



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Executive Summary Planning Code Text Amendment

HEARING DATE: DECEMBER 5, 2019

90-DAY DEADLINE: JANUARY 11, 2019

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* Exemption from Density Limits for Affordable and Unauthorized Units  
*Case Number:* 2019-014348PCA [Board File No. 190757]  
*Initiated by:* Supervisor Mandelman / Introduced July 9, 2019  
*Staff Contact:* Audrey Merlone, Legislative Affairs  
Audrey.Merlone@sfgov.org, 415-575-9129  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Approval with Modifications**

### PLANNING CODE AMENDMENT

The Ordinance would amend the Planning Code to provide an exception from density limit calculations for all affordable units in projects not seeking and receiving a density bonus, permit the legalization of all unauthorized dwelling units notwithstanding a history of no-fault evictions, and principally permit residential care facilities for seven or more persons in all RH (Residential, House) zoning districts.

#### The Way It Is Now:

1. Density Limit Exceptions for Affordable Units:
  - a. *At least* 20% of units must be designated as "Affordable" to be exempt from density limit calculation. *No more than* 25% of units proposed to be "Affordable" may be exempt from density limit calculation;
  - b. May not utilize the Individually Requested State Density Bonus program in conjunction with this exemption from density limit provision.
2. Accessory Dwelling Units:
  - a. Legal, nonconforming stand-alone structures on corner lots proposed to be converted to ADU's may be expanded within the existing footprint, up to one additional story.
3. Unauthorized Dwelling Units:
  - a. No more than one Unauthorized Dwelling Unit per lot may be legalized. The Unauthorized Dwelling Unit may be legalized if it results in the property being no more than one unit over the maximum density.
  - b. Unauthorized Dwelling Units that have had a no-fault eviction may not be legalized.
4. Residential Care Facilities:
  - a. Residential Care Facilities with seven or more people must receive Conditional Use authorization in RH-1(D), RH-1, RH-1(S), and RH-2 districts.

### The Way It Would Be:

1. Density Limit Exceptions for Affordable Units:
  - a. *Any* unit designated as “Affordable” would not be counted towards the project’s density calculation.
  - b. May not utilize the Individually Requested State Density Bonus program in conjunction with this exemption from density limit provision (*no change*).
2. Accessory Dwelling Units:
  - a. Legal, nonconforming stand-alone structures on corner lots **and through lots** proposed to be converted to ADU’s may be expanded within the existing footprint, up to one additional story.
3. Unauthorized Dwelling Units:
  - a. *Any amount* of Unauthorized Dwelling Units on a lot may be legalized, regardless of density limits.
  - b. Unauthorized Dwelling Units that have had a no-fault eviction *may be* legalized.
4. Residential Care Facilities:
  - a. Residential Care Facilities with seven or more people will no longer require Conditional Use authorization in RH-1(D), RH-1, RH-1(S), and RH-2 districts.

### BACKGROUND

On June 28, 2019, the Mayor approved Board File No. 181156 which would among other things, create a ministerial approval process for “no waiver” ADU’s, even if they propose an expansion of the building envelope; and remove the ability for said ADU’s to be appealed through a Discretionary Review process. Board File 181156 still required mailed notice. The Planning Commission heard this item on March 7, 2019 and voted to approve with modifications the proposed Ordinance. There is currently a duplicated file (Board File No. 190590) which would remove the notice requirement for these types of ADU’s. That file is pending at the Land Use and Transportation Committee.

On December 21, 2018, the Mayor approved Board File No. 180915 which would allow Residential Care Facilities with seven or more persons as a principally permitted use in all Residential Districts (except for RH-1 and RH-2), Neighborhood Commercial Districts, and in certain Mixed-Use Districts. Previously, these Residential Districts required a Conditional Use authorization for facilities with seven or more people. The Planning Commission heard this item on November 29, 2018 and voted to approve the Ordinance.

### ISSUES AND CONSIDERATIONS

#### Density Limits and Affordable Units

Planning Code Section 207 regulates exceptions to Dwelling Unit density limits. Section 207(c) provides an avenue for projects with at least 20% of units designated as “Affordable” to exempt up to 25% of units in the total project to be exempt from the total density calculation of the project. All exempted units must meet the definition of “Affordable” and the project may not be in an RH-1 or RH-2 District. This option cannot be used in conjunction with any other bonus program. Other density bonus programs, which were added after Section 207(c), tend to be favored over this option. That is because the other programs offer other waivers, concessions, and exceptions from Code requirements, whereas the program in Section 207(c) does not.

### Density Limits and Affordable Units

The proposed Ordinance would eliminate the RH-1 and RH-2 Districts' restriction for projects utilizing Section 207(c). It would additionally remove the ceiling and floor of the percentage of affordable units that may be exempt from the density calculation of a project. Instead, the Ordinance would allow *any* "Affordable" unit in a project to be exempt from the density calculation. The restriction on combining this program with any other local or state benefit would remain.

The proposed Ordinance's elimination of the floor and ceiling for the affordable units which may be exempt from density creates several complications. Mandatory inclusionary units are also eligible to be exempt from the density calculation. The result of removing the "cap" of no more than 25% of units in the building being exempt from the density calculation makes the required inclusionary calculation infinitely more complicated. If the calculation is conducted as it is now, it may effectively lower the amount of inclusionary housing a project contains. If the requirement to retain at least 20% of the units as inclusionary is to remain intact, it will require a lengthy and iterative calculation which will only be complete when the project hits its maximum height and bulk limitations. As an example: A project proposes to build 200 units. Under a 20% inclusionary requirement, 40 of the 200 units must be Affordable. The proposed legislation would allow those 40 Affordable units to be exempt from the density calculation. This means 40 additional market-rate units could be added to the project. The new total number of units in the project is now 240. The 20% inclusionary requirement is taken from the **total** number of units in a project, *not* just the number of market-rate units. This means the new inclusionary number of units goes up. Which then means more market-rate units could be built . . . or as illustrated below:

Proposed Total Number of Units	# of Units Required to be Affordable (aka 20% of total units)	New # of Market Rate Units Allowed	New Total Number of Units	New <i>Additional</i> # of Units Required to be Affordable (aka 20% of total units)	New <i>Additional</i> # of Market Rate Units Allowed	New Total Number of Units	
200	40	40	240	8	8	256	....

This provision further complicates an already complicated program without providing much benefit. Since the enactment of the Individually Requested State Density Bonus Program, the Planning Department has only received one project seeking to utilize Section 207(c). Constructing units that will remain permanently Affordable is a costly process, and if not publicly funded, often requires market rate units accompany the project to make the project financially feasible. Any project that seeks to build larger amounts of Affordable units will likely also need to utilize the waivers, concessions, and incentives that are provided under density bonus programs. The proposed Ordinance as written does not offer any waivers, concessions, or incentives from City codes beyond the exemption from density calculation, nor is it able to be used in conjunction with another program. It is unlikely to be utilized over other more appealing options for building affordable housing.

### **Residential Care Facilities**

In 2016, San Francisco's Post-Acute Care Project recommended expanding opportunities for Residential Care in San Francisco neighborhoods, including Residential Care Facility for the Elderly (RCFE) facilities. Residential Care Facilities are regulated as an Institutional Use, therefore the current controls subject Residential Care Facilities to Floor Area Ratio limits.

A Residential Care Facility is designed to provide long-term care in which the population it serves considers the facility their "home". They are not considered a Health Service Use, as Residential Care Facilities do not offer out-patient services, may or may not have medical doctors on staff, and are generally designed to treat patients of specific demographics, such as the elderly, or those suffering from substance abuse, in a residential setting.

In November of 2018 the Planning Commission approved a proposal to principally permit this use in all Residential Districts except RH-1 and RH-2, regardless of the number of people a facility serves. Previously, these Residential Districts required a Conditional Use authorization for facilities with seven or more people.

