

BOARD of SUPERVISORS



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MEMORANDUM

Date: March 28, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230310
Planning Code - State-Mandated Accessory Dwelling Unit Controls

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

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

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

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

2

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

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

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

19 Section 1. Findings.

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

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

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

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

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

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

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

9 * * * *

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

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

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

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

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

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

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

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

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

12 * * * *

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

16 * * * *

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

18 * * * *

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

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

1 * * * *

2
3 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

4 * * * *

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

7 * * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (l) **Monitoring Program.**

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

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

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

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

13 * * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (i) Only one ADU will be constructed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 * * * *

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

9 * * * *

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

22 * * * *

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

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

4 * * * *

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

8 * * * *

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

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

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

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

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

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

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

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

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

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

3

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

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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 3/20/2023)

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

Ordinance amending the Planning Code to clarify the ministerial approval process for certain Accessory Dwelling Units (ADUs) meeting certain requirements in single-family and multifamily buildings and to permit certain ADUs in the rear yard under the City’s local, discretionary approval program; making findings under the California Environmental Quality Act; and 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). 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) provides a state-mandated, ministerial approval process for ADUs constructed on lots containing existing or proposed single-family dwellings that strictly meet state ADU law requirements without requiring a Zoning Administrator waiver of Planning Code standards. 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.

Amendments to Current Law

Recent amendments to state ADU law, including Senate Bill 13, Assembly Bill 68, and Assembly Bill 881, effective January 1, 2020, require the City to ministerially consider applications to construct additional types of ADUs that meet certain requirements. State ADU law has also been amended to further restrict the City’s authority to impose Planning Code standards on certain ADUs. This ordinance conforms Planning Code Section 102 and Section 207(c)(6) – the City’s state-mandated ADU program – to the current provisions of state law. As further described below, this ordinance would divide the City’s state-mandated ADU program into two separate approval pathways required by state law: one for “Streamlined” ADUs, and another for “Ministerial” ADUs.

This ordinance adds a definition of Junior ADU to Section 102. A Junior ADU is a Dwelling Unit that meets all the requirements of Planning Code subsection 207(c)(6), and, among other attributes, is accessory to at least one other Dwelling Unit on the same lot, is no more than 500 square feet of Gross Floor Area, and is contained entirely within an existing single-family structure.

The “Streamlined” ADU pathway would implement the requirements of California Government Code Sections 65852.2(a) through (d), which require ministerial approval within 60 days of a single ADU added to a lot that contains an existing or proposed dwelling. State law limits the standards that the City may impose on these Streamlined ADUs. This ordinance requires Streamlined ADUs to satisfy certain specific requirements, in addition to any other applicable standards, but clarifies that the City may not impose limits on lot coverage, floor area ratio, open space, and minimum lot size that do not permit construction of an ADU that is 800 square feet or less in Gross Floor Area, 16 feet or less in height, and with four foot side and rear yard setbacks.

Under this “Streamlined” ADU pathway, the maximum square footage per ADU that the City is required to approve would be:

- In the case of detached ADUs, 1200 square feet of Gross Floor Area;
- In the case of attached ADUs, if there is an existing primary dwelling:
 - Studios and 1 bedroom ADUs within the primary structure would be permitted up to 850 square feet, or 50% of the square footage of existing primary dwelling, whichever is greater; and
 - 2+ bedroom ADUs within the primary structure would be permitted up to 1,000 square feet, or 50% of the square footage of existing primary dwelling, whichever is greater.

The “Ministerial” ADU pathway would implement the requirements of California Government Code Sections 65852.2(e) and 65852.22, which require ministerial consideration of the following four categories of ADUs and Junior ADUs:

- One ADU and one Junior ADU per lot within the space of a proposed single-family dwelling or within the space of an existing single-family dwelling or accessory structure, which may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. This ADU or Junior ADU must have exterior access separate from the entrance to the single-family dwelling, as well as side and rear setbacks that are sufficient for fire and safety.
- One detached, new construction, ADU per lot with a proposed or existing single-family dwelling. This detached ADU may be combined with a Junior ADU. As authorized by state law, this ordinance would limit the detached ADU to no more than 800 square feet in Gross Floor Area, and no more than 18 feet in height.
- Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space. As required by state law, this ordinance allows the construction of at least one ADU within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units.

- Not more than two ADUs located on a lot containing an existing multifamily dwelling, but detached from that multifamily dwelling. As required by state law, these detached ADUs are limited to 16 feet in height, and must have four foot rear yard and side setbacks.

State law allows the City to impose standards, including design, development, and historic standards, on these Ministerial ADUs. This ordinance requires Ministerial ADUs to satisfy certain specific requirements, in addition to any other applicable standards.

State law exempts ADUs smaller than 750 square feet of Gross Floor Area from impact fees, and requires impact fees for all other ADUs to be imposed proportionately in relation to the Gross Floor Area of the primary dwelling unit. In addition, this ordinance also exempts ADUs proposed in lots with three existing units or fewer from paying impact fees.

This ordinance also modifies the tenant notification requirements for applications to construct an ADU and/or a Junior ADU on a lot containing an existing single-family dwelling under subsection 207(c)(6).

This ordinance also amends the City's local ADU program set forth in Planning Code Section 207(c)(4). In addition to clarifying amendments, this ordinance would permit one detached ADU to be constructed within the required rear yard of a property, subject to certain height, setback, and floor area limitations.

Background Information

The State Legislature has declared that Accessory Dwelling Units are a valuable form of housing in California. They are an affordable type of housing because they do not include the costs of purchasing land or require major new infrastructure. Since adoption, the Legislature has amended state ADU law several times to tighten requirements and make local ADU approval less discretionary.

San Francisco first enacted a local ADU ordinance in 2015 and has updated its ADU program several times since then, both in response to amendments to State law and also to facilitate the construction of ADUs under the City's local program.

This legislative digest reflects amendments made to this ordinance by the Board of Supervisors Land Use and Transportation Committee on March 20, 2023.

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