



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: MARCH 7, 2019
CONTINUED FROM: FEBRUARY 14, 2019
90-DAY DEADLINE: MARCH 5, 2019
EXTENSION DEADLINE: JUNE 3, 2019

Project Name: Accessory Dwelling Units in New Construction
Case Number: 2018-016401PCA [Board File No. 181156]
Initiated by: Supervisor Safai / Introduced December 5, 2018
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 415-575-9173
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code and Business and Tax Regulations Code to authorize the addition of an Accessory Dwelling Unit (ADU) in the construction of a new single-family or multi-family building; clarify the ministerial approval process; and create an expedited Board of Appeals process for certain Accessory Dwelling Units in single-family homes meeting specific requirements.

The Way It Is Now:

1. Under the City's local ADU program (or "Waiver" program), ADUs are permitted in the living area of existing single-family or multi-family buildings or the buildable area of the lot.
2. Under the City's State Mandated ADU program (or "No Waiver" program), ADUs are permitted within existing single-family homes that strictly meet the state law's ADU requirements without requiring a Zoning Administrator waiver of Planning Code provisions. The ADU can be within the existing building or as part of an addition to the existing building within the buildable area of said lot. Currently, only ADUs in the "No Waiver" program that do not include building expansions are ministerial. ADUs in this program that include building expansions are discretionary.
3. ADUs permitted under the "No Waiver" program are subject to neighborhood notification.
4. Appeals for ADUs under the "No Waiver" program are heard per standard appeal processes.

The Way It Would Be:

1. Under the "Waiver" program, ADUs would be permitted in existing or new construction of single-family or multi-family buildings.
2. All ADUs under the "No Waiver" program would be approved ministerially (including said projects with expansions). The ADU can be within the existing building, in an addition to the existing building, or in a new construction building.

3. ADUs under the “No Waiver” program will not be subject to neighborhood notification (including those with building expansions).
4. Appeals for ADUs under the “No Waiver” program will be heard within 10-30 days of the appeal filing.

BACKGROUND

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

San Francisco first adopted a local ADU program in 2015 and made several updates since the initial inception both in response to changes to the state law and to improve the City’s local ADU program. The proposed ordinance will update San Francisco’s ADU programs to comply with amendments to the state law. Additionally, the proposed ordinance clarifies the ministerial approval process and streamlines the appeal process for ADUs under the local program implementing the state law.

ISSUES AND CONSIDERATIONS

Housing Stock

San Francisco and the Bay Area have a housing shortage. The Planning Department is working to meet these housing needs. In the City’s Housing Element, Objective One specifically cites ADUs as an effective way to add to the housing stock. The ADU program helps create new dwelling units, mostly through infill efforts. The initial ADU pilot program in the Castro District in 2014 has now grown into the robust ADU programs of today. This is a testament to the success of ADUs and the Ordinance will build on these efforts.

The Housing Element cites Accessory Dwelling Units as an effective and inexpensive way to realize greater housing potential and add to the housing stock.

Housing Affordability and Variety

Currently, the Planning Code does not limit the size of ADUs. Traditionally, ADUs are thought of as subordinate to the primary unit, and are often added to existing buildings by making use of underutilized space resulting in smaller units. These ADU units end up being more affordable due to the size of the unit. Further, Objective One of the City’s Housing Element’s specifically cites ADUs as an effective and inexpensive way to add the housing stock. In instances where there is a large amount of square footage available to create an ADU, including for projects that include building expansions, the ADUs may no longer be accessory to the primary unit. The Department’s concern is that without a size limitation on ADUs, the ADUs could conceivably be larger and thus be unaffordable for future renters.

This concern is amplified when considering that neighborhood notification will be eliminated for ADUs in the “No Waiver” program, including those with building expansions. Neighborhood notification is a way to inform the public about upcoming projects, provide an avenue to provide public comments, and allow the opportunity to file a Request for Discretionary Review. The ordinance eliminates this neighborhood notification for ADUs in the “No Waiver” program. The Department’s concern is that without this

neighborhood notification for ministerial projects, we may see ADUs even larger than the primary unit without community members knowing about the project first.

ADU Size Limits:

State Law includes a provision on the maximum size for ADUs. The maximums are as follows:

- For attached ADUs, the ADU shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.
- For detached ADUs, the ADU shall not exceed 1,200 square feet.

Local agencies are not required to adopt the above square footage limits. However, with the new interpretations regarding neighborhood notification and ministerial projects, the Department is concerned about excessively sized ADUs in the “No Waiver” program. Under state law, the City can set its own size limits, but staff recommends adopting a limit of 1,200 square feet for “No Waiver” ADUs proposed in existing single-family homes.

Staff does not recommend this size limitation to the “Waiver” program, recognizing that different contexts may be appropriate to have these larger ADUs. One example of this includes an older, multi-unit building proposing to convert the ground level parking to ADUs. In this case, there is greater potential to add a variety of different sized units, including units larger than 1,200 square feet. This also results in more family-sized units in the housing stock. Therefore, the Department recommends this size limitation only be placed on those ADUs in the “No Waiver” program.

Timeline for Review:

Since the launch of the initial ADU program, the Planning Department has improved efforts to more effectively and efficiently review ADU permits. To help facilitate review, the Planning Department has created a team of ADU specialists. Effective August 2018, Planning established an ADU counter with dedicated staff at the Department of Building Inspection’s (DBI) permit floor. Staff is able to review and issue Plan Check Letters in real time, or within five days, to reduce delays for Planning feedback.

The Planning Department has also collaborated more with other City agencies involved in the review of ADUs and introduced parallel review efforts. One of the biggest time-savings has been the new “Roundtable” review where different City agencies meet and review ADU permits together. This allows for the City to discuss any conflicting policies and provide applicants with consolidated comments.