The proposed Ordinance will create additional pathways for legal, non-conforming structures on through lots to be converted to much needed housing.

### **Altering Legal, Non-Conforming Structures**

Structures that existed before the effective date of the Planning Code, or of amendments thereto, and which do not comply with one or more of the regulations for structures to-date, are considered legal, non-conforming structures. In certain instances, it may be beneficial to alter a non-conforming structure even if it increases a discrepancy with the Planning Code regulation to not expand these types of structures. One instance where expansion of a legal, non-conforming structure is beneficial is when said expansion will create habitable space for residential uses. Planning Code Sec. 207(c) currently allows one additional story of height to be added to legal, non-conforming stand-alone structures on *corner lots* for the purposes of converting the structure to an ADU. The proposed Ordinance will create additional pathways for legal, non-conforming structures on *through lots* to be converted to much needed housing.

### **Legalizing Unauthorized Dwelling Units (UDU's)**

Unauthorized Dwelling Units (UDU's) are residential units that were built without the benefit of permits. These units are typically subordinate to the other residential units in the same lot, due to factors such as their location on the lot, location of the entrance, low ceiling heights, less light exposure, etc. Such units are generally developed using unused spaces within a building or lot, such as a garage, storage, rear yard, or an attic. These units are wholly independent from the primary units, with independent kitchen, bathroom, sleeping facilities, and access to the street; they may share laundry facilities, yards, and other traditional types of common spaces with the primary unit(s). Due to their subordinate nature, they are generally considered a more affordable housing option to low and middle-income residents and have become a valuable type of housing in the City.

The “no-fault eviction” provision has become a loophole for property owners to evict their tenants by removing their UDU without a CU. The proposed Ordinance will close that loophole.

In 2014 the Board of Supervisors approved an Ordinance which amended the Planning and Building Codes to provide a process for granting legal status to existing UDU’s, *unless* there had been a history of a no-fault eviction of the UDU (Board File No. 131148). The policy goal for this provision was to protect tenants from potential evictions; the opportunity to legalize a unit could incentivize the owner to evict the tenant, legalize the unit, and put the unit back on the market for higher rent. However, subsequent legislative changes conflict with the eviction prohibition in the legalization program and created a loophole. The City now requires Conditional Use (CU) authorization to remove unauthorized units unless the unit is not eligible for legalization. This change has incentivized property owners who wish to remove the unit to evict their tenant, making the unit ineligible for the legalization program. The property owner is then allowed to remove the unit without a CU authorization. In this way, the eviction prohibition in the legalization program is no longer serving its original goal to protect tenants.

In addition, the original concerns driving the eviction prohibition have been addressed through another piece of legislation, commonly known as Eviction Protection 2.0 (Board File No. 150646). Approved by the Board of Supervisors in October of 2015, this legislation incorporated a five-year price control into five types of no-fault evictions: owner move-in, condo conversions, capital improvements, lead abatement, and demolition/removal from housing. The latter is the most common type of eviction used for tenants in unauthorized units. The price control removes the incentive to evict a tenant prior to legalization, since higher rents would not be allowed for five years; therefore, the need for an eviction prohibition in the legalization program is no longer necessary. In addition, a right to return provision can further protect the tenants in the unauthorized units. The right to return already exists for three types of no-fault evictions for five years: Ellis Act, owner move-in, and Capital Improvements.

The 2014 legislation additionally stated that only one UDU per parcel could be legalized. Before the legalization program was established, UDU’s had largely only existed in the shadows. As the City did not yet know the full universe of UDU’s in the city, or the feasibility of being able to bring them up to Code, the legalization program was limited to one unit per lot. Because of that limitation some units that could have been legalized but were over the one-per-lot restriction instead had to be removed. The program has since proven to be quite successful, with over 500 permits having been issued to legalize a UDU under Section 207.3 (*see Exhibit A*). The program has assisted in bringing affordable units out of the shadows, and up to Building Code standards, increasing the housing stock of a desperately needed housing typology. Legalizing UDU’s should be encouraged whenever possible to increase the amount of safe, rent-controlled units.

### **General Plan Compliance**

- The Housing Element supports fostering a housing stock that meets the needs of all residents across lifecycles. The proposed Ordinance will better enable Residential Care Facilities, including nursing and retirement homes, to establish themselves by removing many of the process limitations set by bed number maximums for Institutional Uses. It will additionally assist in the development of

secondary structures on through lots to create new housing, including rental housing, to the City's stock.

- The Commerce and Industry Element strives to promote the provision of adequate health services to all geographical districts and cultural groups in the city. The proposed Ordinance will assist in expanding the reach of Residential Care Facilities across the city, by loosening the restrictions on where they may locate by-right, and by removing the size restrictions based on the number of beds provided.

### **Racial and Social Equity Analysis**

Understanding the benefits, burdens and opportunities to advance racial and social equity that proposed Planning Code and Zoning Map amendments provide is part of the Department's Racial and Social Equity Initiative. This is also consistent with the Mayor's Citywide Strategic Initiatives for equity and accountability and with the Office of Racial Equity, which will require all Departments to conduct this analysis.

- The Healthcare Services Master Plan found that in San Francisco, emergency room visits due to acute and chronic alcohol use disorder continue to increase across all race/ethnicity groups, with the homeless population especially at risk. The Plan recommends San Francisco increase access to and capacity of long-term care options for its growing senior population, those seeking treatment for substance abuse, mental health, and for persons with disabilities to support their ability to live independently in the community. As Skilled Nursing Facilities in the city continue to decline, Residential Care Facilities have been found to be a positive alternative. These types of facilities are usually smaller in nature and located across the City in residential and neighborhood commercial areas. Their type of care and location increases the possibility for residents across many demographics to age in place and remain a part of their local community.
- The Housing Element of the General Plan supports fostering a housing stock that meets the needs of all residents. ADU's and UDU's have been found to provide housing options that are more affordable than market-rate units. ADU's and UDU's are often rental housing, which also increases their accessibility to lower-income residents. These types of units are located throughout all residential neighborhoods across the city, and create a more equitable balance of housing typologies, ensuring our neighborhoods remain varied in their economic offerings of housing.

### **Implementation**

The Department has determined that this Ordinance will impact our current implementation procedures as the amendments will be a change in current processes of eviction history for UDU legalization, and calculating density and inclusionary requirements; however, the proposed changes can be implemented without increasing permit costs or review time.

### **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. Further amend Section 207(c) to state that mandatory inclusionary units may not be exempted from the density calculation and clarify that all voluntary Affordable units provided through this program will not be included in calculations for determining an inclusionary requirement.

2. Add a subsection to Sec. 207(c) that would state for 100% Affordable projects, no density maximums apply.
3. Add clarifying language to the Administrative Code regarding eviction protections for UDU tenants.

## **BASIS FOR RECOMMENDATION**

The Planning Department supports the proposed Ordinance with the recommended modifications to Section 207(c) because it expands the ability to build Affordable housing and Residential Care Facilities in low-density districts, closes loopholes in the UDU legalization program, and increases the ability to build/legalize more ADU's. San Francisco and the Bay Area have a housing shortage. The Planning Department is working to meet these housing needs. The ADU and UDU legalization programs have helped create new dwelling units, mostly through infill efforts. Any such effort to improve the viability of these programs should be supported. The Ordinance will build on these efforts by expanding opportunities for underutilized auxiliary structures and UDU's to become viable, affordable housing. In addition to facing a traditional housing shortage, San Francisco is also facing a shortage of Skilled Nursing Facilities (SNF's). As the number of SNFs in San Francisco continue to decline, Residential Care Facilities are one way of filling the gap in long-term care. As long-term care continues to shift to a more residential model, Residential Care Facilities are also in increasing demand. The proposed amendments will provide more opportunities for Residential Care Facilities to establish themselves in San Francisco.

