



March 3, 2023

Ms. Angela Calvillo, Clerk
Honorable Supervisors Dorsey and Peskin
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2022-009805PCA and 2022-011868PCA:
HOME-SF
Board File Nos. 221021 and 221105

Recommendations: **Approval with Modification and Approval**

Dear Ms. Calvillo and Supervisors Dorsey and Peskin

On February 16, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider two proposed Ordinances, introduced by Supervisors Dorsey and Peskin, that would amend the Planning Code by making changes to the City's HOME SF program. At the hearing, the Planning Commission recommended *approval with modification* for BF 221021 and *approval* for BF 221105.

The Planning Commission's proposed modifications for **BF 221021** were as follows:

1. Amend the legislation to allow projects with fewer than 10 units to participate in HOME-SF by subjecting the entire building to rent control.
2. Amend the Administrative Code to require leases for these new HOME-SF rent-controlled units to disclose the unit is subject to the rent increase limitations of the Rent Ordinance.
3. Eliminate the shadow/wind/historic resources criterion from the eligibility criteria.
4. Revise the eligibility requirement that precludes a HOME-SF project from demolishing any existing dwelling units to allow the demolition of one unit.

On February 15, 2023, the Historic Preservation Commission conducted a duly noticed public hearing at a

regularly scheduled meeting to consider the same two proposed Ordinances. At the hearing the Historic Preservation Commission recommended approval for both ordinances.

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.

Supervisors, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc: Audrey Pearson, Deputy City Attorney
Maddison Tam, Aide to Supervisor Dorsey
Sunny Angulo, Aide to Supervisor Peskin
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolutions
Historic Preservation Commission Resolutions
Planning Department Executive Summaries



HISTORIC PRESERVATION COMMISSION RESOLUTION NO. 1313

HEARING DATE: FEBRUARY 15, 2023

Project Name: HOME-SF
Case Number: 2022-011868PCA [Board File No. 221105]
Initiated by: Supervisor Peskin / Introduced October 25, 2022
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO EXCLUDE DESIGNATED HISTORIC DISTRICTS UNDER ARTICLE 10 OF THE PLANNING CODE FROM THE PROVISIONS OF THE HOME OWNERSHIP MEANS EQUITY - SAN FRANCISCO (HOME-SF) PROGRAM; AFFIRMING THE PLANNING DEPARTMENT’S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on October 25, 2022, Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 221105, which would amend the Planning Code to exclude designated historic districts under Article 10 of the Planning Code from the provisions of the Home Ownership Means Equity - San Francisco (HOME-SF) program;

WHEREAS, the Historic Preservation Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 15, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review because it is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment; and

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

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Historic Preservation Commission hereby **adopts a recommendation for approval** of 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:

The Commission finds that the proposed Ordinance will revise the HOME-SF Program in efforts to protect historic resources.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

URBAN DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed changes in Board File 221105 seeks to revise HOME-SF to better retain Article 10 historic districts and protect historic resources, supporting the Urban Design Element's goals of protecting notable landmarks and the collective visual pattern of such historic districts.

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.

Planning Code Section 302 Findings.

The Historic Preservation 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 ADOPTS A RECOMMENDATION FOR APPROVAL of the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 15, 2023.



Jonas P. Ionin
Commission Secretary

AYES: Wright, Foley, So, Matsuda

NOES: Black, Nageswaran

ABSENT: Johns

ADOPTED: February 15, 2023



PLANNING COMMISSION RESOLUTION NO. 21252

HEARING DATE: February 16, 2022

Project Name: HOME-SF
Case Number: 2022-011868PCA [Board File No. 221105]
Initiated by: Supervisor Peskin / Introduced October 25, 2022
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO EXCLUDE DESIGNATED HISTORIC DISTRICTS UNDER ARTICLE 10 OF THE PLANNING CODE FROM THE PROVISIONS OF THE HOME OWNERSHIP MEANS EQUITY - SAN FRANCISCO (HOME-SF) PROGRAM; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on October 25, 2022, Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 221105, which would amend the Planning Code to exclude designated historic districts under Article 10 of the Planning Code from the provisions of the Home Ownership Means Equity - San Francisco (HOME-SF) program;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 16, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review because it is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment; 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 49 South Van Ness Avenue, Suite 1400, 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** 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:

The Commission finds that the proposed Ordinance will revise the HOME-SF Program in efforts to protect historic resources.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

URBAN DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed changes in Board File 221105 seeks to revise HOME-SF to better retain Article 10 historic districts and protect historic resources, supporting the Urban Design Element's goals of protecting notable landmarks and the collective visual pattern of such historic districts.

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.

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 the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 16, 2023.



Jonas P. Ionin
Commission Secretary

AYES: Braun, Imperial, Moore, Ruiz

NOES: Diamond, Koppel, Tanner

ABSENT: None

ADOPTED: February 16, 2023



HISTORIC PRESERVATION COMMISSION RESOLUTION NO. 1314

HEARING DATE: FEBRUARY 15, 2023

Project Name: HOME-SF
Case Number: 2022-009805PCA [Board File No. 221021]
Initiated by: Supervisor Dorsey / Introduced September 27, 2022
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW PROJECTS UNDER HOUSING OPPORTUNITIES MEAN EQUITY (HOME-SF) TO AGREE TO SUBJECT NEW DWELLING UNITS TO THE RENT INCREASE LIMITATIONS OF THE RENT ORDINANCE; 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 MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on September 27, 2022, Supervisors Dorsey and Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 221021, which would amend the Planning Code to allow projects under Housing Opportunities Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase limitations of the Rent Ordinance;

WHEREAS, the Historic Preservation Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 15, 2023; and,

WHEREAS, the amendments in the proposed Ordinance were covered in the 2022 Housing Element EIR certified on November 17, 2022.; 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Historic Preservation Commission hereby **adopts a recommendation for approval** of 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:

The Commission finds that the proposed Ordinance will provide additional options for project sponsors to participate in the City's local development bonus program, and will lead to increased production of needed housing, including on-site affordable housing.

The Commission finds that the new HOME-SF menu option will further the goal of making HOME-SF more flexible and also increase the number of rent controlled units in our housing stock.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1.A

Ensure housing stability and healthy homes.

OBJECTIVE 4.A

Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

Diversify housing types for all cultures, family structures, and abilities.

POLICY 3

Acquire and rehabilitate privately-owned housing as permanently affordable to better serve residents and areas vulnerable to displacement with unmet affordable housing needs.

POLICY 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

POLICY 20

Increase mid-rise and small multi-family housing types by adopting zoning changes or density bonus programs in Well-resourced Neighborhoods and adjacent lower-density areas near transit, including along SFMTA Rapid Network33 and other transit.

POLICY 33

Prevent the outmigration of families with children and support the needs of families to grow.

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed Ordinance further increases development opportunities by providing a new menu option subjecting all units (except required Inclusionary Housing) to rent control. This aligns with the Housing Element's goals of providing a diverse stock of housing to meet existing and future residents' needs. Further, the proposed Ordinance creates a new opportunity could add large batches of new rent-controlled units to the housing stock, something not typically seen outside of Development Agreements for larger, more complex projects. This supports the Housing Element's goals of advancing equitable housing access and ensuring there are more permanently affordable housing options.

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.

Planning Code Section 302 Findings.

The Historic Preservation 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 - ADOPTS A RECOMMENDATION FOR APPROVAL of the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 15, 2023.



Jonas P. Ionin
Commission Secretary

AYES: Wright, Black, Foley, So, Nageswaran, Matsuda

NOES: None

ABSENT: Johns

ADOPTED: February 15, 2023



PLANNING COMMISSION RESOLUTION NO. 21251

HEARING DATE: February 16, 2023

Project Name: HOME-SF
Case Number: 2022-009805PCA [Board File No. 221021]
Initiated by: Supervisor Dorsey / Introduced September 27, 2022
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING WITH MODIFICATION PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW PROJECTS UNDER HOUSING OPPORTUNITIES MEAN EQUITY (HOME-SF) TO AGREE TO SUBJECT NEW DWELLING UNITS TO THE RENT INCREASE LIMITATIONS OF THE RENT ORDINANCE; 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 MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on September 27, 2022, Supervisors Dorsey and Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 221021, which would amend the Planning Code to allow projects under Housing Opportunities Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase limitations of the Rent Ordinance;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 16, 2023; and,

WHEREAS, the amendments in the proposed Ordinance were covered in the 2022 Housing Element EIR certified on November 17, 2022.; 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 49 South Van Ness Avenue, Suite 1400, 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. The Commission's proposed recommendations are as follows:

1. Amend the legislation to allow projects with fewer than 10 units to participate in HOME-SF by subjecting the entire building to rent control.
2. Amend the Administrative Code to require leases for these new HOME-SF rent-controlled units to disclose the unit is subject to the rent increase limitations of the Rent Ordinance.
3. Eliminate the shadow/wind/historic resources criterion from the eligibility criteria.
4. Revise the eligibility requirement that precludes a HOME-SF project from demolishing any existing dwelling units to allow the demolition of one unit.

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:

The Commission finds that the proposed Ordinance will provide additional options for project sponsors to participate in the City's local development bonus program, and will lead to increased production of needed housing, including on-site affordable housing.

The Commission finds that the new HOME-SF menu option will further the goal of making HOME-SF more flexible and also increase the number of rent controlled units in our housing stock.

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.A

Ensure housing stability and healthy homes.

OBJECTIVE 4.A

Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

Diversify housing types for all cultures, family structures, and abilities.

POLICY 3

Acquire and rehabilitate privately-owned housing as permanently affordable to better serve residents and areas vulnerable to displacement with unmet affordable housing needs.

POLICY 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

POLICY 20

Increase mid-rise and small multi-family housing types by adopting zoning changes or density bonus programs in Well-resourced Neighborhoods and adjacent lower-density areas near transit, including along SFMTA Rapid Network33 and other transit.

POLICY 33

Prevent the outmigration of families with children and support the needs of families to grow.

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed Ordinance further increases development opportunities by providing a new menu option subjecting all units (except required Inclusionary Housing) to rent control. This aligns with the Housing Element's goals of providing a diverse stock of housing to meet existing and future residents' needs. Further, the proposed Ordinance creates a new opportunity could add large batches of new rent-controlled units to the housing stock, something not typically seen outside of Development Agreements for larger, more complex projects. This supports the Housing Element's goals of advancing equitable housing access and ensuring there are more permanently affordable housing options.

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.

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 February 16, 2023.



Jonas P. Ionin
Commission Secretary

AYES: Braun, Koppel, Imperial, Moore, Ruiz, Tanner

NOES: Moore

ABSENT: None

ADOPTED: February 16, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: February 16, 2023

90-Day Deadline for Board File 221021: April 1, 2023

90-Day Deadline for Board File 221105: April 26, 2023

Project Name: HOME-SF

Case Number: 2022-009805PCA [Board File No. 221021] & 2022-011868PCA [Board File No. 221105]

Initiated by: Supervisor Dorsey / Introduced September 27, 2022 [Board File No. 221021] & Supervisor Peskin / Introduced October 25, 2022 [Board File No. 221105]

Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525

Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval with Modifications

Planning Code Amendment

This staff report covers the following two Ordinances:

- Board File 221021 (sponsored by Supervisor Dorsey) will amend the Planning Code to allow projects under Housing Opportunities Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase limitations of the Rent Ordinance.
- Board File 221105 (sponsored by Supervisor Peskin) will amend the Planning Code to exclude designated historic districts under Article 10 of the Planning Code from the provisions of the Home Ownership Means Equity - San Francisco (HOME-SF) program.

The Way It Is Now:

Board File 221021:

1. HOME-SF projects get up to two additional stories and density controls waived based on the number of

Affordable Units provided on site.

Board File 221105:

2. HOME-SF projects cannot cause a substantial adverse impact to a historic resource.

The Way It Would Be:

Board File 221021:

1. HOME-SF projects would have a new option to subject all Dwelling Units (except the required Affordable Units) to the rent increase limitations of the Rent Ordinance to receive up to two additional stories and density controls waived.

Board File 221105:

2. HOME-SF projects would not be allowed on parcels located within a designated historic district under Article 10.

Anticipated Amendments

Supervisor Dorsey intends to reintroduce Board File 221021 with additional amendments regarding clean-up items for the HOME-SF program. A summary of the proposed additional amendments is included below:

- Eliminate the exemption from parking requirements since there are no longer have parking minimums.
- Make the minimum Below Market Rate unit sizes for studios consistent across HOME-SF and Inclusionary Housing requirements.
- Revise the common open space reduction to simply 10%.
- Add a zoning modification to allow reduced requirements for private open space. Private open space would still need to be a minimum of 36 square feet in size, measuring at least six feet in each direction.

Background

The HOME-SF program was approved unanimously by the Board of Supervisors and became effective July 13, 2017.¹ Additional amendments to allow a broader range of projects to take advantage of HOME-SF became effective March 10, 2019.² Such changes provided increased on-site affordability in exchange for additional density and height allowances. The amendments also introduced tiers to the program to allow greater flexibility depending on a project's specific context (site configuration, height limit, etc.) and financial feasibility.

¹ [Ordinance No. 116-17, Board File No. 150969](#)

² [Ordinance No. 198-18, Board File No. 180456](#)

| The proposed Ordinance seeks to encourage more housing development and more rent-controlled units.

The Residential Rent Stabilization and Arbitration Ordinance (Rent Ordinance) is housed within Chapter 37 of the Administrative Code. The original Ordinance, effective June 13, 1979, sought to protect tenants by preventing excessive rent increases and wrongful evictions without just cause. One primary tool to protect tenants was imposing all existing rental units to rent control, a maximum rent increase formula based on the Consumer Price Index of the preceding 12 months as issued by the U.S. Department of Labor. The Rent Ordinance has been amended from time to time to enhance tenant protections in response to new issues or state law requirements. Recent changes to the Rent Ordinance included notifying tenants of the loss of tenant services due to a proposed Accessory Dwelling Unit (ADU) and changes to extend temporary eviction protections during the COVID-19 pandemic. The proposed Ordinance seeks to encourage more housing development and to increase the number of rental units subject to the rent increase limitations of the Rent Ordinance (also known as “rent control”).

Issues and Considerations

HOME-SF

HOME-SF is San Francisco’s local density bonus program and was designed to increase development opportunities and affordable housing and as an alternative to the State’s Density Bonus law. Under HOME-SF, 20-30% of the units in a new housing project must be affordable to low, middle, and moderate-income families. HOME-SF projects must also include a minimum percent of family-friendly units having two or three bedrooms. In exchange, density bonuses and zoning modifications are provided, allowing project sponsors to accommodate additional affordable units. To date, the Department has received 22 HOME-SF project applications and approved 8 of them.³

Eligibility

Only projects in certain locations are eligible for HOME-SF. The biggest location-based eligibility criterion is that the project must be located on a parcel in a Zoning District that establishes a maximum dwelling unit density through a ratio of number of units to lot area. It is important to note that most of the eastern neighborhoods already have form-based code due to recent efforts like the Central SoMa Plan. Therefore, the majority of HOME-SF projects are located within the western neighborhoods that calculate density based on the parcel area. There are also other geographic carveouts that exclude HOME-SF such as properties in RH-1 or RH-2 Zoning Districts, the North of Market Residential Special Use District, or the Northeastern Waterfront Area Plan south of the centerline of Broadway.

To be eligible for HOME-SF, projects must also demonstrate the following project features:

³ Based on Planning Department data as of October 2022. Note: the project located at 955 Sansome filed an SB 330 application and would not be impacted by the proposed Ordinances.

- Must not demolish any residential units
- Will consist of new construction only and will not propose additions to existing buildings
- Must provide three or more dwelling units
- Must not demolish or significantly alter a historic or archeological resource
- Must not alter wind or create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas as determined by the Environmental Review Officer (ERO)

The majority of the criteria are straightforward and can be determined from the onset of the project. However, the last two criteria cannot be established without additional analysis because the technical studies required to determine if a project qualifies cannot be conducted until after the sponsor submits a complete project application with a stable project description. Therefore, project sponsors may have to spend significant time and resources to see if their project is in fact eligible for HOME-SF. It is only then that the 180-day countdown to hold a hearing for a proposed HOME-SF project starts, unless the ERO determines that an Environmental Impact Report (EIR) is required for the project.

Tiers

HOME-SF has different Tiers that provide different density bonuses based on the amount of Inclusionary Housing provided. The table below provides a summary of options available today.

	ZONING MODIFICATIONS AWARDED	ADDITIONAL HEIGHT AWARDED ABOVE EXISTING HEIGHT LIMIT	ON-SITE AFFORDABILITY REQUIREMENT
TIER 1 (<24 UNITS)	Relief from density limit	No additional height	20%
TIER 1 (25+ UNITS)			23%
TIER 2	Seven predetermined	1 story	25%
TIER 3	zoning modifications	2 stories	30%

Since their adoption, the Tiers have provided more flexibility in the HOME-SF program and increased the number of projects participating in HOME-SF.

State Density Bonus versus HOME-SF

The State Density Bonus (SDB) was enacted in 1979; however, the City did not adopted an implementing ordinance for SDB until 2017. That program, called the Individually Requested Program,⁴ was adopted concurrently with HOME-SF. A locally preferred alternative to SDB, called the State Analyzed Bonus Program (SABP) was also adopted to offer a local streamlined process for developers offering a set menu of concessions, incentives, and waivers. The amount of the density bonus and the number of incentives or concessions for the

⁴ Ordinance 116-17, BF No. 150969

Individually Requested and SABP depend on the amount and level of affordability of the on-site affordable units and is set forth in state law.