The State Law (SB 1069), effective January 1, 2017, required jurisdictions to complete approval of Code-complying ADUs in single-family homes within 120 days. In addition to the efforts listed above, the streamlined appeal review timeline for ADUs in the “No Waiver” program would help the City meet the state’s target.

Staff presented the proposed ordinance to the Board of Appeals (BOA) on January 30, 2019. The primary focus included 1) all ADUs under the “No Waiver” program are to be approved ministerially and 2) appeals filed on any ADUs in the “No Waiver” program are to be heard within 10-30 days of appeal filing. The only major legislative question the BOA posed was how the maximum number of days in the appeal timeframe was decided. This 10-30 day appeal timeframe was the proposed number to meet the target 120-day timeline.

General Plan Compliance

The General Plan identifies ADUs as an effective and inexpensive way to increase the housing supply. The Ordinance retains existing housing units and prioritizes permanently affordable housing. Additionally, the proposed amendments would expand the ADU program and streamline the review process.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures. The changes, in addition to the efforts described above, will allow the Department to review ADUs in a more effective and efficient manner.

RECOMMENDATION

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

1. Adopt a maximum size of 1,200 gross square feet for ADUs that are approved under the "No Waiver" program proposed in existing single-family homes.
2. Reduce the amount of required open space specifically for the proposed ADUs in RH-1, RH-1(D), and RH-1(S) Zoning Districts to 125 square feet of private usable open space or at a ratio of 1.33 of common usable open space.
3. Historic Preservation Review for ADUs in the "No Waiver" program:
 - a. Amend Section 207(c)(6)(B)(v) to specify that ADU projects will be required to comply with architectural review standards to prevent adverse impacts on properties listed in the California Register of Historic Places and properties and districts designated pursuant to Article 10 and Article 11, and that said projects will not be subject to the Certificate of Appropriateness (CoA) or Permit to Alter (PtA) review processes. These projects will be reviewed for compliance with ADU architectural review standards adopted by the Historic Preservation Commission (HPC), including but not limited to those listed in Motion No. XXXX. Notwithstanding Motion No. XXXX, ADUs in the "No Waiver" program will not be required to obtain Administrative CoAs or Minor PtAs.
 - b. The HPC will delegate review of "No Waiver" ADUs to staff in the California Register of Historic Places, and properties designated individually or as part of districts pursuant to Article 10 or 11. This review will occur within the 120-day timeframe under state law.
 - c. Amend Sections 1005 and 1110 to clarify that Section 207(c)(6)(B)(v) applies to any code-complying ADUs in single-family residences.
 - d. Add subsections to Sections 1006.2 and 1111.3 to delegate to staff review of ADUs in the "No Waiver program pursuant to Section 207(c)(6).
4. Clerical Amendments:
 - a. Remove off-street parking and bicycle parking references from amended section of the Code.
 - b. Amend subsection 207(c)(6)(B)(iii): This section currently cites "(C)(x) and (xi)"; however, it should reference "(B)(x) and (xi)" instead.

- c. Amend the “Residential Standards and Uses” Tables in Articles 7 and 8 to reference both 207(c)(4) and 207(c)(6). Also, the “Controls by Story” section should be simplified to read as “P per Planning Code Sections 207(c)(4) and 207(c)(6)”.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it supports the Housing Element’s goals to ensure adequate housing for current and future San Franciscans. Specifically, the Ordinance increases the potential for Accessory Dwelling Units. While the intent behind the original Ordinance under this file is to bring the local ADU program into compliance with State Law, the additional policy recommendations will further streamline ADU review and clarify current processes. Such changes will make the City’s ADU program more effective and flexible.

Recommendation 1: Adopt a maximum size of 1,200 gross square feet for ADUs that are approved under the “No Waiver” program proposed in existing single-family homes.

Currently, the Planning Code does not limit the size of ADUs. ADUs are traditionally more affordable by nature as these are accessory to the existing residential units. Without a size limitation on ADUs, the ADUs can conceivably be more expensive the larger they are. The ordinance would remove the neighborhood notification requirements and discretionary review for ADUs in the “No Waiver” program. The proposed size limitation, which is modeled after the State Law, alleviates the Department’s concern about excessively sized ADUs implemented through the “No Waiver” program. Staff is not recommending that the 1,200 square feet limited be placed on the “Waiver” program because the City has more discretion in the approval process, and there may be situations where a hard cap proves undesirable or inefficient. Further, this flexibility provides greater potential to add a variety of different sized units in multi-unit buildings, which would be subject to the “Waiver” program.

Recommendation 2: Reduce the amount of required open space specifically for the proposed ADUs in RH-1, RH-1(D), and RH-1(S) Zoning Districts to 125 square feet of private usable open space or at a ratio of 1.33 of common usable open space.

Several ADUs that would have been eligible for the “No Waiver” program were subject to the “Waiver” program because they could not meet the open space requirement for RH-1 Districts. Residential units in these districts are required to have at least 300 square feet of private open space per unit. In some cases, the open space deficiency is less than 50 square feet. This change would help resolve the issue by reducing the open space requirement specifically for the ADU. The 125 square foot requirement comes from the open space requirements in RH-2 Zoning Districts. The logic is that single-family homes that add an ADU will closely resemble properties in RH-2 Zoning Districts that have maximized their density. Staff finds that since 125 square feet of private open space per unit is adequate in RH-2 Zoning Districts it should be applied to ADUs in the “No Waiver” program. The 300 square feet of open space for the primary units in RH-1, RH-1(D), and RH-1(S) Districts would still apply.

