

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*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

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

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

2
3 **Ordinance amending the Administrative Code, Building Code, Business and Tax**
4 **Regulations Code, and Planning Code to clarify the ministerial approval process for**
5 **certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family**
6 **and multifamily buildings ~~and to permit certain ADUs in the rear yard under the City's~~**
7 **~~local, discretionary approval program; affirming the Planning Department's~~**
8 **~~determinationmaking findings~~affirming the Planning Department's determination under**
9 **the California Environmental Quality Act; making findings of consistency with the**
10 **General Plan and the eight priority policies of Planning Code, Section 101.1; and**
11 **adopting findings of public necessity, convenience, and welfare under Planning Code,**
12 **Section 302.**

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

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

21 Section 1. Findings.

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

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

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

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

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

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

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

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

1 to impose objective standards, “including, but not limited to . . . historic standards” on ADUs
2 under the City’s Hybrid ADU program. State ADU law therefore authorizes the City to impose
3 objective architectural review standards on ADUs seeking approval under either of the City’s
4 State-mandated programs.

5
6 Section 2. The Planning Code is hereby amended by revising Sections 102, 136,
7 155.1, 207, 207.6, 207.7, 1005, and 1110, and adding Sections 207.1 and 207.2, to read as
8 follows:

9
10 **SEC. 102. DEFINITIONS.**

11 * * * *

12 **Dwelling Unit, Accessory, or ADU.** Also known as a Secondary Unit or In-Law Unit, is a
13 Dwelling Unit that meets all the requirements of ~~sub~~Section 207.1(e)(4) or ~~sub~~Section
14 207.2(e)(6) and that is accessory to at least one other Dwelling Unit on the same lot. A
15 detached ADU shall not share structural walls with ~~either the primary structure or any other~~
16 ~~structure~~ on the lot. Height for detached ADUs located outside the buildable area shall be
17 measured from existing grade at any given point to either a) the highest point of a finished
18 roof in the case of a flat roof or b) the average height of a pitched roof or stepped roof, or
19 similarly sculptured roof form. Height for detached ADUs located outside the buildable area
20 shall not be eligible for any exemptions described in Planning Code subsection 260(b).

21
22 **Dwelling Unit, Junior Accessory, or JADU.** A Dwelling Unit that meets all the requirements
23 of Section 207.2(e)(6), and that:

- 24 (a) is accessory to at least one other Dwelling Unit on the same lot;
- 25 (b) is no more than 500 square feet of Gross Floor Area;

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

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

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

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

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

13 * * * *

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

17 * * * *

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

19 * * * *

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

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

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

6 * * * *

7
8 **SEC. 155.1. BICYCLE PARKING: DEFINITIONS AND STANDARDS.**

9 * * * *

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

17 * * * *

18 (c) **Design Standards for Bicycle Parking Spaces.** These design standards apply to
19 all bicycle parking spaces subject to Sections 155.2 and 155.3. Bicycle parking shall follow the
20 design standards established in Zoning Administrator Bulletin No. 9, which includes specific
21 requirements on bicycle parking layout and acceptable types of Class 1 and Class 2 bicycle
22 parking spaces. For Accessory Dwelling Units, the requirements of this subsection (c) may be
23 modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and
24 207.1(c)(4)(G).

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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.

1 ~~————— (ii) ———~~ The Department shall not approve an application for construction
2 of an ADU where a tenant on the lot was evicted pursuant to Administrative Code Sections
3 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a notice of eviction served within 10 years
4 prior to filing the application for a building permit to construct the ADU, or where a tenant was
5 evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served
6 within five years prior to filing the application for a building permit to construct the ADU. This
7 subsection ~~(c)(4)(C)(ii)~~ shall not apply if the tenant was evicted under Section 37.9(a)(11) or
8 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the
9 unit after the temporary eviction or (B) have submitted to the Department and to the
10 Residential Rent Stabilization and Arbitration Board (Rent Board) a declaration from the
11 property owner or the tenant certifying that the property owner notified the tenant of the
12 tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.