The Individually Requested SDB program has less stringent program requirements and thus more projects are eligible for SDB compared to HOME-SF

The Department has received approximately 86 Individually Requested SDB applications to date and approved 36.⁵ The Individually Requested SDB program has less stringent program requirements and thus more projects are eligible for SDB compared to HOME-SF; however, if a project qualifies for both the SDB and HOME-SF, the sponsor often pursues HOME-SF because it allows for greater overall unit count compared to SDB, which provides up to 50% more units instead of decontrolled density. For example, under the NC-1 Zoning at 3945 Judah Street (an approved HOME-SF Project), a project could only construct six units by right, or nine units under the SDB. Under the HOME-SF program, the project site could accommodate 20 units with a one-story height bonus combined with the decontrolled density and zoning modifications.

To date, the department has not received any applications for a SABP, which is limited to specific geographic areas and zoning districts. The SABP was enacted in efforts to provide more development opportunities; however, the program has not been appealing enough for projects to pursue. One reason might be that the density bonus under the SABP is limited to up to 35% whereas the Individually Requested SDB allows up to 50% additional density. Further, the SABP offers a pre-vetted menu of concessions, incentives, and waivers and proposed projects may not align with these specific measures.

Rent Ordinance

The Rent Ordinance provides two major types of tenant protections including 1) limits on rent increases and 2) eviction protections. The first piece limits a landlord to increasing annual rent by a certain percentage each year based on the Bay Area Consumer Price Index. It is important to note that rent control does not limit the rental price when a unit first comes onto the market or after a tenant vacates the unit, unlike Inclusionary Housing where rents are limited throughout the life of the building. However, rent control is still highly attractive for tenants as it guarantees that the rent is only increased based on the Consumer Price Index. This helps protect against extreme or arbitrary rent increases.

The second piece related to eviction protections means a landlord can only evict a tenant based on the 16 “just causes” outlined in the Rent Ordinance. One example of a “just cause” includes nonpayment of rent or habitually late payments from a tenant, and another example includes owner move-in. These “just cause” eviction protections mean that a landlord cannot wrongfully evict a tenant based on arbitrary reasons. If there are any grievances related to these protections, a tenant can file a petition with the Rent Board. The Rent Board would then conduct an evidentiary hearing to make an official determination.

For many San Franciscans, having a rent-controlled apartment is the only way they are able move to or stay in the city. Rent-controlled units are highly sought after with only a limited stock of units based on the unit’s first Certificate of Occupancy (COO). Generally, only dwelling units located within a pre-1979 building or added as an ADU through the Local ADU Program are subject to rent control. There are also Development Agreements that

⁵ Based on Planning Department data as of October 2022.

require that any demolished rent-controlled units to be replaced, essentially ensuring that the rent-controlled unit is retained. The Housing Crisis Act of 2019 and Senate Bill 330 (SB 330) also allows a City to replace any rent-controlled units that are demolished as part of a housing development. Prior to this, replacing rent-controlled units was not an option and thus limited potential projects with such protected units.

As drafted, the Ordinance opens more development opportunity with a new path under HOME-SF. Further, the draft Ordinances would yield projects with larger batches of rent-controlled units all at once. If enacted, this would be the only way there would be new rent-controlled buildings (not just units). The Rent Board is aware of this and has taken measures to prepare for this potential increase of new rent-controlled projects. The Planning Department intends to revise the HOME-SF Regulatory Agreements to designate the rent-controlled units. These Regulatory Agreements will be shared with the Rent Board for them to be able to track these new rent-controlled units.

Article 10 parcels

There are currently 14 historic districts listed under Article 10. Most historic districts are located within eastern neighborhoods which have form-based zoning and thus not eligible for HOME-SF. Of the parcels on the western side of the city that are eligible for HOME-SF, they likely would be able to produce more housing through HOME-SF rather than SDB because the former includes decontrolled density.

The Department estimated the potential number of parcels that would no longer be eligible for a HOME-SF project due to the proposed Ordinance under Board File 221105. This analysis was completed by reviewing all the Article 10 historic district parcels and then eliminating parcels in Zoning Districts that are currently not eligible for HOME-SF. Such eliminated parcels include parcels in:

- RH-1 or RH-2 Zoning Districts,
- Form-based zoning districts,
- North of Market Residential Special Use District,
- the boundaries of the Northeastern Waterfront Area Plan south of the centerline of Broadway, and
- property under the jurisdiction of the Port of San Francisco.

Based on this analysis, approximately 210 parcels would no longer be eligible for a HOME-SF project under proposed Ordinance (See Exhibit D for map). Because the analysis was non-exhaustive, and did not include all HOME-SF criteria, the number of impacted parcels is likely smaller. For example, HOME-SF projects are not permitted on parcels north of Post and east of Van Ness, on lots that are less than 12,500 square feet or are more than 20% developed. Additionally, HOME-SF projects are not permitted on parcels if the proposed project would result in a significant adverse impact on shadow, wind, or historic resources. Therefore, the number of additional parcels ineligible for HOME-SF under the proposed Ordinance is negligible and would not have an impact on the City's residential development capacity. Further, this residential development capacity was determined in the City's recent site capacity analysis completed for the Housing Element 2022 Update and did not factor HOME-SF projects into the residential capacity.

Even assuming the Ordinance as proposed would impact housing capacity, Board File 221105 is on track to be concurrently heard with Board File 221021, which increases development opportunity by increasing the available options for using HOME-SF (i.e., by providing rent control, rather than increased inclusionary units). Likewise, the recommended modification for Board File 221021 related to allowing the demolition of one

existing unit increases housing capacity and thereby expands the number of prospective projects and development opportunities. Further, the staff recommendation eliminating some environmental eligibility criterion (see recommendations) further expands the number of potential HOME-SF projects and development opportunities.

Potential Future Amendments

Tiers Update

Prior legislation incorporated the HOME-SF Tiers as a temporary provision and that they would only be in effect until they could be fully analyzed by the Triennial Economic Feasibility Study as required by Section 415 for Inclusionary Housing rates. The Technical Advisory Committee (TAC) assembled by the Controller has just reconvened to complete this study. HOME-SF is a voluntary program, and the feasibility of the Tiers should not be tied to the Triennial Economic Feasibility Study required by Section 415. HOME-SF has been successful as a Tiered program and should continue to have these Tiers as an option. Future legislation should make these Tiers permanent based on TAC's analysis.

Eliminating the New Construction Only Requirement

HOME-SF requires that projects are only new construction buildings. This means that HOME-SF projects cannot include additions to existing buildings, creating a big limitation on properties and projects that could otherwise be eligible for HOME-SF. Staff believes there could be vastly more opportunities if the new construction requirement were eliminated; however, the idea should be discussed more thoroughly before considering such change to the HOME-SF program.

Modify the Rear Yard Requirement to Allow More Flexibility in the Location of the Yard

HOME-SF currently allows projects to provide a smaller rear yard as one of the guaranteed zoning modifications, but still requires the rear yard to be in the same location as required under Planning Code section XXXX (i.e., at the rear, or interior corner for corner lots). Staff has found that larger sites where a traditional rear yard or one located in an interior corner does not necessarily yield the optimal building envelope, and project sponsors must seek additional Planning Commission modifications to this requirement. One potential solution is to offer a more flexible percentage-based rear yard *zoning modification* as a guaranteed zoning modification, which could encourage more project sponsors to use HOME-SF rather than SDB. However, staff believes additional time and research is required to fully vet this idea and its potential ramifications.

General Plan Compliance

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed Ordinance further increases development opportunities by providing a new menu option subjecting all units (except required Inclusionary Housing) to rent control. This aligns with the Housing Element's goals of providing a diverse stock of housing to meet existing and future residents' needs. Further, the proposed amendments in Board File 221021 creates a new opportunity could add large batches of new rent-controlled units to the housing stock, something not typically seen outside of Development Agreements for larger, more complex projects. This supports the Housing Element's goals of advancing equitable housing access and ensuring there are more permanently affordable housing options. Additionally, the proposed changes in Board

File 221105 seeks to revise HOME-SF to better retain Article 10 historic districts and protect historic resources, supporting the Urban Design Element's goals of protecting notable landmarks.

Racial and Social Equity Analysis

The Planning and Administrative Code amendments in the proposed Ordinances advance racial and social equity by providing more opportunities to provide Inclusionary Housing and rent-controlled units to the housing stock. The primary goal of Board File 221021 amends the HOME-SF program by adding new path for rent-controlled units added to the housing stock. These new rent-controlled units would be eligible for both the price control and eviction protections that other protected units currently have. While the new rent-controlled units would still be listed at market rate prices, they still provide a helpful resource for people trying to move into or stay within the city.

The Housing Element Update adopted on December 15, 2022, includes Implementation Program 7.2.9 which supports the revision of the HOME-SF program to eliminate existing environmental eligibility criteria (i.e., shadow, wind, and historic resources) as well as broadening the guaranteed zoning modifications. Such efforts would allow more sites to use HOME-SF and make the program easier to use.

Staff notes there are other potential HOME-SF program changes that could expand HOME-SF eligibility further advancing racial and social equity. Some of these are outlined in the recommendations section below, while some efforts require further thought before being legislated. Staff will continue to vet these ideas and create a plan to move these amendments forward.

The intent of Board File 221105 is to protect historic resources. HOME-SF allows project sponsors to build a taller building that would otherwise not be allowed under the current zoning in exchange for greater density, and sometimes higher rates of Inclusionary Housing, depending on the proposed Tier. Some argue that HOME-SF projects are therefore more impactful on a neighborhood (and adjacent historic resources) than non-HOME-SF projects. With the recommended modifications, staff believes the proposed Ordinance enhances our historic and cultural resources. Under today's Code, projects are reviewed to determine if there are adverse significant impacts to any historic or archeological resources. The proposed Ordinance and recommended modifications revise the HOME-SF program to make this process clearer from the beginning. If enacted, parcels in historic districts would not be eligible for HOME-SF.

Implementation

The Department has determined that this ordinance will impact our current implementation procedures in the following ways:

- Revise the [HOME-SF Informational and Supplemental Application Packet](#) and any other impacted Department handouts
- Update the HOME-SF Regulatory Agreement template to 1) designate rent-controlled units, and 2) ensure applicants understand that if the tenure changes from rental to ownership the project is required

to return to Planning Commission to revise the Inclusionary Housing

The items described above will take lead time at the front end and should not increase staff review time or costs. These efforts will be beneficial for the applicants to better understand the new options available to them. Additionally, the revisions to the Regulatory Agreement designating the new rent-controlled units can also use the Below Market Rate designation process as a model. Therefore, staff does not anticipate revising the Regulatory Agreements will require a lengthy process.

Recommendation

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

Board File No. 221021

1. Amend the legislation to allow projects with fewer than 10 units to participate in HOME-SF by subjecting the entire building to rent control.
2. Amend the Administrative Code to require leases for these new HOME-SF rent-controlled units to disclose the unit is subject to the rent increase limitations of the Rent Ordinance.
3. Eliminate the shadow/wind/historic resources criterion from the eligibility criteria.
4. Revise the eligibility requirement that precludes a HOME-SF project from demolishing any existing dwelling units to allow the demolition of one unit.

Board File No. 221105

5. Amend the Ordinance to state that HOME-SF projects cannot demolish a resource that is *individually listed* on the National, State, or Local Registers *or* a contributor to an Article 10 historic district.

Basis for Recommendation

The Department supports the overall goals of these Ordinances because they support increased housing opportunities and also add rent-controlled units to the housing stock. However, staff believes the proposed Ordinances would benefit from the following recommended modifications:

Board File No. 221021

Recommendation 1: Amend the legislation to allow projects with fewer than 10 units to participate in HOME-SF by subjecting the entire building to rent control.

Inclusionary housing is required for all projects proposing 10 units or more. The proposed Ordinance is silent on projects proposing fewer than 10 units. As written, the proposed Ordinance requires all dwelling units that are not Inclusionary Housing to be rent-controlled under this new HOME-SF menu option. Therefore, projects that do not have Inclusionary Housing requirements (such as projects with fewer than 10 units) would be required to be fully rent-controlled under this HOME-SF menu option. This should be explicitly stated in the legislation for transparency.

Today's code requires 20-30% Inclusionary Housing for projects proposing 24 units or less, depending on the number of additional stories they are seeking. If the proposed Ordinance incorporates this recommended modification, projects proposing 24 units or less would still have the option to include 20-30% Inclusionary Housing for the project, pending the desired Tier.

Recommendation 2: Amend the Administrative Code to require leases for these new HOME-SF rent-controlled units to disclose the unit is subject to the rent increase limitations of the Rent Ordinance.

Typically, only units in older buildings, ADUs approved under the Local ADU Program, or replacement units provided through the Housing Crisis Act are subject to rent control. There are also Development Agreements where replacement units for existing rent-controlled units are required to be subject to rent control. Outside of these Development Agreements, there are typically no other projects adding large numbers of rent-controlled units to the housing stock. Because this is a new opportunity for rent-controlled units, the Rent Board has advised Planning Department it should be disclosed that the unit is subject to the Rent Ordinance. This way, future tenants are aware of these additional protections and understand their unit would be subject to rent control.

There are similar efforts already in effect including disclosures related to curbing the spread of corporate rentals. Administrative Code Section 37.9(F)(d) was added to the Rent Ordinance requiring landlords to include the following written statement in all online rental advertisements (and print advertising if practical):⁶

This unit is a rental unit subject to the San Francisco Rent Ordinance, which limits evictions without just cause, and which states that any waiver by a tenant of their rights under the Rent Ordinance is void as contrary to public policy.

Almost all units within San Francisco are subject to a portion of the Rent Ordinance for one reason or another. The disclosure above helps ensure that tenants are aware of their rights. A similar disclosure could be required for the new rent-controlled units under this Ordinance. The proposed Ordinance is already amending Administrative Code Section 37.2(r)(4)(E). Staff recommends this language be further amended to require landlords to disclose in rental leases that the unit is subject to rent control.

Recommendation 3: Eliminate the shadow, wind, and historic resources criterion from the eligibility criteria.

One eligibility criterion to qualify for the HOME-SF program includes that a project must not have a significant environmental impact on a historic or archeological resource or create a shadow or wind impact on outdoor recreation facilities or other public areas as determined by the ERO. These criteria were included in the original HOME-SF program to allow the adoption of the legislation to rely on the 2009 Housing Element EIR. Currently, unless a project meets the environmental screening for a topic, the project needs to conduct lengthy and costly

⁶ [Ordinance 78-20, Board File 191075](#)

analysis on impacts to shadow, wind, and historic resources (as determined applicable) before determining eligibility for the HOME-SF Program. For those projects that do not meet the environmental screening for a topic, the need for the study (or studies as applicable) creates extended uncertainty for project sponsors as they await the results of the analysis. If enacted, this recommended modification opens up more opportunities for HOME-SF projects because parcels and projects that are found to have an impact on these environmental constraints may be able to mitigate the impact and proceed with HOME-SF, whereas today such projects would automatically be eliminated from using HOME-SF.

The Housing Element 2022 Update EIR was certified on November 17, 2022. Environmental Planning has determined that impacts of an amended HOME-SF ordinance have been adequately addressed in the Housing Element 2022 Update EIR. It is through the programmatic analysis in the Housing Element EIR that the environmental topics may be eliminated from the eligibility criteria. Individual projects would continue to be reviewed under CEQA. This recommended modification only changes the time at which any applicable mitigation measures would be carried out by the project.

Recommendation 4: Revise the eligibility requirement that precludes a HOME-SF project from demolishing any existing dwelling units to allow the demolition of one unit.

When HOME-SF was originally enacted, the program did not allow the demolition of any existing units, thereby protecting the existing housing stock, and protecting existing tenants from displacement. Recent changes to state law (SB 330; Government Code 66300) now requires that housing development projects that demolish any existing residential units must also include replacement units with at least as many units that were demolished. This results in no net loss of residential units.

SB 330, amended by SB 8, also includes expanded tenant protections addressing the concern of displacing existing tenants. Government Code 66300 requires replacement of “protected units,” which is defined as units that currently are or were in the five years prior to the development application:

- affordable units deed-restricted to households earning below 80 percent of Area Median Income (AMI),
- subject to a local rent control program,
- rented by low-income households earning below 80 percent of AMI, or
- withdrawn from the rental market under the Ellis Act within 10 years prior to development application.

If a housing development project proposes demolishing a protected unit as described above, such unit would need to be replaced with the same number of bedrooms and at an affordable rent or sales price to households of the same or lower income category as that of the last household in occupancy in the past five years. Such rental units shall remain under the affordability restriction for a period of at least 55 years. These new requirements ensure that tenants within protected units have the first right of refusal for a replacement unit of comparable size and rent.

Even with such protections in place, the Department recommends that the current eligibility criterion be amended to allow the demolition of only one existing unit. This prevents the demolition of duplexes or larger housing sites, and thus reduces the number of potentially impacted tenants. This recommended modification opens more sites to HOME-SF projects, particularly along the Neighborhood Commercial Districts where such developments would be in keeping with the neighborhood character and block face. One specific potential example includes a property where there is a single residential unit behind a commercial space. Such site is not eligible for HOME-SF under today’s Code but could be if the recommended modification is incorporated into the

Ordinance. In this example, the mixed-use building would still need to comply with all other eligibility requirements to move forward with a HOME-SF project. The Department anticipates this could increase the number of HOME-SF project applications received and constructed.