Recommendation 3(a): Amend 207(c)(6)(B)(v) to specify that ADU projects will be required to comply with architectural review standards to prevent adverse impacts on properties listed in the California Register of Historic Places and properties and districts designated pursuant to Article 10 and Article 11, and that said projects will not be subject to the Certificate of Appropriateness (CoA) or Permit to Alter (PtA) review processes. Instead these projects will be reviewed for compliance with ADU architectural

review standards adopted by the Historic Preservation Commission (HPC), including but not limited to those listed in Motion No. XXXX. Notwithstanding Motion No. XXXX, ADUs in the “No Waiver” program will not be required to obtain Administrative CoAs or Minor PtAs.

Section 207(c)(6)(B)(v) (“No Waiver” Program) currently states: “If construction of the ADU will have adverse impacts on a property listed in the California Register of Historic Places or any other known historical resource, the Department shall require modification of the proposed project to the extent necessary to prevent or mitigate such impacts.” Staff recommends adding a reference to properties designated pursuant to Articles 10 and 11 in addition to “California Register of Historic Places or any other known historical resource.” Subsection (v) should also be revised to appropriately reference the architectural review standards adopted by HPC. Additionally, staff recommends that the language be revised to emphasize “prevent adverse impacts”. Amended Section 207(c)(6)(B)(v) would read:

Section 207(c)(6)(B)(v):

(v) ~~If construction of the ADU will have adverse impacts on~~ For projects involving a property listed in the California Register of Historic Places, or a property designated individually or as part of a historic or conservation district pursuant to Article 10 or Article 11, the ADU shall comply with any architectural review standards adopted by the Historic Preservation Commission to prevent adverse impacts to such historic resources, ~~the Department shall require modification of the proposed project to the extent necessary to prevent or mitigate such impacts.~~ Such projects shall not be required to obtain a Certificate of Appropriateness or a Permit to Alter.

Modifications to Article 10 and 11 buildings require CoAs and PtAs, which are additional Planning Department discretionary entitlements. The intention of this Ordinance is to clarify that all ADUs in the “No Waiver” program are subject to ministerial approval. The Department will still review impacts to historical resources as delegated by the Historic Preservation Commission.

Recommendation 3(b): The HPC will delegate review of “No Waiver” ADUs to staff in properties listed in the California Register of Historic Places and properties and districts designated pursuant to Article 10 and Article 11. This review will occur within the 120-day timeframe under state law.

The Planning Department will review “No Waiver” ADUs in Article 10 and 11 buildings for compliance with the architectural review standards listed in Motion No. XXXX. This motion also features other similar minor scopes of work the HPC has delegated to Planning Department staff in Motion No. 0349. This review shall occur within the same 120-day timeframe for ministerial ADUs under the state law.

Recommendation 3(c): Amend Sections 1005 and 1110 to clarify that Section 207(c)(6)(B)(v) applies to any code-complying Accessory Dwelling Units (ADUs) in single-family residences.

Sections 1005 and 1110 should specifically cross-reference Section 207(c)(6)(B)(v).

Recommendation 3(d): Add subsections to Sections 1006.2 and 1111.3 to delegate to staff review of ADUs in the “No Waiver program pursuant to Section 207(c)(6)

Sections 1006.2 and 1111.3 should specifically cross-reference Section 207(c)(6) and the Architectural Review Standards adopted by HPC. Sections 1006.2 and 1111.3 will be amended to include an additional subsection as follows:

Accessory Dwelling Units Reviewed Pursuant to the “No Waiver” Program. The Historic Preservation Commission may delegate to Department staff the review of an Accessory Dwelling Unit project for which an application has been submitted for approval pursuant

to the "No Waiver" Program set forth in Section 207(c), for compliance with any architectural review standards adopted by the Commission.

Recommendation 4: Clerical Amendments

Recommendation 4(a): Amend 207.

Section 207 still notes parking requirements. The City removed the minimum off-street parking requirements effective January 21, 2019. This change will correct outdated language in the ADU program. Specifically, off-street parking and bicycle parking are listed as potential waivers in Section 207(c)(4)(G); however, parking exceptions are no longer required due to the recent change in parking requirements. Bicycle parking was previously calculated based on the number of required off-street parking spaces. Therefore, bicycle parking exceptions will also be no longer required. (This was an unintended consequence of the parking amendments, but will be corrected in a future ordinance). Also, Section 207(c)(6)(B)(ix) states that the ADU does not require parking and discuss replacement parking. This subsection should be removed altogether to avoid confusion.

Section 207(c)(4)(G):

(G) **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant an Accessory Dwelling Unit a complete or partial waiver of the density limits and ~~off-street parking, bicycle parking,~~ rear yard, exposure, or open space standards of this Code.

Recommendation 4(b): Amend 207(c)(6)(B)(iii).

Section 207(c)(6)(B)(iii) currently cites the wrong subsection. This error should be resolved as shown below:

(iii) Only one ADU will be constructed that is entirely within either the "living area" or the buildable area of an existing single-family home or, except as provided in subsection ~~(C)~~(x) and (xi) below, within the built envelope of an existing and authorized auxiliary structure on the same lot.

Recommendation 4(c): Amend Articles 7 and 8.

Articles 7 and 8 of the Planning Code include "Residential Standards and Uses" Tables (see example below). Currently, these tables only cite Section 207(c)(4). This change will accurately reference both subsections (c)(4) and (c)(6). Also, the table is very detailed and the narrative description should be simplified to reference the appropriate Planning Code sections since the requirements have and continue to evolve. This will also prevent any future potential conflicting information.