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

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

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

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

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

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

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

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

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

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

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

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

21 ~~————— (xiv) — An application for a permit solely to construct an ADU in a proposed~~
22 ~~building pursuant to this subsection 207(c)(4)(C) shall not be subject to the notification~~
23 ~~requirements of Section 311 of this Code; however, any application for a permit to construct~~
24 ~~the proposed building shall be subject to any applicable notification requirements of Section~~
25 ~~311 of this Code.~~

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

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

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

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

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

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

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

4 _____ (i) _____ Shall be exempt from the notification requirements of Section 314
5 of this Code; and

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

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

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

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

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

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

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

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

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

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

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

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

8 ~~————— (l) ———~~ Monitoring Program.

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

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

1 ~~————— (iii) — Department Report. As part of the annual Housing Inventory, the~~
2 ~~Department shall report the types of units being developed pursuant to this subsection~~
3 ~~207(c)(4), their affordability rates, their use as Short-Term Residential Rentals, and such~~
4 ~~additional information as the Director or the Board of Supervisors determines would inform~~
5 ~~decision makers and the public on the effectiveness and implementation of this subsection~~
6 ~~207(c)(4), and shall include recommendations for any amendments to the requirements of this~~
7 ~~Section 207(c)(4).~~

8 * * * *

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

13 ~~————— (A) — Applicability. This subsection 207(c)(6) shall apply to the construction of~~
14 ~~ADUs and Junior Accessory Dwelling Units (“JADUs”) (as defined in Section 102) in existing~~
15 ~~or proposed dwellings, or in a detached structure on the same lot, if the ADU meets the~~
16 ~~applicable requirements of this subsection 207(c)(6). An ADU constructed pursuant to this~~
17 ~~subsection is considered a residential use that is consistent with the General Plan and the~~
18 ~~zoning designation for the lot. Adding an ADU or JADU in compliance with this subsection~~
19 ~~207(c)(6) does not exceed the allowable density for the lot. Unless otherwise specified, for~~
20 ~~purposes of this subsection 207(c)(6), a “detached” structure or ADU shall not share structural~~
21 ~~walls with either the primary structure or any other structure on the lot. If construction of the~~
22 ~~ADU will not meet the requirements of this subsection, the ADU is regulated pursuant to~~
23 ~~subsection 207(c)(4) and not this subsection 207(c)(6).~~

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

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

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

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

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

13 ~~————— (C) — Specific Controls for Ministerial ADUs. The purpose of this subsection~~
14 ~~207(c)(6)(C) is to implement California Government Code Sections 65852.2(e) and 65852.22,~~
15 ~~which requires ministerial consideration of ADUs and JADUs that meet certain standards~~
16 ~~(“Ministerial ADUs”). ADUs and JADUs shall strictly meet the requirements set forth in this~~
17 ~~subsection (c)(6)(C) without requiring a waiver of Code requirements pursuant to subsection~~
18 ~~(c)(4)(G). The City shall approve ADUs and JADUs meeting the following requirements, in~~
19 ~~addition to the requirements of subsection 207(c)(6)(B) and any other applicable standards:~~

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

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

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

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

6 (i) Only one ADU will be constructed.

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

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

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

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

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

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

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

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

12 ~~————— (E) —~~ Notification requirements for ADUs on a lot containing a proposed or
13 existing single-family dwelling. Prior to submitting an application to construct an ADU or
14 JADU on a lot containing a proposed or existing single-family dwelling under subsection
15 207(c)(6)(D), the property owner shall notify all tenants on the subject property of the
16 application, including tenants of the subject property in unauthorized residential units. The
17 property owner shall satisfy this notification requirement in one of the following two ways.

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

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

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

9 ———(F)—— Permit Application Review and Approval. The City shall act on an
10 application for a permit to construct an ADU or JADU under this subsection 207(c)(6) within
11 60 days from receipt of the complete application, without modification or disapproval, if the
12 proposed construction fully complies with the requirements set forth in this subsection
13 207(c)(6). No requests for discretionary review shall be accepted by the Planning Department
14 for permit applications meeting the requirements of this subsection 207(c)(6). The Planning
15 Commission shall not hold a public hearing for discretionary review of permit applications
16 meeting the requirements of this subsection 207(c)(6). Permit applications meeting the
17 requirements of this subsection 207(c)(6) shall not be subject to the notification or review
18 requirements of Section 311 of this Code.

