

[Planning, ~~Building~~ Codes - Accessory Dwelling Units]

Ordinance amending the Planning Code to 1) authorize expansion of an Accessory Dwelling Unit (ADU) within the buildable area, 2) authorize the Zoning Administrator to waive or modify bicycle parking requirements for an Accessory Dwelling Unit (ADU), 3) ~~allow more than one unauthorized unit constructed without a permit to be legalized,~~ 3) 4) exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, and 4) allow conversion of an existing stand-alone garage, or storage structure, or other auxiliary structure to an ADU and expansion of the existing building envelope to add dormers, and 6) ~~eliminate allow payment of an in lieu fee for the an ADU's street tree requirement for an ADU, and 6) allow one ADU to be added to a new residential building of three units or less as a component of the new construction; amending the Building Code to provide for a preapplication plan review for ADUs; 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; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this Ordinance to the California Department of Housing and Community Development.~~

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

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

1  
2 Section 1. Findings.

3 (a) The Planning Department has determined that the actions contemplated in this  
4 ordinance comply with the California Environmental Quality Act (California Public Resources  
5 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
6 Supervisors in File No. 180268 and is incorporated herein by reference. The Board affirms  
7 this determination.

8 (b) On June 21, 2018, the Planning Commission, in Resolution No. 20213, adopted  
9 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
10 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
11 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
12 Board of Supervisors in File No. 180268, and is incorporated herein by reference.

13 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
14 ordinance will serve the public necessity, convenience, and welfare for the reasons stated in  
15 Planning Commission Resolution No. 20213.

16 ~~(d) Pursuant to Charter Section D3.750-5, the Building Inspection Commission~~  
17 ~~considered this ordinance at a duly noticed public hearing held on \_\_\_\_\_, 2018.~~  
18

19 Section 2. The Planning Code is hereby amended by revising Sections 102, 136,  
20 138.1, 140, 155.1, 207, 207.3, 307, and 317, to read as follows:

21 **SEC. 102. DEFINITIONS.**

22 \* \* \* \*

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

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

\* \* \* \*

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

Streets and Alleys	Set-backs	Yards	Usable Open Space
			<p>* * * *</p> <p>(c) The permitted obstructions shall be as follows:</p> <p>* * * *</p> <p><u>(32) Infill under decks and cantilevered rooms when adding an Accessory Dwelling Unit; provided, however, that such infill shall comply with Section 207(c)(4) or Section 207(c)(6) of this Code, whichever is applicable; and provided further that if the ADU is proposed for a single-family home, the rear yard must be 25% of the lot depth but in no case less than 15 feet.</u></p> <p>* * * *</p>

**SEC. 138.1. STREETScape AND PEDESTRIAN IMPROVEMENTS.**

\* \* \* \*

(c) **Required streetscape and pedestrian improvements.** Development projects shall include streetscape and pedestrian improvements on all publicly accessible rights-of-way directly fronting the property as follows:

1           (1)     **Street trees.** Project Sponsors shall plant and maintain street trees as  
2 set forth in Article 16, Sections 805(a) and (d) and 806(d) of the Public Works Code; provided,  
3 however, that where a property owner is either (A) adding an Accessory Dwelling Unit  
4 pursuant to Section 207(c)(4) or 207 (c)(6) of this Code or (B) legalizing a Dwelling Unit  
5 pursuant to Section 207.3 of this Code, the owner may elect to pay the in-lieu fee authorized  
6 by Section 807(f) of the Public Works Code a street tree or trees shall not be required for an  
7 ADU authorized to be constructed pursuant to Section 207(c)(4) or 207(c)(6) of this Code.

8           \* \* \* \*

9     **SEC. 140. ALL DWELLING UNITS IN ALL USE DISTRICTS TO FACE ON AN OPEN**  
10 **AREA.**

11           \* \* \* \*

12           (c)     **Exceptions.**

13           (1)     For historic buildings identified in Section 307(h), and for the conversion  
14 of a nonconforming use in an existing building to a Residential Use in a district where the  
15 Residential Use is principally permitted, the requirements of this Section 140 may be modified  
16 or waived pursuant to the procedures and criteria set forth in Sections 307(h) and 329. This  
17 administrative exception does not apply to new additions to historic buildings.