Zoning Category	§ References	Controls		
		Controls by Story		
		1st	2nd	3rd+
Residential Uses	§ 102	P	P	P
Accessory Dwelling Unit Density	§§ 102, 207(c)(4)	P within the existing building envelope. 1 ADU allowed in buildings with 4 or fewer Dwelling Units. No limit in buildings with 5 or more Dwelling Units. ADUs may not eliminate or reduce ground-story retail or commercial space.		
Dwelling Unit Density	§§ 102, 207	1 unit per 800 square foot lot area, or the density permitted in the nearest Residential District, whichever is greater.		

REQUIRED COMMISSION ACTION

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

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received one letter in support of the Ordinance from the Executive Director of Livable City & Sunday Streets.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Draft Historic Preservation Commission Resolution for ADU Architectural Review Standards
- Exhibit C: Board of Supervisors File No. 181156



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Motion HEARING DATE MARCH 7, 2019

Project Name: Accessory Dwelling Units in New Construction
Case Number: 2018-016401PCA [Board File No. 181156]
Initiated by: Supervisor Safai / Introduced December 5, 2018
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 415-575-9173
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 207 AND THE BUSINESS AND TAX REGULATIONS CODE TO AUTHORIZE THE ADDITION OF AN ACCESSORY DWELLING UNIT IN THE CONSTRUCTION OF A NEW SINGLE-FAMILY HOME OR MULTI-FAMILY BUILDING; CLARIFYING THE MINISTERIAL APPROVAL PROCESS AND CREATING AN EXPEDITED BOARD OF APPEALS PROCESS FOR CERTAIN ACCESSORY DWELLING UNITS IN SINGLE-FAMILY HOMES MEETING SPECIFIC REQUIREMENTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on November 27, 2018 Supervisors Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181156, which would amend Planning Code Section 207 to authorize the addition of an Accessory Dwelling Unit in the construction of a new single-family home or multi-family building; clarifying the ministerial approval process and creating an expedited Board of Appeals process for certain accessory dwelling units in single-family homes meeting specific requirements; and,

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 14, 2019 and continued to March 7; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

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

Fartic65

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

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

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

1. Adopt a maximum size of 1,200 gross square feet for ADUs that are approved under the "No Waiver" program proposed in existing single-family homes.
2. Reduce the amount of required open space specifically for the proposed ADUs in RH-1, RH-1(D), and RH-1(S) Zoning Districts to 125 square feet of private usable open space or at a ratio of 1.33 of common usable open space.
3. Historic Preservation Review for ADUs in the "No Waiver" program:
 - a. Amend Section 207(c)(6)(B)(v) to specify that ADU projects will be required comply with architectural review standards to prevent adverse impacts on properties listed in the California Register of Historic Places and properties and districts designated pursuant to Article 10 and Article 11, and that said projects will not be subject to the Certificate of Appropriateness (CoA) or Permit to Alter (PtA) review processes. These projects will be reviewed for compliance with all ADU architectural review standards adopted by the Historic Preservation Commission (HPC), including but not limited to those listed in Motion No. XXXX. Notwithstanding Motion No. XXXX, ADUs in the "No Waiver" program will not be required to obtain Administrative CoAs or Minor PtAs.
 - b. The HPC will delegate review of "No Waiver" ADUs to staff in properties listed in the California Register of Historic Places and properties and districts designated pursuant to Article 10 and Article 11. This review will occur within the 120-day timeframe under state law.
 - c. Amend 1005 and 1110 respectively to reference 207(c)(B)(v) for any code-complying Accessory Dwelling Units (ADUs) in single-family residences.
 - d. Add subsections to Sections 1006.2 and 1111.3 to delegate to staff review of ADUs in the "No Waiver program pursuant to Section 207(c)(6).
4. Clerical Amendments:
 - a. Remove off-street parking and bicycle parking references from amended section of the Code.
 - b. Amend subsection (c)(6)(B)(iii): This section currently cites "(C)(x) and (xi)"; however, it should reference "(B)(x) and (xi)" instead.

- c. Amend the “Residential Standards and Uses” Tables in Articles 7 and 8 to reference both 207(c)(4) and 207(c)(6). Also, the “Controls by Story” section should be simplified to read as “P per Planning Code Sections 207(c)(4) and 207(c)(6)”.

FINDINGS

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

1. The Commission finds that the proposed Ordinance supports the Housing Element’s goals to ensure adequate housing for current and future San Franciscans by increasing the potential for new Accessory Dwelling Units.
2. The Commission finds that the proposed Ordinance will help align the Planning Code with the State Law.
3. The Commission finds that the proposed ordinance will further streamline the ADU review process and clarify current processes. Such changes will make the City’s ADU program more effective and flexible.
4. **General Plan Compliance.** The proposed Ordinance and the Commission’s recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY’S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.5

Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.

OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.4

Preserve “naturally affordable” housing types, such as smaller and older ownership units.

The Ordinance retains existing housing units and prioritizes permanently affordable housing. Additionally, the proposed amendments would expand the ADU program and make the addition of ADU’s more feasible.

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

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

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 7, 2019.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: March 7, 2019



SAN FRANCISCO PLANNING DEPARTMENT

Exhibit B

Historic Preservation Commission Draft Motion

HEARING DATE MARCH 6, 2019

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

MOTION TO APPROVE ARCHITECTURAL REVIEW STANDARDS FOR “NO WAIVER” ACCESSORY DWELLING UNITS AND TO DELEGATE TO STAFF REVIEW OF PROJECTS FOR COMPLIANCE WITH THOSE STANDARDS IN PROPERTIES LISTED IN THE CALIFORNIA REGISTER OF HISTORIC PLACES, AND PROPERTIES DESIGNATED INDIVIDUALLY OR AS PART OF DISTRICTS PURSUANT TO ARTICLES 10 OR 11.