**Recommendation 1: Amend Section 207(c) to exempt voluntary Affordable units *only*.** Staff recommends amending Section 207(c) because although the idea of exempting all Affordable units from density calculations seems desirable in theory, in practice it generates undue complications for calculating the maximum possible units that can be built in projects that also contain an inclusionary requirement. The advanced calculations may be worth this amendment if not for the additional fact that this program is extremely unlikely to be utilized for its intended purpose over other, more beneficial programs such as HOME SF and the State Density Bonus Program.

To solve the problem of either lowering the effective inclusionary rate of a project, or creating a long and complicated calculation cycle, the proposed Ordinance should be amended to state that mandatory inclusionary units may not be included in the density exemption. Said voluntary Affordable units would not be included in any calculation for determining the number of inclusionary units required from a project. By retaining mandatory inclusionary units in a project's density calculation, the project will always contain at least the minimum amount of mandatory inclusionary units. Any voluntary Affordable unit built beyond mandatory inclusionary units would not be counted towards total density. These voluntary units would additionally not be included the calculation to determine how many inclusionary units are required for the project. One setback of this amendment is that the program is not providing any type of market rate housing "bonus", as the only units a project may exempt from their calculation are voluntary Affordable units. It is staff's understanding that the sponsor's intent of this amendment *was* to provide an avenue for projects in RH Districts that would choose to build Affordable units without a market-rate bonus. This amendment would still accomplish the sponsor's intent by being able to provide Affordable units in RH Districts even if they would put the project over density.

To further aid in creating an amendment to 207(c) that may actually provide an attractive alternative to the State Density Bonus or HOME SF, Section 207(c) should be further amended to state that 100% affordable

projects have no density limits. This amendment could provide an avenue for affordable housing projects located in RH Districts that are proposing demolitions and reconstruction over density.

One such project is a proposal at 2206 Great Highway. The lot is an oversized lot zoned RH-2 and is owned by the Housing Authority. It currently contains 16 dwelling units that require substantial rehabilitation which would likely be tantamount to demolition. If the units are rebuilt, the zoning would allow for a maximum of 10 units. The Housing Authority would like to be able to construct 25 units, all proposed to be two- and three- bedroom units priced for households earning 80% AMI and below. The project would be able to construct said units without a height increase. They are ineligible to use the HOME-SF as the project proposes residential demolition and is in an RH-2 District. The Individually Requested State Density Bonus Program would only allow for 35% additional density, therefore allowing only 14 units to be constructed on the lot. Under the proposed Ordinance *with* all staff recommended modifications, the project could move forward and rebuild 25 affordable units of a desperately needed housing typology.

**Recommendation 2: Add a subsection to Section 207(c) for 100% Affordable projects.** Creating an additional subsection to exempt 100% Affordable projects from density limits ensures that publicly funded projects that are more likely to utilize this program, may benefit from density calculation exemptions. This alternative to Individually Requested State Density Bonus and HOME SF is most likely to be used by 100% affordable projects in RH Districts and/or with projects that include demolition. This alternative would not offer additional height or grant any waivers to modify the building envelope standards set forth in the underlying zoning district.

**Recommendation 3: Remove the prohibition to use the legalization program where no-fault evictions have occurred and amend the Planning and Rent Ordinance to:**

- a. Clarify that the existing five year price control applies to no-fault evictions in unauthorized units (Section 37.3(f) of the Administrative Code).
- b. Require the unit be offered to the previous tenant evicted similar to provisions for capital improvement (37.9a(11)), Ellis Act (37.9A), and owner move-in evictions (37.9(B)).

Staff identified a need to address the eviction loophole currently existing in the legalization program in 2018. Legislation sponsored by Supervisor Tang that would alter the Accessory Dwelling Unit Program (Board File No. 180268) came to the Commission in June of 2018. One of staff's recommended modifications was to close the eviction loophole and clarify language to protect tenants of UDU's in the Administrative Code. The 2018 Ordinance and staff's recommended modification were approved by the Commission. Unfortunately, this provision was deleted at the Land Use Committee by Supervisor Tang due to the complications involved with amending the Administrative Code. The legislation was on a tight timeline and the Supervisor was not able to delay the Ordinance to incorporate changes to the Administrative Code.

The proposed Ordinance that is the subject of this case report would once again, attempt to remove the eviction loophole, which the Commission supported in 2018.



The proposed Ordinance that is the subject of this case report would once again, attempt to remove the eviction loophole, which the Commission supported in 2018. Through this loophole, property owners inclined to remove an unauthorized unit can evict their tenants, and then remove the unit without a CU authorization. The eviction prohibition in the legalization program was originally placed to protect tenants but no longer serves this goal. To address this loophole, staff's recommendations would maintain the goal of tenant protection but change how the legalization program serves this goal. Staff recommends removing the eviction prohibition in the legalization program; this would eliminate using tenant evictions as an excuse to remove the unauthorized unit. It would also help the City to preserve its existing rent-controlled housing stock. In addition, existing price control laws already address the goal of tenant protections. This means that property owners no longer have the opportunity to evict a tenant, legalize their unit, and then increase the rental price. Instead, to re-rent a newly legalized unit within five years subsequent to an eligible no-fault eviction, the owner can only ask for the rental rates at the time of eviction (plus allowable annual increases). Staff recommends simply making a reference in the legalization program that those price controls apply.

Second, to fully discourage evictions prior to legalization, staff recommends using the right to return model currently in practice for Capital Improvement, Ellis Act, and Owner Move-in evictions. In these models, property owners are required to offer the unit to tenants previously evicted, if the unit is being re-rented for a period of time after eviction occurred. Together with price control, this would mean that if an owner legalizes a unit subsequent to a no-fault eviction and then re-rents the unit, the unit would have to be first offered to the same tenant and at the same rate as the time of eviction (plus allowable annual increases). This would further prevent using the legalization program as a means for evicting tenants.

## **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 not received any public comment regarding the proposed Ordinance.

### **Attachments:**

- Exhibit A: Department of Building Inspection Report on Legalization of Units Per Ord. 43-14
- Exhibit B: Draft Planning Commission Resolution
- Exhibit C: Board of Supervisors File No. 190757

