415) 907-9110
Direct: (415) 907-7701
Mobile: (530) 913-7609
Fax: (415) 907-7704
235 Montgomery Street, Suite 950
San Francisco, CA 94104
ryan@pattersononeill.com
www.pattersononeill.com

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San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

November 27, 2023

Mr. David Zisser
Assistant Deputy Director
Local Government Relations & Accountability
Housing Policy Development Division
California Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 552
Sacramento, CA 95833
via email to David.Zisser@hcd.ca.gov

Re: HCD Review of San Francisco's Accessory Dwelling Unit Ordinance No. 053-23

Dear Assistant Deputy Director Zisser,

Thank you for your October 26, 2023 transmittal of the California Department of Housing and Community Development's ("HCD") findings regarding San Francisco's accessory dwelling unit ("ADU") Ordinance No. 053-23. The purpose of this letter is to respond to those findings pursuant to California Government Code section 65852.2, subdivision (h)(2)(A). We appreciate your recognition of the City's local ADU approval program, and share HCD's goal of maximizing ADU production under the City's State-mandated ADU programs.

On September 28, 2023, the San Francisco Planning Commission recommended approval, with modifications, of a new proposed ADU ordinance contained in San Francisco Board of Supervisors File. No. 230310 (the "pending ADU ordinance"). That ordinance is now pending at the Land Use and Transportation Committee of the Board of Supervisors. HCD's October 26 letter requests nine amendments to the City's ADU ordinance. As explained further below, the pending ADU ordinance, if enacted with the modifications recommended by the Planning Commission, would address three of HCD's findings.

The Planning Department and Mayor Breed will seek additional amendments to the pending ADU ordinance to address HCD's remaining findings. Some of these additional amendments must be referred back to the City's Planning Commission under section 4.105 of the City's Charter and Planning Code section 302, subsection (d). We are confident that these anticipated changes to San Francisco's ADU approval process will conform the City's State-mandated ADU programs to State law requirements and further facilitate construction of this important type of housing. In the portion of this letter that follows, we restate HCD's findings and describe specifically how we propose to address each of them.

1. Section 102 – *Definitions / JADU* – The Ordinance defines a junior accessory dwelling unit (JADU) as a Dwelling Unit meeting the requirements of subsection 207(c)(6) and is "owner-occupied, unless the

owner resides in the remaining portion of the structure." Government Code section 65852.22, subdivision (a)(2), does not require owner-occupancy if the owner is another governmental agency, land trust, or housing organization. The Ordinance must be amended to reflect when owner-occupancy is not required.

Response. We will seek an amendment to the pending ADU ordinance to add an exception from the owner occupancy requirements in Government Code section 65852.22, subdivision (a)(2) into the Planning Code's definition of Junior ADU.

2. Section 136(c)(32) – *Lot Depth* – The Ordinance provides that if an ADU is proposed for a single-family home, the rear yard must be 25 percent of the lot depth but in no case less than 15 feet. Government Code section 65852.2, subdivision (c)(2)(C), prohibits any requirements on lot coverage that does not permit at least an 800 square-foot ADU with four-foot side and rear setbacks. The Ordinance must be amended to make clear an 800 square-foot ADU is allowed notwithstanding any limits on rear yard percentage or depth.

Response. Despite the language in question, the City does not currently enforce any lot depth requirements that do not permit at least an 800 square-foot ADU with four-foot side and rear setbacks, nor will it do so upon passage of the pending ADU ordinance. Nonetheless, we will seek a clarifying amendment to the pending ADU ordinance to be explicit that the 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.

3. Section 207(c)(6)(A) – *Applicability* – The Ordinance states, "If construction of the ADU will not meet the requirements of this subsection, the ADU is regulated pursuant to subsection 207(c)(4) and not this subsection 207(c)(6)." The programs presented here – the State Mandated Program and the Local Program – are not sufficiently distinct and do not appear to allow applicants to choose which route they would like to take regarding their ADU or JADU application. The State Mandated Program implements State ADU Law, which creates two paths. First, Government Code section 65852.2, subdivision (a)(3)(A), provides that "[a] permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing…." Second, Subdivision (e)(1) provides that "notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit" for ADUs meeting the requirements under (e)(1). The Local Program creates yet another path. The City must amend the Ordinance to make it clear that there are distinct and separate paths for the development of ADUs and to allow applicants, at their election, to participate in either the State Mandated Program or the Local Program. The City may not automatically transfer an application to Section 207 (c)(4) if the application does not meet the requirements of section 207 (c)(6).

Response. In addition to its Local ADU program, the City allows applicants to elect to participate in either of its two State-mandated ADU programs: the "Hybrid ADU" program, which implements Government Code section 65852.2, subdivision (e); and the "State ADU" program, which implements Government Code section 65852.2, subdivisions (a)-(d). The City does not require ADU permit applicants to participate in the Local ADU program, and does not automatically transfer permit applications from either of the State-mandated approval programs to the Local program. The City and the Planning Department maintain ADU-related websites that both identify all of the City's ADU programs and provide information to help applicants choose the most suitable approval

pathway for their ADU project.[1] The pending ADU ordinance, with the Planning Commission's recommended modifications, would further distinguish the City's State-Mandated ADU programs from the City's Local ADU program by relocating these programs to new, separate sections of the Planning Code and clarifying the text of the Code.

4. Section 207(c)(6)(B)(ii) – *Historic Designation* – The Ordinance states that "[f]or projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU or JADU shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter." These standards under Government Code section 65852.2, subdivision (a)(1)(B), apply to ADUs permitted under section 65852.2, subdivisions (a)-(d); however, ADUs under section (c)(6) of the Ordinance apply to state mandated ADUs permitted under Government Code section 65852.2, subdivision (e). These historic designation standards must be moved to section 207(c)(4) of the Ordinance. Further, under Government Code section 65852.2, subdivision (a)(1)(B), only the California Register of Historic Resources may be used to restrict ADUs. Utilizing a local register of historic resources, or a special district, could preclude ADUs from being created in those areas. Therefore, the City must amend this section to remove the other restriction on special districts or significant lots and move these standards to section 207(c)(4) of the Ordinance.

Response. Government Code section 65852.2, subdivision (a)(1)(b)(i) broadly permits the City to impose objective architectural review standards on ADUs seeking approval under the City's State ADU program. This grant of authority is separate from, and in addition to, subdivision (a)(1(b)(i)'s authorization of local "standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources." Furthermore, Government Code section 65852.2, subdivision (e)(7) also broadly permits the City to impose objective standards, "including, but not limited to . . . historic standards" on ADUs under the City's Hybrid ADU program. State ADU law therefore authorizes the City to impose objective architectural review standards on ADUs seeking approval under either of the City's State-mandated programs. We will seek an amendment to the pending ADU ordinance to restate existing law that any architectural review standards adopted by the Historic Preservation Commission that are applicable to State-mandated ADUs must remain objective. We will also seek to add findings to the pending ADU ordinance to explain why the City's ADU controls comply with applicable requirements, pursuant to Government Code section 65852.2(h)(2)(B)(ii).

5. 207(c)(6)(C)(i)(b), (c)(6)(C)(ii)(b), 207(c)(6)(D)(i) and (c)(6)(D)(iii) – *Number of ADUs* – The Ordinance states that "[o]nly one ADU and one JADU is permitted per lot" in (c)(6)(C)(i)(b) and "[t]he lot on which the ADU is proposed does not contain another ADU, but may contain a JADU" in (c)(6)(C)(ii)(b). However, under Government Code section 65852.2, subdivision (e), which this section of the Ordinance is intended to implement, a residential lot may create a minimum of one ADU converted from existing space; one new construction, detached ADU under 800 square feet; and one JADU. Therefore, the City must amend these sections to allow for at least by-right units.

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Additionally, the Ordinance states that "[o]nly one ADU will be constructed" in (c)(6)(D)(i) and "[t]he lot on which the ADU is proposed does not contain another ADU or JADU" in (c)(6)(D)(iii). The Ordinance allows only one ADU per lot; however, units created within the proposed or existing space of a primary dwelling, or an existing accessory structure would be created pursuant to Government Code 65852.2, subdivision (e)(1)(A). Subdivision (e) allows for a combination of units to be created such that there may be up to three additional dwelling units. Therefore, the City must amend this section to remove this restriction.

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Response. To comply with the State ADU law requirements referenced in this finding, the Planning Commission recommended modifications to the pending ADU ordinance to increase height limits to 16, 18, 20, or 25 feet, as applicable.

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We look forward to continuing our collaboration with HCD to help achieve our shared goal of addressing the housing needs of the City and State.

Sincerely,

Rich Hillis
Director of Planning

CC (all electronic)
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Members of the Board of Supervisors
City Attorney David Chiu
Director Patrick O'Riordan, DBI
Neville Pereira, DBI
Lisa Gluckstein, Office of the Mayor
Judson True, Office of the Mayor
Tyler Galli, California Department of Housing and Community Development
Jamie Candelaria, California Department of Housing and Community Development

From: Ken Mandler
To: Major, Erica (BOS)
Subject: Public Comment on Board File #210585
Date: Monday, October 25, 2021 9:23:03 AM
Attachments: SF-BOS-LAND-USE-COMMITTEE-210585-102221.pdf

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Dear Ms. Major:

Board File #210585 has been sent to the Land Use and Transportation Committee by the San Francisco Planning Commission for recommendation. It has not yet been calendared by your committee. I have attached my written "public comment" to the proposed legislation. I would like you to include it in the legislative file and distributed in the legislative packet when the legislation is set for hearing.

I understand that we treat "future hearing dates" as a more closely held secret than the nuclear codes the president needs to launch a nuclear war. Therefore, you are unable to provide me with an estimated date for the hearing in this matter. I, of course, would be interested in that information so that I, a citizen of San Francisco, can set aside, on my calendar, that time. That would all sound normal in a democratic society. However, I know where I live, but if you can spill any beans here, better to me, than to the FBI!

Thanks.