Board File No. 221105

Recommendation 5: Amend the Ordinance to state HOME-SF projects cannot demolish a resource that is *individually listed* on the National, State, or Local Registers *or* a contributor to an Article 10 historic district. As written, the proposed Ordinance impacts properties that happen to be located within the geographic boundaries of an Article 10 historic district. This includes several properties that may not even have historic resources or be contributors to the historic district. Staff agrees with the intent of protecting historic resources but believes the Ordinance should be refined to only exclude resources that are individually listed on the National, State, or Local Registers. Along the same efforts, the exclusion should also apply to properties that are contributors to a historic district even if they are not individually listed. These changes will still meet the intent of the proposed Ordinance without unintentionally excluding other properties.

Required Commission Action

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

Environmental Review

The proposed amendments were covered in the 2022 Housing Element EIR certified on November 17, 2022.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinances.

Attachments:

- Exhibit A: Draft Planning Commission Resolutions
- Exhibit B: Board of Supervisors File No. 221021
- Exhibit C: Board of Supervisors File No. 221105
- Exhibit D: Map of Parcels Potentially Impacted by Board File 221105



PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: February 16, 2023

Project Name: HOME-SF
Case Number: 2022-009805PCA [Board File No. 221021]
Initiated by: Supervisor Dorsey / Introduced September 27, 2022
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING WITH MODIFICATION PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW PROJECTS UNDER HOUSING OPPORTUNITIES MEAN EQUITY (HOME-SF) TO AGREE TO SUBJECT NEW DWELLING UNITS TO THE RENT INCREASE LIMITATIONS OF THE RENT ORDINANCE; 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 MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on September 27, 2022, Supervisors Dorsey and Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 221021, which would amend the Planning Code to allow projects under Housing Opportunities Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase limitations of the Rent Ordinance;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 16, 2023; and,

WHEREAS, the amendments in the proposed Ordinance were covered in the 2022 Housing Element EIR certified on November 17, 2022.; 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 49 South Van Ness Avenue, Suite 1400, 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. The Commission's proposed recommendations are as follows:

1. Amend the legislation to allow projects with fewer than 10 units to participate in HOME-SF by subjecting the entire building to rent control.
2. Amend the Administrative Code to require leases for these new HOME-SF rent-controlled units to disclose the unit is subject to the rent increase limitations of the Rent Ordinance.
3. Eliminate the shadow/wind/historic resources criterion from the eligibility criteria.
4. Revise the eligibility requirement that precludes a HOME-SF project from demolishing any existing dwelling units to allow the demolition of one unit.

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:

The Commission finds that the proposed Ordinance will provide additional options for project sponsors to participate in the City's local development bonus program, and will lead to increased production of needed housing, including on-site affordable housing.

The Commission finds that the new HOME-SF menu option will further the goal of making HOME-SF more flexible and also increase the number of rent controlled units in our housing stock.

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.A

Ensure housing stability and healthy homes.

OBJECTIVE 4.A

Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

Diversify housing types for all cultures, family structures, and abilities.

POLICY 3

Acquire and rehabilitate privately-owned housing as permanently affordable to better serve residents and areas vulnerable to displacement with unmet affordable housing needs.

POLICY 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

POLICY 20

Increase mid-rise and small multi-family housing types by adopting zoning changes or density bonus programs in Well-resourced Neighborhoods and adjacent lower-density areas near transit, including along SFMTA Rapid Network33 and other transit.

POLICY 33

Prevent the outmigration of families with children and support the needs of families to grow.

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed Ordinance further increases development opportunities by providing a new menu option subjecting all units (except required Inclusionary Housing) to rent control. This aligns with the Housing Element's goals of providing a diverse stock of housing to meet existing and future residents' needs. Further, the proposed Ordinance creates a new opportunity could add large batches of new rent-controlled units to the housing stock, something not typically seen outside of Development Agreements for larger, more complex projects. This supports the Housing Element's goals of advancing equitable housing access and ensuring there are more permanently affordable housing options.

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.

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 February 16, 2023.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 16, 2023

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PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: February 16, 2022

Project Name: HOME-SF
Case Number: 2022-011868PCA [Board File No. 221105]
Initiated by: Supervisor Peskin / Introduced October 25, 2022
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO EXCLUDE DESIGNATED HISTORIC DISTRICTS UNDER ARTICLE 10 OF THE PLANNING CODE FROM THE PROVISIONS OF THE HOME OWNERSHIP MEANS EQUITY - SAN FRANCISCO (HOME-SF) PROGRAM; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on October 25, 2022, Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 221105, which would amend the Planning Code to exclude designated historic districts under Article 10 of the Planning Code from the provisions of the Home Ownership Means Equity - San Francisco (HOME-SF) program;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 16, 2023; and,

WHEREAS, the amendments in the proposed Ordinance were covered in the 2022 Housing Element EIR certified on November 17, 2022.; 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 49 South Van Ness Avenue, Suite 1400, 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. The Commission's proposed recommendations are as follows:

1. Amend the Ordinance to state that HOME-SF projects cannot demolish a resource that is *individually listed* on the National, State, or Local Registers *or* a contributor to an Article 10 historic district.

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:

The Commission finds that the proposed Ordinance will revise the HOME-SF Program in efforts to protect historic resources.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

URBAN DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed changes in Board File 221105 seeks to revise HOME-SF to better retain Article 10 historic districts and protect historic resources, supporting the Urban Design Element's goals of protecting notable landmarks and the collective visual pattern of such historic districts.

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.

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 February 16, 2023.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 16, 2023

EXHIBIT B

1 [Planning, Administrative Codes - HOME-SF]

2

3 **Ordinance amending the Planning Code to allow projects under Housing Opportunities**
4 **Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase**
5 **limitations of the Rent Ordinance; affirming the Planning Department’s determination**
6 **under the California Environmental Quality Act; making findings of consistency with**
7 **the General Plan, and the eight priority policies of Planning Code, Section 101.1; and**
8 **making findings of public necessity, convenience, and welfare under Planning Code,**
9 **Section 302.**

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

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

18

19 Section 1. Environmental and Planning Code Findings.

20 (a) The Planning Department has determined that the actions contemplated in this
21 ordinance comply with the California Environmental Quality Act (California Public Resources
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. 221021 and is incorporated herein by reference. The Board affirms
24 this determination.

25 (b) On _____, the Planning Commission, in Resolution No. _____,
adopted findings that the actions contemplated in this ordinance are consistent, on balance,
with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
4 amendments will serve the public necessity, convenience, and welfare for the reasons set
5 forth in Planning Commission Resolution No. _____, and the Board adopts such reasons
6 as its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in
7 File No. _____ and is incorporated herein by reference.

8
9 Section 2. The Planning Code is hereby amended by revising Sections 206.1 and
10 206.3, to read as follows:

11 **SEC. 206.1. PURPOSE AND FINDINGS.**

12 (a) The purpose of the Affordable Housing Bonus Programs is to facilitate the
13 development and construction of affordable housing in San Francisco. Affordable housing is
14 of paramount statewide concern, and the Legislature has declared that local and state
15 governments have a responsibility to use the powers vested in them to facilitate the
16 improvement and development of housing to make adequate provision for the housing needs
17 of all economic segments of the community, especially families. The Legislature has found
18 that local governments must encourage the development of a variety of types of housing for
19 all income levels, including multifamily rental housing and assist in the development of
20 adequate housing to meet the needs of low- and moderate-income households.

21 (b) Affordable housing is an especially paramount concern in San Francisco. San
22 Francisco has one of the highest housing costs in the nation, but San Francisco's economy
23 and culture rely on a diverse workforce at all income levels. It is the policy of the City to
24 enable these workers to afford housing in San Francisco and ensure that they pay a
25 reasonably proportionate share of their incomes to live in adequate housing and to not have to

1 commute ever-increasing distances to their jobs. The Association of Bay Area Governments
2 determined that San Francisco's share of the Regional Housing Need for January 2015 to
3 June 2022 was the provision of 28,870 new housing units, with 6,234 (or 21.6%) as very low,
4 4,639 (or 16.1%) as low, and 5,460 (or 18.9%) as moderate income units.

5 (c) The Board of Supervisors, and the voters in San Francisco, have long
6 recognized the need for the production of affordable housing. The voters, in some cases, and
7 the Board in others, have adopted measures to address this need, such as *the* mandatory
8 Inclusionary Affordable Housing Ordinance in Planning Code Section 415; the San Francisco
9 Housing Trust Fund, adopted in 2012, which established a fund to create, support and
10 rehabilitate affordable housing, and set aside \$20 million in its first year, with increasing
11 allocations to reach \$50 million a year for affordable housing; the adoption of Proposition K in
12 November 2014, which established as City policy that the City, by 2020, will help construct or
13 rehabilitate at least 30,000 homes, with more than 50% of the housing affordable for middle-
14 income households, and at least 33% as affordable for low- and moderate income
15 households; and the multiple programs that rely on Federal, State and local funding sources
16 as identified in the Mayor's Office of Housing and Community Development Comprehensive
17 Plan. These programs enable the City to work towards the voter-mandated affordable housing
18 goals.

19 (d) Historically, in the United States and San Francisco, affordable housing requires
20 high levels of public subsidy, including public investment and reliance on public dollars. Costs
21 to subsidize an affordable housing unit vary greatly depending on a number of factors, such
22 as household income of the residents, the type of housing, and the cost ~~to acquire~~ of land
23 acquisition. Currently, MOHCD estimates that the level of subsidy for an affordable housing
24 unit is approximately \$350,000 per unit. Given this high cost per unit, San Francisco can only
25

1 meet its affordable housing goals through a combination of increased public dollars dedicated
2 to affordable housing and other tools that do not rely on public money.

3 (e) Development incentives are a long standing zoning tool that enable_s cities to
4 encourage private development projects to provide public benefits including affordable
5 housing. By offering increased development potential, a project sponsor can offset the
6 expenses necessary to provide additional public benefits. In 1979, the State of California
7 adopted the Density Bonus Law, Government Code section 65915 et seq. which requires that
8 density bonuses and other concessions and incentives be offered to projects that provide a
9 minimum amount of on-site affordable housing.

10 (f) In recognition of the City's affordable housing goals, including the need to
11 produce more affordable housing without the need for public subsidies, the Planning
12 Department contracted with David Baker Architects and Seifel Consulting to determine a
13 menu of zoning modifications and development bonuses that could offset a private
14 developer's costs of providing various levels of additional on-site affordable housing. These
15 experts analyzed various parcels in San Francisco, to determine the conditions in which a
16 zoning accommodation would be necessary to achieve additional density. The analysis
17 modeled various zoning districts and lot size configurations, consistent with current market
18 conditions and the City's stated policy goals, including to achieve a mix of unit types, including
19 larger units that can accommodate larger households. These reports are on file in Board of
20 Supervisors File No. 160687.

21 (g) Based on these reports, the Planning Department developed four programs to
22 provide options by which developers can include additional affordable units on-site through
23 increased density and other zoning or design modifications. These programs are the HOME-
24 SF Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density
25 Bonus Program and the Individually Requested Bonus Program. The HOME-SF Program can

1 also be used by developers who agree to subject the units to the San Francisco Rent Stabilization and
2 Arbitration Ordinance (Chapter 37 of the Administrative Code) (“the Rent Ordinance”).

3 (h) The goal of the HOME-SF Program is to increase affordable housing production,
4 especially housing affordable to middle income households. Housing for middle income
5 households in San Francisco is necessary to stabilize San Francisco’s households and
6 families, ensure income and household diversity in the long term population of San Francisco,
7 and reduce transportation impacts of middle income households working in San Francisco.
8 Middle income households do not traditionally benefit from public subsidies. The goal of the
9 HOME-SF Program is also to increase the number of units in San Francisco that will be subject to rent
10 control under San Francisco’s Rent Ordinance. The City adopted its Rent Ordinance in 1979, and the
11 Rent Ordinance has been critical in safeguarding tenants from excessive rent increases and evictions
12 without just cause. Rent control serves as an important policy tool to stabilize communities and
13 prevent displacement.

14 (i) The 100 Percent Affordable Housing Bonus Program provides additional
15 incentives for developers of 100% affordable housing projects, thereby reducing the overall
16 cost of such developments on a per unit basis.

17 (j) The Affordable Housing Bonus Program also establishes a clear local process for
18 all projects seeking the density bonuses guaranteed through the State Density Bonus Law.
19 The State Analyzed Program provides an expedited process for projects that comply with a
20 pre-determined menu of incentives, concessions and waivers of development standards that
21 the Department has determined can appropriately respond to neighborhood context without
22 causing adverse impacts on public health and safety, and provide affordable units through the
23 City’s already-established Inclusionary Housing Program. Projects requesting density or
24 concessions, incentives and waivers outside of the City’s preferred menu may seek a density
25 bonus consistent with State law in the Individually Requested Density Bonus Program.

1 (k) San Francisco’s small business community is an integral part of San Francisco’s
2 neighborhood commercial corridors, local economy, and rich culture. San Francisco is
3 committed to maintaining small businesses in its neighborhoods. For this reason, the HOME-
4 SF Program acknowledges the need for general assistance and support for any business that
5 might be impacted. Developments using the Affordable Housing Bonus Program will generally
6 produce additional commercial spaces which may enhance existing commercial corridors. The
7 Office of Economic and Workforce Development (OEWD), in coordination with the Office of
8 Small Business, currently coordinate on referrals to and deployment of a range of services to
9 small businesses including but not limited to: small business consulting, lease negotiation
10 assistance, small business loans, ADA Certified Access Specialists (CASp) inspection
11 services, legacy business registry, façade improvement assistance, commercial corridor
12 management, grants and assessments, relocation and broker services for production,
13 distribution and repair (PDR) businesses, business permit assistance, and coordination with
14 city agencies.

15
16 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**
17 **PROGRAM.**

18 (a) **Purpose.** This Section 206.3 sets forth the HOME-SF Program. The HOME-SF
19 Program or “HOME-SF” provides benefits to project sponsors of housing projects that *either*
20 *(1) set aside residential units onsite at below market rate rent or sales price in an amount*
21 *higher than the amount required by the Inclusionary Housing Ordinance, or (2) agree to subject*
22 *all units in the project, except for units required by the Inclusionary Housing Ordinance, to the San*
23 *Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).* The
24 purpose of HOME-SF is to expand the number of below market rate units produced in San
25 Francisco and provide housing opportunities to a wider range of incomes than traditional

1 affordable housing programs, such as the City's Inclusionary Affordable Housing Program,
2 Planning Code Sections 415 et seq., which typically provide housing only for very low, low or
3 moderate income households, and to expand the number of units in San Francisco that are subject
4 to rent control. For projects that elect to provide additional on-site below market rate units, ~~The~~
5 ~~purpose of~~ HOME-SF also ~~is to~~ provide_s an alternative method of complying with the on-site
6 inclusionary option set forth in Section 415.6. HOME-SF allows market-rate projects to match
7 the City's ~~shared~~ Proposition K (November 2014) housing goals that 50% of new housing
8 constructed or rehabilitated in the City by 2020 be within the reach of working middle class
9 San Franciscans, and that at least 33% be affordable for low and moderate income
10 households, and the Housing Element of the General Plan's finding that rent control has been critical
11 to protecting low- and moderate-income residents from being at risk of eviction and displacement.

12 (b) **Applicability.** A HOME-SF Project under this Section 206.3 shall be
13 a project that:

14 (1) contains three or more residential units, as defined in Section 102, not
15 including any Group Housing as defined in Section 102, efficiency dwelling units with reduced
16 square footage defined in Section 318, and Density Bonus Units permitted through this
17 Section 206.3, or any other density bonus;

18 (2) is located in any zoning district that: (A) is not designated as an RH-1 or
19 RH-2 Zoning District; and (B) establishes a maximum dwelling unit density through a ratio of
20 number of units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named
21 Neighborhood Commercial, and SoMa Mixed Use Districts; but only if the SoMa Mixed Use
22 District has a density measured by a maximum number of dwelling units per square foot of lot
23 area; (C) is not in the North of Market Residential Special Use District, Planning Code Section
24 249.5, until the Affordable Housing Incentive Study is completed at which time the Board will
25 review whether the North of Market Residential Special Use District should continue to be

1 excluded from this Program. The Study will explore opportunities to support and encourage
2 the provision of housing at the low, moderate, and middle income range in neighborhoods
3 where density controls have been eliminated. The goal of this analysis is to incentivize
4 increased affordable housing production levels at deeper and wider ranges of AMI and larger
5 unit sizes in these areas through 100% affordable housing development as well as below
6 market rate units within market rate developments; (D) is not located within the boundaries of
7 the Northeastern Waterfront Area Plan south of the centerline of Broadway; and (E) is not
8 located on property under the jurisdiction of the Port of San Francisco;

9 (3) is not seeking and receiving a density or development bonus under the
10 provisions of California Government Code Sections 65915 et seq., Planning Code Section
11 207, Section 124(f), Section 202.2(f), 304, or any other State or local program that provides
12 development bonuses;

13 (4) includes at least 135% of the Base Density as calculated under Planning
14 Code Section 206.5;

15 (5) consists of new construction, and excluding any project that includes an
16 addition to an existing structure;

17 (6) complies with the on-site Inclusionary Affordable Housing option set forth in
18 Planning Code Section 415.6; ~~provided however, that~~ If the project elects to provide HOME-SF
19 Units as set forth in subsection (c)(1)(A), the project shall comply with the on-site Inclusionary
20 Affordable Housing option set forth in Planning Code Section 415.6, provided however, that the
21 percentage of affordable units and the required affordable sales price or affordable rents set
22 forth in Section 415.6(a) shall be as provided in ~~this~~ Section 206.3(c)(1)(A), or Section 206.3(f),
23 as applicable;

24 (7) if any retail use is demolished or removed, does not include a Formula
25 Retail use, as defined in Section 303.1, unless the retail use demolished or removed was also

1 a Formula Retail Use, or was one of the following uses: Gas Stations, Private or Public
2 Parking Lots, Financial Services, Fringe Financial Services, Self Storage, Motel, Automobile
3 Sales or Rental, Automotive Wash, Mortuaries, Adult Business, Massage Establishment,
4 Medical Cannabis Dispensary, and Tobacco Paraphernalia Establishment, as those uses are
5 defined in Planning Code Section 102;

6 (8) if located north of the centerline of Post Street and east of the centerline of
7 Van Ness Avenue, all otherwise eligible HOME-SF Projects shall only be permitted on:

8 (A) lots containing no existing buildings; or

9 (B) lots equal to or greater than 12,500 square feet where existing
10 buildings are developed to less than 20% of the lot's principally permitted buildable gross floor
11 area as determined by height limits, rear yard requirements, and required setbacks; and

12 (9) if the City enacts an ordinance directing the Planning Department to study
13 the creation of a possible area plan wholly or partially located in Supervisorial District 9,
14 HOME-SF Projects shall not be permitted in any area in Supervisorial District 9 listed in the
15 ordinance until such time as the City enacts the area plan.