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

22 ———(H)—— Prohibition of Short-Term Rentals. An ADU or JADU authorized under
23 this subsection 207(c)(6) shall not be used for Short-Term Residential Rentals under Chapter
24 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special
25 Restriction on the subject lot.

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

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

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

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

17 ~~(J) Department Report. In addition to the information required by subsection~~
18 ~~207(c)(4)(I)(iii), the annual Housing Inventory shall include a description and evaluation of the~~
19 ~~number and types of units being developed pursuant to this subsection (c)(6), their~~
20 ~~affordability rates, and such other information as the Director or the Board of Supervisors~~
21 ~~determines would inform decision makers and the public.~~

22 ~~(K) Fees. No impact fees shall be imposed on ADUs or JADUs authorized under~~
23 ~~this subsection 207(c)(6), where the ADU or JADU is smaller than seven hundred and fifty~~
24 ~~square feet of Gross Floor Area, or for ADUs that are proposed in lots with three existing units~~
25

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

3 * * * *

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

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

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

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

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

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

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

7 (3) Prior to submitting an application to construct an ADU under this Section
8 207.1, the property owner shall file with the Rent Board a written declaration, signed under
9 penalty of perjury, demonstrating that the project will comply with the requirements of
10 Administrative Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or
11 removal of a housing service. The Rent Board shall determine the form and content of said
12 declaration, which shall include the following information: (i) a description of any housing
13 services supplied in connection with the use or occupancy of any units on the subject property
14 that are located in the area of the property or building where the ADU would be constructed;
15 (ii) whether construction of the ADU would result in the severance, substantial reduction, or
16 removal of any such housing services; and (iii) whether any of the just causes for eviction
17 under Administrative Code Section 37.9(a) would apply. The property owner shall also file a
18 copy of the notice required under Section 207.1(j) with the declaration.

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

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

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

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

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

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

17 (8) ADUs shall comply with any applicable controls in Planning Code Section
18 134(f).

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

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

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

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

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

14 (14) An application for a permit solely to construct an ADU in a proposed
15 building pursuant to this subsection 207.1(c) shall not be subject to the notification
16 requirements of Section 311 of this Code; however, any application for a permit to construct
17 the proposed building shall be subject to any applicable notification requirements of Section
18 311 of this Code.

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

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

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

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

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

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

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

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

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

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

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

1 (h) **Regulatory Agreements.** A Regulatory Agreement required by subsection
2 207.1(g) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

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

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

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

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

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

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

1 (i) **Monitoring Program.**

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

13 (2) **Monitoring of Prohibition on Use as Short Term Rentals.** The
14 Department shall collect data on the use of ADUs authorized to be constructed by this Section
15 207.1 as Short-Term Residential Rentals, as that term is defined in Administrative Code
16 Section 41A.4, and shall use such data to evaluate and enforce Notices of Special Restriction
17 pursuant to Section 207.1(d) and the requirements of Administrative Code Chapter 41A.

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

24
25 **SEC. 207.2 STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.**

1 (a) Exception to Dwelling Unit Density Limits for Certain Accessory Dwelling
2 Units Under the State-Mandated Program. An exception to the calculations under Section
3 207 of this Code shall be made for Accessory Dwelling Units (“ADUs”) and Junior Accessory
4 Dwelling Units (“JADUs”), as defined in Section 102 of this Code, meeting the requirements of
5 this Section 207.2. The purpose of this Section 207.2 is to implement California Government
6 Code Sections 65852.2 and 65852.22, which require ministerial consideration of ADUs and
7 JADUs that meet certain standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (D) The proposed ADU is new construction.

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

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

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

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

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

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

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

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

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

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

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

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

1 streamlined, ministerial approval of ADUs meeting certain standards (“State ADUs”). An ADU
2 located on a lot that is zoned for single-family or multifamily use and contains an existing or
3 proposed dwelling, and that is constructed pursuant to this subsection 207.2(e), shall meet all
4 of the following requirements, in addition to the requirements of subsection 207.2(b) and any
5 other applicable standards. Provided, however, that the City shall not impose any
6 requirement for a zoning clearance or separate zoning review, any minimum or maximum size
7 for an ADU, any size based upon a percentage of the proposed or existing primary dwelling,
8 or any limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot
9 size, for either attached or detached dwellings, that does not permit construction of an ADU
10 meeting all other requirements that is 800 square feet or less in Gross Floor Area, 16 feet or
11 less in height, and with four foot side and rear yard setbacks. ADUs under this subsection
12 207.2(e) shall meet the following conditions:

13 (1) Only one ADU will be constructed.