Kenneth Mandler
A Citizen of San Francisco

October 25, 2021

Supervisor Myrna Melgar, Land Use and Transportation Committee
Supervisor Dean Preston, Land Use and Transportation Committee
Supervisor Aaron Peskin, Land Use and Transportation Committee
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: File #210585 San Francisco ADU Ordinance Update: This Proposed Legislation Restricts Housing Development During a HOUSING CRISIS; Please VOTE NO

The City and County of San Francisco has a long history of enacting "restrictions" on housing development. Our very first zoning law, known as the Cubic Air Ordinance, was enacted during a period of rampant real estate speculation in the 1870s. The Cubic Air Ordinance required boarding houses to offer a minimum amount of space per tenant—supposedly a social "good." However, the law's true purpose, accord to Hunter Oatman-Stanford in his 2018 article, "Demolishing the California Dream: How San Francisco Planned its Own Housing Crisis," was to criminalize Chinese renters and landlords so their jobs and living space could be reclaimed for San Francisco's white residents, thereby "setting an ominous precedent" that continues today, in your consideration of File #210585, the ADU Ordinance. File #210585 was recommended for passage by the San Francisco Planning Commission on 9/2/21 and is now before your committee for recommendation. The proposed legislation has not yet been set on your agenda.

Down through the years until the equally disastrous 1978 Downzoning that even Rai Okamoto, the SF Planning Director at the time, expressed reservations about, the restrictions on housing development in San Francisco continued to be tightened. The minutes of the 6/27/1978 SF Planning Commission meeting ended with this conclusion, ***"As a result, the cost of housing may increase, and that with increasing housing costs, some population groups may find it difficult to live in San Francisco. The proposed zoning will affect the low-and-moderate income households more than any other group."***

In two recent articles in the San Francisco Chronicle, Rich Hillis, the SF Planning Director (aka SF Planner Oligarch-in-Chief) was quoted as favoring "upzoning."

These articles by Heather Knight were entitled #1 (7/24/21) "Go big or go home; SF supervisor juices housing legislation to allow fourplexes on every single family lot," and #2 (8/27/21) "One housing project has turned into an epic San Francisco battle."

In the 7/24/21 article, Hillis noted that San Francisco's zoning has meant a lot of development on the east side and too little on the west side. He stated "we've gotten what we've zoned for. We need to make changes if we're going to meet our housing goals, and fourplexes are part of the answer."

In the 8/27/21 article Knight wrote "Even Rich Hillis, the city's planning director agreed with the assessment that the culprit here is the city's own rules, which vastly limit new housing in wide swaths of the city despite the need for more housing." Hillis was quoted by Knight as stating "There was a lot to like about this proposal, but our 1960s-era code doesn't allow us to approve it."

Basically, Rich Hills has good public relations and access to reporters who write for our oligarchs. A good quote is a good quote. Basically, Hillis says he cannot do anything!

Land Use & Transportation Committee's Consideration of File #210585

And here he is, along with his legislative representative, Veronica Flores, proposing to prohibit TRIPLEXES in San Francisco in File #210585. Remember, he was quoted above pushing FOURPLEXES in those articles. And now he brings legislation before you that will prohibit fully legal (under state law) TRIPLEXES.

Here is the background. The new state ADU laws enacted in 2019 allow single family homeowners, and there are over 128,000 in San Francisco, to build TWO ADUs on their lot, one in the house and one in the backyard. That creates a TRIPLEX. This has been the law of the land in San Francisco since 1/1/2020.

Now comes SF Planning's proposal in File #210585 to eliminate this option. How can they do that? It is state law. Well if you have good lobbyists, and the City and County of San Francisco has good lobbyists in Sacramento, you can insert an "exception." And, lo and behold, in the midst of an existential HOUSING CRISIS, the city did succeed in getting this exception and now is utilizing this "exception"

in state law to propose in File #210585, to eviscerate the state's ADU law allowing TRIPLEXES.

And let's be clear; they are not making this easy for you to figure out! The proposed law, as Flores and Hillis will assure you, will allow TWO ADUs on a single lot in San Francisco, theoretically! That is TRUE. However, the devil is in the details and if you have a MASSIVE backyard in San Francisco, you can probably meet the conditions. On my lot at 466 Country Club Drive (In District 7, Myrna Melgar's district), the law that you are prepared to approve would allow a 16 square foot ADU. My proposal, as submitted on 2/19/21 under the state ADU law was for a 454 square foot ADU. The 16 square feet provided for by the proposed law you are about to approve does not meet the standards for habitable space in San Francisco which is a minimum of 120 square feet. There you have it, yes, theoretically triplexes are allowed under File #210585—and Hillis and Flores will forcefully state this—but they know you will not have the time and inclination to figure out their scam!

The law in front of you, File #210585, is unnecessary. State ADU laws are currently applicable in San Francisco and there is no requirement that a local ADU law be implemented, particularly when it DISCOURAGES housing development during a HOUSING CRISIS.

Purportedly, File #210585 is being proposed to allow "less restrictive" provisions for the Local ADU program as allowed by the state ADU program. On page 6 of the Executive Summary as prepared by Veronica Flores, there is a paragraph about "Ability to be Less Restrictive." Two minor "less restrictive" points (impact fees and measuring of height) are described are, thereby, described by Ms. Flores. ***Nowhere in the Executive Summary does Ms. Flores clearly describe the "ABILITY TO BE MORE RESTRICTIVE THAN STATE LAW," points that File #201585 includes.*** That is quite interesting, is it not? In fact, the File #210585 and File #210699 (unanimously approved by your committee on October 18, 2021) will virtually shut off ADU development in San Francisco. And it will be done the same way that San Francisco officials enacted the Cubic Air Ordinance in the 1870s to rid the city of Chinese residents—without a clear discussion about the ACTUAL impact of complex and confusing legislation! History repeats itself quite often, and on a regular basis, in San Francisco!

Why is this law then being proposed?

1)SF PLANNING COMMISSIONER SUE DIAMOND'S BACKYARD FOCUS

If you go back and watch the 9/2/21 SF Planning Commission hearing and the previously proposed File #201008 one on 11/5/20, you will see the SF Planning Staff Member Veronica Flores playing up to a specific Planning Commissioner, Sue Diamond. Ms. Diamond is the proud homeowner of a single-family San Francisco residence appraised at $6 million on a 4800 square foot lot and she has personally reaped a $5 million, "something from nothing," San Francisco oligarch windfall by owning this property since 1990 when she paid $891,000 for it. She likes her backyard!

Does File #210585 prohibit backyard ADUs in San Francisco. The answer is "NO." Therefore, Ms. Diamond's quest to ban backyard ADUs is not satisfied by File #210585. However, for the SF Planning staff to curry favor with the Commissioner (which they do to get their jobs done; and sometimes to get their jobs; looking at you, Mr. Hillis); they have to "play" to the audience. They know what they are doing; but in the world of zoning/planning complexity, it is very difficult for civilians, such as you and myself, to figure out (hence the steady growth in the employment of permit expeditors, including SF Planning Director Rich Hillis' employment of the notorious, unregistered "permit expeditor" Jeremy Paul, to ensure final approval of a second unit in his own home!)

Here is what #210585 actually does. It bans backyard ADUs in San Francisco only in situations where there is also an ADU in the house. That's two ADUs on one Single Family lot. Does that happen often? The UC Berkeley Terner Center for Housing Innovation just released a study in April 2021 about recent ADU homeowners and the study indicated that 97% of ADU homeowners had only ONE ADU at their home! So why all the fuss and commotion?

How many San Francisco homeowners have actually proposed to build TWO ADUs on their Single Family Lot since state law allowed it on 1/1/2020? EXACTLY ONE. Me! On 2/19/21, I applied for a permit to build TWO ADUs on my Single-Family Lot at 466 Country Club Drive. On October 4, 2021, Natalia Kwiatkowska of SF Planning, forcibly stated that unless I withdrew one, no ADU permit would be issued to me. This was before File #210585 was enacted by you, the people's

representatives at the Board of Supervisors. Don't ask….it is how SF Planning operates; they make the rules first; ask for your approval later; all while restricting new housing in San Francisco during a HOUSING CRISIS. You really do not want to know how that happens!

On October 22, 2021, I filed a "withdrawal" of my permit application for the 2nd ADU on my single-family lot at 466 Country Club Drive per Ms. Kwiatkowska's intimidating request. I was hoping to satisfy her and get my project moving forward. We will see!

2) SAN FRANCISCO REAL ESTATE OLIGARCHS (SF PLANNING DIRECTOR RICH HILLIS INCLUDED) BENEFIT FROM REDUCED HOUSING SUPPLY

Who has an interest in restricting new housing in San Francisco? Well, you know. Our existing real estate oligarchs do! With less housing available, their wealth increases. Mr. Hillis, the SF Planning Director, is an example. His multi-million dollar wealth has been solely derived by skillful manipulation of the SF Planning/Permitting rules and a strategic hire of a permit expeditor in 2018, Jeremy Paul. Hillis made good "hay" at his properties, 4983 17th Street, 830 Stanyan Street, and 417 Lyon Street. And next door, associates of Mr. Paul, utilized complex planning procedures to turn a $1.6 million home (413 Lyon Street; right next door to Mr. Hillis' home) bought in 2018 into a $5.5 condominium complex sale on 9/9/21. With renovation costs, the profit was a cool $3 million in 3 years of work! Mostly paperwork "work." How did they figure out how to utilize a condominium conversion law that required long-term occupancy as a flipper, well, you might not have to look too far to understand where they got that advice (next door!). Mr. Jeremy Paul, a notorious "permit operator," and Mr. Hillis have a "relationship," a very profitable one.

VOTE NO ON FILE #210585

I ask that you not approve the proposed legislation, File #210585. No legislation is needed. The state ADU laws apply to San Francisco already and in actuality ENCOURAGE ADU development. The alternative is for your names to be associated with voting to DISCOURAGE housing development during an existential HOUSING CRISIS in San Francisco. That will be some legacy!

Please ask the following TOUGH questions:

1)Your proposed legislation allows detached backyard ADUs in all 128,000 single family lots in San Francisco, correct? (ANSWER: YES)

2) Then why are you so intent upon banning a backyard ADU in the very few situations where there is possible a second ADU in the house, as allowed by state law? The UC Berkeley study found that 97% of ADU homeowners only had one ADU. Is this not a very rare circumstance that we are addressing with this legislation?