16 (c) **HOME-SF Project Eligibility Requirements.** To receive the development
17 bonuses granted under this Section 206.3, a HOME-SF Project must meet all of the following
18 requirements:

19 (1) Agree to either:

20 (A) Except as limited in application by subsection (f), ~~provide~~ provide 30% of
21 units in the HOME-SF Project as HOME-SF Units, as defined herein. The HOME-SF Units
22 shall be restricted for the Life of the Project and shall comply with all of the requirements of
23 the Procedures Manual authorized in Section 415 except as otherwise provided herein.
24 Twelve percent of HOME-SF Units that are Owned Units shall have an average affordable
25 purchase price set at 80% of Area Median Income; 9% shall have an average affordable

1 purchase price set at 105% of Area Median Income; and 9% shall have an average affordable
2 purchase price set at 130% of Area Median Income. Twelve percent of HOME-SF Units that
3 are rental units shall have an average affordable rent set at 55% of Area Median Income; 9%
4 shall have an average affordable rent set at 80% of Area Median Income; and 9% shall have
5 an average affordable rent set at 110% of Area Median Income. All HOME-SF Units must be
6 marketed at a price that is at least 20% less than the current market rate for that unit size and
7 neighborhood, and MOHCD shall reduce the Area Median Income levels set forth herein in
8 order to maintain such pricing. As provided for in subsection (e), the Planning Department and
9 MOHCD shall amend the Procedures Manual to provide policies and procedures for the
10 implementation, including monitoring and enforcement, of the HOME-SF Units; or,

11 (B) Subject all new Dwelling Units, except for any Affordable Units as defined in
12 Planning Code Section 401, to the San Francisco Residential Rent Stabilization and Arbitration
13 Ordinance (Chapter 37 of the Administrative Code) as may be amended from time to time.

14 (2) Demonstrate to the satisfaction of the Environmental Review Officer that the
15 HOME-SF Project does not:

16 (A) cause a substantial adverse change in the significance of an historic
17 resource as defined by California Code of Regulations, Title 14, Section 15064.5;

18 (B) create new shadow in a manner that substantially affects outdoor
19 recreation facilities or other public areas; and

20 (C) alter wind in a manner that substantially affects public areas;

21 (3) All HOME-SF units shall be no smaller than the minimum unit sizes set forth by
22 the California Tax Credit Allocation Committee as of May 16, 2017. In addition,
23 notwithstanding any other provision of this Code, HOME-SF projects shall provide a minimum
24 dwelling unit mix of (A) at least 40% two and three bedroom units, including at least 10% three
25 bedroom units, or (B) any unit mix which includes some three bedroom or larger units such

1 that 50% of all bedrooms within the HOME-SF Project are provided in units with more than
2 one bedroom. Larger units should be distributed on all floors, and prioritized in spaces
3 adjacent to open spaces or play yards. Units with two or three bedrooms are encouraged to
4 incorporate family friendly amenities. Family friendly amenities shall include, but are not
5 limited to, bathtubs, dedicated cargo bicycle parking, dedicated stroller storage, open space
6 and yards designed for use by children. HOME-SF Projects are not eligible to modify this
7 requirement under Planning Code Section 328 or any other provision of this Code;

8 (4) Does not demolish, remove or convert any residential units; and

9 (5) Includes at the ground floor level active uses, as defined in Section 145.1,
10 at the same square footages as any neighborhood commercial uses demolished or removed,
11 unless the Planning Commission has granted an exception under Section 328.

12 * * * *

13 (e) **Implementation.**

14 (1) **Application.** An application to participate in the HOME-SF Program shall
15 be submitted with the first application for approval of a Housing Project and processed
16 concurrently with all other applications required for the Housing Project. The application shall
17 be submitted on a form prescribed by the City and shall include at least the following
18 information:

19 (A) A full plan set, including a site plan, elevations, sections, and floor
20 plans, showing total number of units, number of and location of HOME-SF Units, *if any*; and a
21 draft Regulatory Agreement;

22 (B) The requested development bonuses and/or zoning modifications
23 from those listed in subsection (d).

1 (C) A list of all on-site family friendly amenities. Family friendly amenities
2 shall include, but are not limited to, dedicated cargo bicycle parking, dedicated stroller
3 storage, open space and yards designed for use by children.

4 (D) Documentation that the applicant has provided written notification to
5 all existing commercial or residential tenants that the applicant intends to develop the property
6 pursuant to this section 206.3 and has provided any existing commercial tenants with a copy
7 of the Office of Economic and Workforce Development's Guide to Small Business Retention
8 and Relocation Support. Any affected commercial tenants shall be given priority processing
9 similar to the Department's Community Business Priority Processing Program, as adopted by
10 the Planning Commission on February 12, 2015, under Resolution Number 19323, to support
11 relocation of such business in concert with access to relevant local business support
12 programs.

13 * * * *

14 (5) **Regulatory Agreements.** Recipients of development bonuses under this
15 Section 206.3 shall enter into a Regulatory Agreement with the City, as follows.

16 (A) The terms of the agreement shall be acceptable in form and content
17 to the Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director
18 shall have the authority to execute such agreements.

19 (B) Following execution of the agreement by all parties, the completed
20 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed
21 and recorded on the Housing Project.

22 (C) The approval and recordation of the Regulatory Agreement shall
23 take place prior to the issuance of the First Construction Document. The Regulatory
24 Agreement shall be binding to all future owners and successors in interest.

1 (D) The Regulatory Agreement shall be consistent with the guidelines of
2 the City's Inclusionary Housing Program and shall include at a minimum the following:

3 (i) The total number of dwelling units approved for the Housing
4 Project, including the number of HOME-SF Units, if any, or other restricted units;

5 (ii) A description of the household income group to be
6 accommodated by the HOME-SF Units, if any, and the standards for determining the
7 corresponding Affordable Rent or Affordable Sales Price. If required by the Procedures
8 Manual, the project sponsor must commit to completing a market survey of the area before
9 marketing HOME-SF Units;

10 (iii) The location, dwelling unit sizes (in square feet), and number
11 of bedrooms of the HOME-SF Units, if any;

12 (iv) Term of use restrictions for the life of the project;

13 (v) A schedule for completion and occupancy of HOME-SF Units,
14 if any;

15 (vi) A description of any Concession, Incentive, waiver, or
16 modification, ~~if any~~, being provided by the City;

17 (vii) A description of remedies for breach of the agreement (the
18 City may identify tenants or qualified purchasers as third party beneficiaries under the
19 agreement); ~~and~~

20 (viii) Other provisions to ensure implementation and compliance
21 with this Section; ~~and~~

22 (ix) for projects that elect to proceed under Section 206.3(c)(1)(B), a
23 statement that the units included in such project, except for any Affordable Units as defined in Planning
24 Code Section 401, are not subject to the Costa-Hawkins Rental Housing Act (California Civil Code
25 Sections 1954.50 et seq.) because under Section 1954.52(b), the property owner has entered into and

1 agreed to the terms of the agreement with the City in consideration for additional density and
2 modifications to the Planning Code, or other direct financial contribution or forms of assistance
3 specified in California Government Code Sections 65915 et seq.

4 (f) **Temporary provisions.** To facilitate the construction of HOME-SF projects that
5 elect to include HOME SF Units under subsection (c)(1)(A), and based on information from the
6 inclusionary housing study prepared for the Divisadero and Fillmore Neighborhood
7 Commercial Transit District, in Board of Supervisors File No. 151258, and the Office of the
8 Controller's Inclusionary Housing Working Group final report (February 2016), the HOME-SF
9 program shall include development incentives as specified in this subsection (f) based on the
10 amount and level of affordability provided in this subsection (f). For any development project
11 that has submitted a complete Development Application prior to January 1, 2020, subsections
12 (c)(1)(A) and (d)(1), (d)(2), and (d)(3) shall not apply, and the provisions in this subsection (f)
13 shall apply. For any development project that submits a complete Development Application on
14 or after January 1, 2020, this subsection (f) shall apply until such time as it may be amended
15 based on the Triennial Economic Feasibility Analysis established in Section 415.10. This
16 subsection (f) shall not apply to HOME-SF projects that elect to proceed under subsection (c)(1)(B).

17 (1) **HOME-SF Project Eligibility Requirements.** To receive the
18 development bonuses granted under this Section 206.3, a HOME-SF Project must provide a
19 percentage of units, in the amounts set forth in section 206.3(f)(2)(A), (B), or (C), as HOME-
20 SF Units, as defined in Section 206.2. The HOME-SF Units shall be restricted for the Life of
21 the Project and shall comply with all of the requirements of the Procedures Manual authorized
22 in Section 415 except as otherwise provided in this Section 206.3. All HOME-SF Units must
23 be marketed at a price that is at least 20% less than the current market rate for that unit size
24 and neighborhood, and MOHCD shall reduce the Area Median Income levels set forth in this
25 Section 206.3 in order to maintain such pricing. As provided for in subsection (e), the Planning

1 Department and MOHCD shall amend the Procedures Manual to provide policies and
2 procedures for the implementation, including monitoring and enforcement, of the HOME-SF
3 Units;

4 * * * *

5
6 Section 3. Chapter 37 of the Administrative Code is hereby amended by revising
7 Sections 37.2 and 37.3, to read as follows:

8
9 **SEC. 37.2. DEFINITIONS.**

10 * * * *

11 (r) **Rental Units.** All residential dwelling units in the City *and County of San Francisco*
12 together with the land and appurtenant buildings thereto, and all housing services, privileges,
13 furnishings, and facilities supplied in connection with the use or occupancy thereof, including
14 garage and parking facilities.

15 * * * *

16 The term "rental units" shall not include:

17 * * * *

18 (4) Except as provided in subsections (A)-(~~DE~~), dwelling units whose rents are
19 controlled or regulated by any government unit, agency, or authority, excepting those
20 unsubsidized and/or unassisted units which are insured by the United States Department of
21 Housing and Urban Development; provided, however, that units in unreinforced masonry
22 buildings which have undergone seismic strengthening in accordance with Building Code
23 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
24 ordinance is not in conflict with the seismic strengthening bond program or with the program's
25 loan agreements or with any regulations promulgated thereunder;

1 * * * *

2 (E) The term “rental units” shall include any new dwelling units created pursuant to
3 the HOME-SF Program set forth in Section 206.3(c)(1)(B) of the Planning Code.

4
5 **SEC. 37.3. RENT LIMITATIONS.**

6 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent
7 increases upon tenants in occupancy only as provided below and as provided by subsections
8 37.3(d) and 37.3(g):

9 * * * *

10 (d) **Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).**

11 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
12 and regardless of whether otherwise provided under Chapter 37:

13 (1) **Property Owner Rights to Establish Initial and All Subsequent Rental**
14 **Rates for Separately Alienable Parcels.**

15 (A) An owner ~~of~~ residential real property may establish the initial and
16 all subsequent rental rates for a dwelling or a unit which is alienable separate from the title to
17 any other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision
18 (b), (d), or (f) of Section 11004.5 of the California Business and Professions Code. The
19 owner's right to establish subsequent rental rates under this paragraph shall not apply to a
20 dwelling or unit where the preceding tenancy has been terminated by the owner by notice
21 pursuant to California Civil Code Section 1946 or has been terminated upon a change in the
22 terms of the tenancy noticed pursuant to California Civil Code Section 827; in such instances,
23 the rent increase limitation provisions of Chapter 37 shall continue to apply for the duration of
24 the new tenancy in that dwelling or unit.

25 * * * *

1 (D) An owner's right to establish subsequent rental rates under subsection
2 37.3(d)(1) shall not apply to a dwelling unit that is created pursuant to the HOME-SF Program set
3 forth in Section 206.3(c)(1)(B) of the Planning Code.

4 * * * *

5 **(g) New Construction and Substantial Rehabilitation.**

6 (1) An owner of a residential dwelling or unit which is newly constructed and
7 first received a certificate of occupancy after the effective date of Ordinance No. 276-79 (June
8 13, 1979), or which the Rent Board has certified has undergone a substantial rehabilitation,
9 may establish the initial and all subsequent rental rates for that dwelling or unit, except:

10 (A) where rent restrictions apply to the dwelling or unit under
11 Sections 37.3(d) or 37.3(f);

12 (B) where the dwelling or unit is a replacement unit under
13 Section 37.9A(b);

14 (C) as provided for certain categories of Accessory Dwelling Units under
15 Section 37.2(r)(4)(D); ~~and~~

16 (D) as provided in a development agreement entered into by the City
17 under Administrative Code Chapter 56.; and

18 (E) as provided for certain categories of new dwelling units under Section
19 37.2(r)(4)(E).

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

1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7

8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/AUDREY WILLIAMS PEARSON
11 AUDREY WILLIAMS PEARSON
 Deputy City Attorney

12 n:\legana\as2022\2300033\01630755.docx

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EXHIBIT C

1 [Planning Code - HOME-SF]

2

3 **Ordinance amending the Planning Code to exclude designated historic districts under**
 4 **Article 10 of the Planning Code from the provisions of the Home Ownership Means**
 5 **Equity - San Francisco (HOME-SF) program; affirming the Planning Department's**
 6 **determination under the California Environmental Quality Act; and making findings of**
 7 **consistency with the General Plan, and the eight priority policies of Planning Code,**
 8 **Section 101.1, and findings of public necessity, convenience, and welfare under**
 9 **Planning Code, Section 302.**

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

14

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

16 Section 1. Environmental and Planning Code Findings.

17 (a) The Planning Department has determined that the actions contemplated in this
 18 ordinance comply with the California Environmental Quality Act (California Public Resources
 19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
 20 Supervisors in File No. 221105 and is incorporated herein by reference. The Board affirms
 21 this determination.

22 (b) On _____, the Planning Commission, in Resolution No. _____,
 23 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 24 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
 25

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) On _____, the Planning Commission, in Resolution No. _____,
4 recommended this ordinance for adoption by the Board of Supervisors, and adopted findings
5 that it will serve the public necessity, convenience, and welfare, as provided in Planning Code
6 Section 302. The Board adopts these findings as its own. A copy of said Resolution is on file
7 with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
8 reference.

9
10 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
11 206.3, to read as follows:

12
13 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**
14 **PROGRAM.**

15 * * * *

16 (b) **Applicability.** A HOME-SF Project under this Section 206.3 shall be a project that:

17 (1) contains three or more residential units, as defined in Section 102, not
18 including any Group Housing as defined in Section 102, efficiency dwelling units with reduced
19 square footage defined in Section 318, and Density Bonus Units permitted through this
20 Section 206.3, or any other density bonus;

21 (2) is located in any zoning district that: (A) is not designated as an RH-1 or RH-
22 2 Zoning District; and (B) establishes a maximum dwelling unit density through a ratio of
23 number of units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named
24 Neighborhood Commercial, and SoMa Mixed Use Districts; but only if the SoMa Mixed Use
25 District has a density measured by a maximum number of dwelling units per square foot of lot

1 area; (C) is not in the North of Market Residential Special Use District, Planning Code Section
2 249.5, until the Affordable Housing Incentive Study is completed at which time the Board will
3 review whether the North of Market Residential Special Use District should continue to be
4 excluded from this Program. The Study will explore opportunities to support and encourage
5 the provision of housing at the low, moderate, and middle income range in neighborhoods
6 where density controls have been eliminated. The goal of this analysis is to incentivize
7 increased affordable housing production levels at deeper and wider ranges of AMI and larger
8 unit sizes in these areas through 100% affordable housing development as well as below
9 market rate units within market rate developments; (D) is not located within the boundaries of
10 the Northeastern Waterfront Area Plan south of the centerline of Broadway; ~~and~~ (E) is not
11 located on property under the jurisdiction of the Port of San Francisco; and (F) is not located in
12 a designated historic district under Article 10 of this Code;

13 (3) is not seeking and receiving a density or development bonus under the
14 provisions of California Government Code Sections 65915 et seq., Planning Code Section
15 207, Section 124(f), Section 202.2(f), Section 304, or any other State or local program that
16 provides development bonuses;

17 (4) includes at least 135% of the Base Density as calculated under Planning
18 Code Section 206.5;

19 (5) consists of new construction, and excluding any project that includes an
20 addition to an existing structure;

21 (6) complies with the on-site Inclusionary Affordable Housing option set forth in
22 Planning Code Section 415.6; provided however, that the percentage of affordable units and
23 the required affordable sales price or affordable rents set forth in Section 415.6(a) shall be as
24 provided in this Section 206.3;

25

1 (7) if any retail use is demolished or removed, does not include a Formula
2 Retail use, as defined in Planning Code Section 303.1, unless the retail use demolished or
3 removed was also a Formula Retail Use, or was one of the following uses: Gas Stations,
4 Private or Public Parking Lots, Financial Services, Fringe Financial Services, Self Storage,
5 Motel, Automobile Sales or Rental, Automotive Wash, Mortuaries, Adult Business, Massage
6 Establishment, Medical Cannabis Dispensary, and Tobacco Paraphernalia Establishment, as
7 those uses are defined in Planning Code Section 102;

8 (8) if located north of the centerline of Post Street and east of the centerline of
9 Van Ness Avenue, all otherwise eligible HOME-SF Projects shall only be permitted on:

10 (A) lots containing no existing buildings; or

11 (B) lots equal to or greater than 12,500 square feet where existing
12 buildings are developed to less than 20% of the lot's principally permitted buildable gross floor
13 area as determined by height limits, rear yard requirements, and required setbacks;

14 (9) if the City enacts an ordinance directing the Planning Department to study
15 the creation of a possible area plan wholly or partially located in Supervisorial District 9,
16 HOME-SF Projects shall not be permitted in any area in Supervisorial District 9 listed in the
17 ordinance until such time as the City enacts the area plan.