18           (2)     *For Accessory Dwelling Units, the requirements of this Section 140 may be*  
19 *modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and*  
20 *207(c)(4)(G).*

21  
22  
23     **155.1. BICYCLE PARKING: DEFINITIONS AND STANDARDS.**

24           \* \* \* \*

1 (b) **Standards for Location of Bicycle Parking Spaces.** These standards apply to  
2 all bicycle parking subject to Section 155.2, as well as bicycle parking for City-owned and  
3 leased buildings, parking garages and parking lots subject to Section 155.3. Bicycle racks  
4 shall be located in highly visible areas as described in subsections below in order to maximize  
5 convenience and minimize theft and vandalism. For Accessory Dwelling Units, the requirements  
6 of this subsection (b) may be modified or waived pursuant to the procedures and criteria set forth in  
7 Sections 307(l) and 207(c)(4)(G).

8 \* \* \* \*

9 (c) **Design Standards for Bicycle Parking Spaces.** These design standards apply  
10 to all bicycle parking spaces subject to Sections 155.2 and 155.3. Bicycle parking shall follow  
11 the design standards established in Zoning Administrator Bulletin No. 9, which includes  
12 specific requirements on bicycle parking layout and acceptable types of Class 1 and Class 2  
13 bicycle parking spaces. For Accessory Dwelling Units, the requirements of this subsection (c) may  
14 be modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and  
15 207(c)(4)(G).

16 \* \* \* \*

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

18 \* \* \* \*

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

21 \* \* \* \*

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

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

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

- 8 (i) only one ADU will be constructed;
- 9 (ii) the ADU will be located on a lot that is zoned for single-  
10 family or multifamily use and contains an existing single-family dwelling;
- 11 (iii) the ADU will be constructed entirely within the “living area”  
12 (as defined in subsection (c)(6)(B)(iii)) or the buildable area of an existing single-family home,  
13 or *constructed* within the built envelope of an existing and authorized auxiliary structure on the  
14 same lot; provided, however, that (A) when a stand-alone garage, storage structure, or other  
15 auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to  
16 add dormers even if the stand-alone garage, storage structure, or other auxiliary structure is in  
17 the required rear yard and (B) on a corner lot, a legal stand-alone nonconforming garage,  
18 storage structure, or other auxiliary structure may be expanded within its existing footprint by  
19 up to one additional story in order to create a consistent street wall and improve the continuity  
20 of buildings on the block.
- 21 (iv) the ADU will strictly meet the requirements set forth in  
22 subsection (c)(6) without requiring a waiver of Code requirements pursuant to subsection  
23 (c)(4)(G); and
- 24 (v) the permit application does not include seismic upgrade  
25 work pursuant to subsection (c)(4)(F).

1 ~~provided, however, that the Department shall not approve an application for construction of an~~  
2 ~~Accessory Dwelling Unit in any building regulated by this subsection (c)(4) where a tenant has been~~  
3 ~~evicted pursuant to Administrative Code Sections 37.9(a)(9) through 37.9(a)(14) under a notice of~~  
4 ~~eviction served within 10 years prior to filing the application for a building permit to construct the~~  
5 ~~ADU or where a tenant has been evicted pursuant to Administrative Code Section 37.9(a)(8) under a~~  
6 ~~notice of eviction served within five years prior to filing the application for a building permit to~~  
7 ~~construct the ADU. This provision shall not apply if the tenant was evicted under Section 37.9(a)(11) or~~  
8 ~~37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit~~  
9 ~~after the temporary eviction or (B) have submitted to the Department and to the Rent Board a~~  
10 ~~declaration from the property owner or the tenant certifying that the property owner notified the tenant~~  
11 ~~of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.~~

12 (C) **Controls on Construction.** An Accessory Dwelling Unit is  
13 permitted to be constructed under the following conditions:

14 (i) For lots that have four existing Dwelling Units or fewer, one  
15 ADU is permitted; for lots that have more than four existing Dwelling Units or are undergoing  
16 seismic retrofitting under subsection ~~(c)(4)~~(F) below, there is no limit on the number of ADUs  
17 permitted; provided, however, that the Department shall not approve an application for construction  
18 of an Accessory Dwelling Unit in any building regulated by this subsection (c)(4) where a tenant has  
19 been evicted pursuant to Administrative Code Sections 37.9(a)(9) through 37.9(a)(14) under a notice of  
20 eviction served within 10 years prior to filing the application for a building permit to construct the  
21 ADU or where a tenant has been evicted pursuant to Administrative Code Section 37.9(a)(8) under a  
22 notice of eviction served within five years prior to filing the application for a building permit to  
23 construct the ADU. This provision shall not apply if the tenant was evicted under Section 37.9(a)(11)  
24 or 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit  
25 after the temporary eviction or (B) have submitted to the Department and to the Rent Board a

1 declaration from the property owner or the tenant certifying that the property owner notified the tenant  
2 of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.