Planning
Information:
415.558.6377

WHEREAS, the HPC has approved amendments to the Planning Code to require that Accessory Dwelling Units (ADUs) regulated pursuant to Planning Code Section 207(c)(6) under the “No Waiver” Program shall comply with any architectural review standards adopted by the HPC; and

WHEREAS, the HPC has identified Accessory Dwelling Unit Architectural Review Standards that, if complied with, would prevent adverse impacts to historic resources, including to properties listed on the California Register of Historic Places and properties designated individually or as part of a district pursuant to Article 10 or 11; and

WHEREAS, the HPC has delegated review and approval of ADU projects in the “No Waiver” program to Planning Department pursuant to Planning Code Sections 1006.2 and 1111.3; and

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

MOVED, that the HPC hereby **adopts** the following Accessory Dwelling Unit Architectural Review Standards, compliance with which will prevent adverse impacts to historic resources, including properties listed on the California Register of Historic Places and properties designated individually or as part of a district pursuant to Article 10 or 11. An ADU project on any such property must comply with all of these Standards in order to be regulated pursuant to Section 207(c)(6) as a “No Waiver” project:

1. Infill material will match surrounding historic materials located at the base of the building in regards to material, installation, profiles and dimensions.
2. All new windows and openings will match the size, shape, material, and profile of existing historic windows and openings on the subject building.
 - a. Notwithstanding the above, the size and number of new windows and openings will not exceed the minimum required to meet Planning and Building Code requirements.

3. All new doors and openings will match the size, shape, material, and profile of existing historic doors and openings on the subject building.
 - a. Notwithstanding the above, the size and number of new doors and openings will not exceed the minimum required to meet Planning and Building Code requirements.
4. Character-defining features, as described and depicted in the corresponding designating ordinance and supporting case report for the individual property or district, as designated pursuant to Article 10 or 11, will be preserved.
5. Additions to accommodate ADUs will not be visible from surrounding public rights-of-way and will be limited to one-story above grade in height.
6. Standards described in Item No. 19 of the Historic Preservation Commission Motion No. 0349 adopted on October 3, 2018.

FURTHER MOVED, that the HPC hereby delegates to Planning Department staff the review of ADU projects that have applied for approval pursuant to the “No Waiver” Program set forth in Planning Code Section 207(c)(6), to determine compliance with these objective Standards. This delegation will remain effective until and unless it is revoked by further action of the Commission.

NOW THEREFORE BE IT RESOLVED that the HPC hereby ADOPTS the proposed Accessory Dwelling Unit Architectural Review Standards in this Motion.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 7, 2019.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: March 7, 2019

1 [Planning, Business and Tax Regulations Codes - Accessory Dwelling Units in New
2 Construction]

3 **Ordinance amending the Planning Code and Business and Tax Regulations Code to**
4 **authorize the addition of an Accessory Dwelling Unit in the construction of a new**
5 **single-family home or multi-family building; clarifying the ministerial approval process**
6 **and creating an expedited Board of Appeals process for certain Accessory Dwelling**
7 **Units in single-family homes meeting specific requirements; affirming the Planning**
8 **Department's determination under the California Environmental Quality Act; making**
9 **findings of consistency with the General Plan, and the eight priority policies of**
10 **Planning Code, Section 101.1; and adopting findings of public necessity, convenience,**
11 **and welfare under Planning Code, Section 302.**

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

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

20 Section 1. Findings.

21 (a) The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. 181156 and is incorporated herein by reference. The Board affirms
25 this determination.

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

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

9
10 Section 2. Article 1 of the Business and Tax Regulations Code is hereby amended by
11 revising Sections 8 and 26, to read as follows:

12
13 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

14 (a) Except for variance decisions and permits issued by the Entertainment
15 Commission or its Director, and as otherwise specified in this Section 8, appeals to the Board
16 of Appeals shall be taken within 15 days from the making or entry of the order or decision
17 from which the appeal is taken. Appeals of variance decisions shall be taken within 10 days.

18 (b) Appeals to the Board of Appeals of permit decisions made pursuant to Planning
19 Code Section 343 shall be taken within 10 days of the permit decision. This subsection (b)
20 shall expire on the Sunset Date of Planning Code Section 343, as defined in that Section.
21 Upon the expiration of this subsection, the City Attorney shall cause this subsection to be
22 removed from the Business and Tax Regulations Code.

23 (c) Appeals to the Board of Appeals of permit decisions made pursuant to Planning Code
24 Section 207, subsection(c)(6), shall be taken within 10 days of the permit decision.

1 (~~ed~~) Appeals of actions taken by the Entertainment Commission or its Director on the
2 granting, denial, amendment, suspension, or revocation of a permit, or on denial of exceptions
3 from regulations for an Extended-Hours Premises Permit, shall be taken within 10 days from
4 the making of the decision. Nothing in this Section 8 is intended to require an appeal to the
5 Board of Appeals if any provision of Article 15, Article 15.1 (Entertainment Regulations Permit
6 and License Provisions), or Article 15.2 (Entertainment Regulations for Extended-Hours
7 Premises) of the Police Code governing these permits otherwise provides.

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

10 * * * *

11 (8) An exemption from paying the full fee specified in subsections (~~de~~)(1)
12 through (7) herein may be granted upon the filing under penalty of perjury of a declaration of
13 indigency on the form provided and approved by the Board. All agencies of the City and
14 County of San Francisco are exempted from these fees.

15 (9) **Additional Requirements.**

16 (A) Notice of appeal shall be in such form as may be provided by the
17 rules of the Board of Appeals.

18 (B) On the filing of any appeal, the Board of Appeals shall notify in writing
19 the department, board, commission, officer, or other person from whose action the appeal is
20 taken of such appeal. On the filing of any appeal concerning a structural addition to an
21 existing building, the Board of Appeals shall additionally notify in writing the property owners
22 of buildings immediately adjacent to the subject building.