18 * * * *

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

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Article 10 parcels with filters

EXHIBIT D





MEMO:

TO: Historic Preservation Commission

Project Name: HOME-SF

Case Number: 2022-009805PCA [Board File No. 221021] &
2022-011868PCA [Board File No. 221105]

Initiated by: Supervisor Dorsey / Introduced September 27, 2022 [Board File No. 221021] &
Supervisor Peskin / Introduced October 25, 2022 [Board File No. 221105]

Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525

The proposed Ordinance is before the Historic Preservation Commission because it proposes to make changes to the HOME-SF Program which will impact historic resources and historic districts. The following are highlights from the Executive Summary that require the Historic Preservation Commission's review and recommendation. The full Executive Summary can be found as Exhibit A.

The two Ordinances outline in this memo are as follows:

- Board File 221021 (sponsored by Supervisor Dorsey) will amend the Planning Code to allow projects under Housing Opportunities Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase limitations of the Rent Ordinance.
- Board File 221105 (sponsored by Supervisor Peskin) will amend the Planning Code to exclude designated historic districts under Article 10 of the Planning Code from the provisions of the Home Ownership Means Equity - San Francisco (HOME-SF) program.

The Way It Is Now:

Board File 221021:

1. HOME-SF projects get up to two additional stories and density controls waived based on the number of Affordable Units provided on site.

Board File 221105:

2. HOME-SF projects cannot cause a substantial adverse impact to a historic resource.

The Way It Would Be:

Board File 221021:

1. HOME-SF projects would have a new option to subject all Dwelling Units (except the required Affordable

Units) to the rent increase limitations of the Rent Ordinance to receive up to two additional stories and density controls waived.

Board File 221105:

2. HOME-SF projects would not be allowed on parcels located within a designated historic district under Article 10.

Issues and Considerations

HOME-SF

HOME-SF is San Francisco's local density bonus program and was designed to increase development opportunities and affordable housing and as an alternative to the State's Density Bonus law. Under HOME-SF, 20-30% of the units in a new housing project must be affordable to low, middle, and moderate-income families. HOME-SF projects must also include a minimum percent of family-friendly units having two or three bedrooms. In exchange, density bonuses and zoning modifications are provided, allowing project sponsors to accommodate additional affordable units. To date, the Department has received 22 HOME-SF project applications and approved 8 of them.¹ The complete eligibility criterion and description of the Tiers are described in the Executive Summary in Exhibit A.

Article 10 parcels

There are currently 14 historic districts listed under Article 10. Most historic districts are located within eastern neighborhoods which have form-based zoning and thus not eligible for HOME-SF. Of the parcels on the western side of the city that are eligible for HOME-SF, they likely would be able to produce more housing through HOME-SF rather than SDB because the former includes decontrolled density.

The Department estimated the potential number of parcels that would no longer be eligible for a HOME-SF project due to the proposed Ordinance under Board File 221105. This analysis was completed by reviewing all the Article 10 historic district parcels and then eliminating parcels in Zoning Districts that are currently not eligible for HOME-SF. Such eliminated parcels include parcels in:

- RH-1 or RH-2 Zoning Districts,
- Form-based zoning districts,
- North of Market Residential Special Use District,
- the boundaries of the Northeastern Waterfront Area Plan south of the centerline of Broadway, and
- property under the jurisdiction of the Port of San Francisco.

Based on this analysis, approximately 210 parcels would no longer be eligible for a HOME-SF project under proposed Ordinance (See Exhibit E for map). Because the analysis was non-exhaustive, and did not include all HOME-SF criteria, the number of impacted parcels is likely smaller. For example, HOME-SF projects are not permitted on parcels north of Post and east of Van Ness, on lots that are less than 12,500 square feet or are more than 20% developed. Additionally, HOME-SF projects are not permitted on parcels if the proposed project would

¹ Based on Planning Department data as of October 2022. Note: the project located at 955 Sansome filed an SB 330 application and would not be impacted by the proposed Ordinances.

result in a significant adverse impact on shadow, wind, or historic resources. Therefore, the number of additional parcels ineligible for HOME-SF under the proposed Ordinance is negligible and would not have an impact on the City's residential development capacity. Further, this residential development capacity was determined in the City's recent site capacity analysis completed for the Housing Element 2022 Update and did not factor HOME-SF projects into the residential capacity.

Even assuming the Ordinance as proposed would impact housing capacity, Board File 221105 is on track to be concurrently heard with Board File 221021, which increases development opportunity by increasing the available options for using HOME-SF (i.e., by providing rent control, rather than increased inclusionary units). Likewise, the recommended modification for Board File 221021 related to allowing the demolition of one existing unit increases housing capacity and thereby expands the number of prospective projects and development opportunities. Further, the staff recommendation eliminating some environmental eligibility criterion (see recommendations) further expands the number of potential HOME-SF projects and development opportunities.

Recommendation

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

Board File No. 221021

1. Eliminate the shadow/wind/historic resources criterion from the eligibility criteria.

Board File No. 221105

2. Amend the Ordinance to state that HOME-SF projects cannot demolish a resource that is *individually listed* on the National, State, or Local Registers *or* a contributor to an Article 10 historic district.

Basis for Recommendation

The Department supports the overall goals of these Ordinances because they support increased housing opportunities and also add rent-controlled units to the housing stock. However, staff believes the proposed Ordinances would benefit from the following recommended modifications:

Board File No. 221021

Recommendation 1: Eliminate the shadow, wind, and historic resources criterion from the eligibility criteria.

One eligibility criterion to qualify for the HOME-SF program includes that a project must not have a significant environmental impact on a historic or archeological resource, or create a shadow or wind impact on outdoor recreation facilities or other public areas as determined by the ERO. These criteria were included in the original HOME-SF program to allow the adoption of the legislation to rely on the 2009 Housing Element EIR. Currently, unless a project meets the environmental screening for a topic, the project needs to conduct lengthy and costly

analysis on impacts to shadow, wind, and historic resources (as determined applicable) before determining eligibility for the HOME-SF Program. For those projects that do not meet the environmental screening for a topic, the need for the study (or studies as applicable) creates extended uncertainty for project sponsors as they await the results of the analysis. If enacted, this recommended modification opens up more opportunities for HOME-SF projects because parcels and projects that are found to have an impact on these environmental constraints may be able to mitigate the impact and proceed with HOME-SF, whereas today such projects would automatically be eliminated from using HOME-SF.

The Housing Element 2022 Update EIR was certified on November 17, 2022. Environmental Planning has determined that impacts of an amended HOME-SF ordinance have been adequately addressed in the Housing Element 2022 Update EIR. It is through the programmatic analysis in the Housing Element EIR that the environmental topics may be eliminated from the eligibility criteria. Individual projects would continue to be reviewed under CEQA. This recommended modification only changes the time at which any applicable mitigation measures would be carried out by the project.

Board File No. 221105

Recommendation 2: Amend the Ordinance to state HOME-SF projects cannot demolish a resource that is individually listed on the National, State, or Local Registers or a contributor to an Article 10 historic district.

As written, the proposed Ordinance impacts properties that happen to be located within the geographic boundaries of an Article 10 historic district. This includes several properties that may not even have historic resources or be contributors to the historic district. Staff agrees with the intent of protecting historic resources but believes the Ordinance should be refined to only exclude resources that are individually listed on the National, State, or Local Registers. Along the same efforts, the exclusion should also apply to properties that are contributors to a historic district even if they are not individually listed. These changes will still meet the intent of the proposed Ordinance without unintentionally excluding other properties.

Required Commission Action

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

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinances.

Attachments:

- Exhibit A: Executive Summary
- Exhibit B: Draft Historic Preservation Resolutions
- Exhibit C: Board of Supervisors File No. 221021
- Exhibit D: Board of Supervisors File No. 221105
- Exhibit E: Map of Parcels Potentially Impacted by Board File 221105



EXECUTIVE SUMMARY PLANNING CODE TEXT AMENDMENT

HEARING DATE: February 16, 2023

90-Day Deadline for Board File 221021: April 1, 2023

90-Day Deadline for Board File 221105: April 26, 2023

Project Name: HOME-SF

Case Number: 2022-009805PCA [Board File No. 221021] & 2022-011868PCA [Board File No. 221105]

Initiated by: Supervisor Dorsey / Introduced September 27, 2022 [Board File No. 221021] & Supervisor Peskin / Introduced October 25, 2022 [Board File No. 221105]

Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525

Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval with Modifications

Planning Code Amendment

This staff report covers the following two Ordinances:

- Board File 221021 (sponsored by Supervisor Dorsey) will amend the Planning Code to allow projects under Housing Opportunities Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase limitations of the Rent Ordinance.
- Board File 221105 (sponsored by Supervisor Peskin) will amend the Planning Code to exclude designated historic districts under Article 10 of the Planning Code from the provisions of the Home Ownership Means Equity - San Francisco (HOME-SF) program.

The Way It Is Now:

Board File 221021:

1. HOME-SF projects get up to two additional stories and density controls waived based on the number of

Affordable Units provided on site.

Board File 221105:

2. HOME-SF projects cannot cause a substantial adverse impact to a historic resource.

The Way It Would Be:

Board File 221021:

1. HOME-SF projects would have a new option to subject all Dwelling Units (except the required Affordable Units) to the rent increase limitations of the Rent Ordinance to receive up to two additional stories and density controls waived.

Board File 221105:

2. HOME-SF projects would not be allowed on parcels located within a designated historic district under Article 10.

Anticipated Amendments

Supervisor Dorsey intends to reintroduce Board File 221021 with additional amendments regarding clean-up items for the HOME-SF program. A summary of the proposed additional amendments is included below:

- Eliminate the exemption from parking requirements since there are no longer have parking minimums.
- Make the minimum Below Market Rate unit sizes for studios consistent across HOME-SF and Inclusionary Housing requirements.
- Revise the common open space reduction to simply 10%.
- Add a zoning modification to allow reduced requirements for private open space. Private open space would still need to be a minimum of 36 square feet in size, measuring at least six feet in each direction.

Background

The HOME-SF program was approved unanimously by the Board of Supervisors and became effective July 13, 2017.¹ Additional amendments to allow a broader range of projects to take advantage of HOME-SF became effective March 10, 2019.² Such changes provided increased on-site affordability in exchange for additional density and height allowances. The amendments also introduced tiers to the program to allow greater flexibility depending on a project's specific context (site configuration, height limit, etc.) and financial feasibility.

¹ [Ordinance No. 116-17, Board File No. 150969](#)

² [Ordinance No. 198-18, Board File No. 180456](#)

| The proposed Ordinance seeks to encourage more housing development and more rent-controlled units.

The Residential Rent Stabilization and Arbitration Ordinance (Rent Ordinance) is housed within Chapter 37 of the Administrative Code. The original Ordinance, effective June 13, 1979, sought to protect tenants by preventing excessive rent increases and wrongful evictions without just cause. One primary tool to protect tenants was imposing all existing rental units to rent control, a maximum rent increase formula based on the Consumer Price Index of the preceding 12 months as issued by the U.S. Department of Labor. The Rent Ordinance has been amended from time to time to enhance tenant protections in response to new issues or state law requirements. Recent changes to the Rent Ordinance included notifying tenants of the loss of tenant services due to a proposed Accessory Dwelling Unit (ADU) and changes to extend temporary eviction protections during the COVID-19 pandemic. The proposed Ordinance seeks to encourage more housing development and to increase the number of rental units subject to the rent increase limitations of the Rent Ordinance (also known as “rent control”).

Issues and Considerations

HOME-SF

HOME-SF is San Francisco’s local density bonus program and was designed to increase development opportunities and affordable housing and as an alternative to the State’s Density Bonus law. Under HOME-SF, 20-30% of the units in a new housing project must be affordable to low, middle, and moderate-income families. HOME-SF projects must also include a minimum percent of family-friendly units having two or three bedrooms. In exchange, density bonuses and zoning modifications are provided, allowing project sponsors to accommodate additional affordable units. To date, the Department has received 22 HOME-SF project applications and approved 8 of them.³

Eligibility

Only projects in certain locations are eligible for HOME-SF. The biggest location-based eligibility criterion is that the project must be located on a parcel in a Zoning District that establishes a maximum dwelling unit density through a ratio of number of units to lot area. It is important to note that most of the eastern neighborhoods already have form-based code due to recent efforts like the Central SoMa Plan. Therefore, the majority of HOME-SF projects are located within the western neighborhoods that calculate density based on the parcel area. There are also other geographic carveouts that exclude HOME-SF such as properties in RH-1 or RH-2 Zoning Districts, the North of Market Residential Special Use District, or the Northeastern Waterfront Area Plan south of the centerline of Broadway.

To be eligible for HOME-SF, projects must also demonstrate the following project features:

³ Based on Planning Department data as of October 2022. Note: the project located at 955 Sansome filed an SB 330 application and would not be impacted by the proposed Ordinances.

- Must not demolish any residential units
- Will consist of new construction only and will not propose additions to existing buildings
- Must provide three or more dwelling units
- Must not demolish or significantly alter a historic or archeological resource
- Must not alter wind or create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas as determined by the Environmental Review Officer (ERO)

The majority of the criteria are straightforward and can be determined from the onset of the project. However, the last two criteria cannot be established without additional analysis because the technical studies required to determine if a project qualifies cannot be conducted until after the sponsor submits a complete project application with a stable project description. Therefore, project sponsors may have to spend significant time and resources to see if their project is in fact eligible for HOME-SF. It is only then that the 180-day countdown to hold a hearing for a proposed HOME-SF project starts, unless the ERO determines that an Environmental Impact Report (EIR) is required for the project.

Tiers

HOME-SF has different Tiers that provide different density bonuses based on the amount of Inclusionary Housing provided. The table below provides a summary of options available today.

	ZONING MODIFICATIONS AWARDED	ADDITIONAL HEIGHT AWARDED ABOVE EXISTING HEIGHT LIMIT	ON-SITE AFFORDABILITY REQUIREMENT
TIER 1 (<24 UNITS)	Relief from density limit	No additional height	20%
TIER 1 (25+ UNITS)			23%
TIER 2	Seven predetermined	1 story	25%
TIER 3	zoning modifications	2 stories	30%

Since their adoption, the Tiers have provided more flexibility in the HOME-SF program and increased the number of projects participating in HOME-SF.

State Density Bonus versus HOME-SF

The State Density Bonus (SDB) was enacted in 1979; however, the City did not adopted an implementing ordinance for SDB until 2017. That program, called the Individually Requested Program,⁴ was adopted concurrently with HOME-SF. A locally preferred alternative to SDB, called the State Analyzed Bonus Program (SABP) was also adopted to offer a local streamlined process for developers offering a set menu of concessions, incentives, and waivers. The amount of the density bonus and the number of incentives or concessions for the

⁴ Ordinance 116-17, BF No. 150969

Individually Requested and SABP depend on the amount and level of affordability of the on-site affordable units and is set forth in state law.

The Individually Requested SDB program has less stringent program requirements and thus more projects are eligible for SDB compared to HOME-SF

The Department has received approximately 86 Individually Requested SDB applications to date and approved 36.⁵ The Individually Requested SDB program has less stringent program requirements and thus more projects are eligible for SDB compared to HOME-SF; however, if a project qualifies for both the SDB and HOME-SF, the sponsor often pursues HOME-SF because it allows for greater overall unit count compared to SDB, which provides up to 50% more units instead of decontrolled density. For example, under the NC-1 Zoning at 3945 Judah Street (an approved HOME-SF Project), a project could only construct six units by right, or nine units under the SDB. Under the HOME-SF program, the project site could accommodate 20 units with a one-story height bonus combined with the decontrolled density and zoning modifications.

To date, the department has not received any applications for a SABP, which is limited to specific geographic areas and zoning districts. The SABP was enacted in efforts to provide more development opportunities; however, the program has not been appealing enough for projects to pursue. One reason might be that the density bonus under the SABP is limited to up to 35% whereas the Individually Requested SDB allows up to 50% additional density. Further, the SABP offers a pre-vetted menu of concessions, incentives, and waivers and proposed projects may not align with these specific measures.