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

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

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

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

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

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

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

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

19 (9) **Height limits.** The ADU shall not exceed the following height limits:
20 (A) A height of 16 feet for a detached ADU on a lot with an existing or
21 proposed dwelling.
22 (B) A height of 18 feet for a detached ADU on a lot with an existing or
23 proposed dwelling that is within one-half of one mile walking distance of a major transit stop or
24 a high-quality transit corridor, as defined in Section 21155 of the California Public Resources
25

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

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

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

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

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

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

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

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

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

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

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

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

22 (k) **Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under
23 this Section 207.2, where the ADU or JADU is smaller than 750 square feet of Gross Floor
24 Area, or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for
25

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

3
4 **SEC. 207.6. REQUIRED MINIMUM DWELLING UNIT MIX IN RTO, RCD, NCT, DTR,**
5 **EASTERN NEIGHBORHOODS MIXED USE DISTRICTS, THE VAN NESS & MARKET**
6 **RESIDENTIAL SPECIAL USE DISTRICT, AND THE POLK STREET AND PACIFIC**
7 **AVENUE NEIGHBORHOOD COMMERCIAL DISTRICTS.**

8 * * * *

9 **(b) Applicability.**

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

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

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

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

22 * * * *

23
24 **SEC. 207.7. REQUIRED MINIMUM DWELLING UNIT MIX.**
25

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

4 (b) **Applicability.**

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

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

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

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

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

1 * * * *

2
3 **SEC. 1005. CONFORMITY AND PERMITS.**

4 * * * *

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

17 * * * *

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

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

25 * * * *

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

4 * * * *

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

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

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

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

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

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

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

- 4 - Subsection 134(f)
- 5 - Subsection 138.1(c)(1)
- 6 - Subsection 140(c)(2)
- 7 - Subsection 172(a)
- 8 - Table 209.1, Note 6
- 9 - Table 209.2, Note 7
- 10 - Table 209.3, Note 7
- 11 - Table 209.4, Note 7
- 12 - Table 210.1, Note 5
- 13 - Table 210.2, Note 7
- 14 - Table 210.4, Note 3
- 15 - Subsection 307(l) (2 references)
- 16 - Section 710
- 17 - Table 710 (2 references)
- 18 - Section 711
- 19 - Table 711 (2 references)
- 20 - Section 712
- 21 - Table 712 (2 references)
- 22 - Section 713
- 23 - Table 713 (2 references)
- 24 - Section 714
- 25 - Table 714 (2 references)

- 1 - Section 715
- 2 - Table 715 (2 references)
- 3 - Section 716
- 4 - Table 716 (2 references)
- 5 - Section 717
- 6 - Table 717 (2 references)
- 7 - Section 718
- 8 - Table 718 (2 references)
- 9 - Section 719
- 10 - Table 719 (2 references)
- 11 - Table 720
- 12 - Table 721
- 13 - Section 722
- 14 - Table 722 (2 references)
- 15 - Section 723
- 16 - Table 723 (2 references)
- 17 - Section 724
- 18 - Table 724 (2 references)
- 19 - Section 725
- 20 - Table 725 (2 references)
- 21 - Section 726
- 22 - Table 726 (2 references)
- 23 - Section 727
- 24 - Table 727 (2 references)
- 25 - Section 728

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

- 1 - Section 743
- 2 - Table 743 (2 references)
- 3 - Section 744
- 4 - Table 744 (2 references)
- 5 - Section 745
- 6 - Table 745 (2 references)
- 7 - Table 750 (2 references)
- 8 - Table 751 (2 references)
- 9 - Section 752
- 10 - Table 752 (2 references)
- 11 - Section 753
- 12 - Table 753 (2 references)
- 13 - Section 754
- 14 - Table 754 (2 references)
- 15 - Section 755
- 16 - Table 755 (2 references)
- 17 - Section 756
- 18 - Table 756 (2 references)
- 19 - Section 757
- 20 - Table 757 (2 references)
- 21 - Section 758
- 22 - Table 758 (2 references)
- 23 - Section 759
- 24 - Table 759 (2 references)
- 25 - Section 760

