

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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June 16, 2023

San Francisco Planning Commission
City and County of San Francisco
49 South Van Ness Avenue
San Francisco, CA 94103

Dear Commissioners:

RE: Constraints Reduction (AKA Housing Production) Ordinance – Letter of Support and Technical Assistance

The California Department of Housing and Community Development (HCD) understands that the Planning Commission will soon hold a public hearing to consider a proposed “Constraints Reduction Ordinance” (Ordinance), as released to the public on June 15, 2023. The purpose of this letter is to express HCD’s support for the Ordinance and provide technical assistance to the City and County of San Francisco (City) in making a decision on this Ordinance.

The Ordinance would amend the Planning Code to remove some constraints to housing production as a step towards implementing the City’s adopted housing element, in compliance with State Housing Element Law.¹ Moreover, the proposed revisions would better align the Planning Code with the goals of State Density Bonus Law² and Affirmatively Furthering Fair Housing (AFFH).³

Background

California’s Statewide Housing Plan calls for the state to act with urgency to address homelessness and housing need.⁴ California needs an additional 2.5 million homes, one million of which must be affordable to lower-income households, over this eight-

¹ Gov. Code, § 65585

² Gov. Code, §§ 65915-65918

³ Gov. Code, § 8899.50

⁴ Department of Housing and Community Development. “A Home for Every Californian: 2022 Statewide Housing Plan Update.” *Statewide Housing Plan*, Mar. 2022, available at <https://statewide-housing-plan-cahcd.hub.arcgis.com/>.

year regional housing needs allocation (RHNA) cycle.⁵ San Francisco's 6th cycle RHNA is 82,069 units.⁶

State Housing Element Law acknowledges that, in order for the private market to adequately address the housing needs and demand of Californians, local governments must adopt plans and regulatory systems that provide opportunities for, and do not unduly constrain, housing development.⁷ HCD is responsible for reviewing the housing elements of all cities and counties in California for compliance with State Housing Element Law.⁸ Once HCD finds an adopted housing element to be in compliance with State Housing Element Law, the jurisdiction must work towards implementing the housing element. If HCD finds that a local jurisdiction has failed to implement a program included in the housing element, HCD may, after informing the local jurisdiction and providing a reasonable time to respond, revoke its finding of compliance until it determines that the jurisdiction has come into compliance.⁹

According to Annual Progress Report data provided by cities and counties, San Francisco has the longest timelines in the state for advancing housing projects to construction. The City also has among the highest housing and construction costs, and HCD's Housing Accountability Unit has received more complaints about San Francisco than any other local jurisdiction in the state. Last year, HCD announced its San Francisco Housing [Policy and Practice Review](#) to assess how the City's processes and political decision-making delay and impede the creation of housing at all income levels – and to provide recommendations to address these barriers. In addition, after providing significant technical assistance to the City, including on the development of robust programs to facilitate housing production at all income levels, on February 1, 2023, HCD found the City's adopted housing element in compliance with State Housing Element Law.

HCD also committed to working with San Francisco to identify and clear roadblocks to construction of all types of housing and has actively engaged with City staff as they have worked towards this goal over the past year through both the Policy and Practice Review and the City's housing element. Approving this ordinance would mark an important first step towards both facilitating the construction of housing and implementing the adopted housing element.

⁵ Ibid.

⁶ FINAL REGIONAL HOUSING NEEDS ALLOCATION (RHNA) PLAN: San Francisco Bay Area, 2023-2031, available at https://abag.ca.gov/sites/default/files/documents/2021-12/Final_RHNA_Allocation_Report_2023-2031-approved_0.pdf

⁷ Gov. Code, § 65580

⁸ Gov. Code, § 65585, subd. (b)

⁹ Gov. Code, § 65585, subd. (i)(1)(A)-(B)

Proposed Ordinance and Housing Element Implementation

HCD's determination that the City's adopted housing element complies with State Housing Element Law was based in substantial part on the City's programmatic commitments to amend the Planning Code in a way that would reduce discretionary and procedural processes, standardize zoning and land use requirements, permit group housing broadly throughout the City, and increase financial feasibility for housing projects. The proposed changes in the Ordinance would fully or partially satisfy some of the housing element's commitments (set forth as Actions) ahead of the timeframes provided in the housing element, including, but not limited to the following:

