

1 [Planning – Uses Permitted in R Districts – Double Density For Senior Housing.]

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3 **Ordinance amending the Planning Code by adding Section 102.6.1 to create a definition**
4 **related to housing for seniors; amending Planning Code Section 209.1(m) related to the**
5 **Uses Permitted in R Districts - Dwelling Zoning Control Table to update the**
6 **requirements for obtaining double density for providing senior housing and, adding**
7 **Section 209.1(o) to require, in certain circumstances, a conditional use authorization;**
8 **making environmental findings, and making findings of consistency with the General**
9 **Plan and priority policies of Planning Code Section 101.1.**

10 NOTE: Additions are *single-underline italics Times New Roman*;
11 deletions are *strike-through italics Times New Roman*.
12 Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

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

14 Section 1. Findings. The Board of Supervisors of the City and County of San
15 Francisco hereby finds and declares as follows:

16 (a) In enacting Civil Code Section 51.3, the California Legislature found that it is
17 essential to establish and preserve specially designed accessible housing for senior citizens.
18 There are senior citizens who need special living environments and services, and the
19 Legislature found that there was an inadequate supply of this type of housing in the State.
20 The Board concurs in this finding and, in addition, finds that that there is a shortage of housing
21 for seniors in San Francisco. The shortage is especially acute for seniors of low and
22 moderate income.

23 (b) Current Planning Code Section 209.1(m) permits a double density bonus for
24 dwelling units specifically designed for seniors or persons with disabilities. The density
25 permitted cannot exceed twice the number of permitted dwelling units. The double density

1 bonus is permitted in all Residential-zoned districts and is granted at the Planning Department
2 staff level, without a hearing in front of the Planning Commission.

3 (c) Permitting a double density project for seniors will increase the number of
4 dwelling units constructed for and occupied by senior citizens, but is only in the public interest
5 if 100% of the units are initially occupied by senior citizens and that thereafter the project is
6 occupied for the life of the project by senior citizens under the conditions outlined in State and
7 Federal law.

8 (d) The Uses Permitted in Residential Districts Zoning Controls, specifically the
9 Dwelling Uses zoning table as outlined in 209.1, have not been substantially revised since
10 their adoption in 1978. In evaluating this Section, the Planning Department and the Board of
11 Supervisors find and determine that the provisions related to senior housing need to be
12 clarified in order to prevent recent abuses of this provision and to ensure that occupancy of
13 the project is consistent with State and Federal law and, that under local law, the restrictions
14 will remain in place for the life of the project. The Planning Department and the Board of
15 Supervisors developed this legislation to prevent any further abuse of the double-density
16 provisions.

17 (e) By requiring a Conditional Use Authorization in certain circumstances, the Board
18 of Supervisors finds that a public hearing process would further solidify the intent of any
19 double density project to be 100% occupied by seniors. A Conditional Use Authorization
20 would create additional mechanisms for the Planning Department to monitor and enforce the
21 intent behind the double density provision of the Planning Code.

22 (f) The Board of Supervisors finds that there is a shortage of housing for low- and
23 moderate-income senior housing. The Board finds that it is desirable to locate any
24 inclusionary housing units produced under the provisions of this ordinance on-site. The Board
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1 finds that the additional density allowed for will make it feasible for the developer to meet its
2 inclusionary housing obligations on-site.

3 Section 2. Environmental Findings, General Plan Findings, and Other Findings.

4 (a) The Planning Department has determined that the actions contemplated in this
5 Ordinance are in compliance with the California Environmental Quality Act (California Public
6 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
7 Board of Supervisors in File No. 090906 and is incorporated herein by
8 reference.

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10 (b) On October 8, 2009, the Planning Commission, in Resolution
11 No. 17961 approved and recommended for adoption by the Board this legislation
12 and adopted findings that it is consistent, on balance, with the City's General Plan and eight
13 priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.
14 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.
15 090906, and is incorporated by reference herein.

16 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
17 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in
18 Planning Commission Resolution No. 17961, and incorporates such reasons by
19 reference herein.

20 Section 3: The San Francisco Planning Code is hereby amended by adding Section
21 102.6.1, to read as follows:

22 **Sec. 102.6.1. DWELLING SPECIFICALLY DESIGNED FOR AND OCCUPIED BY**
23 **SENIOR CITIZENS.**

24 (a) **Definitions: In order to qualify as a "dwelling specifically designed for and occupied**
25 **by senior citizens", the following definitions shall apply and shall have the same meaning as the**

1 definitions in California Civil Code Sections 51.2, 51.3, and 51.4, as amended from time to time. These
2 definitions shall apply as shall all of the other provisions of Civil Code Section 51.2, 51.3, and 51.4.
3 Any development specifically designed for and occupied by senior citizens must also be consistent with
4 the Fair Housing Act, 42 U.S.C. §§3601-3631 and the Fair Employment and Housing Act, California
5 Government Code Sections 12900-12996.