- 1 - Table 760 (2 references)
- 2 - Table 761 (2 references)
- 3 - Section 762
- 4 - Table 762 (2 references)
- 5 - Table 763 (2 references)
- 6 - Section 764
- 7 - Table 764 (2 references)
- 8 - Section 827
- 9 - Table 827 (2 references)
- 10 - Section 828
- 11 - Section 829
- 12 - Table 829 (2 references)
- 13 - Table 830
- 14 - Section 831
- 15 - Section 832
- 16 - Section 833
- 17 - Section 834
- 18 - Section 835
- 19 - Section 836
- 20 - Section 837
- 21 - Section 838
- 22 - Section 839
- 23 - Section 840
- 24
- 25

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

7 - Subsection 138.1(c)(1)

8 - Table 209.1, Note 6

9 - Table 209.2, Note 7

10 - Table 209.3, Note 7

11 - Table 209.4, Note 7

12 - Table 210.1, Note 5

13 - Table 210.2, Note 7

14 - Table 210.4, Note 3

15 - Subsection 311(b)

16 - Table 710 (2 references)

17 - Table 711 (2 references)

18 - Table 712 (2 references)

19 - Table 713 (2 references)

20 - Table 714 (2 references)

21 - Table 715 (2 references)

22 - Table 716 (2 references)

23 - Table 717 (2 references)

24 - Table 718 (2 references)

25 - Table 719 (2 references)

- 1 - Table 720
- 2 - Table 721
- 3 - Table 722 (2 references)
- 4 - Table 723 (2 references)
- 5 - Table 724 (2 references)
- 6 - Table 725 (2 references)
- 7 - Table 726 (2 references)
- 8 - Section 727
- 9 - Table 727 (2 references)
- 10 - Table 728 (2 references)
- 11 - Table 729 (2 references)
- 12 - Table 730 (2 references)
- 13 - Table 731 (2 references)
- 14 - Table 732 (2 references)
- 15 - Table 733 (2 references)
- 16 - Table 734 (2 references)
- 17 - Section 735
- 18 - Table 735 (2 references)
- 19 - Section 736
- 20 - Table 736 (2 references)
- 21 - Section 737
- 22 - Table 737 (2 references)
- 23 - Section 738
- 24 - Table 738 (2 references)
- 25 - Section 739

- 1 - Table 739 (2 references)
- 2 - Section 740
- 3 - Table 740 (2 references)
- 4 - Section 741
- 5 - Table 741 (2 references)
- 6 - Section 742
- 7 - Table 742 (2 references)
- 8 - Section 743
- 9 - Table 743 (2 references)
- 10 - Section 744
- 11 - Table 744 (2 references)
- 12 - Section 745
- 13 - Table 745 (2 references)
- 14 - Table 750 (2 references)
- 15 - Table 751 (2 references)
- 16 - Section 752
- 17 - Table 752 (2 references)
- 18 - Table 753 (2 references)
- 19 - Table 754 (2 references)
- 20 - Table 755 (2 references)
- 21 - Table 756 (2 references)
- 22 - Table 757 (2 references)
- 23 - Table 758 (2 references)
- 24 - Table 759 (2 references)
- 25 - Table 760 (2 references)

- 1 - Table 761 (2 references)
- 2 - Table 762 (2 references)
- 3 - Table 763 (2 references)
- 4 - Section 764
- 5 - Table 764 (2 references)
- 6 - Subsection 1005(e)(10)
- 7 - Subsection 1110(g)(4)

8

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

11 **SEC. 37.2. DEFINITIONS.**

12 * * * *

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

17 Garage facilities, parking facilities, driveways, storage spaces, laundry rooms,
18 decks, patios, or gardens on the same lot, or kitchen facilities or lobbies in single room
19 occupancy (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not
20 be severed from the tenancy by the landlord without just cause as required by Section
21 37.9(a). Any severance, substantial reduction, or removal of a housing service, even if
22 permitted under Section 37.9(a), shall be offset by a corresponding reduction in rent. Either a
23 landlord or a tenant may file a petition with the Rent Board to determine the amount of the rent
24 reduction. In addition, a tenant may petition the Rent Board for a determination on whether an
25 Accessory Dwelling Unit proposed to be constructed under Planning Code Section 207.1(e)(4)