Rent Ordinance

The Rent Ordinance provides two major types of tenant protections including 1) limits on rent increases and 2) eviction protections. The first piece limits a landlord to increasing annual rent by a certain percentage each year based on the Bay Area Consumer Price Index. It is important to note that rent control does not limit the rental price when a unit first comes onto the market or after a tenant vacates the unit, unlike Inclusionary Housing where rents are limited throughout the life of the building. However, rent control is still highly attractive for tenants as it guarantees that the rent is only increased based on the Consumer Price Index. This helps protect against extreme or arbitrary rent increases.

The second piece related to eviction protections means a landlord can only evict a tenant based on the 16 “just causes” outlined in the Rent Ordinance. One example of a “just cause” includes nonpayment of rent or habitually late payments from a tenant, and another example includes owner move-in. These “just cause” eviction protections mean that a landlord cannot wrongfully evict a tenant based on arbitrary reasons. If there are any grievances related to these protections, a tenant can file a petition with the Rent Board. The Rent Board would then conduct an evidentiary hearing to make an official determination.

For many San Franciscans, having a rent-controlled apartment is the only way they are able move to or stay in the city. Rent-controlled units are highly sought after with only a limited stock of units based on the unit’s first Certificate of Occupancy (COO). Generally, only dwelling units located within a pre-1979 building or added as an ADU through the Local ADU Program are subject to rent control. There are also Development Agreements that

⁵ Based on Planning Department data as of October 2022.

require that any demolished rent-controlled units to be replaced, essentially ensuring that the rent-controlled unit is retained. The Housing Crisis Act of 2019 and Senate Bill 330 (SB 330) also allows a City to replace any rent-controlled units that are demolished as part of a housing development. Prior to this, replacing rent-controlled units was not an option and thus limited potential projects with such protected units.

As drafted, the Ordinance opens more development opportunity with a new path under HOME-SF. Further, the draft Ordinances would yield projects with larger batches of rent-controlled units all at once. If enacted, this would be the only way there would be new rent-controlled buildings (not just units). The Rent Board is aware of this and has taken measures to prepare for this potential increase of new rent-controlled projects. The Planning Department intends to revise the HOME-SF Regulatory Agreements to designate the rent-controlled units. These Regulatory Agreements will be shared with the Rent Board for them to be able to track these new rent-controlled units.

Article 10 parcels

There are currently 14 historic districts listed under Article 10. Most historic districts are located within eastern neighborhoods which have form-based zoning and thus not eligible for HOME-SF. Of the parcels on the western side of the city that are eligible for HOME-SF, they likely would be able to produce more housing through HOME-SF rather than SDB because the former includes decontrolled density.

The Department estimated the potential number of parcels that would no longer be eligible for a HOME-SF project due to the proposed Ordinance under Board File 221105. This analysis was completed by reviewing all the Article 10 historic district parcels and then eliminating parcels in Zoning Districts that are currently not eligible for HOME-SF. Such eliminated parcels include parcels in:

- RH-1 or RH-2 Zoning Districts,
- Form-based zoning districts,
- North of Market Residential Special Use District,
- the boundaries of the Northeastern Waterfront Area Plan south of the centerline of Broadway, and
- property under the jurisdiction of the Port of San Francisco.

Based on this analysis, approximately 210 parcels would no longer be eligible for a HOME-SF project under proposed Ordinance (See Exhibit D for map). Because the analysis was non-exhaustive, and did not include all HOME-SF criteria, the number of impacted parcels is likely smaller. For example, HOME-SF projects are not permitted on parcels north of Post and east of Van Ness, on lots that are less than 12,500 square feet or are more than 20% developed. Additionally, HOME-SF projects are not permitted on parcels if the proposed project would result in a significant adverse impact on shadow, wind, or historic resources. Therefore, the number of additional parcels ineligible for HOME-SF under the proposed Ordinance is negligible and would not have an impact on the City's residential development capacity. Further, this residential development capacity was determined in the City's recent site capacity analysis completed for the Housing Element 2022 Update and did not factor HOME-SF projects into the residential capacity.

Even assuming the Ordinance as proposed would impact housing capacity, Board File 221105 is on track to be concurrently heard with Board File 221021, which increases development opportunity by increasing the available options for using HOME-SF (i.e., by providing rent control, rather than increased inclusionary units). Likewise, the recommended modification for Board File 221021 related to allowing the demolition of one

existing unit increases housing capacity and thereby expands the number of prospective projects and development opportunities. Further, the staff recommendation eliminating some environmental eligibility criterion (see recommendations) further expands the number of potential HOME-SF projects and development opportunities.

Potential Future Amendments

Tiers Update

Prior legislation incorporated the HOME-SF Tiers as a temporary provision and that they would only be in effect until they could be fully analyzed by the Triennial Economic Feasibility Study as required by Section 415 for Inclusionary Housing rates. The Technical Advisory Committee (TAC) assembled by the Controller has just reconvened to complete this study. HOME-SF is a voluntary program, and the feasibility of the Tiers should not be tied to the Triennial Economic Feasibility Study required by Section 415. HOME-SF has been successful as a Tiered program and should continue to have these Tiers as an option. Future legislation should make these Tiers permanent based on TAC's analysis.

Eliminating the New Construction Only Requirement

HOME-SF requires that projects are only new construction buildings. This means that HOME-SF projects cannot include additions to existing buildings, creating a big limitation on properties and projects that could otherwise be eligible for HOME-SF. Staff believes there could be vastly more opportunities if the new construction requirement were eliminated; however, the idea should be discussed more thoroughly before considering such change to the HOME-SF program.

Modify the Rear Yard Requirement to Allow More Flexibility in the Location of the Yard

HOME-SF currently allows projects to provide a smaller rear yard as one of the guaranteed zoning modifications, but still requires the rear yard to be in the same location as required under Planning Code section XXXX (i.e., at the rear, or interior corner for corner lots). Staff has found that larger sites where a traditional rear yard or one located in an interior corner does not necessarily yield the optimal building envelope, and project sponsors must seek additional Planning Commission modifications to this requirement. One potential solution is to offer a more flexible percentage-based rear yard *zoning modification* as a guaranteed zoning modification, which could encourage more project sponsors to use HOME-SF rather than SDB. However, staff believes additional time and research is required to fully vet this idea and its potential ramifications.

General Plan Compliance

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed Ordinance further increases development opportunities by providing a new menu option subjecting all units (except required Inclusionary Housing) to rent control. This aligns with the Housing Element's goals of providing a diverse stock of housing to meet existing and future residents' needs. Further, the proposed amendments in Board File 221021 creates a new opportunity could add large batches of new rent-controlled units to the housing stock, something not typically seen outside of Development Agreements for larger, more complex projects. This supports the Housing Element's goals of advancing equitable housing access and ensuring there are more permanently affordable housing options. Additionally, the proposed changes in Board

File 221105 seeks to revise HOME-SF to better retain Article 10 historic districts and protect historic resources, supporting the Urban Design Element's goals of protecting notable landmarks.

Racial and Social Equity Analysis

The Planning and Administrative Code amendments in the proposed Ordinances advance racial and social equity by providing more opportunities to provide Inclusionary Housing and rent-controlled units to the housing stock. The primary goal of Board File 221021 amends the HOME-SF program by adding new path for rent-controlled units added to the housing stock. These new rent-controlled units would be eligible for both the price control and eviction protections that other protected units currently have. While the new rent-controlled units would still be listed at market rate prices, they still provide a helpful resource for people trying to move into or stay within the city.

The Housing Element Update adopted on December 15, 2022, includes Implementation Program 7.2.9 which supports the revision of the HOME-SF program to eliminate existing environmental eligibility criteria (i.e., shadow, wind, and historic resources) as well as broadening the guaranteed zoning modifications. Such efforts would allow more sites to use HOME-SF and make the program easier to use.

Staff notes there are other potential HOME-SF program changes that could expand HOME-SF eligibility further advancing racial and social equity. Some of these are outlined in the recommendations section below, while some efforts require further thought before being legislated. Staff will continue to vet these ideas and create a plan to move these amendments forward.

The intent of Board File 221105 is to protect historic resources. HOME-SF allows project sponsors to build a taller building that would otherwise not be allowed under the current zoning in exchange for greater density, and sometimes higher rates of Inclusionary Housing, depending on the proposed Tier. Some argue that HOME-SF projects are therefore more impactful on a neighborhood (and adjacent historic resources) than non-HOME-SF projects. With the recommended modifications, staff believes the proposed Ordinance enhances our historic and cultural resources. Under today's Code, projects are reviewed to determine if there are adverse significant impacts to any historic or archeological resources. The proposed Ordinance and recommended modifications revise the HOME-SF program to make this process clearer from the beginning. If enacted, parcels in historic districts would not be eligible for HOME-SF.

Implementation

The Department has determined that this ordinance will impact our current implementation procedures in the following ways:

- Revise the [HOME-SF Informational and Supplemental Application Packet](#) and any other impacted Department handouts
- Update the HOME-SF Regulatory Agreement template to 1) designate rent-controlled units, and 2) ensure applicants understand that if the tenure changes from rental to ownership the project is required

to return to Planning Commission to revise the Inclusionary Housing

The items described above will take lead time at the front end and should not increase staff review time or costs. These efforts will be beneficial for the applicants to better understand the new options available to them. Additionally, the revisions to the Regulatory Agreement designating the new rent-controlled units can also use the Below Market Rate designation process as a model. Therefore, staff does not anticipate revising the Regulatory Agreements will require a lengthy process.

Recommendation

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

Board File No. 221021

1. Amend the legislation to allow projects with fewer than 10 units to participate in HOME-SF by subjecting the entire building to rent control.
2. Amend the Administrative Code to require leases for these new HOME-SF rent-controlled units to disclose the unit is subject to the rent increase limitations of the Rent Ordinance.
3. Eliminate the shadow/wind/historic resources criterion from the eligibility criteria.
4. Revise the eligibility requirement that precludes a HOME-SF project from demolishing any existing dwelling units to allow the demolition of one unit.

Board File No. 221105

5. Amend the Ordinance to state that HOME-SF projects cannot demolish a resource that is *individually listed* on the National, State, or Local Registers *or* a contributor to an Article 10 historic district.

Basis for Recommendation

The Department supports the overall goals of these Ordinances because they support increased housing opportunities and also add rent-controlled units to the housing stock. However, staff believes the proposed Ordinances would benefit from the following recommended modifications:

Board File No. 221021

Recommendation 1: Amend the legislation to allow projects with fewer than 10 units to participate in HOME-SF by subjecting the entire building to rent control.

Inclusionary housing is required for all projects proposing 10 units or more. The proposed Ordinance is silent on projects proposing fewer than 10 units. As written, the proposed Ordinance requires all dwelling units that are not Inclusionary Housing to be rent-controlled under this new HOME-SF menu option. Therefore, projects that do not have Inclusionary Housing requirements (such as projects with fewer than 10 units) would be required to be fully rent-controlled under this HOME-SF menu option. This should be explicitly stated in the legislation for transparency.

Today's code requires 20-30% Inclusionary Housing for projects proposing 24 units or less, depending on the number of additional stories they are seeking. If the proposed Ordinance incorporates this recommended modification, projects proposing 24 units or less would still have the option to include 20-30% Inclusionary Housing for the project, pending the desired Tier.

Recommendation 2: Amend the Administrative Code to require leases for these new HOME-SF rent-controlled units to disclose the unit is subject to the rent increase limitations of the Rent Ordinance.

Typically, only units in older buildings, ADUs approved under the Local ADU Program, or replacement units provided through the Housing Crisis Act are subject to rent control. There are also Development Agreements where replacement units for existing rent-controlled units are required to be subject to rent control. Outside of these Development Agreements, there are typically no other projects adding large numbers of rent-controlled units to the housing stock. Because this is a new opportunity for rent-controlled units, the Rent Board has advised Planning Department it should be disclosed that the unit is subject to the Rent Ordinance. This way, future tenants are aware of these additional protections and understand their unit would be subject to rent control.

There are similar efforts already in effect including disclosures related to curbing the spread of corporate rentals. Administrative Code Section 37.9(F)(d) was added to the Rent Ordinance requiring landlords to include the following written statement in all online rental advertisements (and print advertising if practical):⁶

This unit is a rental unit subject to the San Francisco Rent Ordinance, which limits evictions without just cause, and which states that any waiver by a tenant of their rights under the Rent Ordinance is void as contrary to public policy.

Almost all units within San Francisco are subject to a portion of the Rent Ordinance for one reason or another. The disclosure above helps ensure that tenants are aware of their rights. A similar disclosure could be required for the new rent-controlled units under this Ordinance. The proposed Ordinance is already amending Administrative Code Section 37.2(r)(4)(E). Staff recommends this language be further amended to require landlords to disclose in rental leases that the unit is subject to rent control.

Recommendation 3: Eliminate the shadow, wind, and historic resources criterion from the eligibility criteria.

One eligibility criterion to qualify for the HOME-SF program includes that a project must not have a significant environmental impact on a historic or archeological resource or create a shadow or wind impact on outdoor recreation facilities or other public areas as determined by the ERO. These criteria were included in the original HOME-SF program to allow the adoption of the legislation to rely on the 2009 Housing Element EIR. Currently, unless a project meets the environmental screening for a topic, the project needs to conduct lengthy and costly

⁶ [Ordinance 78-20, Board File 191075](#)

analysis on impacts to shadow, wind, and historic resources (as determined applicable) before determining eligibility for the HOME-SF Program. For those projects that do not meet the environmental screening for a topic, the need for the study (or studies as applicable) creates extended uncertainty for project sponsors as they await the results of the analysis. If enacted, this recommended modification opens up more opportunities for HOME-SF projects because parcels and projects that are found to have an impact on these environmental constraints may be able to mitigate the impact and proceed with HOME-SF, whereas today such projects would automatically be eliminated from using HOME-SF.

The Housing Element 2022 Update EIR was certified on November 17, 2022. Environmental Planning has determined that impacts of an amended HOME-SF ordinance have been adequately addressed in the Housing Element 2022 Update EIR. It is through the programmatic analysis in the Housing Element EIR that the environmental topics may be eliminated from the eligibility criteria. Individual projects would continue to be reviewed under CEQA. This recommended modification only changes the time at which any applicable mitigation measures would be carried out by the project.

Recommendation 4: Revise the eligibility requirement that precludes a HOME-SF project from demolishing any existing dwelling units to allow the demolition of one unit.

When HOME-SF was originally enacted, the program did not allow the demolition of any existing units, thereby protecting the existing housing stock, and protecting existing tenants from displacement. Recent changes to state law (SB 330; Government Code 66300) now requires that housing development projects that demolish any existing residential units must also include replacement units with at least as many units that were demolished. This results in no net loss of residential units.

SB 330, amended by SB 8, also includes expanded tenant protections addressing the concern of displacing existing tenants. Government Code 66300 requires replacement of “protected units,” which is defined as units that currently are or were in the five years prior to the development application:

- affordable units deed-restricted to households earning below 80 percent of Area Median Income (AMI),
- subject to a local rent control program,
- rented by low-income households earning below 80 percent of AMI, or
- withdrawn from the rental market under the Ellis Act within 10 years prior to development application.

If a housing development project proposes demolishing a protected unit as described above, such unit would need to be replaced with the same number of bedrooms and at an affordable rent or sales price to households of the same or lower income category as that of the last household in occupancy in the past five years. Such rental units shall remain under the affordability restriction for a period of at least 55 years. These new requirements ensure that tenants within protected units have the first right of refusal for a replacement unit of comparable size and rent.

Even with such protections in place, the Department recommends that the current eligibility criterion be amended to allow the demolition of only one existing unit. This prevents the demolition of duplexes or larger housing sites, and thus reduces the number of potentially impacted tenants. This recommended modification opens more sites to HOME-SF projects, particularly along the Neighborhood Commercial Districts where such developments would be in keeping with the neighborhood character and block face. One specific potential example includes a property where there is a single residential unit behind a commercial space. Such site is not eligible for HOME-SF under today’s Code but could be if the recommended modification is incorporated into the

Ordinance. In this example, the mixed-use building would still need to comply with all other eligibility requirements to move forward with a HOME-SF project. The Department anticipates this could increase the number of HOME-SF project applications received and constructed.

Board File No. 221105

Recommendation 5: Amend the Ordinance to state HOME-SF projects cannot demolish a resource that is *individually listed* on the National, State, or Local Registers *or* a contributor to an Article 10 historic district. As written, the proposed Ordinance impacts properties that happen to be located within the geographic boundaries of an Article 10 historic district. This includes several properties that may not even have historic resources or be contributors to the historic district. Staff agrees with the intent of protecting historic resources but believes the Ordinance should be refined to only exclude resources that are individually listed on the National, State, or Local Registers. Along the same efforts, the exclusion should also apply to properties that are contributors to a historic district even if they are not individually listed. These changes will still meet the intent of the proposed Ordinance without unintentionally excluding other properties.

Required Commission Action

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

Environmental Review

The proposed amendments were covered in the 2022 Housing Element EIR certified on November 17, 2022.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinances.