- Reduce discretionary processes and neighborhood notification requirements for certain code-compliant housing projects (**Action 8.4.17**), including requests for Reasonable Accommodation (**Action 6.3.10**), such as:
 - Allowing all Reasonable Accommodation Requests to be processed without a hearing in front of the Zoning Administrator (Planning Code Section 305.1)
 - Removing neighborhood notification requirements and requests for discretionary review for projects that will demolish, construct, or alter dwelling units outside of the Priority Equity Geographies Special Use District (Planning Code Section 311)
- Remove Conditional Use Authorization (CU) requirements for the following conditions in housing projects (**Actions 8.4.8, 8.4.9, and 8.4.10**):
 - Buildings taller than 40 feet (Planning Code Section 209.1) and 50 feet (Planning Code Sections 132.2 and 209.2)
 - Buildings that previously required CU after a certain height or a setback after a certain height (Planning Code Sections 253-253.3)
 - Residential projects on large lots in all RH zoning districts at densities based on the square footage of the lot (Planning Code Section 209.1)
 - Demolition of residential units meeting certain criteria outside of the Priority Equity Geographies Special Use District (Planning Code Section 317)
- Permit group housing broadly throughout the City and streamlining approvals for group housing projects (**Actions 7.2.6**), including:
 - Modifying the definition of a "dwelling unit" to allow employee housing for up to six employees in alignment with Health and Safety Code section 17021.5 (Planning Code Section 102)
 - Principally permitting group housing in all zoning districts (at one unit per 415 square feet of lot area in all districts other than the RH-1 zoning district, where group housing is allowed subject to the fourplex bonus program controls) (Planning Code Section 209.1)
- Remove Planning Commission hearings for program-compliant State Density Bonus projects (**Action 8.5.2**), including:

- Exempting Individually Requested State Density Bonus projects from other underlying entitlements related to the proposed housing, such as a CU or a Large Project Authorization (Planning Code Section 206.6)
- Allowing the Planning Director to approve requests for a concession, incentive, waiver, or modification made for an Individually Requested State Density Bonus project (Planning Code Section 206.6)
- Modify the requirements for the HOME-SF program and entitlement process (**Action 7.2.9**), including:
 - Eliminating environmental criteria such as historic resource, shadow, and wind for qualifying HOME-SF projects (Planning Code Section 206.3)
 - Allowing for demolition of up to one unit for HOME-SF projects (Planning Code Section 206.3)
- Standardize and simplify Planning Code requirements for housing developments (**Actions 8.3.3 and 8.4.11**), including:
 - Standardizing the minimum lot size to 1,200 square feet and lot width to 20 feet (Planning Code Section 121)
 - Allowing lot mergers in RTO zoning districts (Planning Code Section 121.7)
 - Ease exposure and open space requirements for inner courts (Planning Code Section 135)
- Increase financial feasibility for affordable housing projects (**Actions 1.3.9 and 8.6.1**), including:
 - Expanding the Impact Fee exemption to a housing project with units affordable up to 120 percent of the Area Median Income (Planning Code Section 406)
 - Allowing 100 percent affordable housing projects utilizing State Density Bonus Law to be eligible for Impact Fee waivers (Planning Code Section 406)

By implementing the above programs, as well as other Planning Code changes put forward in the Ordinance, the City can increase certainty of approval for a wider range of housing projects, thus reducing the risk associated with building housing in San Francisco. The City's adopted housing element acknowledges that this risk translates to higher housing costs, affirming that "regulatory code and permitting processes direct housing to respond to City priorities, and that the overall system can be simplified and more accessible, that community-led strategies support systematic approaches rather than project-by-project decision-making, and that the cumulative effect of complex entitlement and post-entitlement permitting is making the process uncertain and even more expensive."¹⁰ The Ordinance would begin to address various local roadblocks to housing approval and construction.

¹⁰ 2022 Update: San Francisco Housing Element, Page 133, Program 8: *Reducing Constraints on Housing Development, Maintenance, and Improvements*, available at <https://sfhousingelement.org/final-draft-housing-element-2022-update-clean>

A housing element is not a paper exercise – it is an enforceable commitment to the state that a city or county will take specific actions on specific timeframes over an eight-year period. The implementation of actions in the City’s housing element helps ensure compliance with State Housing Element Law, specifically the City’s obligation to “implement program actions included in the housing element...”¹¹ Recommending adoption of this Ordinance would represent an important step towards fulfilling the City’s obligations under State Housing Element Law, and would also further the laudable Goals, Objectives, and Policies around which the City’s housing element is centered.¹²

Conclusion

The State of California is in a housing crisis, and the provision of housing at all income levels is a priority of the highest order. HCD encourages the Planning Commission to recommend adoption of the Ordinance to the Board of Supervisors.

San Francisco’s work does not end here. Additional changes and actions may be necessary for the City to *fully* implement the programs specified in this letter, and further actions will be needed to implement other programs in the City’s housing element. HCD will continue to monitor the City’s progress towards housing element implementation, and to work with the City on addressing findings in the Policy and Practice Review.

HCD appreciates the challenges and various factors the City is considering in these important land use decisions and looks forward to following San Francisco’s progress towards housing element implementation. If you have any questions regarding the content of this letter or would like additional technical assistance regarding housing element implementation, please contact Dori Ganetsos at Dori.Ganetsos@hcd.ca.gov.

Sincerely,



Melinda Coy
Proactive Housing Accountability Chief

cc: Rich Hillis, Planning Director
Aaron Starr, Manager of Legislative Affairs

¹¹ Gov. Code, § 65585, subd. (i)(1)(A)

¹² 2022 Update – San Francisco Housing Element, available at <https://sfhousingelement.org/final-draft-housingelement-2022-update-clean>