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



1 (iii) ~~One ADU over the density limits in this Code is allowed in a~~  
2 ~~newly built residential structure of three units or less as a component of the new construction.~~

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

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

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

18 ~~(vi) (iv)~~ A building undergoing seismic retrofitting may be eligible  
19 for a height increase pursuant to ~~S~~subsection (c)(4)(F) below.

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

23 ~~(viii) (vi)~~ An Accessory Dwelling Unit shall not be permitted in any  
24 building in a Neighborhood Commercial District or in the Chinatown Community Business or  
25

1 Visitor Retail Districts if it would eliminate or reduce a ground-story retail or commercial  
2 space;

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

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

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

22 (i) shall be exempt from the notification requirements of  
23 Sections 311 and 312 of this Code; and

24 (ii) may expand a noncomplying structure, as defined in  
25 Section 180(a)(2) of this Code and further regulated in Sections 172, 180, and 188, without

1 obtaining a variance for increasing the discrepancy between existing conditions on the lot and  
2 the required standards of this Code.

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

9 (iv) pursuant to subsection (4)(C)(i), there is no limit on the  
10 number of ADUs that are permitted to be added in connection with a seismic retrofit.

11 (G) **Waiver of Code Requirements; Applicability of Rent**

12 **Ordinance.** Pursuant to the provisions of Section 307(l) of this Code, the Zoning  
13 Administrator may grant an Accessory Dwelling Unit a complete or partial waiver of the  
14 density limits and off-street parking, bicycle parking, rear yard, exposure, or open space  
15 standards of this Code. If the Zoning Administrator grants a complete or partial waiver of the  
16 requirements of this Code and the subject lot contains any Rental Units at the time an  
17 application for a building permit is filed for construction of the Accessory Dwelling Unit(s), the  
18 property owner(s) shall enter into a Regulatory Agreement with the City under subsection  
19 (c)(4)(H) subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and  
20 Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of  
21 the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section  
22 37.2(r) of the Administrative Code.

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

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

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

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

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

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

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

25 (l) **Monitoring Program.**

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

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

18 (iii) **Department Report.** The Department shall publish a report  
19 annually until April 1, 2019, that describes and evaluates the types of units being developed  
20 and their affordability rates, as well as their use as Short-Term Residential Rentals. The report  
21 shall contain such additional information as the Director or the Board of Supervisors  
22 determines would inform decision makers and the public on the effectiveness and  
23 implementation of this subsection (c)(4) and include recommendations for any amendments to  
24 the requirements of this Section 207(c)(4). The Department shall transmit this report to the  
25

Board of Supervisors for its review and public input. In subsequent years, this information on Accessory Dwelling Units shall be reported annually in the Housing Inventory.

\* \* \* \*

**(6) Accessory Dwelling Units in Existing Single-Family Homes.**

**(A) Applicability.** This subsection (c)(6) shall apply to the construction of Accessory Dwelling Units (as defined in Section 102) in existing single-family homes that meet the requirements of this subsection. An ADU constructed pursuant to this subsection is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding one ADU to an existing single-family home ~~shall~~ does not exceed the allowable density for the lot. If construction of the ADU will not meet the requirements of this subsection and the ADU cannot be constructed without a waiver of Code requirements pursuant to subsection (c)(4)(G), the ADU is regulated pursuant to subsection (c)(4) and not this subsection (c)(6).

**(B) Lots Zoned for Single-Family or Multifamily Use and Containing an Existing Single-Family Home; Controls on Construction.** An Accessory Dwelling Unit located in a residential zoning district and constructed pursuant to this subsection (c)(6) shall meet all of the following:

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

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

(iii) Only one ADU will be constructed that is 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

1 structure on the same lot. "Living area" means (as defined in Section 65852.2(i)(1) of the  
2 California Government Code) "the interior habitable area of a dwelling unit including  
3 basements and attics, but does not include a garage or any accessory structure."

4 (iv) If contained within the existing space of a single-family residence  
5 or accessory structure, the ADU must have independent exterior access from the existing  
6 residence or accessory structure, and side and rear setbacks sufficient for fire safety.

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

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

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

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

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

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

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

5                   (C) **Permit Application Review and Approval.** Except as authorized by  
6 subsections (c)(6)(B)(v) and (vi), the Department shall approve an application for a permit to  
7 construct an Accessory Dwelling Unit within 120 days from receipt of the complete application,  
8 without modification or disapproval, if the proposed construction fully complies with the  
9 requirements set forth in subsection (c)(6)(~~BE~~).