3) Exactly how many single-family homes in San Francisco do you foresee having two ADUs? Do any have two ADUs now?

4) Can we wait and see if we have an ACTUAL problem? Why must we ban something that may theoretically happen or not happen? Our time is valuable. We have big issues here at the Board of Supervisors-Crime, Evictions, Housing. And you want us to focus our precious attention on what, in the end, is a theoretical issue.

5) Does the proposed legislation, in any way, decrease Sue Diamond's enjoyment of her backyard?

6) Does the legislation, due to its opaqueness and complexity, enhance the ability of an individual, with the help of a permit expediter, to extract unforeseen benefits from the various confusing and complex provisions of the proposed legislation? Remember, Mr. Hillis' neighbors were able to extract $3 million in windfall profits from a very similar "2 unit condominium" law we enacted for "long-term owners." There must have been a little "unforeseen" loop-hole in that complex law, or maybe it was just too complex for the staff to properly administer and a skilled expeditor knew which buttons to push. Are we not creating a similarly complex law here in File #210585, unnecessarily?

7) Does this legislation restrict housing development in San Francisco? If so, does it make existing San Francisco homeowners, the "real estate oligarchs" more wealthy?

8) Are you familiar with Mr. Mandler's proposal and permit applications for 466 Country Club Drive? Will this legislation prohibit Mr. Mandler's second ADU that he is privately financing?

ONE LAST QUESTION. Mr. Mandler submitted his permit applications many months prior to your presentation of File #210585 to our committee, the legislation that would prohibit his TWO ADU development on a single family lot in San Francisco. At the time he submitted his permit applications, such a development was LEGAL in San Francisco. How does it happen that the San Francisco Planning Department, under the leadership of Director Rich Hillis decides to declare something illegal, and then, only later, to seek legislation to be approved, AFTER THE FACT. Mr. Mandler attended Lowell High School. He had a Civics class. In that Civics class, he learned that legislation was proposed, then considered by the legislative body, here the Board of Supervisors, passed, and then sent on to the executive, the Mayor in this case, to sign. Only then was a law effective. Was Mr. Mandler's Civics class at Lowell High providing him with "fake news?" Or does Mr. Hillis and the SF Planning department just make up and impose "laws as they go…..?"

FILE #210585 IS DESIGNED TO RESTRICT HOUSING DEVELOPMENT IN SAN FRANCISCO DURING A HOUSING CRISIS; PLEASE VOTE NO.

Sincerely,

Kenneth Mandler
466 Country Club Drive
San Francisco, CA 94132
kenmandler@gmail.com

Attachment: File #210585

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

EXECUTIVE SUMMARY
PLANNING CODE TEXT AMENDMENT

HEARING DATE: September 2, 2021

90-Day Deadline: September 9, 2021

Project Name:	State-Mandated Accessory Dwelling Unit Controls
Case Number:	2021-006260PCA [Board File No. 210585]
Initiated by:	Mayor Breed / Introduced June 8, 2021
Staff Contact:	Veronica Flores, Legislative Affairs Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 628-652-7533
Recommendation:	Approval

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multi-family buildings. The changes in the proposed Ordinance are required to bring the Planning Code into compliance with State law.

Before comparing the changes between the Planning Code today and the proposed Ordinance, it is important to understand that there are now two different categories of ADUs under State law. The City is required to act on all these ADUs within 60 days of receipt of a complete application and shall be ministerial. These State-Mandated ADUs have no discretionary action, are not subject to review under the California Environmental Quality Act (CEQA), no subjective design review, and have a shortened appeal window. A brief description is included below to help clarify the comparisons in the following table. In efforts to clarify the different types of ADUs, the names have been simplified since the November 2020 Commission hearings as follows.

- State Program (known as Streamlined ADUs in the proposed Ordinance): These ADUs are the most permissive in that the City has no ability to require Code compliance for anything that is not listed in State law; however, State Program ADUs are only permitted on properties where there are no other ADUs. This program allows one ADU (conversion, attached, or detached) per lot.
- Hybrid Program (known as Ministerial ADUs in the proposed Ordinance): These ADUs need to comply with all Planning Code requirements (e.g. rear yard, exposure, etc.), except for density and cannot

require a waiver. Number of ADUs (conversion, detached, and/or junior) allowed per this program varies. This most closely resembles what is allowed today under the Section 207(c)(6) or previously known as "No Waiver ADUs". Additionally, Hybrid Program ADUs include a new type of ADU for existing and proposed single-family dwellings called the Junior ADU (JADU), which is described below.

- Junior ADUs: Junior ADUs would be allowed within existing or proposed single-family dwellings. General eligibility requirements include, but are not limited to, the following:
  - Converting no more than 500 square feet of the existing or proposed single-family dwelling;
  - Owner occupancy in either the primary unit or JADU;
  - An entrance that is separate from the main entrance of the primary unit;
  - Must include an efficiency kitchen; and
  - May or may not include shared sanitation facilities.

For further details, see the ADU Programs Comparison Handout available on the Planning Department website.

The Way It Is Now	**The Way It Would Be**
Review timeline: The Department is required to complete review of an ADU within 120 days from receipt of a complete application.	The City would be required to act on a permit for an ADU or JADU under State law within 60 days from receipt of a complete application.
Articles 10 and 11: ADUs proposed within Article 10 and 11 buildings and districts would be required to comply with architectural review standards as adopted by the Historic Preservation Commission. These projects are not subject to the Certificate of Appropriateness or Permit to Alter review processes.	Articles 10 and 11 would explicitly exempt State and Hybrid Program ADUs and JADUs proposed within landmark buildings and districts from Certificate of Appropriateness and Permit to Alter review processes.
Planning Code compliance: State-Mandated ADUs (also known as No Waiver ADUs) must comply with all Planning Code requirements except for density limitations.	Hybrid Program ADUs would still require Planning Code compliance except for density. However, State Program ADUs would not be required to comply with Planning Code requirements that are not listed in State law.
Impact fees: All ADUs are subject to impact fees, which are calculated based on standard thresholds such as adding a new unit or square footage.	State and Hybrid Program ADUs smaller than 750 square feet would be exempt from impact fees. State and Hybrid Program ADUs proposed on properties with three or fewer units would also be exempt from impact fees. State and Hybrid Program ADUs 750 square feet or larger would be subject to a reduced impact fee. The reduced impact fee would be based on the ADU's proportion in relation to the primary unit for single-family dwellings, or the average of existing units for multi-family dwellings.
Noticing for single-family dwellings: All ADUs proposed within existing or new construction single-family dwellings require a 30-day notice posted at the	ADUs proposed within an existing or new construction single-family dwelling that have tenant(s) would be required to complete either a) the

The Way It Is Now	The Way It Would Be
property, a mailed notice, and an online notice. The Planning Department issues such notices during the 120-day review timeframe.	Department of Building Inspection (DBI) Screening Form, if applicable or b) if the DBI Screening Form is not applicable, send a notice per the Planning Code requirements. Proof of this notice needs to be submitted with a complete application.
Density: One ADU is permitted in an existing or new construction single-family dwelling or existing authorized detached structure. Proposed ADUs may be located within non-habitable space and may take habitable space away from an existing dwelling.	One State Program ADU (conversion, attached, or detached) would be permitted for existing or proposed single- or multi-family dwellings so long as there are no other ADUs on the properties. Hybrid Program ADUs would be permitted as follows: Existing or new construction single-family dwellings or existing authorized detached structures would be permitted to add one ADU (conversion or detached) and/or one JADU. Existing multi-family dwellings would be permitted to add either 1) one conversion ADU or up to 25% of the existing number of legal dwelling units within the primary structure, whichever is greater, or 2) up to two detached ADUs.
Size restrictions: ADUs proposed within an existing or proposed single-family dwelling or within an existing authorized detached structure are limited to 1,200 square feet in size.	Hybrid Program detached ADUs would be permitted up to 800 square feet for properties with existing or proposed single-family dwellings. JADUs would be permitted up to 500 square feet within existing or proposed single-family dwellings. State Program detached ADUs would be permitted up to 850 square feet for studio and one-bedrooms and up to 1,000 square feet for two or more bedrooms for existing or proposed single- or multi-family dwellings. Additionally, if there is an existing dwelling, State Program attached ADUs have the following size restrictions: a) studios and 1-bedroom ADUs would be permitted up to 850 sf or 50% of existing primary dwelling, whichever is greater and b) ADUs with two or more bedrooms would be permitted up to 1,000 sf or 50% of existing primary dwelling, whichever is greater.
Expansions: Existing authorized detached structures may be expanded with dormers. If said structure is	The specific provisions related to expansions on existing authorized detached structures would be removed since detached ADUs would be permitted

The Way It Is Now	The Way It Would Be
located on a corner lot, an additional story above the existing footprint is permitted.	per State law. However, Hybrid Program ADUs on properties with an existing or proposed single-family dwelling may expand an existing authorized detached structure by up to 150 square feet to accommodate ingress/egress.
Height: ADUs must comply with the height requirements	State Program ADUs (attached and detached) would be limited to 16 feet in height. Hybrid Program detached ADUs would be limited to 16 feet in height. Further, detached ADUs located outside of the buildable area (only allowed under the State Program) would be measured from existing grade at any given point to either a) the highest point of a finished roof in the case of a flat roof or b) the average height of a pitched roof or stepped roof, or similarly sculptured roof form.
Setbacks: ADUs must comply with all required setbacks.	State Program ADUs (attached and detached) would require a setback of four feet from the side and rear property lines. No setback is required if the ADU is located within an existing living area or an existing accessory structure, or an ADU that replaces an existing structure, is in the same location, and constructed to the same dimensions as the structure being replaced. Hybrid Program detached ADUs would require a setback of four feet from the side and rear property lines and need to comply with all local Planning Code setback requirements.
TECHNICAL CLARIFICATIONS FOR LOCAL PROGRAM	
Noticing for Waiver Program: Notice is required for new construction or expansions that are not exempt from noticing.	Notice would only be required for any proposed new construction building, not for any scopes of work related to the ADU itself.
Waivers: Waivers may be granted for ADUs added to existing buildings under the Waiver Program.	Waivers may only be granted for ADUs proposed within existing buildings. ADUs proposed within new construction buildings may only be granted the density waiver.

