


BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Phil Ginsburg, General Manager, Department of Recreation and Parks  
Olson Lee, Director, Mayor's Office of Housing and Community  
Development  
Cynthia Goldstein, Executive Director, Board of Appeals

FROM:  Alisa Somera, Assistant Clerk  
Land Use and Transportation Committee

DATE: November 25, 2015

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following **substitute** legislation, introduced by Supervisor Wiener on November 17, 2015:

**File No. 150914-3**

Ordinance amending the Planning Code to permit affordable housing as a principal use and not requiring a conditional use permit, Section 309 review or large project authorization for affordable housing, except where residential uses are prohibited by the zoning, located in RH (Residential, House) zoning districts or on designated public open space or property under the jurisdiction of the Recreation and Park Department; affirming the Planning Department's determination under the California Environmental Quality Act; making Planning Code, Section 302 findings; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org).

c: Sarah Ballard, Recreation and Park Department  
Sophie Hayward, Mayor's Office of Housing and Community Development  
Gary Cantara, Board of Appeals

1 [Planning Code - Affordable Housing as Principal Use]

2  
3 **Ordinance amending the Planning Code to permit affordable housing as a principal use**  
4 **and not requiring a conditional use permit, Section 309 review or large project**  
5 **authorization for affordable housing, except where residential uses are prohibited by**  
6 **the zoning, located in RH zoning districts or on designated public open space or**  
7 **property under the jurisdiction of the Recreation and Parks Department; and affirming**  
8 **the Planning Department's determination under the California Environmental Quality**  
9 **Act; Planning Code, Section 302 findings; and making findings of consistency with the**  
10 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

19 Section 1. 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. \_\_\_\_\_ and is incorporated herein by reference. The Board affirms this  
24 determination.  
25

1 (b) On \_\_\_\_\_, 2015, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
5 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
7 amendments will serve the public necessity, convenience, and welfare for the reasons set  
8 forth in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such reasons  
9 herein by reference, as though fully set forth herein.

10  
11 Section 2. The Planning Code is hereby amended by revising Sections 202, 253, 309  
12 and 329 to read as follows:

13 **SEC. 202. USES PERMITTED BY THIS CODE.**

14 \* \* \* \*

15 (e) Notwithstanding anything to the contrary contained in this Planning Code, any project  
16 where the principal use is housing comprised solely of housing that is restricted for a minimum of 55  
17 years as affordable for "persons and families of low or moderate income," as defined in California  
18 Health & Safety Code Section 50093, shall be considered a principally permitted use and shall not  
19 require conditional use authorization, permit review under Planning Code Section 309, authorization  
20 as a planned unit development or a large project authorization, provided that the site is not designated  
21 as public open space, is not under the jurisdiction of the San Francisco Recreation and Park  
22 Department, or is not located in a zoning district that prohibits residential uses or in an RH zoning  
23 district. The City may develop, or cause to be developed, any project where the principal use is  
24 housing comprised solely of housing that is restricted for a minimum of 55 years as affordable for  
25 "persons and families of low or moderate income," as defined in California Health & Safety Code

1 Section 50093, provided that the site is not designated as public open space, is not under the  
2 jurisdiction of the San Francisco Recreation and Park Department, or is not located in a zoning district  
3 that prohibits residential uses or in an RH zoning district. If a non-residential use contained in any  
4 proposed project would require conditional use authorization, permit review under Planning Code  
5 Section 309, authorization as a planned unit development or a large project authorization, such  
6 requirement would apply unless the non-residential use is accessory to and supportive of the affordable  
7 housing on-site. Upon request, the Zoning Administrator shall make a written determination about  
8 whether a site is designated as public open space, which determination may be appealed to the Board  
9 of Appeals.

10  
11 **SEC. 253. REVIEW OF PROPOSED BUILDINGS AND STRUCTURES EXCEEDING A**  
12 **HEIGHT OF 40 FEET IN RH DISTRICTS, OR MORE THAN 50 FEET IN RM AND RC**  
13 **DISTRICTS.**

14 (a) Notwithstanding any other provision of this Code to the contrary, in any RH, RM, or  
15 RC District, established by the use district provisions of Article 2 of this Code, wherever a  
16 height limit of more than 40 feet in a RH District, or more than 50 feet in a RM or RC District,  
17 is prescribed by the height and bulk district in which the property is located, any building or  
18 structure exceeding 40 feet in height in a RH District, or 50 feet in height in a RM or RC  
19 District, shall be permitted only upon approval by the Planning Commission according to the  
20 procedures for conditional use approval in Section 303 of this Code; provided, however, that a  
21 building over 40 feet in height in a RM or RC District with more than 50 feet of street frontage  
22 on the front façade is subject to the conditional use requirement; and provided further any  
23 project where the principal use is housing comprised solely of housing that is restricted for a minimum  
24 of 55 years as affordable for “persons and families of low or moderate income.” as defined in  
25 California Health & Safety Code Section 50093, and is not located in an RH zoning district or on a site

1 designated as public open space or under the jurisdiction of the San Francisco Recreation and Park  
2 Department, shall not require conditional use authorization as described in this Section 253. If any  
3 non-residential uses contained in the project would require conditional use authorization, such  
4 requirement would apply unless the non-residential use is accessory to and supportive of the affordable  
5 housing on-site. Upon request, the Zoning Administrator shall make a written determination about  
6 whether a site is designated as public open space, which determination may be appealed to the Board  
7 of Appeals.