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

14                  (E) **Rental; Restrictions on Subdivisions.**

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

18                   (ii) Notwithstanding the provisions of Article 9 of the Subdivision  
19 Code, a lot with an Accessory Dwelling Unit authorized under this subsection (c)(6) shall not  
20 be subdivided in a manner that would allow for the ADU to be sold or separately financed  
21 pursuant to any condominium plan, housing cooperative, or similar form of separate  
22 ownership; ~~provided, however, that this prohibition on separate sale or finance of the ADU shall not~~  
23 ~~apply to a building that within three years prior to July 11, 2016, was an existing condominium with no~~  
24 ~~Rental Unit as defined in Section 37.2(r) of the Administrative Code, and also within 10 years prior to~~



1 *July 11, 2016 had no evictions pursuant to Sections 37.9(a) through 37.9(a)(14) of the Administrative*  
2 *Code.*

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

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

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

15 (b) **Scope.**

16 (1) Except as provided in subsection (2) below, this Section 207.3 shall apply  
17 to an existing building or an ancillary structure on the same lot, that is located in a district  
18 where residential use is principally permitted, and that has one or more dwelling units that  
19 were constructed prior to January 1, 2013 without benefit of permit and used as residential  
20 space. ~~One~~ One Any of the unauthorized dwelling units ~~per on the~~ lot ~~that~~ meeting this  
21 threshold requirement and the requirements of this Section may be granted legal status under  
22 this Section, regardless of the density limits of the zoning district.

23 \* \* \* \*

1     **SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.**

2             In addition to those specified in Sections 302 through 306 of this Code, the Zoning  
3 Administrator shall have the following powers and duties in administration and enforcement of  
4 this Code.

5             \*   \*   \*   \*

6             **(l)     Exceptions from Certain Specific Code Standards Through Administrative**  
7 **Review for Accessory Dwelling Units Constructed Pursuant to Section 207(c)(4) of this**  
8 **Code.** The Zoning Administrator may allow complete or partial relief from the density limits  
9 and from the off-street parking, bicycle parking, rear yard, exposure, and/or open space  
10 requirements of this Code when modification of the requirement would facilitate the  
11 construction of an Accessory Dwelling Unit, as defined in Section 102 and meeting the  
12 requirements of Section 207(c)(4) of this Code.

13             **(1)     Exposure.** The exposure requirements of Section 140 apply, except that  
14 subsection (a)(2) may be satisfied through windows facing an open area that is at least 225  
15 square feet, with no horizontal direction being less than nine feet, and 15 feet in every horizontal  
16 direction that is not required to expand on subsequent floors. Permitted obstructions that are  
17 outlined in Section 140 and fire escapes, not projecting more than 4 feet 6 inches, would be allowed in  
18 such open area. In considering any request for complete or partial relief from these Code  
19 requirements, the Zoning Administrator shall facilitate the construction of such Accessory  
20 Dwelling Units to the extent feasible and shall consider any criteria elsewhere in this Section  
21 307 that he or she determines to be applicable. Nothing in this Section shall be interpreted as  
22 allowing for an existing nonconforming non-conforming use to be deemed conforming.

23             **(2)     Bicycle Parking.** The requirements of Sections 155.1 and 155.2 shall apply,  
24 except that (A) in a building with no new corridors, an existing three-foot corridor may satisfy the  
25

1 requirement of a legal nonconforming access corridor for purposes of bicycle parking access in  
2 existing buildings and (B) vertical bicycle parking may satisfy up to 100% of required bicycle parking.

3 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**  
4 **DEMOLITION, MERGER AND CONVERSION.**

5 \* \* \* \*

6 (c) **Applicability; Exemptions.**

7 (1) Any application for a permit that would result in the Removal of one or  
8 more Residential Units or Unauthorized Units is required to obtain Conditional Use  
9 authorization. For Unauthorized Units, this Conditional Use authorization will not be required for  
10 Removal if the Zoning Administrator has determined in writing that the unit cannot be legalized  
11 under any available applicable provision of this Code. The application for a replacement building  
12 or alteration permit shall also be subject to Conditional Use requirements.