Background

The State Legislature has deemed ADUs a valuable and affordable form of housing in California. The state's ADU laws have been amended several times to revise the requirements and make the approval of an ADU less discretionary.

San Francisco first adopted a local ADU program in 2014 and made several updates since the initial inception both in response to changes to the State law and to improve the City's local ADU program. The most recent ADU changes prior to this Ordinance occurred in 2019, which allowed ADUs in new construction. The proposed Ordinance will update San Francisco's ADU programs to comply with the latest amendments to the State law, per Section 3 of Senate Bill 13, Section 2 of Assembly Bill 68, and Section 1.5 of Assembly Bill 881, all of which were effective beginning January 1, 2020. The proposed Ordinance also incorporates changes made to State law under Assembly Bill 3182, which was effective beginning January 1, 2021. All these changes are required to bring our local code into compliance with State law. Additionally, the proposed Ordinance will clarify the ministerial approval process, restructure the Code to make it more legible to read, and provide technical clarifications.

This Ordinance is the continuation of Board File 201008 which was filed on May 3, 2021. The only changes within this new Ordinance compared to the prior Ordinance includes clarifications or changes required by State law, as well as incorporating the recommended modification from both the Historic Preservation and Planning Commissions from the November 2020 hearings.

Issues and Considerations

Housing Stock

San Francisco and the Bay Area have a housing shortage. The Planning Department is working to meet these housing needs. In the City's Housing Element, Objective One specifically cites ADUs as an effective way to add to the housing stock. The ADU program helps create new dwelling units, mostly through infill efforts. The initial ADU pilot program in the Castro District in 2014 has now grown into the robust ADU programs of today. This is a testament to the success of the ADUs and why the ADU program continues to grow and evolve. The Ordinance will build on these efforts by allowing for more opportunities to build ADUs.

> The Housing Element cites Accessory Dwelling Units as an effective and inexpensive way to realize greater housing potential and add to the housing stock.

Ministerial Overview

The latest State law amendments clarify the ministerial review for ADUs in single-family and multi-family dwellings. Ministerial review for such ADUs is defined as follows:

- No subjective design review except for standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places
- Not subject to review under the California Environmental Quality Act (CEQA)
- Not subject to Planning Code Section 311 neighborhood notification requirements
- No discretionary review opportunity

Additionally, the State-Mandated ADUs are also subject to a shortened appeal window requiring that the appeal be heard within 10-30 days from appeal filing.

Another important distinction is that ADUs approved under State law are not subject to the rent stabilization provisions of the San Francisco Rent Ordinance. ADUs added under the Local ADU Program are subject to Rent Control when a complete or partial waiver, or an administrative exception, is granted from the Planning Code requirements and when the lot contains a Rental Unit. State-Mandated ADUs do not receive waivers and thus there is no opportunity to impose Rent Control on such ADUs.

While these ministerial ADUs are subject to State law, we are still maximizing the number of ADUs we can subject to Rent Control. In some cases, the Local ADU Program offers more opportunities for ADUs, including potentially an unlimited number of ADUs in certain cases. If the property is eligible for more than one program, the property owner will be able to decide which program best suits their needs.

Ability to be Less Restrictive

The proposed Ordinance is implementing only what is required by State law, except for the following items:

- *Exempting impact fees for State and Hybrid Program ADUs proposed on properties with three or fewer units.* The proposed Ordinance exempts more ADUs from impact fees than required by State law in efforts to incentivize more ADUs.

- *The way height is measured for Hybrid Program detached ADUs.* The proposed Ordinance clarifies this height measurement as it is not currently defined under State law.

State law permits local jurisdictions to legislate changes that are less restrictive, so long as the minimum requirements under State law are still allowed. The Department recommends the Commission consider potential changes (if any) at a later date.

Junior ADUs

State law introduces a new type of ADU within single-family dwellings: a Junior ADU (JADU), which can convert up to 500 square feet of habitable space from the primary unit. The JADU requires their own entrance separate from the main entrance of the primary dwelling and an efficiency kitchen for the ADU.

This proposed change better accommodates multi-generational households, which has been a recurring concern for San Francisco residents. Intergenerational living has increased further under the current COVID-19 conditions and job uncertainties. However, JADUs are a stark contrast to the current "Zoning Administrator Bulletin: Rooms Down" policy, a set of standards that encourages additional habitable space on the ground floor of residential buildings without creating illegal units. The JADU option now allows for an efficiency kitchen in the additional habitable space on the ground floor, discounting the Rooms Down policy that currently prevents this. The Rooms Down Policy was reevaluated, party due to the new State law changes, and has recently been repealed as described below.

Update on Zoning Administrator Interpretations

Pursuant to Planning Code Section 307(a), the Zoning Administrator issues rules, regulations, and interpretations they deem necessary to administer and enforce the provisions of the Code. Formal interpretations are listed within the Planning Code, as well as a series of topical bulletins (i.e. neighborhood notice, bicycle parking, affordable housing, etc.).

During the November 2020 hearings, the Zoning Administrator provided a brief preview of forthcoming interpretations. On March 22, 2021, the Zoning Administrator issued a sizeable set of amendments to existing interpretations and bulletins which are available in a memo on the Planning Department website. Many of these interpretations pertain to housing-related definitions and controls, including those related to ADUs. The need for these amendments and new interpretations stem from new local and state programs in recent years (i.e. ADUs, Unauthorized Dwelling Units, density bonus programs, etc.), new types of development proposals, and the evolving nature and impacts of the COVID-19 pandemic.

Most of these interpretations are technical and minor in nature, but some will have potentially greater impact. Specifically, the "Rooms Down" bulletin (Zoning Administrator Bulletin No. 1), which limits the development of ground floor spaces in existing Dwelling Units to help prevent the creation of Unauthorized Dwelling Units has been repealed. This transition serves to better respond to our evolving ADU programs and the Code requirement to legalize Unauthorized Dwelling Units. Additional interpretations relate to dwelling unit exposure, housing-related definitions (i.e. Dwelling Unit and Group Housing), and a variety of other issues.

Delegation Agreement and Historic Preservation

Since the November 2020 hearings, staff revised the Historic Preservation Delegation Agreement, including items related to review of ADUs. State law allows the local jurisdictions to implement objective architectural review standards. The Historic Preservation Commission adopted "Accessory Dwelling Units Architectural Review Standards" via Resolution No. 1041 on April 3, 2019. Some of these objective standards now conflict with new State law requirements. During the November 4, 2020 State-Mandated ADUs hearing, the Historic Preservation and Planning Commissions expressed desire to retain reference to these objective review standards where appropriate. In response, the relevant objective review standards that are still compliant with State law have been incorporated into the Delegation Agreement. The revised Delegation Agreement appeared in front of the Historic Preservation Commission on August 4, 2021 and is now in effect.

Mid-Block Open Space

The proposed Ordinance permits Streamlined detached ADUs in the required rear yard so long as the ADU complies with the following requirements listed in the table below.

	State Detached ADUs
Number of ADUs permitted	1
Height	16 feet
Rear and side setbacks	4 feet
Square footage	850 for studio & 1-bedroom ADUs 1,000 for 2+ bedroom ADUs

These detached ADUs may encroach into the mid-block open space, pending on the proposed location of the ADU and the size of the lot. The required side and rear setbacks and height limitations per State law provide some relief between properties; however, some proposed ADUs may cause minor light or privacy issues that the Commission is typically concerned about. In the case where the proposed ADU complies with these requirements, the Commission would have no opportunity to weigh in on such concerns. If neighbors opposed the detached ADU within the mid-block open space, they would only be able to appeal directly to the Board of Appeals without the opportunity to make their case in front of Planning Commission like they can today. In the case of such an appeal, the Board of Appeals would not have discretion over the project and would be limited to verifying if the State law requirements were followed or not.

Hybrid Program detached ADUs still need to be located within the buildable area of the lot. In this case, the proposed location of the ADU(s) will likely still be in keeping with the general pattern of the neighborhood block.

Tenant Noticing

The Ordinance removes a noticing requirement for single-family dwellings that was added in 2019 and replaces it with new noticing requirements, which apply only if there is a tenant in a single-family home. No Waiver ADUs in single-family dwellings currently require a 30-day notice, even if there is no tenant. It is not logical to require sending a notice to the property owner if they are the only residents in the dwelling. If there is a tenant at the property, the Ordinance would require the property owner to submit one of the following with their permit application:

- A copy of a completed Department of Building Inspection Screening Form, if applicable.

- Posting a 15-day notice at the property and mailing the notice to all tenants. If electing this option, the notices must comply with the Planning Code requirements.

This change ensures that tenants are notified in advance of a new ADU permit and removes the unnecessary notice for owners when there are no tenants impacted. Additionally, the proposed Ordinance requires that this outreach is completed before the ADU permit application is submitted. This earlier timeframe would also help the City ensure the new 60-day review timeframe is met and would provide an earlier opportunity for any impacted tenant(s) to engage with property owner.

Supervisor Mandelman introduced a separate piece of legislation under Board File 210699, which is scheduled to appear before the Planning Commission on September 9, 2021. This Ordinance requires that all Local ADU Program applicants submit a declaration to the Rent Board with a written description of housing services that are located where the ADU(s) are proposed; whether ADU construction would result in severance, reduction, or removal of housing services; and the just cause for the aforementioned. Tenants would have the opportunity to contest the information provided in the declaration and petition the Rent Board for a written determination verifying the presence and defining characteristics of the housing service(s) in question. If no petition is filed, the Rent Board would have 30 days to transmit the declaration to Planning Department. If a petition is filed, the Rent Board would have 90 days to transmit the declaration and their written determination to the Planning Department. The Planning Department would not be able to approve an ADU under the Local Program if either 1) the Rent Board declaration is missing or 2) the Rent Board declaration indicates that the ADU construction would result in severance, reduction, or removal of housing services without just cause.