23 (C) Except as otherwise specified in this subsection (~~de~~)(9)(C), the Board
24 of Appeals shall fix the time and place of hearing, which shall be not less than 10 nor more
25

1 than 45 days after the filing of said appeal, and shall act thereon not later than 60 days after
2 such filing or a reasonable time thereafter.

3 (i) In the case of a permit issued by the Entertainment
4 Commission or its Director, the Board of Appeals shall set the hearing not less than 15 days
5 after the filing of said appeal, shall act thereon not more than 30 days after such filing, and
6 shall not entertain a motion for rehearing.

7 (ii) In the case of a decision on a permit application made
8 pursuant to Planning Code Section 343, the Board of Appeals shall set the hearing not less
9 than 10 days after the filing of said appeal, shall act thereon not more than 30 days after such
10 filing, and shall not entertain a motion for rehearing. This subsection (~~de~~)(9)(C)(ii) shall expire
11 on the Sunset Date of Planning Code Section 343, as defined in that Section. Upon the
12 expiration of this subsection, the City Attorney shall cause this subsection to be removed from
13 the Business and Tax Regulations Code.

14 (iii) In the case of a decision on a permit application made pursuant to
15 Planning Code Section 207, subsection (c)(6), the Board of Appeals shall set the hearing not less than
16 10 days after the filing of said appeal, shall act thereon not more than 30 days after such filing, and
17 shall not entertain a motion for rehearing.

18 * * * *

19
20 **SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.**

21 (a) Subject to subsection (b), in the granting or denying of any permit, or the revoking
22 or the refusing to revoke any permit, the granting or revoking power may take into
23 consideration the effect of the proposed business or calling upon surrounding property and
24 upon its residents, and inhabitants thereof; and in granting or denying said permit, or revoking
25

1 or refusing to revoke a permit, may exercise its sound discretion as to whether said permit
2 should be granted, transferred, denied, or revoked.

3 * * * *

4 (e) Notwithstanding subsection (a), the provisions of Planning Code Section 343 shall
5 govern actions taken on the granting, denial, amendment, suspension, and revocation of
6 permits regulated under that Section 343, not the standards set forth in subsection (a) of this
7 Section 26. This subsection (e) shall become operative upon receipt of preliminary approval of
8 Planning Code Section 343 by the California Department of Housing and Community
9 Development under California Government Code Section 66202. This subsection shall expire
10 by the operation of law in accordance with the provisions of Planning Code Section 343(k).
11 Upon its expiration, the City Attorney shall cause this subsection to be removed from the
12 Business and Tax Regulations Code.

13 (f) Notwithstanding subsection (a), the provisions of Planning Code Section 207, subsection
14 (c)(6), shall govern actions taken on the granting, denial, amendment, suspension, and revocation of
15 permits regulated under that subsection (c)(6), not the standards set forth in subsection (a) of this
16 Section 26.

17
18 Section 3. The Planning Code is hereby amended by revising Sections 102, 207, and
19 311 to read as follows:

20
21 **SEC. 102. DEFINITIONS.**

22 * * * *

23 **Dwelling Unit, Accessory.** Also known as a Secondary Unit or In-Law Unit, is a Dwelling Unit
24 that is constructed either entirely within the existing built envelope, the “living area” as defined
25 in State law, or the buildable area of an existing or proposed building in areas that allow

1 residential use; or is constructed within the existing built envelope of an existing and
2 authorized auxiliary structure on the same lot.

3 * * * *

4
5 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

6 * * * *

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

9 * * * *

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

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

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

- 20 (i) only one ADU will be constructed;
- 21 (ii) the ADU will be located on a lot that is zoned for single-
22 family or multifamily use and contains an existing *or proposed* single-family dwelling;
- 23 (iii) the ADU *is either attached to or* will be constructed entirely
24 within the “living area” (as defined in subsection (c)(6)(B)(iii)) or the buildable area of ~~an~~ *the*
25 *proposed or existing primary dwelling single-family home*, or constructed within the built envelope

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

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

11 (v) the permit application does not include seismic upgrade
12 work pursuant to subsection (c)(4)(F).

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

16 (i) For lots that have four existing Dwelling Units or fewer or where the
17 zoning would permit the construction of four or fewer Dwelling Units, one ADU is permitted; for lots
18 that have more than four existing Dwelling Units or are undergoing seismic retrofitting under
19 subsection (c)(4)(F) below, or where the zoning would permit the construction of more than four
20 Dwelling Units, there is no limit on the number of ADUs permitted; provided, however, that the
21 Department shall not approve an application for construction of an ADU Accessory Dwelling
22 Unit in any building regulated by this subsection (c)(4) where a tenant on the lot has been evicted
23 pursuant to Administrative Code Sections 37.9(a)(9) through (a)(12) and 37.9(a)(14) under a
24 notice of eviction served within 10 years prior to filing the application for a building permit to
25 construct the ADU or where a tenant has been evicted pursuant to Administrative Code

1 Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the
2 application for a building permit to construct the ADU. This provision shall not apply if the
3 tenant was evicted under Section 37.9(a)(11) or 37.9(a)(14) and the applicant(s) either (A)
4 have certified that the original tenant reoccupied the unit after the temporary eviction or (B)
5 have submitted to the Department and to the Rent Board a declaration from the property
6 owner or the tenant certifying that the property owner notified the tenant of the tenant's right to
7 reoccupy the unit and the tenant chose not to reoccupy it.