Attachments:

- Exhibit A: Draft Planning Commission Resolutions
- Exhibit B: Board of Supervisors File No. 221021
- Exhibit C: Board of Supervisors File No. 221105
- Exhibit D: Map of Parcels Potentially Impacted by Board File 221105



HISTORIC PRESERVATION COMMISSION DRAFT RESOLUTION

HEARING DATE: February 15, 2023

Project Name: HOME-SF
Case Number: 2022-009805PCA [Board File No. 221021]
Initiated by: Supervisor Dorsey / Introduced September 27, 2022
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING WITH MODIFICATION PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW PROJECTS UNDER HOUSING OPPORTUNITIES MEAN EQUITY (HOME-SF) TO AGREE TO SUBJECT NEW DWELLING UNITS TO THE RENT INCREASE LIMITATIONS OF THE RENT ORDINANCE; 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 MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on September 27, 2022, Supervisors Dorsey and Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 221021, which would amend the Planning Code to allow projects under Housing Opportunities Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase limitations of the Rent Ordinance;

WHEREAS, the Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 15, 2023; and,

WHEREAS, the amendments in the proposed Ordinance were covered in the 2022 Housing Element EIR certified on November 17, 2022.; 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

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

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

1. Eliminate the shadow/wind/historic resources criterion from the eligibility criteria.

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:

The Commission finds that the proposed Ordinance will provide additional options for project sponsors to participate in the City's local development bonus program, and will lead to increased production of needed housing, including on-site affordable housing.

The Commission finds that the new HOME-SF menu option will further the goal of making HOME-SF more flexible and also increase the number of rent controlled units in our housing stock.

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.A

Ensure housing stability and healthy homes.

OBJECTIVE 4.A

Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

Diversify housing types for all cultures, family structures, and abilities.

POLICY 3

Acquire and rehabilitate privately-owned housing as permanently affordable to better serve residents and areas vulnerable to displacement with unmet affordable housing needs.

POLICY 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

POLICY 20

Increase mid-rise and small multi-family housing types by adopting zoning changes or density bonus programs in Well-resourced Neighborhoods and adjacent lower-density areas near transit, including along SFMTA Rapid Network33 and other transit.

POLICY 33

Prevent the outmigration of families with children and support the needs of families to grow.

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed Ordinance further increases development opportunities by providing a new menu option subjecting all units (except required Inclusionary Housing) to rent control. This aligns with the Housing Element's goals of providing a diverse stock of housing to meet existing and future residents' needs. Further, the proposed Ordinance creates a new opportunity could add large batches of new rent-controlled units to the housing stock, something not typically seen outside of Development Agreements for larger, more complex projects. This supports the Housing Element's goals of advancing equitable housing access and ensuring there are more permanently affordable housing options.

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.

Planning Code Section 302 Findings.

The Historic Preservation 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 February 15, 2023.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 15, 2023

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HISTORIC PRESERVATION COMMISSION DRAFT RESOLUTION

HEARING DATE: February 15, 2023

Project Name: HOME-SF
Case Number: 2022-011868PCA [Board File No. 221105]
Initiated by: Supervisor Peskin / Introduced October 25, 2022
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO EXCLUDE DESIGNATED HISTORIC DISTRICTS UNDER ARTICLE 10 OF THE PLANNING CODE FROM THE PROVISIONS OF THE HOME OWNERSHIP MEANS EQUITY - SAN FRANCISCO (HOME-SF) PROGRAM; AFFIRMING THE PLANNING DEPARTMENT’S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on October 25, 2022, Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 221105, which would amend the Planning Code to exclude designated historic districts under Article 10 of the Planning Code from the provisions of the Home Ownership Means Equity - San Francisco (HOME-SF) program;

WHEREAS, the Historic Preservation Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 15, 2023; and,

WHEREAS, the amendments in the proposed Ordinance were covered in the 2022 Housing Element EIR certified on November 17, 2022.; and

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

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

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

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

1. Amend the Ordinance to state that HOME-SF projects cannot demolish a resource that is *individually listed* on the National, State, or Local Registers *or* a contributor to an Article 10 historic district.

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:

The Commission finds that the proposed Ordinance will revise the HOME-SF Program in efforts to protect historic resources.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

URBAN DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

HOME-SF currently provides development bonuses which may permit a larger overall building mass for projects that include higher levels of affordable housing than would otherwise be permitted by the Planning Code. The proposed changes in Board File 221105 seeks to revise HOME-SF to better retain Article 10 historic districts and protect historic resources, supporting the Urban Design Element's goals of protecting notable landmarks and the collective visual pattern of such historic districts.

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.

Planning Code Section 302 Findings.

The Historic Preservation 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 February 15, 2023.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 15, 2023

EXHIBIT C

1 [Planning, Administrative Codes - HOME-SF]

2

3 **Ordinance amending the Planning Code to allow projects under Housing Opportunities**
 4 **Mean Equity (HOME-SF) to agree to subject new dwelling units to the rent increase**
 5 **limitations of the Rent Ordinance; affirming the Planning Department's determination**
 6 **under the California Environmental Quality Act; making findings of consistency with**
 7 **the General Plan, and the eight priority policies of Planning Code, Section 101.1; and**
 8 **making findings of public necessity, convenience, and welfare under Planning Code,**
 9 **Section 302.**

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

14

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

16

17 Section 1. Environmental and Planning Code Findings.

18 (a) The Planning Department has determined that the actions contemplated in this
 19 ordinance comply with the California Environmental Quality Act (California Public Resources
 20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
 21 Supervisors in File No. 221021 and is incorporated herein by reference. The Board affirms
 22 this determination.

23 (b) On _____, the Planning Commission, in Resolution No. _____,
 24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 25 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
4 amendments will serve the public necessity, convenience, and welfare for the reasons set
5 forth in Planning Commission Resolution No. _____, and the Board adopts such reasons
6 as its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in
7 File No. _____ and is incorporated herein by reference.

8
9 Section 2. The Planning Code is hereby amended by revising Sections 206.1 and
10 206.3, to read as follows:

11 **SEC. 206.1. PURPOSE AND FINDINGS.**

12 (a) The purpose of the Affordable Housing Bonus Programs is to facilitate the
13 development and construction of affordable housing in San Francisco. Affordable housing is
14 of paramount statewide concern, and the Legislature has declared that local and state
15 governments have a responsibility to use the powers vested in them to facilitate the
16 improvement and development of housing to make adequate provision for the housing needs
17 of all economic segments of the community, especially families. The Legislature has found
18 that local governments must encourage the development of a variety of types of housing for
19 all income levels, including multifamily rental housing and assist in the development of
20 adequate housing to meet the needs of low- and moderate-income households.

21 (b) Affordable housing is an especially paramount concern in San Francisco. San
22 Francisco has one of the highest housing costs in the nation, but San Francisco's economy
23 and culture rely on a diverse workforce at all income levels. It is the policy of the City to
24 enable these workers to afford housing in San Francisco and ensure that they pay a
25 reasonably proportionate share of their incomes to live in adequate housing and to not have to

1 commute ever-increasing distances to their jobs. The Association of Bay Area Governments
2 determined that San Francisco's share of the Regional Housing Need for January 2015 to
3 June 2022 was the provision of 28,870 new housing units, with 6,234 (or 21.6%) as very low,
4 4,639 (or 16.1%) as low, and 5,460 (or 18.9%) as moderate income units.

5 (c) The Board of Supervisors, and the voters in San Francisco, have long
6 recognized the need for the production of affordable housing. The voters, in some cases, and
7 the Board in others, have adopted measures to address this need, such as *the* mandatory
8 Inclusionary Affordable Housing Ordinance in Planning Code Section 415; the San Francisco
9 Housing Trust Fund, adopted in 2012, which established a fund to create, support and
10 rehabilitate affordable housing, and set aside \$20 million in its first year, with increasing
11 allocations to reach \$50 million a year for affordable housing; the adoption of Proposition K in
12 November 2014, which established as City policy that the City, by 2020, will help construct or
13 rehabilitate at least 30,000 homes, with more than 50% of the housing affordable for middle-
14 income households, and at least 33% as affordable for low- and moderate income
15 households; and the multiple programs that rely on Federal, State and local funding sources
16 as identified in the Mayor's Office of Housing and Community Development Comprehensive
17 Plan. These programs enable the City to work towards the voter-mandated affordable housing
18 goals.

19 (d) Historically, in the United States and San Francisco, affordable housing requires
20 high levels of public subsidy, including public investment and reliance on public dollars. Costs
21 to subsidize an affordable housing unit vary greatly depending on a number of factors, such
22 as household income of the residents, the type of housing, and the cost ~~to acquire~~of land
23 acquisition. Currently, MOHCD estimates that the level of subsidy for an affordable housing
24 unit is approximately \$350,000 per unit. Given this high cost per unit, San Francisco can only
25

1 meet its affordable housing goals through a combination of increased public dollars dedicated
2 to affordable housing and other tools that do not rely on public money.

3 (e) Development incentives are a long standing zoning tool that enable_s cities to
4 encourage private development projects to provide public benefits including affordable
5 housing. By offering increased development potential, a project sponsor can offset the
6 expenses necessary to provide additional public benefits. In 1979, the State of California
7 adopted the Density Bonus Law, Government Code section 65915 et seq. which requires that
8 density bonuses and other concessions and incentives be offered to projects that provide a
9 minimum amount of on-site affordable housing.

10 (f) In recognition of the City's affordable housing goals, including the need to
11 produce more affordable housing without the need for public subsidies, the Planning
12 Department contracted with David Baker Architects and Seifel Consulting to determine a
13 menu of zoning modifications and development bonuses that could offset a private
14 developer's costs of providing various levels of additional on-site affordable housing. These
15 experts analyzed various parcels in San Francisco, to determine the conditions in which a
16 zoning accommodation would be necessary to achieve additional density. The analysis
17 modeled various zoning districts and lot size configurations, consistent with current market
18 conditions and the City's stated policy goals, including to achieve a mix of unit types, including
19 larger units that can accommodate larger households. These reports are on file in Board of
20 Supervisors File No. 160687.

21 (g) Based on these reports, the Planning Department developed four programs to
22 provide options by which developers can include additional affordable units on-site through
23 increased density and other zoning or design modifications. These programs are the HOME-
24 SF Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density
25 Bonus Program and the Individually Requested Bonus Program. The HOME-SF Program can

1 also be used by developers who agree to subject the units to the San Francisco Rent Stabilization and
2 Arbitration Ordinance (Chapter 37 of the Administrative Code) (“the Rent Ordinance”).

3 (h) The goal of the HOME-SF Program is to increase affordable housing production,
4 especially housing affordable to middle income households. Housing for middle income
5 households in San Francisco is necessary to stabilize San Francisco’s households and
6 families, ensure income and household diversity in the long term population of San Francisco,
7 and reduce transportation impacts of middle income households working in San Francisco.
8 Middle income households do not traditionally benefit from public subsidies. The goal of the
9 HOME-SF Program is also to increase the number of units in San Francisco that will be subject to rent
10 control under San Francisco’s Rent Ordinance. The City adopted its Rent Ordinance in 1979, and the
11 Rent Ordinance has been critical in safeguarding tenants from excessive rent increases and evictions
12 without just cause. Rent control serves as an important policy tool to stabilize communities and
13 prevent displacement.

14 (i) The 100 Percent Affordable Housing Bonus Program provides additional
15 incentives for developers of 100% affordable housing projects, thereby reducing the overall
16 cost of such developments on a per unit basis.

17 (j) The Affordable Housing Bonus Program also establishes a clear local process for
18 all projects seeking the density bonuses guaranteed through the State Density Bonus Law.
19 The State Analyzed Program provides an expedited process for projects that comply with a
20 pre-determined menu of incentives, concessions and waivers of development standards that
21 the Department has determined can appropriately respond to neighborhood context without
22 causing adverse impacts on public health and safety, and provide affordable units through the
23 City’s already-established Inclusionary Housing Program. Projects requesting density or
24 concessions, incentives and waivers outside of the City’s preferred menu may seek a density
25 bonus consistent with State law in the Individually Requested Density Bonus Program.

1 (k) San Francisco’s small business community is an integral part of San Francisco’s
2 neighborhood commercial corridors, local economy, and rich culture. San Francisco is
3 committed to maintaining small businesses in its neighborhoods. For this reason, the HOME-
4 SF Program acknowledges the need for general assistance and support for any business that
5 might be impacted. Developments using the Affordable Housing Bonus Program will generally
6 produce additional commercial spaces which may enhance existing commercial corridors. The
7 Office of Economic and Workforce Development (OEWD), in coordination with the Office of
8 Small Business, currently coordinate on referrals to and deployment of a range of services to
9 small businesses including but not limited to: small business consulting, lease negotiation
10 assistance, small business loans, ADA Certified Access Specialists (CASp) inspection
11 services, legacy business registry, façade improvement assistance, commercial corridor
12 management, grants and assessments, relocation and broker services for production,
13 distribution and repair (PDR) businesses, business permit assistance, and coordination with
14 city agencies.

15
16 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**
17 **PROGRAM.**

18 (a) **Purpose.** This Section 206.3 sets forth the HOME-SF Program. The HOME-SF
19 Program or “HOME-SF” provides benefits to project sponsors of housing projects that *either*
20 *(1) set aside residential units onsite at below market rate rent or sales price in an amount*
21 *higher than the amount required by the Inclusionary Housing Ordinance, or (2) agree to subject*
22 *all units in the project, except for units required by the Inclusionary Housing Ordinance, to the San*
23 *Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).* The
24 purpose of HOME-SF is to expand the number of below market rate units produced in San
25 Francisco and provide housing opportunities to a wider range of incomes than traditional

1 affordable housing programs, such as the City's Inclusionary Affordable Housing Program,
2 Planning Code Sections 415 et seq., which typically provide housing only for very low, low or
3 moderate income households, and to expand the number of units in San Francisco that are subject
4 to rent control. For projects that elect to provide additional on-site below market rate units, ~~The~~
5 ~~purpose of~~ HOME-SF also ~~is to~~ provide_s an alternative method of complying with the on-site
6 inclusionary option set forth in Section 415.6. HOME-SF allows market-rate projects to match
7 the City's ~~shared~~ Proposition K (November 2014) housing goals that 50% of new housing
8 constructed or rehabilitated in the City by 2020 be within the reach of working middle class
9 San Franciscans, and that at least 33% be affordable for low and moderate income
10 households, and the Housing Element of the General Plan's finding that rent control has been critical
11 to protecting low- and moderate-income residents from being at risk of eviction and displacement.

12 (b) **Applicability.** A HOME-SF Project under this Section 206.3 shall be
13 a project that:

14 (1) contains three or more residential units, as defined in Section 102, not
15 including any Group Housing as defined in Section 102, efficiency dwelling units with reduced
16 square footage defined in Section 318, and Density Bonus Units permitted through this
17 Section 206.3, or any other density bonus;

18 (2) is located in any zoning district that: (A) is not designated as an RH-1 or
19 RH-2 Zoning District; and (B) establishes a maximum dwelling unit density through a ratio of
20 number of units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named
21 Neighborhood Commercial, and SoMa Mixed Use Districts; but only if the SoMa Mixed Use
22 District has a density measured by a maximum number of dwelling units per square foot of lot
23 area; (C) is not in the North of Market Residential Special Use District, Planning Code Section
24 249.5, until the Affordable Housing Incentive Study is completed at which time the Board will
25 review whether the North of Market Residential Special Use District should continue to be

1 excluded from this Program. The Study will explore opportunities to support and encourage
2 the provision of housing at the low, moderate, and middle income range in neighborhoods
3 where density controls have been eliminated. The goal of this analysis is to incentivize
4 increased affordable housing production levels at deeper and wider ranges of AMI and larger
5 unit sizes in these areas through 100% affordable housing development as well as below
6 market rate units within market rate developments; (D) is not located within the boundaries of
7 the Northeastern Waterfront Area Plan south of the centerline of Broadway; and (E) is not
8 located on property under the jurisdiction of the Port of San Francisco;

9 (3) is not seeking and receiving a density or development bonus under the
10 provisions of California Government Code Sections 65915 et seq., Planning Code Section
11 207, Section 124(f), Section 202.2(f), 304, or any other State or local program that provides
12 development bonuses;

13 (4) includes at least 135% of the Base Density as calculated under Planning
14 Code Section 206.5;

15 (5) consists of new construction, and excluding any project that includes an
16 addition to an existing structure;

17 (6) complies with the on-site Inclusionary Affordable Housing option set forth in
18 Planning Code Section 415.6; ~~provided however, that~~ If the project elects to provide HOME-SF
19 Units as set forth in subsection (c)(1)(A), the project shall comply with the on-site Inclusionary
20 Affordable Housing option set forth in Planning Code Section 415.6, provided however, that the
21 percentage of affordable units and the required affordable sales price or affordable rents set
22 forth in Section 415.6(a) shall be as provided in ~~this~~ Section 206.3(c)(1)(A), or Section 206.3(f),
23 as applicable;

24 (7) if any retail use is demolished or removed, does not include a Formula
25 Retail use, as defined in Section 303.1, unless the retail use demolished or removed was also

1 a Formula Retail Use, or was one of the following uses: Gas Stations, Private or Public
2 Parking Lots, Financial Services, Fringe Financial Services, Self Storage, Motel, Automobile
3 Sales or Rental, Automotive Wash, Mortuaries, Adult Business, Massage Establishment,
4 Medical Cannabis Dispensary, and Tobacco Paraphernalia Establishment, as those uses are
5 defined in Planning Code Section 102;

6 (8) if located north of the centerline of Post Street and east of the centerline of
7 Van Ness Avenue, all otherwise eligible HOME-SF Projects shall only be permitted on:

8 (A) lots containing no existing buildings; or

9 (B) lots equal to or greater than 12,500 square feet where existing
10 buildings are developed to less than 20% of the lot's principally permitted buildable gross floor
11 area as determined by height limits, rear yard requirements, and required setbacks; and

12 (9) if the City enacts an ordinance directing the Planning Department to study
13 the creation of a possible area plan wholly or partially located in Supervisorial District 9,
14 HOME-SF Projects shall not be permitted in any area in Supervisorial District 9 listed in the
15 ordinance until such time as the City enacts the area plan.