Timeline for Review

Since the launch of the initial ADU program, the Planning Department has improved efforts to more effectively and efficiently review ADU permits. To help facilitate review, the Planning Department has created a team of ADU specialists. Effective August 2018, Planning established an ADU counter with dedicated staff at the DBI permit center. Due to COVDI-19 related impacts, this physical counter has transitioned into electronic format and dedicated ADU planners are available for virtual appointments or via email.

The Planning Department has also collaborated more with other City agencies involved in the review of ADUs and introduced parallel review efforts. One of the biggest time-savings has been the "Roundtable" review where different City agencies meet and review ADU permits together. This allows the City to discuss any conflicting policies and provide applicants with consolidated comments. Additionally, staff review and this "Roundtable" have shifted to an electronic format during the COVID-19 pandemic to ensure the review timeframes are still met.

Beginning November 2020, the Planning Department took on the role of accepting and issuing all new ADU permits to temporarily assist DBI during the COVID-19 pandemic. This effort has led to truly concurrent review and numerous process improvements.

The State law (Senate Bill 1069), effective January 1, 2017, required jurisdictions to complete approval of Code-complying ADUs in single-family homes within 120 days. The proposed Ordinance requires jurisdictions to act on these ministerial ADU permits within 60 days of receipt of a complete application. The Department is unable to estimate how many or what percentage of ADU permits would trigger this new timeline; however, there has been much public and applicant interest in this Ordinance. That said, the Department will continue to refine internal review processes and work with other City agencies to ensure the new 60-day review timeframe is met.

General Plan Compliance

The General Plan identifies ADUs as an effective and inexpensive way to increase the housing supply. The Ordinance retains existing housing units and prioritizes permanently affordable housing. Additionally, the proposed amendments would expand the ADU program providing more opportunities to add to the housing stock.

Racial and Social Equity Analysis

The Planning Code amendments in the proposed Ordinance help clarify and provide more options to add ministerial ADUs. The ADU program provides a quicker, and often more financially feasible path for property owners to add to the housing stock and different types of housing. The proposed Ordinance includes a JADU, which requires an efficiency kitchen. This provides more options for multi-generational households, which is often found in communities of color, and allows seniors to age in place more easily within their same community and household. ADUs also help advance racial and social equity by allowing for more affordable dwellings due to their smaller sizes. Even if ADUs are less costly due to smaller square footages, ADUs are not typically rented at very low- or low-income AMI levels so there is still an affordability issue.

ADUs are permitted both within existing and new construction buildings. Naturally, adding ADUs within existing structures is much cheaper than new construction projects. However, households with lower incomes pursuing ADUs may experience disproportionate costs in general. The same permit and construction costs may require a much larger percentage of their income compared to moderate-income households. This may be a barrier for lower-income households to pursue ADUs, in which case they do not benefit from the ADU program or the proposed Ordinance. One consideration to help alleviate such financial burden may include a permit or fee waiver for low-income households. Supervisor Mar launched a pilot program in District 4 in September 2020 to provide professional services to 25 qualifying households interested in adding ADU(s) on their property using grant monies awarded by the State. The pilot program's goals include 1) providing services to lower-income households that otherwise would not be able to afford to hire an architect/developer and 2) to better understand what barriers lower-income households encounter when pursuing an ADU. If successful, the Department recommends the pilot program be modified and expanded to benefit the entire city, pending funding availability.

Implementation

The Department has determined that this Ordinance will impact our current implementation procedures in that State-Mandated ADUs will be subject to a 60-day review timeframe. This is half the time prescribed in Mayoral Directive No. 17-02 which required ADUs be acted upon within 120 days of receipt of a complete application. The Department already collaborates with other City agencies for ADU review. Below includes a list of changes and other measures the Department will take to help achieve the 60-day timeframe:

- This 60-day timeframe is more feasible for State Program ADUs, which requires less review time since staff would review the ADU based on the strict State law requirements, rather than for full Planning Code compliance.

- The City's fully concurrent electronic review allows all required Agencies to review ADU applications for completeness at the same time. This will help ensure the 60-day time clock only starts when we have all the required information.

- Today, staff issues the 30-day notice during the 120-day review timeframe for all single-family dwellings. For single-family dwellings with tenants, outreach and noticing would be required before submitting an application. This helps inform the tenant earlier, but also removes that noticing period from the 60-day clock.

Recommendation

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department supports the proposed Ordinance because it supports the Housing Element's goals to ensure adequate housing for current and future San Franciscans. Specifically, the Ordinance increases the potential for Accessory Dwelling Units by bringing the Planning Code into compliance with State law. These changes are

significant and far reaching as is, and before more relaxed controls are considered staff recommends only adopting what State law requires and then refining later after we can assess the program.

Update on Forthcoming Amendments

The Department is working on future legislation that would serve two primary purposes:

1. Reorganize the ADU Planning Code subsections. The ADU code subsection is currently housed within Planning Code Section 207, Dwelling Unit Density Limits. The ADU Programs have evolved tremendously since the original pilot program in the Castro. The goal is to take the ADU Program language within Section 207 and move it to its own section, like other density bonus programs such as HOME-SF. This move will make the ADU Programs section easier to read, understand, and use.

2. Incentivize the Local ADU Program. Recent changes to State law have been difficult to apply to San Francisco, which has a unique urban fabric compared to the rest of the State. In some cases, the height and building envelope permitted under State law do not match the neighborhood context, but the City has no choice but to approve if compliant with State law. Additionally, there is the concern that ADUs proposed under the State and Hybrid ADU Programs will not result in a Rent Control unit for the City. The Department is crafting ways to make it easier to apply for and more appealing to pursue an ADU under the Local Program.

The Department will continue working on this legislation with a goal to have it ready to be Initiated at Planning Commission during the 2021-2022 fiscal year.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 210585

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San Francisco Planning
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: September 2, 2021

Project Name:	State-Mandated Accessory Dwelling Unit Controls
Case Number:	2021-006260PCA [Board File No. 210585]
Initiated by:	Mayor Breed / Introduced June 8, 2021
Staff Contact:	Veronica Flores, Legislative Affairs veronica.flores@sfgov.org, (628) 652-7525
Reviewed by:	Aaron D Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO CLARIFY THE MINISTERIAL APPROVAL PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS 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.

WHEREAS, on June 8, 2021 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 210585, which would amend the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units meeting certain requirements in single-family and multifamily buildings;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 2, 2021; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of

Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby approves the proposed ordinance.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that the proposed Ordinance supports the Housing Element's goals to ensure adequate housing for current and future San Franciscans by increasing the potential for new Accessory Dwelling Units.

2. The Commission finds that the proposed Ordinance will help align the Planning Code with the State Law.

3. The Commission finds that the proposed Ordinance will further streamline the ADU review process and clarify current processes. Such changes will make the City's ADU program more effective and flexible.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.5
Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.

OBJECTIVE 3
PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.4
Preserve "naturally affordable" housing types, such as smaller and older ownership units.

The proposed Ordinance retains existing housing units and prioritizes permanently affordable housing. Additionally, the proposed amendments would expand the ADU program and make the addition of ADU's more feasible.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

   The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

   The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

   The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

   The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

   The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved.

   The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 2, 2021

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: September 2, 2021

EXHIBIT B

FILE NO. 210585 ORDINANCE NO.

[Planning Code - State-Mandated Accessory Dwelling Unit Controls]

Ordinance amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units 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.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 210585 and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons stated in Planning Commission Resolution No. _____.

Section 2. The Planning Code is hereby amended by revising Sections 102, 207, 1005, and 1110, to read as follows:

SEC. 102. DEFINITIONS.

* * * *

Dwelling Unit, Accessory, ***or ADU*****.** Also known as a Secondary Unit or In-Law Unit, is a Dwelling Unit that *meets all the requirements of subsection 207(c)(4) or subsection 207(c)(6) and that is accessory to at least one other Dwelling Unit on the same lot*~~*is constructed either entirely within the existing built envelope, the "living area" as defined in State law, or the buildable area of an existing or proposed building in areas that allow residential use; or is constructed within the existing built envelope of an existing and authorized auxiliary structure on the same lot*~~*. A detached ADU shall not share structural walls with either the primary structure or any other structure on the lot. Height for detached ADUs located outside the buildable area shall be measured from existing grade at any given point to either a) the highest point of a finished roof in the case of a flat roof or b) the average height of a pitched roof or stepped roof, or similarly sculptured roof form.*

Dwelling Unit, Junior Accessory, or JADU. *A Dwelling Unit that meets all the requirements of subsection 207(c)(6), and that:*

(a) is accessory to at least one other Dwelling Unit on the same lot;

(b) is no more than 500 square feet of Gross Floor Area;

(c) is contained entirely within an existing or proposed single-family structure;

(d) may include separate sanitation facilities, or may share sanitation facilities with the existing structure;

(e) is owner-occupied, unless the owner resides in the remaining portion of the structure;

(f) includes an entrance to the Junior Accessory Dwelling Unit that is separate from the main entrance to the proposed or existing single-family structure; and

(g) includes an efficiency kitchen that meets the requirements of Government Code Section 65852.22(a)(6), including a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling Unit.

* * * *

SEC. 207. DWELLING UNIT DENSITY LIMITS.

* * * *

(c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations under this Section 207 shall be made in the following circumstances:

* * * *

(4) ***Accessory Dwelling Units – Local*** ~~***Accessory Dwelling Unit***~~ **Program***:* **Accessory Dwelling Units in Multifamily Buildings** *and*~~;~~ **Accessory Dwelling Units in Single-Family Homes That Do Not Strictly Meet the Requirements in subsection (c)(6).**

(A) **Definition.** An "Accessory Dwelling Unit" (ADU) is defined in Section 102.