## Weekly Report of Unit Legalization Per Ordinance 43-14

Date	Number of Enquiry Phone Call	Number of Enquiry Counter Visits	Number of Screening Form Filed at DBI	Number of Permit Submitted	Permits Submitted with NOV's	Number of Permit Issued	Number of Work Completed	Remark
From 5/17/14 to 6/12/14	120	80	2	3	2	0		
From 6/13/14 to 7/2/14	108	111	6	4	0	0		
From 7/3/14 to 7/10/14	32	45	3	2	1	0		
From 7/11/14 to 8/3/14	30	129	14	11	4	0		
From 8/4/14 to 8/31/14	15	84	15	16	1	1		2 withdraws
From 9/1/14 to 9/30/14	32	112	12	12	0	0		
From 10/1/14 to 10/31/14	30	103	16	9	1	0		
From 11/1/14 to 11/30/14	32	78	14	15	3	0		
From 12/1/14 to 12/5/14	5	24	2	1	0	0		
From 12/8/14 to 12/12/14	7	18	4	4	0	1		
From 12/15/14 to 12/19/14	7	5	0	1	0	0		
From 12/22/14 to 12/26/14	2	10	3	3	1	1		
From 12/29/14 to 1/2/15	1	13	2	2	1	0		
From 1/5/15 to 1/9/15	10	18	1	1	0	0		
From 1/12/15 to 1/16/15	3	23	8	6	2	0		
From 1/20/15 to 1/23/15	9	18	1	1	1	0		
From 1/26/15 to 1/29/15	14	14	2	2	1	2		
From 1/30/15 to 2/5/15	13	31	5	4	0	0		
From 2/6/15 to 2/12/15	18	34	3	2	2	1		
From 2/13/15 to 2/19/15	20	25	2	3	1	0		
From 2/20/15 to 2/26/15	17	33	4	2	0	0		
From 2/27/15 to 3/5/15	23	37	2	3	0	1		
From 3/6/15 to 3/12/15	12	33	5	5	1	1		
From 3/13/15 to 3/19/15	16	53	9	6	1	1		
From 3/20/15 to 3/26/15	16	34	5	5	0	3		
From 3/27/15 to 4/2/15	18	35	7	8	1	1		
From 4/3/15 to 4/9/15	12	30	7	7	1	3		
From 4/10/15 to 4/16/15	8	40	10	9	2	2		
From 4/17/15 to 4/23/15	17	28	6	7	1	4		
From 4/24/15 to 4/30/15	18	35	9	2	2	0		
From 5/1/15 to 5/7/15	15	29	4	7	1	2		
From 5/8/15 to 5/17/15	20	71	44	23	2	2		
From 5/18/15 to 5/21/15	18	25	12	4	0	1		
From 5/22/15 to 5/28/15	9	30	4	3	0	0		
From 5/29/15 to 6/4/15	10	39	3	4	0	4		1 withdraw
From 6/5/15 to 6/11/15	30	27	1	2	0	1		
From 6/12/15 to 6/18/15	9	35	4	4	0	0		
From 6/19/15 to 6/25/15	10	36	6	5	1	2		
From 6/26/15 to 7/2/15	8	26	4	2	1	3		
From 7/3/15 to 7/8/15	10	18	3	0	0	2		
From 7/9/15 to 7/16/15	16	33	2	1	0	3		1 withdraw
From 7/17/15 to 7/23/15	12	33	3	4	1	2	1	
From 7/24/15 to 7/30/15	6	36	1	2	0	3	0	
From 7/31/15 to 8/6/15	14	27	2	3	1	2	0	
From 8/7/15 to 8/13/15	15	30	2	6	1	4	2	
From 8/14/15 to 8/20/15	7	27	1	2	0	1	1	
From 8/21/15 to 8/27/15	8	30	4	3	0	3	1	
From 8/28/15 to 9/3/15	10	28	3	0	0	1	1	
From 9/4/15 to 9/10/15	7	16	2	4	0	2	0	
From 9/11/15 to 9/17/15	9	23	3	2	0	1	1	
From 9/18/15 to 9/24/15	11	30	2	2	2	1	0	
From 9/25/15 to 10/1/15	10	22	0	1	0	0	2	
From 10/2/15 to 10/8/15	12	47	3	2	0	4	0	1 withdraw
From 10/9/15 to 10/15/15	12	20	6	4	0	0	2	
From 10/16/15 to 10/22/15	8	20	4	3	1	1	0	
From 10/23/15 to 10/29/15	9	27	3	5	1	2	1	
From 10/30/15 to 11/5/15	4	27	3	3	0	1	2	
From 11/6/15 to 11/12/15	6	28	8	8	5	0	0	
From 11/13/15 to 11/19/15	6	30	0	0	0	1	2	
From 11/20/15 to 11/25/15	5	28	11	3	3	0	0	
From 11/30/15 to 12/3/15	6	14	1	3	2	1	1	

## Weekly Report of Unit Legalization Per Ordinance 43-14

Date	Number of Enquiry Phone Call	Number of Enquiry Counter Visits	Number of Screening Form Filed at DBI	Number of Permit Submitted	Permits Submitted with NOV's	Number of Permit Issued	Number of Work Completed	Remark
From 12/4/15 to 12/10/15	7	19	1	2	1	1	0	
From 12/11/15 to 12/17/15	9	21	1	5	3	1	0	
From 12/18/15 to 12/24/15	11	18	4	4	0	1	1	
From 12/25/15 to 12/31/15	8	13	1	1	0	1	0	
From 1/1/16 to 1/7/16	10	15	1	2	1	4	1	
From 1/8/16 to 1/14/16	16	22	2	2	0	2	0	
From 1/15/16 to 1/21/16	9	10	1	1	0	4	3	
From 1/22/16 to 1/28/16	16	23	9	6	1	3	0	
From 1/29/16 to 2/4/16	12	28	3	4	1	4	2	
2/5/16 to 2/11/16	10	30	5	2	1	0	0	
2/12/2016 to 2/18/16	6	20	0	1	0	1	1	
2/19/16 to 2/25/16	5	31	7	5	0	4	2	
2/26/16 to 3/3/16	5	12	0	2	2	2	1	
3/4/16 to 3/10/16	5	26	4	6	1	1	2	
3/11/16 to 3/17/16	8	30	3	3	0	0	1	
3/18/16 to 3/24/16	5	30	4	2	1	1	0	
3/25/16 to 3/31/16	17	35	2	1	1	5	0	
4/1/16 to 4/7/16	17	24	2	3	2	0	0	
4/8/16 to 4/14/16	10	25	4	4	1	3	1	
4/15/16 to 4/21/16	6	33	10	6	1	1	0	
4/22/16 to 4/28/16	9	27	2	1	0	2	1	
4/29/16 to 5/5/16	14	22	2	5	1	2	0	
5/6/16 to 5/12/16	6	27	4	5	1	6	2	
5/13/16 to 5/17/16	3	16	1	2	0	1	0	
5/18/16 to 5/26/16	18	40	3	4	0	1	2	
5/27/16 to 6/2/16	5	20	5	2	1	3	0	
6/3/16 to 6/9/16	13	15	3	3	0	4	1	
6/10/2016 to 6/16/16	8	15	6	5	1	4	0	
6/17/2016 to 6/23/16	6	31	3	5	1	4	2	
6/24/16 to 6/30/16	15	21	1	2	0	1	1	
7/1/16 to 7/7/16	15	30	2	2	1	0	0	
7/8/16 to 7/14/16	17	32	1	3	0	3	1	
7/15/16 to 7/21/16	13	38	8	6	3	6	4	
7/22/16 to 7/28/16	13	40	3	2	0	2	4	
7/29/16 to 8/4/16	9	30	2	2	0	1	1	1 withdraw
8/5/16 to 8/11/16	7	29	3	6	2	1	1	
8/12/16 to 8/18/16	8	30	7	3	0	0	1	
8/19/16 to 8/25/16	10	36	4	5	0	3	1	
8/26/16 to 9/1/16	8	50	3	4	2	1	0	
9/2/16 to 9/8/16	7	24	3	4	2	3	0	
9/9/16 to 9/15/16	7	18	3	2	0	0	2	
9/16/16 to 9/22/16	4	20	8	7	1	3	1	
9/23/16 to 9/29/16	16	31	3	5	0	1	0	
9/30/16 to 10/12/16	22	45	3	3	0	4	1	
10/13/16 to 10/20/16	5	30	1	3	0	2	3	
10/21/16 to 10/27/16	5	23	5	5	1	4	1	
10/28/16 to 11/3/16	11	24	4	3	0	1	1	
11/4/16 to 11/10/16	9	28	6	4	0	2	0	1 withdraw
11/11/16 to 11/17/16	20	20	2	2	2	0	4	
11/18/16 to 11/24/16	15	20	1	1	0	0	3	
11/25/16 to 12/1/16	11	13	6	6	0	2	1	
12/2/16 to 12/8/16	10	28	0	1	0	2	3	
12/9/16 to 12/15/16	10	28	6	2	0	3	3	
12/16/16 to 12/22/16	9	31	8	3	1	2	1	
12/23/16 to 12/31/16	6	18	2	1	0	4	2	
1/1/17 to 1/5/17	3	8	4	4	0	1	1	1 withdraw
1/6/17 to 1/12/17	7	21	7	7	1	1	2	
1/13/17 to 1/19/17	10	22	2	2	0	2	0	
1/20/17 to 1/26/17	4	25	3	4	1	3	1	
1/27/17 to 2/2/17	11	19	0	0	0	2	3	
2/3/17 to 2/9/17	9	20	2	3	1	2	0	