8 (ii) Except as provided in subsections (iii) and (iv) below, an
9 Accessory Dwelling Unit shall be constructed entirely within the buildable area of an existing
10 lot, provided that the ADU does not exceed the existing height of ~~the~~ an existing building, or
11 within the built envelope of an existing and authorized stand-alone garage, storage structure,
12 or other auxiliary structure on the same lot, as the built envelope existed three years prior to
13 the time the application was filed for a building permit to construct the ADU. For purposes of
14 this provision, the "built envelope" shall include the open area under a cantilevered room or
15 room built on columns; decks, except for decks that are supported by columns or walls other
16 than the building wall to which they are attached and are multi-level or more than 10 feet
17 above grade; and lightwell infills provided that the infill will be against a blank neighboring wall
18 at the property line and not visible from any off-site location; as these spaces exist as of July
19 11, 2016. An ADU constructed entirely within the existing built envelope, as defined in this
20 subsection (ii), along with permitted obstructions allowed in Section 136(c)(32), of an existing
21 building or authorized auxiliary structure on the same lot, or where an existing stand-alone
22 garage or storage structure has been expanded to add dormers, is exempt from the
23 notification requirements of Section 311 of this Code unless the existing building or authorized
24 auxiliary structure on the same lot is in an Article 10 or Article 11 District in which case the
25 notification requirements will apply. If an ADU will be constructed under a cantilevered room

1 or deck that encroaches into the required rear yard, a pre-application meeting between the
2 applicant and adjacent neighbors for all the proposed work is required before the application
3 may be submitted.

4 (iii) When a stand-alone garage, storage, or other auxiliary structure is
5 being converted to an ADU, an expansion to the envelope is allowed to add dormers even if
6 the stand-alone garage, storage structure, or other auxiliary structure is in the required rear
7 yard.

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

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

19 (vi) *An existing* building undergoing seismic retrofitting may be eligible
20 for a height increase pursuant to subsection (c)(4)(F) below.

21 (vii) Notwithstanding any other provision of this Code, an Accessory
22 Dwelling Unit authorized under this Section 207(c)(4) may not be merged with an original
23 unit(s).

1 (viii) An Accessory Dwelling Unit shall not be permitted in any building
2 in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor
3 Retail Districts if it would eliminate or reduce a ground-story retail or commercial space.

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

7 (E) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article
8 9 of the Subdivision Code, a lot with an Accessory Dwelling Unit authorized under this Section
9 207(c)(4) shall not be subdivided in a manner that would allow for the ADU to be sold or
10 separately financed pursuant to any condominium plan, housing cooperative, or similar form
11 of separate ownership; provided, however, that this prohibition on separate sale or finance of
12 the ADU shall not apply to a building that (i) within three years prior to July 11, 2016 was an
13 existing condominium with no Rental Unit as defined in Section 37.2(r) of the Administrative
14 Code, and (ii) has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and
15 37.9(a)(14) of the Administrative Code within 10 years prior to July 11, 2016.

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

23 (i) ~~§~~ shall be exempt from the notification requirements of Section ~~§~~ 311
24 ~~and 312~~ of this Code; and

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

5 (iii) ~~o~~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 (iv) ~~p~~Pursuant to subsection (4)(C)(i), there is no limit on the number of
12 ADUs that are permitted to be added in connection with a seismic retrofit.

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

14 Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant
15 an Accessory Dwelling Unit a complete or partial waiver of the density limits and off-street
16 parking, bicycle parking, rear yard, exposure, or open space standards of this Code. If the
17 Zoning Administrator grants a complete or partial waiver of the requirements of this Code and
18 the subject lot contains any Rental Units at the time an application for a building permit is filed
19 for construction of the Accessory Dwelling Unit(s), the property owner(s) shall enter into a
20 Regulatory Agreement with the City under subsection (c)(4)(H) subjecting the ADU(s) to the
21 San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the
22 Administrative Code) as a condition of approval of the ADU(s). For purposes of this
23 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
2 subsection (c)(4)(G) as a condition of approval of an Accessory Dwelling Unit shall contain the
3 following:

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

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

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

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

21 (v) Following execution of the Regulatory Agreement by all parties
22 and approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall
23 be recorded against the property and shall be binding on all future owners and successors in
24 interest.
25

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

4 (I) **Monitoring Program.**

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

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

22 (iii) **Department Report.** The Department shall publish a report
23 annually until April 1, 2019, that describes and evaluates the types of units being developed
24 and their affordability rates, as well as their use as Short-Term Residential Rentals. The report
25 shall contain such additional information as the Director or the Board of Supervisors

1 determines would inform decision makers and the public on the effectiveness and
2 implementation of this subsection (c)(4) and include recommendations for any amendments to
3 the requirements of this Section 207(c)(4). The Department shall transmit this report to the
4 Board of Supervisors for its review and public input. In subsequent years, this information on
5 Accessory Dwelling Units shall be reported annually in the Housing Inventory.

6 * * * *

7 (6) **State Mandated Accessory Dwelling Unit Program: Accessory Dwelling Units in**
8 **Existing *or Proposed* Single-Family Homes *or in a Detached Auxiliary Structure on the Same***
9 **Lot.**

10 (A) **Applicability.** This subsection (c)(6) shall apply to the construction of
11 Accessory Dwelling Units (as defined in Section 102) in existing *or proposed* single-family
12 homes *or in a detached auxiliary structure on the same lot if the ADU ~~that~~ meets* the requirements
13 of this subsection. An ADU constructed pursuant to this subsection is considered a residential
14 use that is consistent with the General Plan and the zoning designation for the lot. Adding one
15 ADU to an existing *or proposed* single-family home *or in a detached auxiliary structure on the same*
16 *lot* does not exceed the allowable density for the lot. If construction of the ADU will not meet
17 the requirements of this subsection and the ADU cannot be constructed without a waiver of
18 Code requirements pursuant to subsection (c)(4)(G), the ADU is regulated pursuant to
19 subsection (c)(4) and not this subsection (c)(6).