(B) **Applicability.** This subsection (c)(4) shall apply to the construction of ~~*Accessory Dwelling Units*~~*ADUs* on all lots located within the City and County of San Francisco

in areas that allow residential use, except ~~*that construction of an Accessory Dwelling Unit is*~~*ADUs* regulated by subsection (c)(6*) below.*~~*, and not this subsection (c)(4), if all of the following circumstances exist:*~~

~~*(i) only one ADU will be constructed;*~~

~~*(ii) the ADU will be located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed single-family dwelling;*~~

~~*(iii) the ADU is either attached to or will be constructed entirely within the "living area" (as defined in subsection (c)(6)(B)(iii)) or the buildable area of an the proposed or existing primary dwelling single-family home, or constructed within the built envelope of an existing and authorized auxiliary structure on the same lot; provided, however, that (A) when a stand-alone garage, storage structure, or other auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the stand-alone garage, storage structure, or other auxiliary structure is in the required rear yard and (B) on a corner lot, a legal stand-alone nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.*~~

~~*(iv) the ADU will strictly meet the requirements set forth in subsection (c)(6) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G); and*~~

~~*(v) the permit application does not include seismic upgrade work pursuant to subsection (c)(4)(F).*~~

(C) **Controls on Construction.** An ~~*Accessory Dwelling Unit*~~*ADU* regulated by this subsection (c)(4) is permitted to be constructed in an existing or proposed building under the following conditions:

(i) For lots that have four existing Dwelling Units or fewer, or where the zoning would permit the construction of four or fewer Dwelling Units, one ADU is

permitted.~~;~~ ~~F~~for lots that have more than four existing Dwelling Units or are undergoing seismic retrofitting under subsection (c)(4)(F) below, or where the zoning would permit the construction of more than four Dwelling Units, there is no limit on the number of ADUs permitted, *as long as all other health and safety requirements are met.*~~; provided,~~

(ii) ~~however, that t~~The Department shall not approve an application for construction of an *ADU*~~Accessory Dwelling Unit in any building regulated by this subsection (c)(4)~~ where a tenant *on the lot was*~~has been~~ evicted pursuant to Administrative Code Sections 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the application for a building permit to construct the ADU, or where a tenant ~~has been~~*was* evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the application for a building permit to construct the ADU. This provision shall not apply if the tenant was evicted under Section 37.9(a)(11) or 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Department and to the Rent Board a declaration from the property owner or the tenant certifying that the property owner notified the tenant of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.

(ii*i*) Except as provided in subsections (i*v*~~ii~~) and (~~i~~v) below, an ~~Accessory Dwelling Unit~~*ADU* shall be constructed *a.* entirely within the buildable area of an existing lot, provided that the ADU does not exceed the existing height of ~~an existing~~*the* building *in which it is constructed*, or *b.* within the built envelope of an existing and authorized ~~stand-alone~~*detached* garage, storage structure, or other ~~auxiliary~~*detached* structure on the same lot~~, as the built envelope existed three years prior to the time the application was filed for a building permit to construct the ADU~~. *For purposes of this subsection 207(c)(4), a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot.*

For purposes of this ~~*provision*~~*subsection 207(c)(4)(C)(iii)*, the "built envelope" shall include the open area under a*n existing and authorized* cantilevered room or room built on columns; decks, except for decks that are supported by columns or walls other than the building wall to which they are attached and are multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be against a blank neighboring wall at the property line and not visible from any off-site location; as these spaces exist as of July 11, 2016.~~.~~ An ADU constructed entirely within the existing built envelope, as defined in this subsection *207(c)(4)(C)*(ii*i*), along with permitted obstructions allowed in Section 136(c)(32), of an existing building or authorized ~~*auxiliary*~~*detached* structure on the same lot, or where an existing ~~*stand-alone*~~*detached* garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code unless the existing building or authorized ~~*auxiliary*~~*detached* structure on the same lot *is an Article 10 or Article 11 individual landmark or* is in an Article 10 or Article 11 District, in which case the notification requirements will apply. If an ADU will be constructed under a cantilevered room or deck that encroaches into the required rear yard, a pre-application meeting between the applicant and adjacent neighbors for all the proposed work is required before the application may be submitted.

(i*v*~~*ii*~~) When a ~~*stand-alone*~~*detached* garage, storage, or other structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the ~~*stand-alone*~~*detached* garage, storage structure, or other auxiliary structure is in the required rear yard.

(~~*i*~~v) On a corner lot, a legal ~~*stand-alone*~~*detached* nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.

(*vi) ADUs shall comply with any applicable controls in Planning Code Section 134(f).*

(vii) An ~~*Accessory Dwelling Unit*~~*ADU* shall not be constructed using space from an existing Dwelling Unit, except that an ADU may expand into habitable space on the ground or basement floors provided that it does not exceed 25% of the *total* gross square footage of such space *on the ground and basement floors*. The Zoning Administrator may waive this 25% limitation if (a) the resulting space would not be usable or would be impractical to use for other reasonable uses, includ~~ed~~*ing,* but not limited to, storage or bicycle parking or (b) waiving the limitation would help relieve any negative layout issues for the proposed ADU.

(viii) An existing building undergoing seismic retrofitting may be eligible for a height increase pursuant to subsection (c)(4)(F) below.

(~~vi~~ix) Notwithstanding any other provision of this Code, an ~~*Accessory Dwelling Unit*~~*ADU* authorized under this Section 207(c)(4) may not be merged with an original unit(s).

(*x*~~*viii*~~) An ~~*Accessory Dwelling Unit*~~*ADU* shall not be permitted in any building in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would eliminate or reduce a ground-story retail ~~*or commercial*~~ space.

(xi) An application for a permit to construct an ADU in a proposed building pursuant to this subsection 207(c)(4)(C) shall not be subject to the notification requirements of Section 311 of this Code. The application for a permit to construct the proposed building shall be subject to any applicable notification requirements of Section 311 of this Code.

(D) **Prohibition of Short-Term Rentals**. An ~~*Accessory Dwelling Unit*~~*ADU* shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code, which restriction shall be recorded as a Notice of Special Restriction on the subject lot.

(E) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ~~*Accessory Dwelling Unit*~~*ADU* authorized under this Section 207(c)(4) shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership.~~*; provided, however, that t*~~*T*his prohibition on separate sale or finance of the ADU shall not apply to *an ADU in* a building that ~~*(i) within three years prior to July 11, 2016 was an existing*~~*consisted entirely of* condominium ~~*with no Rental Unit as defined in Section 37.2(r) of the Administrative Code*~~*units as of July 11, 2013*, and ~~*(ii)*~~ has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of the Administrative Code ~~*within 10 years prior to*~~*since* July 11, ~~*201*~~*199*6. *This prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.*

(F) **Buildings Undergoing Seismic Retrofitting.** For ~~*Accessory Dwelling Units*~~*ADUs* on lots with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the following additional provision applies: If allowed by the Building Code, a building in which an ~~*Accessory Dwelling Unit*~~*ADU* is constructed may be raised up to three feet to create ground floor ceiling heights suitable for residential use. Such a raise in height

(i) Shall be exempt from the notification requirements of Section 311 of this Code; and

(ii) May expand a noncomplying structure, as defined in Section 180(a)(2) of this Code and further regulated in Sections 172, 180, and 188, without obtaining a variance for increasing the discrepancy between existing conditions on the lot and the required standards of this Code.

(iii) On lots where an ADU is added in coordination with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the building and the new ADU shall maintain any eligibility to enter the condo-conversion lottery and may only be subdivided if the entire property is selected on the condo-conversion lottery.

(iv) Pursuant to subsection (4)(C)(i), there is no limit on the number of ADUs that are permitted to be added in connection with a seismic retrofit*, as long as all health and safety requirements are met*.

(G) **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant ~~*an Accessory Dwelling Unit*~~ a complete or partial waiver of the density limits and bicycle parking, rear yard, exposure, or open space standards of this Code *for ADUs constructed within an existing building, and may grant a waiver of the density limits of this Code for ADUs constructed within a proposed building*. If the Zoning Administrator grants a complete or partial waiver of the requirements of this Code and the subject lot contains any Rental Units at the time an application for a building permit is filed for construction of the ~~*Accessory Dwelling Unit*~~*ADU*(s), the property owner(s) shall enter into a Regulatory Agreement with the City under subsection (c)(4)(H) subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.

(H) **Regulatory Agreements.** A Regulatory Agreement required by subsection (c)(4)(G) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

(i) a statement that the ADU(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in consideration for a complete or partial waiver of the density limits, and/or bicycle parking, rear yard, exposure, or open space standards of this Code or other direct financial contribution or other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement"); and

(ii) a description of the complete or partial waiver of Code requirements granted by the Zoning Administrator or other direct financial contribution or form of assistance provided to the property owner; and

(iii) a description of the remedies for breach of the Agreement and other provisions to ensure implementation and compliance with the Agreement.

(iv) The property owner and the Planning Director (or the Director's designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The Agreement shall be executed prior to the City's issuance of the First Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building Code.

(v) Following execution of the Regulatory Agreement by all parties and approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded against the property and shall be binding on all future owners and successors in interest.

Any Regulatory Agreement entered into under this Section 207(c)(4) shall not preclude a landlord from establishing the initial rental rate pursuant to Section 1954.53 of the Costa Hawkins Rental Housing Act.

(l) **Monitoring Program.**

(i) **Monitoring and Enforcement of Unit Affordability.** The Department shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized to be constructed by this subsection 207(c)(4) and shall use such data to enforce the requirements of the Regulatory Agreements entered into pursuant to subsection (c)(4)(H). Property owners shall provide the Department with rent information as requested by the Department. The Board of Supervisors recognizes that property owners and tenants generally consider rental information sensitive and do not want it publicly disclosed. The intent of the Board is for the Department to obtain the information for purposes of monitoring and enforcement but that its public disclosure is not linked to specific individuals or units. The Department shall consult with the City Attorney's Office with respect to the legal requirements to determine how best to achieve the intent of the Board.

(ii) **Monitoring of Prohibition on Use as Short Term Rentals.** The Department shall collect data on the use of ~~*Accessory Dwelling Units*~~*ADUs* authorized to be constructed by this subsection (c)(4) as Short-Term Residential Rentals, as that term is defined in Administrative Code Section 41A.4, and shall use such data to evaluate and enforce Notices of Special Restriction pursuant to subsection 207(c)(4)(D) and the requirements of Administrative Code Chapter 41A.