8 (b) Commission Review of Proposals.

9 (1) In reviewing any such proposal for a building or structure exceeding 40 feet  
10 in height in a RH District, 50 feet in height in a RM or RC District, or 40 feet in a RM or RC  
11 District where the street frontage of the building is more than 50 feet the Planning  
12 Commission shall consider the expressed purposes of this Code, of the RH, RM, or RC  
13 Districts, and of the height and bulk districts, set forth in Sections 101, 209.1, 209.2, 209.3,  
14 and 251 hereof, as well as the criteria stated in Section 303(c) of this Code and the objectives,  
15 policies and principles of the General Plan, and may permit a height of such building or  
16 structure up to but not exceeding the height limit prescribed by the height and bulk district in  
17 which the property is located.

18 (2) In reviewing a proposal for a building exceeding 50 feet in RM and RC  
19 districts, the Planning Commission may require that the permitted bulk and required setbacks  
20 of a building be arranged to maintain appropriate scale on and maximize sunlight to narrow  
21 streets (rights-of-way 40 feet in width or narrower) and alleys.

22  
23 **SEC. 309. PERMIT REVIEW IN C-3 DISTRICTS.**

24 The provisions and procedures set forth in this Section shall govern the review of  
25 project authorization and building and site permit applications for (1) the construction or

1 substantial alteration of structures in C-3 Districts, (2) the granting of exceptions to certain  
2 requirements of this Code where the provisions of this Section are invoked, and (3) the  
3 approval of open space and streetscape requirements of the Planning Code. When any action  
4 authorized by this Section is taken, any determination with respect to the proposed project  
5 required or authorized pursuant to CEQA may also be considered. This Section 309 shall not  
6 require review for any project where the principal use is housing comprised solely of housing that is  
7 restricted for a minimum of 55 years as affordable for “persons and families of low or moderate  
8 income,” as defined in California Health & Safety Code Section 50093, provided that the site is not  
9 designated as public open space or under the jurisdiction of the San Francisco Recreation and Park  
10 Department. If any non-residential uses contained in the project would otherwise require review under  
11 this Section 309, such requirement would apply unless the non-residential use is accessory to and  
12 supportive of the affordable housing on-site. Upon request, the Zoning Administrator shall make a  
13 written determination about whether a site is designated as public open space, which determination  
14 may be appealed to the Board of Appeals. This Section 309 shall not require additional review in  
15 connection with a site or building permit application if review hereunder was completed with  
16 respect to the same proposed structure or alteration in connection with a project authorization  
17 application pursuant to Section 322.

18 \* \* \* \*

19 **SEC. 329. LARGE PROJECT AUTHORIZATION IN EASTERN NEIGHBORHOODS**  
20 **MIXED USE DISTRICTS.**

21 (a) **Purpose.** The purpose of this Section is to ensure that all large projects proposed  
22 in the Eastern Neighborhoods Mixed Use Districts are reviewed by the Planning Commission,  
23 in an effort to achieve the objectives and policies of the General Plan, the applicable Design  
24 Guidelines, and the purposes of this Code.

25 (b) **Applicability.**

1           (1) This Section 329 applies to all projects in the Eastern Neighborhoods Mixed  
2 Use Districts, except projects in the Western SoMa Special Use District, subject to Section  
3 823(c)(12), that meet at least one of the following criteria:

4                   (± A) The project includes the construction of a new building greater  
5 than 75 feet in height (excluding any exceptions permitted per Section 260(b)), or includes a  
6 vertical addition to an existing building with a height of 75 feet or less resulting in a total  
7 building height greater than 75 feet; or

8                   (± B) The project involves a net addition or new construction of more  
9 than 25,000 gross square feet.


10           (2) This Section 329 shall not apply to any project where the principal use is housing  
11 comprised solely of housing that is restricted for a minimum of 55 years as affordable for “persons  
12 and families of low or moderate income,” as defined in California Health & Safety Code Section  
13 50093, and is not located on a site designated as public open space or under the jurisdiction of the  
14 San Francisco Recreation and Park Department. If any non-residential uses contained in the project  
15 otherwise would require large project authorization or conditional use authorization, such  
16 requirement would apply unless the non-residential use is accessory to and supportive of the  
17 affordable housing on-site. Upon request, the Zoning Administrator shall make a written  
18 determination about whether a site is designated as public open space, which determination may be  
19 appealed to the Board of Appeals.

20  
21           Section 3. 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 4. 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 DENNIS J. HERRERA, City Attorney

10 By:

  
KATE H. STACY  
Deputy City Attorney

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