## Weekly Report of Unit Legalization Per Ordinance 43-14

Date	Number of Enquiry Phone Call	Number of Enquiry Counter Visits	Number of Screening Form Filed at DBI	Number of Permit Submitted	Permits Submitted with NOV's	Number of Permit Issued	Number of Work Completed	Remark
2/10/17 to 2/16/17	3	26	2	2	1	2	2	
2/17/17 to 2/23/17	5	16	1	1	1	4	4	
2/24/17 to 3/2/17	10	20	7	6	2	3	0	
3/3/17 to 3/9/17	8	18	2	2	1	1	1	
3/10/17 to 3/16/17	9	22	1	0	0	0	0	
3/17/17 to 3/23/17	12	25	4	3	1	3	2	
3/24/17 to 4/6/17	15	32	4	4	0	4	2	
4/7/17 to 4/13/17	14	28	3	2	0	3	0	
4/14/17 to 4/20/17	21	34	3	2	1	1	1	
4/21/17 to 4/27/17	18	22	3	4	2	4	0	
4/28/17 to 5/4/17	29	33	5	6	3	1	4	
5/5/2017 to 5/11/17	19	29	3	2	0	2	1	
5/12/17 to 5/18/17	22	31	3	5	0	3	2	
5/19/17 to 5/25/17	16	35	5	3	1	2	1	
5/26/17 to 6/1/17	18	38	4	8	0	3	1	
6/2/17 to 6/8/17	19	33	8	6	4	2	0	
6/9/17 to 6/16/17	15	25	7	9	1	4	3	
6/17/17 to 6/22/17	13	19	1	2	1	2	3	
6/23/17 to 7/7/17	17	22	4	3	1	5	4	
7/8/17 to 7/13/17	10	16	0	4	0	2	1	
7/14/17 to 7/20/17	11	21	4	3	0	4	1	
7/21/17 to 7/27/17	9	19	5	2	0	2	2	
7/28/17 to 8/3/17	10	23	0	1	1	7	1	
8/4/17 to 8/10/17	11	12	2	2	2	2	2	
8/11/17 to 8/17/17	23	18	3	2	1	2	1	
08/18/17 to 08/24/17	13	29	3	3	1	0	2	
08/25/17 to 08/31/17	15	33	5	7	0	3	0	
09/1/17 to 09/7/17	16	22	4	4	0	1	1	
09/8/17 to 09/14/17	12	17	7	5	1	1	2	
09/15/17 to 09/21/17	26	21	6	4	1	0	0	1 withdraw
09/22/17 to 09/28/17	25	19	5	6	1	2	2	
9/29/17 to 10/5/17	29	22	4	7	1	1	2	
10/6/17 to 10/12/17	20	18	3	3	0	1	1	
10/13/17 to 10/19/17	16	19	2	1	1	0	2	
10/20/2017 to 10/26/17	23	26	6	4	1	1	0	
10/27/17 to 11/2/17	26	21	9	9	5	1	0	
11/3/17 to 11/9/17	22	25	5	4	1	3	0	
11/10/17 to 11/16/17	19	23	1	1	0	2	0	
11/17/17 to 11/30/17	37	35	3	5	1	6	7	
12/1/17 to 12/7/17	17	26	7	6	2	1	4	
12/8/17 to 12/14/17	23	31	6	6	3	0	0	
12/15/2017 to 12/21/2017	19	22	5	6	2	1	1	
12/22/2017 to 12/28/2017	21	15	3	3	1	0	2	
12/29/2017 to 1/4/2018	17	18	1	0	0	3	0	
1/5/2018 to 1/11/2018	29	26	2	4	0	1	1	
1/12/2018 to 1/18/2018	22	25	2	2	2	1	2	
1/19/2018 to 1/25/2018	30	27	6	6	2	4	2	1 withdraw
1/26/2018 to 2/1/2018	28	33	2	2	0	3	2	
2/2/2018 to 2/8/2018	26	31	1	1	1	2	1	1 withdraw
2/9/2018 to 2/15/2018	29	22	4	3	1	1	3	
2/16/2018 to 2/22/2018	25	23	7	6	3	2	2	1 withdraw
2/23/2018 to 3/1/2018	26	25	2	1	1	2	0	
3/2/2018 to 3/8/2018	25	24	5	5	2	2	0	
3/9/2018 to 3/15/2018	27	25	4	4	0	2	0	
3/16/2018 to 3/22/2018	29	28	6	6	3	4	0	
3/23/2018 to 3/29/2018	30	29	3	5	2	3	1	
3/30/2018 to 4/5/2018	32	28	5	5	0	2	1	
4/6/2018 to 4/12/2018	35	30	5	5	4	3	0	
4/13/2018 to 4/19/2018	34	31	3	2	0	3	1	
4/20/2018 to 4/26/2018	33	29	7	7	4	0	1	
4/27/2018 to 5/3/2018	35	32	6	8	3	4	6	1 withdraw

## Weekly Report of Unit Legalization Per Ordinance 43-14

Date	Number of Enquiry Phone Call	Number of Enquiry Counter Visits	Number of Screening Form Filed at DBI	Number of Permit Submitted	Permits Submitted with NOV's	Number of Permit Issued	Number of Work Completed	Remark
5/4/2018 to 5/10/2018	34	33	7	7	2	0	2	
5/11/2018 to 5/17/2018	32	34	0	1	0	2	0	
5/18/2018 to 5/24/2018	33	32	1	1	1	2	0	1 withdraw
5/25/2018 to 5/31/2018	34	31	3	3	0	3	1	
6/1/2018 to 6/7/2018	35	30	5	4	1	4	1	
6/8/2018 to 6/14/2018	30	33	2	2	1	2	1	
6/15/2018 to 6/21/2018	32	34	5	5	0	2	1	
6/22/2018 to 6/28/2018	29	31	4	4	2	2	0	
6/29/2018 to 7/5/2018	33	29	5	4	2	4	2	
7/6/2018 to 7/12/2018	31	35	2	3	2	1	2	
7/13/2018 to 7/19/2018	28	27	0	0	0	4	2	
7/20/2018 to 7/26/2018	27	30	4	4	2	2	1	
7/27/2018 to 8/2/2018	30	32	5	5	1	1	0	
8/3/2018 to 8/9/2018	29	28	2	1	0	2	3	1 withdraw
8/10/2018 to 8/16/2018	28	26	0	0	0	3	0	
8/17/2018 to 8/23/2018	25	31	6	4	3	3	2	
8/24/2018 to 8/30/2018	32	33	2	2	0	3	3	
8/31/2018 to 9/6/2018	30	29	6	5	1	2	3	
9/7/2018 to 9/13/2018	33	34	7	6	3	4	0	
9/14/2018 to 9/20/2018	31	35	4	4	1	1	1	
9/21/2018 to 9/27/2018	35	27	2	1	0	2	0	1 withdraw
9/28/2018 to 10/4/2018	34	32	7	3	0	2	1	
10/5/2018 to 10/11/2018	30	33	1	2	1	8	1	
10/12/2018 to 10/18/2018	29	31	2	4	2	3	1	
10/19/2018 to 10/25/2018	31	29	6	6	3	6	0	
10/26/2018 to 11/1/2018	28	28	3	3	2	2	2	1 withdraw
11/2/2018 to 11/8/2018	30	27	2	1	0	1	0	
11/9/2018 to 11/15/2018	27	29	6	6	3	2	2	
11/16/2018 to 11/29/2018	44	41	3	3	1	7	2	
11/30/2018 to 12/6/2018	40	39	4	3	0	1	2	
12/7/2018 to 12/14/2018	32	30	9	8	0	3	4	
12/15/2018 to 12/21/2018	29	31	2	3	2	3	4	
12/22/2018 to 12/28/2018	33	34	2	2	1	1	0	
12/29/2018 to 1/4/2019	26	24	2	3	1	4	0	
1/5/2019 to 1/11/2019	24	30	7	7	0	5	0	1 withdraw
1/12/2019 to 1/18/2019	22	24	4	3	0	4	1	1 withdraw
1/19/2019 to 1/23/2019	20	23	3	4	4	0	2	
1/24/2019 to 1/30/2019	25	27	4	4	2	1	3	1 withdraw
1/31/2019 to 2/6/2019	22	26	2	12	5	1	1	
2/7/2019 to 2/13/2019	18	22	8	6	3	2	2	
2/14/2019 to 2/20/2019	15	18	5	4	3	2	2	
2/21/2019 to 2/27/2019	17	17	3	2	2	6	2	
2/28/2019 to 3/6/2019	14	12	4	2	0	2	0	
3/7/2019 to 3/13/2019	16	15	6	7	6	4	1	
3/14/2019 to 3/20/2019	18	16	2	1	1	4	3	
3/21/2019 to 3/27/2019	15	14	4	7	4	1	1	
3/28/2019 to 4/3/2019	14	18	4	2	0	1	2	1 withdraw
4/4/2019 to 4/10/2019	17	21	4	5	0	2	0	
4/11/2019 to 4/17/2019	18	22	10	4	0	1	1	1 revised
4/18/2019 to 4/24/2019	19	22	4	5	1	1	2	
4/25/2019 to 5/1/2019	22	19	4	3	1	1	2	1 withdraw
5/2/2019 to 5/8/2019	18	16	2	5	2	2	5	1 withdraw
5/9/2019 to 5/15/2019	19	17	4	3	2	1	1	
5/16/2019 to 5/22/2019	15	17	0	0	0	1	1	hdraw and 1 re
5/23/2019 to 5/29/19	12	15	5	3	1	9	2	
5/30/2019 to 6/05/2019	15	13	1	2	1	3	4	
6/6/2019 to 6/12/2019	11	16	4	5	2	2	2	
6/13/2019 to 6/19/2019	12	14	4	2	0	2	3	1 withdrawn
6/20/2019 to 06/26/2019	14	13	7	5	3	9	0	
6/27/2019 to 07/03/2019	10	12	4	3	1	6	3	hdrawn and 1 re