20 (B) **Lots Zoned for Single-Family or Multifamily Use and Containing an**
21 **Existing or Proposed Single-Family Home; Controls on Construction.** An Accessory
22 Dwelling Unit located *in a residential zoning district on a lot that is zoned for single-family or*
23 *multifamily use and contains an existing or proposed single-family dwelling* and constructed
24 pursuant to this subsection (c)(6) shall meet all of the following:
25

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

4 (ii) The permit application does not include seismic upgrade work
5 pursuant to subsection (c)(4)(F).

6 (iii) Only one ADU will be constructed that is either attached to or will be
7 constructed entirely within the “living area” (as defined in subsection (c)(6)(B)(iii)) or within the
8 buildable area of ~~an~~ the proposed or existing primary dwelling ~~single-family home~~ or, except as
9 provided by subsections (C)(x) and (xi) below, within the built envelope of an existing and
10 authorized auxiliary structure on the same lot. “Living area” means (as defined in Section
11 65852.2(i)(1) of the California Government Code) “the interior habitable area of a dwelling unit
12 including basements and attics, but does not include a garage or any accessory structure.”

13 (iv) ~~If contained within the existing space of a single-family residence or~~
14 ~~accessory structure, the~~ ADU must have independent exterior access from the existing or
15 proposed primary dwelling residence or existing accessory structure, and side and rear setbacks
16 sufficient for fire safety.

17 (v) If construction of the ADU will have adverse impacts on a property
18 listed in the California Register of Historic Places or any other known historical resource, the
19 Department shall require modification of the proposed project to the extent necessary to
20 prevent or mitigate such impacts.

21 (vi) The Department shall apply any design guidelines in the Code to
22 the proposed project and review the design of the proposed project to ensure architectural
23 compatibility with existing buildings on the subject lot.

24 (vii) No setback is required for an existing garage that is converted to
25 an ADU.

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

3 (ix) No parking is required for the ADU. If existing parking is
4 demolished in order to construct the ADU, only the parking space required by this Code for
5 the existing single-family home must be replaced. If replacement parking is required, it may be
6 located in any configuration on the lot including but not limited to covered, uncovered, or
7 tandem space or by the use of mechanical automobile parking lifts.

8 (x) When a stand-alone garage, storage, or other auxiliary structure is
9 being converted to an ADU, an expansion to the envelope is allowed to add dormers even if
10 the stand-alone garage, storage structure, or other auxiliary structure is in the required rear
11 yard.

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

16 (C) **Permit Application Review and Approval.** ~~Except as authorized by~~
17 ~~subsections (c)(6)(B)(v) and (vi), t~~The Department shall approve an application for a permit to
18 construct an Accessory Dwelling Unit within 120 days from receipt of the complete application,
19 without modification or disapproval, if the proposed construction fully complies with the
20 requirements set forth in subsection (c)(6)(B). No requests for discretionary review shall be
21 accepted by the Planning Department for permit applications meeting the requirements of this
22 subsection (c)(6). The Planning Commission shall not hold a public hearing for discretionary review of
23 permit applications meeting the requirements of this subsection (c)(6). Permit applications meeting the
24 requirements of this subsection (c)(6) shall not be subject to the notification or review requirements of
25 Section 311 of this Code.

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

4 (DE) **Prohibition of Short-Term Rentals.** An Accessory Dwelling Unit
5 authorized under this subsection (c)(6) shall not be used for Short-Term Residential Rentals
6 under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice
7 of Special Restriction on the subject lot.

8 (EF) **Rental; Restrictions on Subdivisions.**

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

12 (ii) Notwithstanding the provisions of Article 9 of the Subdivision
13 Code, a lot with an Accessory Dwelling Unit authorized under this subsection (c)(6) 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.

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

22
23 **SEC. 311. PERMIT REVIEW PROCEDURES**

24 (a) **Purpose.** The purpose of this Section 311 is to establish procedures for reviewing
25 building permit applications to determine compatibility of the proposal with the neighborhood

1 and for providing notice to property owners and residents on the site and neighboring the site
2 of the proposed project and to interested neighborhood organizations, so that concerns about
3 a project may be identified and resolved during the review of the permit.

4 (b) **Applicability.** Except as indicated herein, all building permit applications in
5 Residential, NC, NCT, and Eastern Neighborhoods Districts for a change of use;
6 establishment of a Micro Wireless Telecommunications Services Facility; establishment of a
7 Formula Retail Use; demolition, new construction, or alteration of buildings; and the removal
8 of an authorized or unauthorized residential unit shall be subject to the notification and review
9 procedures required by this Section 311. In addition, all building permit applications that
10 would establish Cannabis Retail or Medical Cannabis Dispensary Uses, regardless of zoning
11 district, shall be subject to the review procedures required by this Section 311.

12 Notwithstanding the foregoing or any other requirement of this Section 311, a change of use
13 to a Child Care Facility, as defined in Section 102, shall not be subject to the review
14 requirements of this Section 311. Notwithstanding the foregoing or any other requirement of this
15 Section 311, building permit applications to construct an Accessory Dwelling Unit pursuant to Section
16 207(c)(6) shall not be subject to the notification or review requirements of this Section 311.

17 * * * *

18
19 Section 3. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance

23
24 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
25 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3 additions, and Board amendment deletions in accordance with the "Note" that appears under
4 the official title of the ordinance.

5

6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: _____
9 PETER R. MILJANICH
10 Deputy City Attorney

n:\legana\as2018\1900144\01320442.docx

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25