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

5 Notwithstanding the preceding paragraph, a landlord may temporarily sever one or
6 more housing services listed in that paragraph in order to perform seismic work required by
7 Building Code "Mandatory Earthquake Retrofit of Wood-Frame Buildings" ("mandatory
8 seismic work") if: (1) the landlord has given the notice to temporarily sever as required by
9 Administrative Code Section 65A.2; (2) the landlord has obtained all necessary permits on or
10 before the date the notice to temporarily sever is given; (3) the housing service(s) will only be
11 severed for the minimum time required to complete the mandatory seismic work and in no
12 event for a longer period than provided by Building Code Section 106A.4.4, Table B; and (4)
13 the temporarily severed housing service(s) will be fully restored immediately upon completion
14 of the mandatory seismic work. For such temporary severance of one or more of the specified
15 housing services due to mandatory seismic work required by Building Code Chapter 34B,
16 tenants will not be entitled to a reduction in rent, but tenants shall be entitled to either
17 compensation or a substitute housing service as provided in Administrative Code Chapter
18 65A.

19 The term "rental units" shall not include:

20 * * * *

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

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

4 * * * *

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

10 * * * *

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

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

15 * * * *

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

18 * * * *

19 (9) Additional Requirements.

20 * * * *

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

25 * * * *

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

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

7 * * * *

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

12
13 Section 7. The Building Code is hereby amended by adding Section 106A.1.19,
14 including Sections 106A.1.19.1 and 106A.1.19.2, to read as follows:

15 **106A.1.19 State-Mandated Accessory Dwelling Unit Program.** California
16 Government Code Sections 65852.2 and 65852.22 require expedited, ministerial
17 consideration of Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units
18 (“JADUs”) that meet the requirements of Planning Code Section 207.2.

19 **106A.1.19.1 Permit Application Review and Approval.** The City shall approve or
20 deny an application for a permit to construct an ADU or JADU on a lot containing an existing
21 dwelling within 60 days from receipt of the complete application if the proposed construction
22 fully complies with the requirements set forth in Planning Code Section 207.2 and any other
23 applicable requirements. If the applicant requests a delay, the 60-day time period shall be
24 tolled for the period of the delay. If the City has not approved or denied the completed
25 application within 60 days, the application shall be deemed approved.

1 **106A.1.19.2 Notice of Garage Demolition.** Written and posted notice shall not be
2 required for the demolition of a detached garage that is to be replaced with an ADU, unless
3 the property is located within a historic or conservation district pursuant to Article 10 or Article
4 11 of the Planning Code.

5
6 Section 38. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor’s veto of the ordinance.

10
11 Section 49. Scope of Ordinance. Except as stated in Sections 3 and 4 of this
12 ordinance, in enacting this ordinance, the Board of Supervisors intends to amend only those
13 words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks,
14 charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly
15 shown in this ordinance as additions, deletions, Board amendment additions, and Board
16 amendment deletions in accordance with the “Note” that appears under the official title of the
17 ordinance.

18
19 Section 510. Directions to Clerk. The Clerk of the Board of Supervisors is hereby
20 directed to submit a copy of this ordinance to the California Department of Housing and
21 Community Development within 60 days after adoption pursuant to Section 65852.2(h) of the
22 California Government Code.

23
24 Section 11. Corrected Presentation of Existing Code. On March 20, 2023, the Land
25 Use and Transportation Committee created this ordinance by duplicating Board File No.

1 210585. Ordinance No. 53-23, in Board of Supervisors File No. 210585, took effect on May
2 22, 2023. This ordinance has been updated to accurately represent recent amendments to
3 Sections 102, 136, 207, 1005, and 1110 of the Planning Code enacted by Ordinance No. 53-
4 23 as existing text of the Planning Code. Said revisions do not change the substance of this
5 ordinance.

6
7

8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10

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

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REVISED LEGISLATIVE DIGEST
(Amended in Committee – February 5, 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 and February 5, 2023.

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