16 (c) **HOME-SF Project Eligibility Requirements.** To receive the development
17 bonuses granted under this Section 206.3, a HOME-SF Project must meet all of the following
18 requirements:

19 (1) Agree to either:

20 (A) Except as limited in application by subsection (f), ~~provide~~ provide 30% of
21 units in the HOME-SF Project as HOME-SF Units, as defined herein. The HOME-SF Units
22 shall be restricted for the Life of the Project and shall comply with all of the requirements of
23 the Procedures Manual authorized in Section 415 except as otherwise provided herein.
24 Twelve percent of HOME-SF Units that are Owned Units shall have an average affordable
25 purchase price set at 80% of Area Median Income; 9% shall have an average affordable

1 purchase price set at 105% of Area Median Income; and 9% shall have an average affordable
2 purchase price set at 130% of Area Median Income. Twelve percent of HOME-SF Units that
3 are rental units shall have an average affordable rent set at 55% of Area Median Income; 9%
4 shall have an average affordable rent set at 80% of Area Median Income; and 9% shall have
5 an average affordable rent set at 110% of Area Median Income. All HOME-SF Units must be
6 marketed at a price that is at least 20% less than the current market rate for that unit size and
7 neighborhood, and MOHCD shall reduce the Area Median Income levels set forth herein in
8 order to maintain such pricing. As provided for in subsection (e), the Planning Department and
9 MOHCD shall amend the Procedures Manual to provide policies and procedures for the
10 implementation, including monitoring and enforcement, of the HOME-SF Units; or,

11 (B) Subject all new Dwelling Units, except for any Affordable Units as defined in
12 Planning Code Section 401, to the San Francisco Residential Rent Stabilization and Arbitration
13 Ordinance (Chapter 37 of the Administrative Code) as may be amended from time to time.

14 (2) Demonstrate to the satisfaction of the Environmental Review Officer that the
15 HOME-SF Project does not:

16 (A) cause a substantial adverse change in the significance of an historic
17 resource as defined by California Code of Regulations, Title 14, Section 15064.5;

18 (B) create new shadow in a manner that substantially affects outdoor
19 recreation facilities or other public areas; and

20 (C) alter wind in a manner that substantially affects public areas;

21 (3) All HOME-SF units shall be no smaller than the minimum unit sizes set forth by
22 the California Tax Credit Allocation Committee as of May 16, 2017. In addition,
23 notwithstanding any other provision of this Code, HOME-SF projects shall provide a minimum
24 dwelling unit mix of (A) at least 40% two and three bedroom units, including at least 10% three
25 bedroom units, or (B) any unit mix which includes some three bedroom or larger units such

1 that 50% of all bedrooms within the HOME-SF Project are provided in units with more than
2 one bedroom. Larger units should be distributed on all floors, and prioritized in spaces
3 adjacent to open spaces or play yards. Units with two or three bedrooms are encouraged to
4 incorporate family friendly amenities. Family friendly amenities shall include, but are not
5 limited to, bathtubs, dedicated cargo bicycle parking, dedicated stroller storage, open space
6 and yards designed for use by children. HOME-SF Projects are not eligible to modify this
7 requirement under Planning Code Section 328 or any other provision of this Code;

8 (4) Does not demolish, remove or convert any residential units; and

9 (5) Includes at the ground floor level active uses, as defined in Section 145.1,
10 at the same square footages as any neighborhood commercial uses demolished or removed,
11 unless the Planning Commission has granted an exception under Section 328.

12 * * * *

13 (e) **Implementation.**

14 (1) **Application.** An application to participate in the HOME-SF Program shall
15 be submitted with the first application for approval of a Housing Project and processed
16 concurrently with all other applications required for the Housing Project. The application shall
17 be submitted on a form prescribed by the City and shall include at least the following
18 information:

19 (A) A full plan set, including a site plan, elevations, sections, and floor
20 plans, showing total number of units, number of and location of HOME-SF Units, *if any*; and a
21 draft Regulatory Agreement;

22 (B) The requested development bonuses and/or zoning modifications
23 from those listed in subsection (d).

1 (C) A list of all on-site family friendly amenities. Family friendly amenities
2 shall include, but are not limited to, dedicated cargo bicycle parking, dedicated stroller
3 storage, open space and yards designed for use by children.

4 (D) Documentation that the applicant has provided written notification to
5 all existing commercial or residential tenants that the applicant intends to develop the property
6 pursuant to this section 206.3 and has provided any existing commercial tenants with a copy
7 of the Office of Economic and Workforce Development's Guide to Small Business Retention
8 and Relocation Support. Any affected commercial tenants shall be given priority processing
9 similar to the Department's Community Business Priority Processing Program, as adopted by
10 the Planning Commission on February 12, 2015, under Resolution Number 19323, to support
11 relocation of such business in concert with access to relevant local business support
12 programs.

13 * * * *

14 (5) **Regulatory Agreements.** Recipients of development bonuses under this
15 Section 206.3 shall enter into a Regulatory Agreement with the City, as follows.

16 (A) The terms of the agreement shall be acceptable in form and content
17 to the Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director
18 shall have the authority to execute such agreements.

19 (B) Following execution of the agreement by all parties, the completed
20 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed
21 and recorded on the Housing Project.

22 (C) The approval and recordation of the Regulatory Agreement shall
23 take place prior to the issuance of the First Construction Document. The Regulatory
24 Agreement shall be binding to all future owners and successors in interest.

1 (D) The Regulatory Agreement shall be consistent with the guidelines of
2 the City's Inclusionary Housing Program and shall include at a minimum the following:

3 (i) The total number of dwelling units approved for the Housing
4 Project, including the number of HOME-SF Units, if any, or other restricted units;

5 (ii) A description of the household income group to be
6 accommodated by the HOME-SF Units, if any, and the standards for determining the
7 corresponding Affordable Rent or Affordable Sales Price. If required by the Procedures
8 Manual, the project sponsor must commit to completing a market survey of the area before
9 marketing HOME-SF Units;

10 (iii) The location, dwelling unit sizes (in square feet), and number
11 of bedrooms of the HOME-SF Units, if any;

12 (iv) Term of use restrictions for the life of the project;

13 (v) A schedule for completion and occupancy of HOME-SF Units,
14 if any;

15 (vi) A description of any Concession, Incentive, waiver, or
16 modification, ~~if any~~, being provided by the City;

17 (vii) A description of remedies for breach of the agreement (the
18 City may identify tenants or qualified purchasers as third party beneficiaries under the
19 agreement); ~~and~~

20 (viii) Other provisions to ensure implementation and compliance
21 with this Section; ~~and~~

22 (ix) for projects that elect to proceed under Section 206.3(c)(1)(B), a
23 statement that the units included in such project, except for any Affordable Units as defined in Planning
24 Code Section 401, are not subject to the Costa-Hawkins Rental Housing Act (California Civil Code
25 Sections 1954.50 et seq.) because under Section 1954.52(b), the property owner has entered into and

1 agreed to the terms of the agreement with the City in consideration for additional density and
2 modifications to the Planning Code, or other direct financial contribution or forms of assistance
3 specified in California Government Code Sections 65915 et seq.

4 (f) **Temporary provisions.** To facilitate the construction of HOME-SF projects that
5 elect to include HOME SF Units under subsection (c)(1)(A), and based on information from the
6 inclusionary housing study prepared for the Divisadero and Fillmore Neighborhood
7 Commercial Transit District, in Board of Supervisors File No. 151258, and the Office of the
8 Controller's Inclusionary Housing Working Group final report (February 2016), the HOME-SF
9 program shall include development incentives as specified in this subsection (f) based on the
10 amount and level of affordability provided in this subsection (f). For any development project
11 that has submitted a complete Development Application prior to January 1, 2020, subsections
12 (c)(1)(A) and (d)(1), (d)(2), and (d)(3) shall not apply, and the provisions in this subsection (f)
13 shall apply. For any development project that submits a complete Development Application on
14 or after January 1, 2020, this subsection (f) shall apply until such time as it may be amended
15 based on the Triennial Economic Feasibility Analysis established in Section 415.10. This
16 subsection (f) shall not apply to HOME-SF projects that elect to proceed under subsection (c)(1)(B).

17 (1) **HOME-SF Project Eligibility Requirements.** To receive the
18 development bonuses granted under this Section 206.3, a HOME-SF Project must provide a
19 percentage of units, in the amounts set forth in section 206.3(f)(2)(A), (B), or (C), as HOME-
20 SF Units, as defined in Section 206.2. The HOME-SF Units shall be restricted for the Life of
21 the Project and shall comply with all of the requirements of the Procedures Manual authorized
22 in Section 415 except as otherwise provided in this Section 206.3. All HOME-SF Units must
23 be marketed at a price that is at least 20% less than the current market rate for that unit size
24 and neighborhood, and MOHCD shall reduce the Area Median Income levels set forth in this
25 Section 206.3 in order to maintain such pricing. As provided for in subsection (e), the Planning

1 Department and MOHCD shall amend the Procedures Manual to provide policies and
2 procedures for the implementation, including monitoring and enforcement, of the HOME-SF
3 Units;

4 * * * *

5
6 Section 3. Chapter 37 of the Administrative Code is hereby amended by revising
7 Sections 37.2 and 37.3, to read as follows:

8
9 **SEC. 37.2. DEFINITIONS.**

10 * * * *

11 (r) **Rental Units.** All residential dwelling units in the City *and County of San Francisco*
12 together with the land and appurtenant buildings thereto, and all housing services, privileges,
13 furnishings, and facilities supplied in connection with the use or occupancy thereof, including
14 garage and parking facilities.

15 * * * *

16 The term "rental units" shall not include:

17 * * * *

18 (4) Except as provided in subsections (A)-(~~DE~~), dwelling units whose rents are
19 controlled or regulated by any government unit, agency, or authority, excepting those
20 unsubsidized and/or unassisted units which are insured by the United States Department of
21 Housing and Urban Development; provided, however, that units in unreinforced masonry
22 buildings which have undergone seismic strengthening in accordance with Building Code
23 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
24 ordinance is not in conflict with the seismic strengthening bond program or with the program's
25 loan agreements or with any regulations promulgated thereunder;

1 * * * *

2 (E) The term “rental units” shall include any new dwelling units created pursuant to
3 the HOME-SF Program set forth in Section 206.3(c)(1)(B) of the Planning Code.

4
5 **SEC. 37.3. RENT LIMITATIONS.**

6 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent
7 increases upon tenants in occupancy only as provided below and as provided by subsections
8 37.3(d) and 37.3(g):

9 * * * *

10 (d) **Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).**

11 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
12 and regardless of whether otherwise provided under Chapter 37:

13 (1) **Property Owner Rights to Establish Initial and All Subsequent Rental**
14 **Rates for Separately Alienable Parcels.**

15 (A) An owner ~~of~~ residential real property may establish the initial and
16 all subsequent rental rates for a dwelling or a unit which is alienable separate from the title to
17 any other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision
18 (b), (d), or (f) of Section 11004.5 of the California Business and Professions Code. The
19 owner's right to establish subsequent rental rates under this paragraph shall not apply to a
20 dwelling or unit where the preceding tenancy has been terminated by the owner by notice
21 pursuant to California Civil Code Section 1946 or has been terminated upon a change in the
22 terms of the tenancy noticed pursuant to California Civil Code Section 827; in such instances,
23 the rent increase limitation provisions of Chapter 37 shall continue to apply for the duration of
24 the new tenancy in that dwelling or unit.

25 * * * *

1 (D) An owner's right to establish subsequent rental rates under subsection
2 37.3(d)(1) shall not apply to a dwelling unit that is created pursuant to the HOME-SF Program set
3 forth in Section 206.3(c)(1)(B) of the Planning Code.

4 * * * *

5 **(g) New Construction and Substantial Rehabilitation.**

6 (1) An owner of a residential dwelling or unit which is newly constructed and
7 first received a certificate of occupancy after the effective date of Ordinance No. 276-79 (June
8 13, 1979), or which the Rent Board has certified has undergone a substantial rehabilitation,
9 may establish the initial and all subsequent rental rates for that dwelling or unit, except:

10 (A) where rent restrictions apply to the dwelling or unit under
11 Sections 37.3(d) or 37.3(f);

12 (B) where the dwelling or unit is a replacement unit under
13 Section 37.9A(b);

14 (C) as provided for certain categories of Accessory Dwelling Units under
15 Section 37.2(r)(4)(D); ~~and~~

16 (D) as provided in a development agreement entered into by the City
17 under Administrative Code Chapter 56.; and

18 (E) as provided for certain categories of new dwelling units under Section
19 37.2(r)(4)(E).

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

1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7

8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/AUDREY WILLIAMS PEARSON
11 AUDREY WILLIAMS PEARSON
 Deputy City Attorney

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EXHIBIT D

1 [Planning Code - HOME-SF]
 2

3 **Ordinance amending the Planning Code to exclude designated historic districts under**
 4 **Article 10 of the Planning Code from the provisions of the Home Ownership Means**
 5 **Equity - San Francisco (HOME-SF) program; affirming the Planning Department's**
 6 **determination under the California Environmental Quality Act; and making findings of**
 7 **consistency with the General Plan, and the eight priority policies of Planning Code,**
 8 **Section 101.1, and findings of public necessity, convenience, and welfare under**
 9 **Planning Code, Section 302.**

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

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

18 Section 1. Environmental and Planning Code Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
 20 ordinance comply with the California Environmental Quality Act (California Public Resources
 21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
 22 Supervisors in File No. 221105 and is incorporated herein by reference. The Board affirms
 23 this determination.

24 (b) On _____, the Planning Commission, in Resolution No. _____,
 25 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) On _____, the Planning Commission, in Resolution No. _____,
4 recommended this ordinance for adoption by the Board of Supervisors, and adopted findings
5 that it will serve the public necessity, convenience, and welfare, as provided in Planning Code
6 Section 302. The Board adopts these findings as its own. A copy of said Resolution is on file
7 with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
8 reference.

9
10 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
11 206.3, to read as follows:

12
13 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**
14 **PROGRAM.**

15 * * * *

16 (b) **Applicability.** A HOME-SF Project under this Section 206.3 shall be a project that:

17 (1) contains three or more residential units, as defined in Section 102, not
18 including any Group Housing as defined in Section 102, efficiency dwelling units with reduced
19 square footage defined in Section 318, and Density Bonus Units permitted through this
20 Section 206.3, or any other density bonus;

21 (2) is located in any zoning district that: (A) is not designated as an RH-1 or RH-
22 2 Zoning District; and (B) establishes a maximum dwelling unit density through a ratio of
23 number of units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named
24 Neighborhood Commercial, and SoMa Mixed Use Districts; but only if the SoMa Mixed Use
25 District has a density measured by a maximum number of dwelling units per square foot of lot

1 area; (C) is not in the North of Market Residential Special Use District, Planning Code Section
2 249.5, until the Affordable Housing Incentive Study is completed at which time the Board will
3 review whether the North of Market Residential Special Use District should continue to be
4 excluded from this Program. The Study will explore opportunities to support and encourage
5 the provision of housing at the low, moderate, and middle income range in neighborhoods
6 where density controls have been eliminated. The goal of this analysis is to incentivize
7 increased affordable housing production levels at deeper and wider ranges of AMI and larger
8 unit sizes in these areas through 100% affordable housing development as well as below
9 market rate units within market rate developments; (D) is not located within the boundaries of
10 the Northeastern Waterfront Area Plan south of the centerline of Broadway; ~~and~~ (E) is not
11 located on property under the jurisdiction of the Port of San Francisco; and (F) is not located in
12 a designated historic district under Article 10 of this Code;

13 (3) is not seeking and receiving a density or development bonus under the
14 provisions of California Government Code Sections 65915 et seq., Planning Code Section
15 207, Section 124(f), Section 202.2(f), Section 304, or any other State or local program that
16 provides development bonuses;

17 (4) includes at least 135% of the Base Density as calculated under Planning
18 Code Section 206.5;

19 (5) consists of new construction, and excluding any project that includes an
20 addition to an existing structure;

21 (6) complies with the on-site Inclusionary Affordable Housing option set forth in
22 Planning Code Section 415.6; provided however, that the percentage of affordable units and
23 the required affordable sales price or affordable rents set forth in Section 415.6(a) shall be as
24 provided in this Section 206.3;

25

1 (7) if any retail use is demolished or removed, does not include a Formula
2 Retail use, as defined in Planning Code Section 303.1, unless the retail use demolished or
3 removed was also a Formula Retail Use, or was one of the following uses: Gas Stations,
4 Private or Public Parking Lots, Financial Services, Fringe Financial Services, Self Storage,
5 Motel, Automobile Sales or Rental, Automotive Wash, Mortuaries, Adult Business, Massage
6 Establishment, Medical Cannabis Dispensary, and Tobacco Paraphernalia Establishment, as
7 those uses are defined in Planning Code Section 102;

8 (8) if located north of the centerline of Post Street and east of the centerline of
9 Van Ness Avenue, all otherwise eligible HOME-SF Projects shall only be permitted on:

10 (A) lots containing no existing buildings; or

11 (B) lots equal to or greater than 12,500 square feet where existing
12 buildings are developed to less than 20% of the lot's principally permitted buildable gross floor
13 area as determined by height limits, rear yard requirements, and required setbacks;

14 (9) if the City enacts an ordinance directing the Planning Department to study
15 the creation of a possible area plan wholly or partially located in Supervisorial District 9,
16 HOME-SF Projects shall not be permitted in any area in Supervisorial District 9 listed in the
17 ordinance until such time as the City enacts the area plan.

18 * * * *

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.
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Article 10 parcels with filters

EXHIBIT E