6 "Designed to meet the physical and social needs of senior citizens" shall mean a development
7 that meets the requirements of Civil Code Section 51.2(d), is constructed on or after January 1, 2001,
8 and includes all of the following elements:

9 (1) Entryways, walkways, and hallways in the common areas of the development, and doorways
10 and paths of access to and within the housing units, shall be as wide as required by current laws
11 applicable to new multifamily housing construction for provision of access to persons using a standard-
12 width wheelchair.

13 (2) Walkways and hallways in the common areas of the development shall be equipped with
14 standard height railings or grab bars to assist persons who have difficulty with walking.

15 (3) Walkways and hallways in the common areas shall have lighting conditions which are
16 sufficient brightness to assist persons who have difficulty seeing.

17 (4) Access to all common areas and housing units within the development shall be provided
18 without use of stairs, either by means of an elevator or sloped walking ramps.

19 (5) The development shall be designed to encourage social contact by providing at least one
20 common room and at least some common open space.

21 (6) Refuse collection shall be provided in a manner that requires a minimum of physical
22 exertion by residents.

23 (7) The development shall comply with all other applicable requirements for access and design
24 imposed by law, including, but not limited to, the Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), the
25 Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq. and the regulations promulgated at Title

1 24 of the California Code of Regulations that relate to access for persons with disabilities or
2 handicaps. Nothing in this section shall be construed to limit or reduce any right or obligation
3 applicable under those laws.

4 "Qualifying Resident" or "Senior citizen" means a person 62 years of age or older, or 55 years
5 of age or older in a senior citizen housing development.

6 "Senior citizen housing development" means a residential development developed, substantially
7 rehabilitated or substantially renovated for, senior citizens that has at least 35 dwelling units. Any
8 senior citizen housing development which is required to obtain a public report under Section 11010 of
9 the Business and Professions Code and which submits its application for a public report after July 1,
10 2001, shall be required to have been issued a public report as a senior citizen housing development
11 under Section 11010.05 of the Business and Professions Code. No housing development constructed
12 prior to January 1, 1985 shall fail to qualify as a senior citizen housing development because it was not
13 originally developed or put to use or occupancy by senior citizens.

14 (b) **Requirements:** In order to qualify as a dwelling specifically designed for and occupied
15 by senior citizens for purposes of Section 209.1, the proposed project must meet all of the following
16 conditions:

17 (1) **Design and construction:** The project must be designed to meet the physical and social
18 needs of senior citizens as defined herein.

19 (2) **Occupancy:** Each proposed dwelling unit must be initially put to use by a senior
20 citizens and shall be limited to the occupancy of senior citizens or other qualifying residents under
21 Civil Code Section 51.3 for the actual lifetime of the building, regardless of whether the units will be
22 owner-occupied or renter-occupied. The project must meet all of the requirements of Civil Code
23 Section 51.3 including, but not limited to, the requirement that the covenants, conditions, and
24 restrictions shall set forth limitations on occupancy, residency, and use based on age. Any such
25 limitation shall not be more exclusive than to require that one person in residence in each dwelling unit

1 may be required to be a senior citizen and that each other resident in the same dwelling unit may be
2 required to be a qualified permanent resident as defined in Civil Code Section 51.3(b), a permitted
3 health care resident as defined in Civil Code Section 51.3(b), or a person under 55 years of age whose
4 occupancy is permitted under Civil Code Section 51.3 or Section 51.4(b). That limitation may be less
5 exclusive but, shall at least require that the persons commencing any occupancy of a dwelling unit
6 include a senior citizen who intends to reside in the unit as his or her primary residence on a
7 permanent basis. The application of the rules set forth in this Section and in State law may result over
8 time in less than all of the dwellings being actually occupied by a senior citizen.

9 (3) **Inclusionary Housing Requirements:** If the project must meet the requirements of the
10 Residential Inclusionary Affordable Housing Program, Planning Code Sections 315 et seq., the
11 inclusionary units must be constructed on-site and, like the other units in the project, will be limited to
12 occupancy as stated above.

13 (4) **Location:** The proposed project must be within a 1/4 of a mile from a NCD-2 (Small-
14 Scale Neighborhood Commercial District) zoned area or higher, including named neighborhood
15 commercial districts, and must be located in an area with adequate access to services, including but
16 not limited to transit, shopping, and medical facilities;

17 (5) **Recording:** The project sponsor must record a Notice of Special Restriction with the
18 Assessor-Recorder that states all of the above restrictions and any other conditions that the Planning
19 Commission or Department places on the property; and

20 (6) **Covenants, Conditions, And Restrictions:** If the property will be condominiumized, the
21 project sponsor must provide the Planning Department with a copy of the Covenants, Conditions, &
22 Restrictions (“CC&R”) that will be filed with the State.

23 (7) As provided for in Section 209.1(m), a proposed project that meets all of the
24 requirements under this Section may be principally permitted. As provided for in Section 209.1(o), for
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1 a proposed project that meets all of the requirements under this section, except for subsection (4), a
 2 Conditional Use Authorization is required.