## Weekly Report of Unit Legalization Per Ordinance 43-14

Date	Number of Enquiry Phone Call	Number of Enquiry Counter Visits	Number of Screening Form Filed at DBI	Number of Permit Submitted	Permits Submitted with NOVs	Number of Permit Issued	Number of Work Completed	Remark
7/04/2019 to 7/10/2019	7	10	2	0	0	2	2	
7/11/2019 to 07/17/2019	5	7	4	3	1	1	1	
7/18/2019 to 07/24/2019	8	10	2	2	0	3	1	
07/25/2019 to 07/31/2019	6	7	3	3	0	1	1	1 withdrawn
08/01/2019 to 08/07/2019	5	10	6	3	1	4	0	1 withdrawn
08/08/2019 to 08/14/2019	7	11	4	3	0	8	1	1 withdrawn
08/15/2019 to 08/21/2019	6	9	4	6	1	2	0	1 withdrawn
08/22/2019 to 08/28/2019	5	7	3	1	0	1	1	
08/29/2019 to 09/04/2019	3	6	3	4	1	3	3	
09/05/2019 to 09/11/2019	6	3	1	2	0	3	4	
09/12/2019 to 09/18/2019	4	7	5	4	2	3	1	
09/19/2019 to 09/25/2019	3	5	3	2	0	1	3	
09/26/2019 to 10/02/2019	4	2	2	1	0	2	3	
10/03/2019 to 10/09/2019	2	5	1	2	0	3	0	
10/10/2019 to 10/16/2019	5	8	6	7	3	0	2	
10/17/2019 to 10/23/2019	3	7	4	6	3	4	2	2 withdrawn
<b>TOTAL:</b>	<b>4430</b>	<b>6957</b>	<b>1056</b>	<b>980</b>	<b>260</b>	<b>540</b>	<b>290</b>	



# SAN FRANCISCO PLANNING DEPARTMENT

EXHIBIT B

## Planning Commission Draft Resolution HEARING DATE DECEMBER 5, 2019

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* **Exemption from Density Limits for Affordable and Unauthorized Units**  
*Case Number:* **2019-014348PCA** [Board File No. 190757]  
*Initiated by:* Supervisor Mandelman / Introduced July 9, 2019  
*Staff Contact:* **Audrey Merlone**, Legislative Affairs  
Audrey.Merlone@sfgov.org, 415-575-9129  
*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROVIDE AN EXCEPTION FROM DENSITY LIMIT CALCULATIONS FOR ALL AFFORDABLE UNITS IN PROJECTS NOT SEEKING AND RECEIVING A DENSITY BONUS, PERMIT THE LEGALIZATION OF ALL UNAUTHORIZED DWELLING UNITS NOTWITHSTANDING A HISTORY OF NO-FAULT EVICTIONS, AND PRINCIPALLY PERMIT RESIDENTIAL CARE FACILITIES FOR SEVEN OR MORE PERSONS IN ALL RH (RESIDENTIAL, HOUSE) ZONING DISTRICTS.; 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 July 9, 2019 Supervisor Mandelman introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190757, which would amend the Planning Code to provide an exception from density limit calculations for all affordable units in projects not seeking and receiving a density bonus, permit the legalization of all unauthorized dwelling units notwithstanding a history of no-fault evictions, and principally permit residential care facilities for seven or more persons in all RH (Residential, House) zoning districts;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 21, 2019; 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

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

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

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

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

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

## 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 Planning Commission supports the proposed Ordinance with the recommended modifications to Section 207(c) because it expands the ability to build Affordable housing and Residential Care Facilities in low-density districts, closes loopholes in the UDU legalization program, and increases the ability to build/legalize more ADU's. San Francisco and the Bay Area have a housing shortage. The Planning Department is working to meet these housing needs. The ADU and UDU legalization programs have helped create new dwelling units, mostly through infill efforts. Any such effort to improve the viability of these programs should be supported. The Ordinance will build on these efforts by expanding opportunities for underutilized auxiliary structures and UDU's to become viable, affordable housing. In addition to facing a traditional housing shortage, San Francisco is also facing a shortage of Skilled Nursing Facilities (SNF's). As the number of SNFs in San Francisco continue to decline, Residential Care Facilities are one way of filling the gap in long-term care. As long-term care continues to shift to a more residential model, Residential Care Facilities are also in increasing demand. The proposed amendments will provide more opportunities for Residential Care Facilities to establish themselves in San Francisco.
2. **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.



*The proposed Ordinance would provide further flexibility for Accessory Dwelling unit program in pursuit of goals to increase housing opportunities. It would also provide more opportunities to preserve existing unauthorized units.*

**OBJECTIVE 4**

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

*The proposed Ordinance will expand opportunities for Residential Care in San Francisco neighborhoods, including Residential Care Facility for the Elderly (RCFE) facilities, those seeking treatment for substance abuse, mental health, and for persons with disabilities to support their ability to live independently in the community.*

**OBJECTIVE 7**

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

**Policy 7.7**

Support housing for middle income households, especially through programs that do not require a direct public subsidy.

*ADUs and UDU's are subordinate to the original unit due to their size, location of the entrance, lower ceiling heights, etc. ADUs and UDU's provide a lower rent compared to the residential units developed in newly constructed buildings and therefore the proposed Ordinance would support housing for middle income households.*

*Removing dwelling unit density limits for 100% affordable projects and excluding voluntary affordable units from density calculations will additionally assist in building permanently affordable housing without public subsidy.*

**COMMERCE AND INDUSTRY ELEMENT**

**OBJECTIVE 7**

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL AND REGIONAL CENTER FOR GOVERNMENTAL, HEALTH, AND EDUCATIONAL SERVICES.