13 \* \* \* \*

14 (g) **Conditional Use Criteria.**

15 \* \* \* \*

16 (6) **Removal of Unauthorized Units.** In addition to the criteria set forth in  
17 Subsections (g)(1) through (g)(4) above, the Planning Commission shall consider the criteria  
18 below in the review of applications for removal of Unauthorized Units:

19 (A) ~~whether the Unauthorized Unit or Units are eligible for legalization~~  
20 ~~under Section 207.3 of this Code;~~

21 (B) whether the costs to legalize the Unauthorized Unit or Units under  
22 the Planning, Building, and other applicable Codes is reasonable based on how such cost  
23 compares to the average cost of legalization per unit derived from the cost of projects on the  
24 Planning Department's Master List of Additional Dwelling Units Approved required by Section  
25 207.3(k) of this Code;

1                   (BE) whether it is financially feasible to legalize the Unauthorized Unit or  
2 Units. Such determination will be based on the costs to legalize the Unauthorized Unit(s)  
3 under the Planning, Building, and other applicable Codes in comparison to the added value  
4 that legalizing said Units would provide to the subject property. The gain in the value of the  
5 subject property shall be based on the current value of the property with the Unauthorized  
6 Unit(s) compared to the value of the property if the Unauthorized Unit(s) is/are legalized. The  
7 calculation of the gain in value shall be conducted and approved by a California licensed  
8 property appraiser. Legalization would be deemed financially feasible if gain in the value of  
9 the subject property is equal to or greater than the cost to legalize the Unauthorized Unit.

10                   (CD) If no City funds are available to assist the property owner with the  
11 cost of legalization, whether the cost would constitute a financial hardship.

12  
13           Section 3. As introduced, this ordinance proposed revising Building Code Sections  
14 106A.4.9 and 106A.4.9.1. At the Land Use and Transportation Committee meeting of July 9,  
15 2018, the Committee amended the ordinance to remove those sections.

16  
17           Section 4. Effective Date. This ordinance shall become effective 30 days after  
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
20 of Supervisors overrides the Mayor's veto of the ordinance

21  
22           Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
25 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 Section 6. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed  
5 to submit a copy of this ordinance to the California Department of Housing and  
6 Community Development within 60 days following adoption pursuant to Section 65852.2(h) of  
7 the California Government Code.

8  
9 APPROVED AS TO FORM:  
10 DENNIS J. HERRERA, City Attorney

11 By:

  
12 JUDITH A. BOYAJIAN  
13 Deputy City Attorney

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# City and County of San Francisco

## Tails Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 180268

**Date Passed:** July 31, 2018

Ordinance amending the Planning Code to 1) authorize expansion of an Accessory Dwelling Unit (ADU) within the buildable area, 2) authorize the Zoning Administrator to waive or modify bicycle parking requirements for an ADU, 3) exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, and 4) allow conversion of an existing stand-alone garage, storage structure, or other auxiliary structure to an ADU and expansion of the existing building envelope to add dormers; 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; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this Ordinance to the California Department of Housing and Community Development.

June 11, 2018 Land Use and Transportation Committee - CONTINUED

July 09, 2018 Land Use and Transportation Committee - DUPLICATED

July 09, 2018 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

July 09, 2018 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

July 17, 2018 Board of Supervisors - DUPLICATED

July 17, 2018 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Cohen, Brown, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

July 17, 2018 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 11 - Cohen, Brown, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

July 17, 2018 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 11 - Cohen, Brown, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

July 24, 2018 Board of Supervisors - CONTINUED ON FINAL PASSAGE

Ayes: 9 - Cohen, Brown, Kim, Mandelman, Peskin, Ronen, Safai, Stefani and Yee  
Excused: 2 - Fewer and Tang

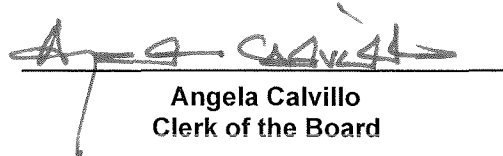
July 31, 2018 Board of Supervisors - DUPLICATED ON FINAL PASSAGE

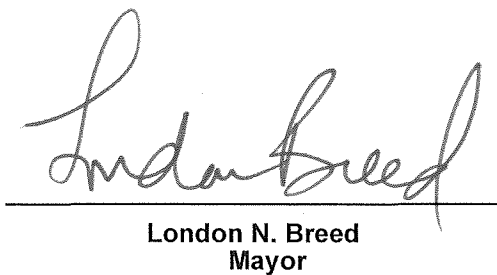
July 31, 2018 Board of Supervisors - FINALLY PASSED

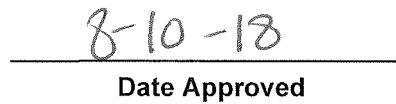
Ayes: 11 - Cohen, Brown, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani,  
Tang and Yee

File No. 180268

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
7/31/2018 by the Board of Supervisors of  
the City and County of San Francisco.

  
Angela Calvillo  
Clerk of the Board

  
London N. Breed  
Mayor

  
Date Approved