(iii) **Department Report.** *As part of the annual Housing Inventory, t*~~*T*~~he Department shall ~~*publish a*~~ report ~~*annually until April 1, 2019, that describes and evaluates*~~ the types of units being developed *pursuant to this subsection 207(c)(4),* ~~*and*~~ their affordability rates, ~~*as well as*~~ their use as Short-Term Residential Rentals*, and*~~*. The report shall contain*~~ such additional information as the Director or the Board of Supervisors determines would inform decision makers and the public on the effectiveness and implementation of this subsection *207*(c)(4), and *shall* include recommendations for any amendments to the requirements of this Section 207(c)(4).~~ *The Department shall transmit this report to the Board of Supervisors for its*

~~*review and public input. In subsequent years, this information on Accessory Dwelling Units shall be reported annually in the Housing Inventory.*~~

* * * *

(6) ***Accessory Dwelling Units -*** **State Mandated ~~*Accessory Dwelling Unit*~~ Program: Accessory Dwelling Units in Existing or Proposed ~~*Single-Family Homes*~~*Dwellings* or in a Detached ~~*Auxiliary*~~ Structure on the Same Lot.**

(A) **Applicability.** This subsection *207*(c)(6) shall apply to the construction of ~~*Accessory Dwelling Units*~~*ADUs and Junior Accessory Dwelling Units ("JADUs")* (as defined in Section 102) in existing or proposed ~~*single-family homes*~~*dwellings,* or in a detached ~~*auxiliary*~~ structure on the same lot, if the ADU meets the *applicable* requirements of this subsection*207(c)(6)*. An ADU constructed pursuant to this subsection is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding ~~*one*~~*an* ADU *or JADU in compliance with this subsection 207(c)(6)* ~~*to an existing or proposed single-family home or in a detached auxiliary structure on the same lot*~~ does not exceed the allowable density for the lot. *Unless otherwise specified, for purposes of this subsection 207(c)(6), a "detached" structure or ADU shall not share structural walls with either the primary structure or any other structure on the lot.* If construction of the ADU will not meet the requirements of this subsection ~~*and the ADU cannot be constructed without a waiver of Code requirements pursuant to subsection (c)(4)(G)*~~, the ADU is regulated pursuant to subsection *207*(c)(4) and not this subsection *207*(c)(6).

(B) ~~***Lots Zoned for Single-Family or Multifamily Use and Containing an Existing or Proposed Single-Family Home; ***~~***General*** **Controls on Construction.** An ~~*Accessory Dwelling Unit located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed single-family dwelling and*~~*ADU* constructed pursuant to this subsection (c)(6) shall meet all of the following:

~~*(i) The ADU will strictly meet the requirements set forth in this subsection (c)(6)(B) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G).*~~

~~*(ii) The permit application does not include seismic upgrade work pursuant to subsection (c)(4)(F).*~~

~~*(iii) Only one ADU will be constructed that is either attached to or will be constructed entirely within the "living area" (as defined in subsection (c)(6)(B)(iii)) or within the buildable area of the proposed or existing primary dwelling or, except as provided by subsections (B)(x) and (xi) below, within the built envelope of an existing and authorized auxiliary structure on the same lot. "Living area" means (as defined in Section 65852.2(i)(1) of the California Government Code) "the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory structure."*~~

(i~~v~~) The ADU must have independent exterior access from the existing or proposed primary dwelling or existing accessory structure, and side and rear setbacks sufficient for fire safety.

(*ii*~~v~~) For projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU *or JADU* shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources. Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter.

~~*(vi) The Department shall apply any design guidelines in the Code to the proposed project and review the design of the proposed project to ensure architectural compatibility with existing buildings on the subject lot.*~~

~~*(vii) No setback is required for an existing garage that is converted to an ADU.*~~

(~~v~~iii) All applicable requirements of San Francisco's health and safety codes shall apply, including but not limited to the Building and Fire Codes.

(*iv*~~ix~~) No parking is required for the ADU. ~~*If existing parking is demolished in order to construct the ADU, only the parking space required by this Code for the existing single-family home must be replaced, except that no replacement parking is required for An ADU approved pursuant to subsection 207(c)(6)(D). If replacement parking is required, it may be located in any configuration on the lot including but not limited to covered, uncovered, or tandem space or by the use of mechanical automobile parking lifts.*~~

~~*(x) When a stand-alone garage, storage, or other auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the stand-alone garage, storage structure, or other auxiliary structure is in the required required rear yard.*~~

~~*(xi) On a corner lot, a legal stand-alone nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.*~~

~~*(x) When the ADU involves expansion of the built envelope of an existing primary dwelling, or an expansion of the built envelope of an existing and authorized stand-alone garage, storage structure, or other auxiliary structure on the same lot, or the construction of a new detached auxiliary structure on the same lot, the total floor area of the ADU shall not exceed 1,200 square feet.*~~

~~*(C) **Permit Application Review and Approval.** The Department shall approve an application for a permit to construct an Accessory Dwelling Unit within 120 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in subsection (c)(6)(B). No requests for discretionary review shall be accepted by the Planning Department for permit applications meeting the requirements of this*~~

~~*subsection (c)(6). The Planning Commission shall not hold a public hearing for discretionary review of permit applications meeting the requirements of this subsection (c)(6). Permit applications meeting the requirements of this subsection (c)(6) shall not be subject to the notification or review requirements of Section 311 of this Code.*~~

~~*(D) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the Department under this subsection (c)(6) shall be as set forth in Section 8 of the Business and Tax Regulations Code.*~~

~~*(E) **Prohibition of Short-Term Rentals.** An Accessory Dwelling Unit authorized under this subsection (c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject lot.*~~

~~*(F) **Rental; Restrictions on Subdivisions.***~~

~~*(i) An ADU constructed pursuant to this subsection (c)(6) may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).*~~

~~*(ii) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an Accessory Dwelling Unit authorized under this subsection (c)(6) shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership.*~~

~~*(G) **Department Report.** In the report required by subsection (c)(4)(I)(iii), the Department shall include a description and evaluation of the number and types of units being developed pursuant to this subsection (c)(6), their affordability rates, and such other information as the Director or the Board of Supervisors determines would inform decision makers and the public.*~~

~~*(H) **Notification.** Upon determination that an application is in compliance with the standards of subsection 207(c)(6) of the Planning Code, the Planning Department shall cause a notice*~~

~~*to be posted on the site pursuant to rules established by the Zoning Administrator and shall cause a written notice describing the proposed project to be sent in the manner described below. This notice shall be in addition to any notices required by the Building Code and shall have a format and content determined by the Zoning Administrator. This notice shall include a description of the proposal compared to any existing improvements on the site with dimensions of the basic features, elevations and site plan of the proposed project including the position of any adjacent buildings, exterior dimensions and finishes, and a graphic reference scale, existing and proposed uses or commercial or institutional business name, if known. The notice shall describe the project review process and shall set forth the mailing date of the notice.*~~

~~*(i) Written notice shall be mailed to the project sponsor and tenants of the subject property. Written notice shall also be mailed to tenants of the subject property in unauthorized residential units.*~~

~~*(ii) The notification package for a project subject to notice under this subsection 207(c)(6) shall include a written notice and reduced-size drawings of the project. The written notice shall compare the proposed project to the existing conditions at the development lot. Change to basic features of the project that are quantifiable shall be disclosed on the written notice. The basic features of existing and proposed conditions shall include, where applicable, front setback, building depth, rear yard, depth side, setbacks, building height, number of stories, dwelling unit count and use of the building.*~~

~~*(iii) The written notice shall describe whether the project is a demolition, new construction or alteration project. If the project is an alteration, the type of alteration shall be described: horizontal, vertical, or both horizontal and vertical additions, and where the alteration is located.*~~

~~*(iv) A written project description shall be part of the notice. In addition, the notice shall describe the project review process, information on how to obtain additional information, and the contact information of the Planning Department.*~~

~~*(v) The building permit application number(s) shall be disclosed in the written notice.*~~

~~*(vi) 11x17 sized or equivalent drawings to scale shall be included with the written notice. The drawings shall illustrate the existing and proposed conditions in relationship to the adjacent properties. All dimensions and text throughout the drawings shall be legible. The drawings shall include a site plan, floor plans, and elevations documenting dimensional changes that correspond to the basic features included in the written notice. The existing and proposed site plan shall illustrate the project including the full lots and structures of the directly adjacent properties. The existing and proposed floor plans shall illustrate the location and removal of interior and exterior walls. The use of each room shall be labeled. Significant dimensions shall be provided to document the change proposed by the project. The existing and proposed elevations shall document the change in building volume: height and depth. Dimensional changes shall be documented, including overall building height and also parapets, penthouses, and other proposed vertical and horizontal building extensions. The front and rear elevations shall include the full profiles of the adjacent structures including the adjacent structures' doors, windows, and general massing. Each side elevation shall include the full profile of the adjacent building in the foreground of the project, and the adjacent windows, lightwells and general massing shall be illustrated.*~~

~~*(vii) **Language Access.** All forms of public notice provided pursuant to this subsection 207(c)(6)(H) shall comply with the requirements of the Language Access Ordinance, Chapter 91 of the Administrative Code, to provide vital information about the Planning Department's services or programs in the languages spoken by a Substantial Number of Limited English Speaking Persons, as defined in Chapter 91. The notices required by this subsection 207(c)(6)(H) shall contain*~~

~~*the information set forth in subsection 207(c)(6)(h)(ii)-(v) in the languages spoken by a Substantial Number of Limited English Speaking Persons, as defined in Administrative Code Chapter 91.*~~

~~*(viii) **Online Notice.** For 30 calendar days, on a publicly accessible website that is maintained by the Planning Department, the Planning Department shall provide a digital copy formatted to print on 11 x 17 inch paper of the posted notice, including the contents set forth in subsection 207(c)(6)(h)(ii)-(v) for the application; and digital copies of any architectural and/or site plans that are scaled and formatted to print on 11 x 17 inch paper, are consistent with Plan Submittal Guidelines maintained and published by the Planning Department, and that describe and compare, at a minimum, the existing and proposed conditions at the subject property, the existing and proposed conditions in relationship to adjacent properties, and that may include a site plan, floor plans, and elevations documenting dimensional changes required to describe the proposal.*~~

*(C) **Specific Controls for Ministerial ADUs.** The purpose of this subsection 207(c)(6)(C) is to implement California Government Code Sections 65852.2(e) and 65852.22, which requires ministerial consideration of ADUs and JADUs that meet certain standards ("Ministerial ADUs"). ADUs and JADUs shall strictly meet the requirements set forth in this subsection (c)(6)(C) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G). The City shall approve ADUs and JADUs meeting the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards:*

(i) ADUs and JADUs within proposed space of a proposed single-family dwelling or within existing space of a single-family dwelling or accessory structure meeting the following conditions:

a. The lot on which the ADU or JADU is proposed contains an existing or proposed single-family dwelling.

b. Only one ADU and one JADU is permitted per lot.

c. Each proposed ADU and JADU includes an entrance that is separate from the entrance to the existing or proposed dwelling.

d. Side and rear setbacks will be sufficient for fire safety.

e. If an ADU is proposed, it will be within the existing space of a single-family dwelling or accessory structure, or within the space of a proposed single-family dwelling, or it will require an addition of no more than 150 square feet to an existing accessory structure to accommodate ingress and egress.

f. If a JADU is proposed, it meets the requirements of California Government Code Section 65852.22.