**Policy 7.3**

Promote the provision of adequate health and educational services to all geographical districts and cultural groups in the city.

*The proposed Ordinance will assist in expanding the reach of Residential Care Facilities across the city, by loosening the restrictions on where they may locate by-right, and by removing the size restrictions based on the number of beds provided.*

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

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

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

development;

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

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

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 21, 2019.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: November 21, 2019

[Planning Code - Exemption from Density Limits for Affordable and Unauthorized Units; Residential Care Facilities]

**Ordinance amending the Planning Code to provide an exception from density limit calculations for all affordable units in projects not seeking and receiving a density bonus, permit the legalization of all unauthorized dwelling units notwithstanding a history of no-fault evictions, and principally permit residential care facilities for seven or more persons in all RH (Residential, House) zoning districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.**

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

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 190757 and is incorporated herein by reference. The Board affirms 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, this Board finds that these Planning  
7 Code amendments will serve the public necessity, convenience, and general welfare for the  
8 reasons set forth in Planning Commission Resolution No. \_\_\_\_\_.

9  
10 Section 2. The Planning Code is hereby amended by revising Sections 207, 207.3,  
11 and 209.1, to read as follows:

12 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

13 \* \* \* \*

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

16 (1) **Affordable Units ~~in Projects with 20 Percent or More Affordable Units~~.** For  
17 projects that are not ~~located in any RH-1 or RH-2 zoning district, or are not~~ seeking and receiving  
18 a density bonus under the provisions of Planning Code Section 206.5 or 206.6, California  
19 ~~Government Code Section 65915, where 20 percent or more of the Dwelling Units on-site are~~  
20 ~~"Affordable Units," the~~ on-site Affordable Units shall not count towards the calculation of  
21 dwelling unit density. This Planning Code Section 207(c)(1) does not provide exceptions to any  
22 other Planning Code requirements such as height or bulk. For purposes of this Section  
23 207(c)(1), "Affordable Units" shall be defined as meeting (A) the criteria of Section 406(b); (B)  
24 the requirements of Section 415 et seq. for on-site units; or (C) restricted units in a project  
25 using California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4%

1 ~~percent~~ tax credits under the Tax Credit Allocation Committee (TCAC). If a project sponsor  
2 proposes to provide "Affordable Units" that are not restricted by any other program, in order to  
3 receive the benefit of the additional density permitted under this ~~§~~subsection (c)(1) or  
4 ~~§~~subsection (c)(2), the project sponsor shall elect and the Planning Department and MOHCD  
5 shall be authorized to enforce, restricting the units as affordable under Planning Code Section  
6 415.6 ~~up to a maximum of 25 percent of the units in the principal project~~. The project sponsor shall  
7 make such election through the procedures described in Section 415.5(g) including submitting  
8 an Affidavit of Compliance indicating the project sponsor's election to pursue the benefits of  
9 ~~§~~subsection (c)(1) or (c)(2) and committing to ~~up to 25 percent~~ on-site units restricted under  
10 Section 415.6 prior to approval by the Planning Commission or Planning Department staff. If a  
11 project sponsor obtains the exemption from the density calculation for Affordable Units  
12 provided in this subsection (c)(1), the exemption shall be recorded against the property. Any  
13 later request to decrease the number of Affordable Units shall require the project to go back to  
14 the Planning Commission or Planning Department, whichever entity approved the project as a  
15 whole.

16 (2) **Designated Child Care Units.** A Designated Child Care Unit that meets all the  
17 applicable standards of Planning Code Section 414A.6 shall not count towards the calculation of  
18 maximum density permitted on the site.

19 ~~(2) — **Affordable Units in RTO Districts.** In the RTO District, on-site Dwelling Units~~  
20 ~~that are "Affordable Units," as defined in Subsection (a), shall not count toward density calculations or~~  
21 ~~be limited by lot area.~~

22 \* \* \* \*

23 (4) **Local Accessory Dwelling Unit Program: Accessory Dwelling Units**  
24 **in Multifamily Buildings; Accessory Dwelling Units in Single-Family Homes That Do Not**  
25 **Strictly Meet the Requirements in Subsection (c)(6).**

1                   \*   \*   \*   \*

2                               (B)     **Applicability.** This subsection (c)(4) shall apply to the construction  
3 of Accessory Dwelling Units on all lots located within the City and County of San Francisco in  
4 areas that allow ~~Residential~~ ~~Use~~, except that construction of an Accessory Dwelling Unit is  
5 regulated by subsection (c)(6), and not this subsection (c)(4), if all of the following  
6 circumstances exist:

7                               \*   \*   \*   \*

8                                       (iii)     the ADU is either attached to or will be constructed entirely  
9 within the “living area” (as defined in subsection (c)(6)(B)(iii)) or the buildable area of the  
10 proposed or existing primary dwelling, or constructed within the built envelope of an existing  
11 and authorized auxiliary structure on the same lot; provided, however, that (A) when a stand-  
12 alone garage, storage structure, or other auxiliary structure is being converted to an ADU, an  
13 expansion to the envelope is allowed to add dormers even if the stand-alone garage, storage  
14 structure, or other auxiliary structure is in the required rear yard and (B) on a ~~Corner~~ ~~Lot~~ or  
15 through lot, a legal stand-alone nonconforming garage, storage structure, or other auxiliary  
16 structure may be expanded within its existing footprint by up to one additional story in order to  
17 create a consistent street wall and improve the continuity of buildings on the block.

18                   \*   \*   \*   \*

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

22                                       (i)     a statement that the ADU(s) are not subject to the Costa-  
23 Hawkins Rental Housing Act (California Civil Code Section 1954.50 et seq.) because, under  
24 Section 1954.52(b), the owner has entered into this agreement with the City in consideration  
25 for a complete or partial waiver of the density limits, and/or bicycle parking, rear yard,

1 exposure, or open space standards of this Code or other direct financial contribution or other  
2 form of assistance specified in California Government Code Sections 65915 et seq.  
3 (“Agreement”); and

4 \* \* \* \*

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

8 \* \* \* \*

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

14 \* \* \* \*

15 (ix) ~~No parking is required for the ADU. If existing parking is~~  
16 ~~demolished in order to construct the ADU, only the parking space required by this Code for the existing~~  
17 ~~single-family home must be replaced. 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 structure, or other  
21 auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to  
22 add dormers even if the stand-alone garage, storage structure, or other auxiliary structure is in  
23 the required rear yard.

24 (xi) On a corner lot or through lot, a legal stand-alone  
25 nonconforming garage, storage structure, or other auxiliary structure may be expanded within



1 its existing footprint by up to one additional story in order to create a consistent street wall and  
2 improve the continuity of buildings on the block.

3 \* \* \* \*

4 ~~(7) A Designated Child Care Unit that meets all the applicable standards of Planning~~  
5 ~~Code Section 414A.6 shall not count towards the calculation of maximum density permitted on the site.~~

6 **SEC. 207.3. AUTHORIZATION OF DWELLING UNITS CONSTRUCTED WITHOUT A**  
7 **PERMIT IN AN EXISTING BUILDING ZONED FOR RESIDENTIAL USE.**

8 Notwithstanding Section 207.2 or any other provision of this Code, certain dwelling  
9 units that were constructed without benefit of permit in an existing residential building or in an  
10 ancillary structure located on the same lot, defined for purposes of this Section 207.3 and in Section  
11 317(b) as “unauthorized units,” may be granted legal status subject to the conditions and  
12 procedures set forth below. ~~For purposes of this Section 207.3, a dwelling unit shall not include~~  
13 ~~single room occupancy units.~~

14 (a) **Purpose and Findings.**

15 \* \* \* \*

16 (4) Providing a mechanism to grant legal status to ~~an~~ illegally constructed  
17 dwelling units in an existing building zoned for ~~Residential~~ ~~Use~~ furthers several public policy  
18 objectives. By encouraging the legalization of these unauthorized units, the City can add  
19 legitimate units to the City's supply of affordable housing, ensure that these units are safe and  
20 habitable, and properly include these units when calculating the City's existing housing  
21 supply.