3 (8) For the purpose of qualifying for and receiving additional density at a density ratio or
 4 number of dwelling units not exceeding twice the number of dwelling units otherwise permitted,
 5 the project sponsor shall enter into a contract with the City acknowledging that the additional
 6 density received under Section 209.1(m) or (o) is a form of assistance specified in California
 7 Government Code Sections 65915 et seq for purposes of Civil Code Section 1954.52(b) of the
 8 Costa-Hawkins Rental Housing Act. All such contracts must be reviewed and approved by the
 9 Mayor's Office of Housing and approved as to form by the City Attorney. All contracts that involve
 10 100% affordable housing projects in the residential portion shall be executed by the Director of the
 11 Mayor's Office of Housing. Any contract that involves less than 100% affordable housing in the
 12 residential portion, may be executed by either the Director of the Mayor's Office of Housing or,
 13 after review and comment by the Mayor's Office of Housing, the Planning Director.

14 Section 4: The San Francisco Planning Code is hereby amended by amending Section
 15 209.1, to read as follows:

16 **Sec. 209.1. DWELLINGS.**

17 TABLE INSET:

RH -1 (D)	RH -1	RH -1 (S)	RH -2	RH -3	RM -1	RM -2	RM -3	RM -4	RTO	RC -1	RC -2	RC -3	RC -4	
														SEC. 209.1. DWELLING S.
P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	(a) One- family dwelling having side

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														yards as required by Section 133 of this Code.
	P	P	P	P	P	P	P	P	P	P	P	P	P	(b) Other one-family dwelling.
		P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	(c) Two-family dwelling with the second dwelling unit limited to 600 square feet of net floor area.
			P	P	P	P	P	P	P	P	P	P	P	(d) Other two-family dwelling.
				P	P	P	P	P	P	P	P	P	P	(e) Three-family dwelling.
	C	C	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	(f) Dwelling at a density ratio up to one dwelling unit for each 3,000 square feet of lot area, but no more than three dwelling units per lot, if authorized as a conditional

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														use by the City Planning Commission.
			C	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	(g) Dwelling at a density ratio up to one dwelling unit for each 1,500 square feet of lot area, if authorized as a conditional use by the City Planning Commission.
			C	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	(h) Dwelling at a density ratio up to one dwelling unit for each 1,000 square feet of lot area, if authorized as a conditional use by the City Planning Commission.
					P	NA	NA	NA	NA	P	NA	NA	NA	(i) Dwelling at a density ratio not exceeding one dwelling unit for each 800 square feet of lot area.
						P	NA	NA	P		P	NA	NA	(j) Dwelling at a density

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														ratio not exceeding one dwelling unit for each 600 square feet of lot area.	
							P	NA	C				P	NA	(k) Dwelling at a density ratio not exceeding one dwelling unit for each 400 square feet of lot area.
															(l) Dwelling at a density ratio not exceeding one dwelling unit for each 200 square feet of lot area; provided, that for purposes of this calculation a dwelling unit in these districts containing no more than 500 square feet of net floor area and consisting of not more than one habitable room in addition to a kitchen and a

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														bathroom may be counted as equal to 3/4 of a dwelling unit.
P	P	P	P	P	P	P	P	P	P	P	P	P	P	(m) Dwelling specifically designed for and occupied by senior citizens, <u>as defined in Section 102.6.1 and meeting all of the requirements of that Section, or physically handicapped persons</u> , at a density ratio or number of dwelling units not exceeding twice the number of dwelling units otherwise permitted above as a principal use in the district. <i>Such dwellings shall be limited to such occupancy for the actual lifetime of the</i>

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													<i>building by the requirements of State or Federal programs for housing for senior citizens or physically handicapped persons, or otherwise by design features and by legal arrangements approved as to form by the City Attorney and satisfactory to the Department of City Planning.</i>
									C				(n) Dwelling at a density not limited by lot area, but by the applicable requirements and limitations elsewhere in this Code, including but not limited to height, bulk, setbacks, open space, exposure, and

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unit mix, as well as by the Residential Design Guidelines and other applicable design guidelines, applicable elements and area plans of the General Plan, and design review by the Planning Department. In lieu of the conditions of Section 303, the Planning Commission shall affirmatively find all of the following: (1) the proposed project has a physical design and articulation compatible with the character of surrounding structures, (2) that the proposed accessory parking does not exceed that amount

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														principally permitted under Section 151.1 without Conditional Use, and (3) the project meets all the minimum Code requirements without variance for usable open space, exposure, rear yards and setbacks.
<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<i>(o) Dwelling specifically designed for and occupied by senior citizens, as defined in Section 102.6.1 and meeting all of the requirements of that Section except for 102.6.1(b)(4) related to location, at a density ratio or number of dwelling units not exceeding twice the number of dwelling units otherwise</i>

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														<i>permitted above as a principal use in the district.</i>
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APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
SUSAN CLEVELAND-KNOWLES
Deputy City Attorney