(ii) Detached, new construction ADUs on lot containing a proposed or existing single-family dwelling meeting the following conditions:

a. The lot on which the detached ADU is proposed contains an existing or proposed single-family dwelling.

b. The lot on which the ADU is proposed does not contain another ADU, but may contain a JADU.

c. The proposed ADU is detached from the single-family dwelling and any other structure.

d. The proposed ADU is new construction.

e. The proposed ADU is located at least four feet from the side and rear lot lines, is no greater than 800 square feet in Gross Floor Area, and has a height no greater than sixteen feet.

(iii) ADUs within existing space of a multifamily dwelling meeting the following conditions:

a. The lot on which the ADU is proposed contains an existing multifamily dwelling.

b. The ADU is proposed within a portion of the multifamily dwelling structure that is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

c. The total number of ADUs within the dwelling structure would not exceed twenty-five percent of the existing number of primary dwelling units within the structure, provided that all multifamily dwelling structures shall be permitted to have at least one ADU pursuant to this subsection 207(c)(6)(C)(iii) if all other applicable standards are met.

(iv) Detached, new construction ADUs on lot containing multifamily dwelling meeting the following conditions:

a. The lot on which the ADU is proposed contains an existing multifamily dwelling.

b. The proposed ADU is detached from the multifamily dwelling.

c. The proposed ADU is located at least four feet from the side and rear lot lines and has a height no greater than sixteen feet.

d. No more than two ADUs shall be permitted per lot pursuant to this subsection 207(c)(6)(C)(iv).

(D) Specific Controls for Streamlined ADUs. *The purpose of this subsection 207(c)(6)(D) is implement California Government Code Sections 65852.2(a) through (d), which requires streamlined, ministerial approval of ADUs meeting certain standards ("Streamlined ADUs"). An ADU located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling, and that is constructed pursuant to this subsection 207(c)(6)(D), shall meet all of the following requirements, in addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards. Provided, however, that the City shall not impose limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings, that does not permit construction of an ADU meeting all other requirements that is 800 square feet or less in Gross*

Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks. ADUs under this subsection 207(c)(6)(D) shall meet the following conditions:

(i) Only one ADU will be constructed.

(ii) The ADU will be located on a lot that is zoned for single-family or multifamily use and contains an existing or proposed dwelling.

(iii) The lot on which the ADU is proposed does not contain another ADU or JADU.

(iv) The ADU is either a. attached to or will be constructed entirely within the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or an accessory structure on the same lot, or b. attached to or will be constructed entirely within a proposed or legally existing detached structure on the same lot, or c. detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(v) If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that provides one bedroom shall not exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 850 square feet, whichever is greater. If there is an existing primary dwelling, the Gross Floor Area of an attached ADU that provides more than one bedroom shall not exceed 50 percent of the Gross Floor Area of the existing primary dwelling or 1,000 square feet, whichever is greater.

(vi) The Gross Floor Area of a detached ADU that provides one bedroom shall not exceed 850 square feet. The Gross Floor Area of a detached ADU that provides more than one bedroom shall not exceed 1,000 square feet.

(vii) ***Setbacks.*** *No setback is required for an ADU located within an existing living area or an existing accessory structure, or an ADU that replaces an existing structure and is located in the same location and constructed to the same dimensions as the structure being replaced. A setback of no more than four feet from the side and rear lot lines shall be required for an ADU that is*

not converted from either an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, replacement of those offstreet parking spaces is not required.

(ix) The ADU shall not exceed a height of 16 feet.

(E) Notification requirements for ADUs on a lot containing a proposed or existing single-family dwelling. *Prior to submitting an application to construct an ADU or JADU on a lot containing a proposed or existing single-family dwelling under subsection 207(c)(6)(D), the property owner shall notify all tenants on the subject property of the application, including tenants of the subject property in unauthorized residential units. The property owner shall satisfy this notification requirement in one of the following two ways.*

(i) Comply with the requirements of the Building Code and applicable Department of Building Inspection screening forms, and submit a copy of any applicable Department of Building Inspection Screening forms to the Planning Department as part of the application to construct an ADU or JADU; or

(ii) Cause a notice describing the proposed project to be posted on the subject property for at least 15 days, cause a written notice describing the proposed project to be mailed to the tenants of the subject property, and submit proof of these notices to the Planning Department as part of the application to construct an ADU or JADU. These notices shall have a format and content determined by the Zoning Administrator, and shall generally describe the project, including the number and location of the proposed ADU and JADU. These notices shall describe how to obtain additional information regarding the project and provide contact information for the Planning Department that complies with the requirements of the Language Access Ordinance, Chapter 91 of the Administrative Code, to provide vital information about the Planning Department's services

or programs in the languages spoken by a Substantial Number of Limited English Speaking Persons, as defined in Chapter 91.

*(F) **Permit Application Review and Approval.** The City shall act on an application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within 60 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in this subsection 207(c)(6). No requests for discretionary review shall be accepted by the Planning Department for permit applications meeting the requirements of this subsection 207(c)(6). The Planning Commission shall not hold a public hearing for discretionary review of permit applications meeting the requirements of this subsection 207(c)(6). Permit applications meeting the requirements of this subsection 207(c)(6) shall not be subject to the notification or review requirements of Section 311 of this Code.*

*(G) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the Department under this subsection 207(c)(6) shall be as set forth in Section 8 of the Business and Tax Regulations Code.*

*(H) **Prohibition of Short-Term Rentals.** An ADU or JADU authorized under this subsection 207(c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject lot.*

*(I) **Rental; Restrictions on Subdivisions.** The following restrictions shall be recorded as a Notice of Special Restriction on the subject lot on which an ADU or JADU is constructed under this subsection 207(c)(6) and shall be binding on all future owners and successors in interest**:***

(i) An ADU or JADU constructed pursuant to this subsection 207(c)(6) may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).

(ii) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU or JADU authorized under this subsection 207(c)(6) shall not be subdivided in a manner that would allow for the ADU or JADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership, except that this prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 65852.26.

(iii) The size and attributes of a JADU constructed pursuant to this subsection 207(c)(6) shall comply with the requirements of this subsection 207(c)(6) and Government Code 65852.22.

*(J) **Department Report.** In addition to the information required by subsection 207(c)(4)(I)(iii), the annual Housing Inventory shall include a description and evaluation of the number and types of units being developed pursuant to this subsection (c)(6), their affordability rates, and such other information as the Director or the Board of Supervisors determines would inform decision makers and the public.*

*(K) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this subsection 207(c)(6), where the ADU or JADU is smaller than seven hundred and fifty square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for all other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit.*

* * * *

SEC. 1005. CONFORMITY AND PERMITS.

* * * *

(e) After receiving a permit application from the Central Permit Bureau in accordance with the preceding subsection, the Department shall ascertain whether a Certificate of Appropriateness is required or has been approved for the work proposed in such permit application. If a Certificate of Appropriateness is required and has been issued, and if the permit application conforms to the work approved in the Certificate of Appropriateness, the permit application shall be processed without further reference to this Article 10. If a Certificate of Appropriateness is required and has not been issued, or if the permit application does not conform to what was approved, the permit application shall be disapproved or held by the Department until such time as conformity does exist either through modifications to the proposed work or through the issuance of an amended or new Certificate of Appropriateness. Notwithstanding the foregoing, in the following cases the Department shall process the permit application without further reference to this Article 10:

* * * *

(9) When the application is for a permit to install a City-sponsored Landmark plaque to a landmark or district, provided that the improvements conform to the requirements outlined in Section 1006.6 of this Code~~.~~*; or*

(10) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of subsection 207(c)(6) of this Code.

* * * *

SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

* * * *

(g) Notwithstanding the foregoing, in the following cases the Department may process the permit application without further reference to this Article 11:

(1) When the application is for a permit for ordinary maintenance and repairs only. For the purpose of this Article 11, "ordinary maintenance and repairs" shall mean any work, the sole purpose and effect of which is to correct deterioration, decay or damage of existing materials, including repair of damage caused by fire or other disaster.

(2) When the application is for a permit to construct any new or replacement structures on a site where a Significant or Contributory Building has been lawfully demolished pursuant to this Code and the site is not within a designated Conservation District; or

(3) When the application is for a permit to make interior alterations only and does not constitute a demolition as defined in this Article, unless the Planning Department has determined that the proposed interior alterations may result in any visual or material impact to the exterior of the building or when the designating ordinance or applicable Appendix in this Article requires review of such interior alterations~~.~~*; or*

(4) When the application is for a permit to construct an Accessory Dwelling Unit or Junior Accessory Dwelling Unit, provided that the Accessory Dwelling Unit or Junior Accessory Dwelling Unit conforms to the requirements of subsection 207(c)(6) of this Code.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 5. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the California Government Code.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: /s/ Peter R. Miljanich
PETER R. MILJANICH
Deputy City Attorney

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