22 (b) **Scope.** ~~(1) Except as provided in subsection (2) below, t~~ This Section 207.3 shall  
23 apply to an existing building or an ancillary structure on the same lot, that is located in a  
24 district where residential use is principally permitted, and that has one or more unauthorized  
25 ~~dwelling~~ units that were constructed prior to January 1, 2013 without benefit of permit and

1 used as residential space. ~~One of~~The unauthorized ~~dwelling~~ units on the lot that meet this  
2 threshold requirement and the requirements of this Section 207.3 may be granted legal status  
3 under this Section 207.3, regardless of the density limits of the zoning district.

4 ~~(2) — **No-fault Eviction.** The Department shall not approve an application for~~  
5 ~~legalization if any tenant has been evicted from the unit pursuant to Administrative Code Sections~~  
6 ~~37.9(a)(9) through (a)(14) where the tenant was served with the notice of eviction after March 13, 2014~~  
7 ~~if the notice was served within ten (10) years prior to filing the application for legalization.~~  
8 ~~Additionally, the Department shall not approve an application for legalization of the unit if any tenant~~  
9 ~~has been evicted pursuant to Administrative Code Section 37.9(a)(8) where the tenant was served with~~  
10 ~~a notice of eviction after March 13, 2014 if the notice was served within five (5) years prior to filing the~~  
11 ~~application for legalization. The Department shall verify with the Rent Board that no no-fault eviction~~  
12 ~~had been filed. This subsection (b)(2) shall not apply if the tenant was evicted under Administrative~~  
13 ~~Code Section 37.9(a)(11) and the applicant(s) have either: (A) certified that the original tenant~~  
14 ~~reoccupied the unit after the temporary eviction or (B) submitted to the Department a declaration from~~  
15 ~~the property owner or the tenant certifying that the property owner or the Rent Board has notified the~~  
16 ~~tenant of the tenant's right to reoccupy the unit after the temporary eviction and the tenant chose not to~~  
17 ~~reoccupy it.~~

18 (c) **Notices of Violation.** If the Director or Zoning Administrator has issued a notice  
19 of violation for ~~the~~ an unauthorized unit for which legalization is being sought and all violations  
20 would be corrected by legalization of the unit, the Director or Zoning Administrator shall:

21 \* \* \* \*

22 (d) **Legalization Application.** The Department shall approve an application to  
23 legalize an existing unauthorized dwelling unit if the unit complies with Planning Code  
24 requirements as specified in subsection (e) below and with other City codes as specified in  
25 subsection (f) below; ~~if the Rent Board verifies that no no-fault eviction was filed pursuant to~~

1 ~~subsection (b)(2) above,~~ and if the permit application is completed at and plans approved by the  
2 Department of Building Inspection. In compliance with the State's ~~Second~~ Accessory Dwelling  
3 Unit Law (California Government Code 65852.2), the Department shall ~~exercise ministerial~~  
4 ~~approval of~~ approve the application ministerially if the ~~dwelling unauthorized~~ unit is ~~in a single-~~  
5 ~~family home and thus within the scope of the State's Second Unit Law~~ approved as an Accessory  
6 Dwelling Unit pursuant to Section 206(c)(6) of this Code.

7 (e) **Compliance with Planning Code Requirements; Exceptions.**

8 (1) A ~~d~~Dwelling ~~#~~Unit~~s~~ authorized under this Section 207.3 must satisfy all  
9 applicable requirements of this Code except for the rear yard requirements set forth in Section  
10 134, the usable open space requirements set forth in Section 135, and the light and air  
11 requirements set forth in Section 140, and except as otherwise provided in this Section 207.3.

12 (2) ~~One such d~~Dwelling ~~#~~Unit~~s~~ on the lot ~~is~~ are allowed to exceed the permitted  
13 density authorized for that zoning district provided that a ~~#~~Residential ~~#~~Use is a ~~p~~Principally  
14 ~~p~~Permitted Use in that zoning district. Authorization of ~~an~~ the additional unit~~s~~ over the density  
15 limits will not change the official zoning classification of the lot; provided, however, that the  
16 additional ~~d~~Dwelling ~~#~~Unit~~s~~ shall count towards the density limits if the parcel is under its  
17 density limit capacity.

18 (3) ~~Off-street parking requirements may be reduced to the extent necessary to retain~~  
19 ~~dwelling units authorized under this Section 207.3, without requiring compliance with Sections 305,~~  
20 ~~161(j) or 307(g) or (i) of this Code.~~

21 (f) **Compliance With Other City Codes.** A ~~d~~Dwelling ~~#~~Unit authorized under this  
22 Section 207.3 must meet all applicable provisions of other City codes other than the  
23 provisions of the Planning Code cited in subsection (e). Any Code equivalencies authorized  
24 under the Building Code, Electrical Code, Plumbing Code, Mechanical Code, Fire Code, or  
25 other applicable Code shall be considered by the relevant agency.

~~Legalization Authorization~~ of a ~~d~~Dwelling ~~#~~Unit under this Section 207.3 shall not affect whether the ~~d~~Dwelling ~~#~~Unit is subject to the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code). A ~~d~~Dwelling ~~#~~Unit that was subject to the Residential Rent Stabilization and Arbitration Ordinance prior to legalization under this Section 207.3 shall remain subject to the Residential Rent Stabilization and Arbitration Ordinance after legalization. Landlords shall pay relocation assistance to tenants who are temporarily displaced due to work required for dwelling unit legalization pursuant to the provisions in Section 37.9C of the Residential Rent Stabilization and Arbitration Ordinance or California Civil Code Section 1947.9 for displacements of less than 20 days.

(g) **Additional Dwelling Unit Considered a Lawful Nonconforming Use.** Any ~~d~~Dwelling ~~#~~Unit authorized under this Section 207.3 shall be considered a lawful nonconforming use subject to the provisions of Planning Code Sections 180 through 189; provided, however, that expansion of the additional ~~d~~Dwelling ~~#~~Unit within the building envelope shall be permitted as part of the legalization process.

\* \* \* \*

(k) **Master List of Additional Dwelling Units Approved.** The Planning Department shall create and maintain a master list of ~~d~~Dwelling ~~#~~Units approved pursuant to the provisions of this Section 207.3 and corresponding property addresses for use by the San Francisco Rent Stabilization and Arbitration Board, Tax Assessor, and other interested City departments, boards or commissions.

**SEC. 209.1. RH (RESIDENTIAL, HOUSE) DISTRICTS.**

\* \* \* \*

**Table 209.1  
ZONING CONTROL TABLE FOR RH DISTRICTS**

Zoning Category	§ References	RH-1(D)	RH-1	RH-1(S)	RH-2	RH-3
-----------------	--------------	---------	------	---------	------	------

* * * *						
<b>NON-RESIDENTIAL STANDARDS AND USES</b>						
* * * *						
<b>Institutional Use Category</b>						
Institutional Uses*	§ 102	NP	NP	NP	NP	NP
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
Residential Care Facility	§ 102	P <del>(3)</del>	P <del>(3)</del>	P <del>(3)</del>	P <del>(3)</del>	P
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

\* Not listed below.

(3) [Note deleted] ~~C required for seven or more persons.~~

\* \* \* \*

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

1 additions, and Board amendment deletions in accordance with the “Note” that appears under  
2 the official title of the ordinance.

3  
4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: \_\_\_\_\_  
7 JUDITH A. BOYAJIAN  
8 Deputy City Attorney

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
n:\legana\as2019\1900565\01367221.docx