

BOARD of SUPERVISORS



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MEMORANDUM

Date: May 28, 2024
To: Planning Department / Commission
From: Victor Young, Clerk of the Rules Committee *Victor Young*
Subject: Board of Supervisors Legislation Referral - File No. 240550
Charter Amendment - Affordable Housing Opportunity Fund for Seniors and Families

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Victor Young at Victor.Young@sfgov.org.

LEGISLATIVE DIGEST

[Charter Amendment - Affordable Housing Opportunity Fund for Seniors and Families]

Describing and setting forth a proposal to the voters at an election to be held on November 5, 2024, to amend the Charter of the City and County of San Francisco to require the Board of Supervisors set aside specified funds in the City’s budget each year, beginning in Fiscal Year 2026-2027, to fund project-based rental subsidies for extremely low-income households consisting of seniors, families with children, and persons with disabilities.

Background Information

This Charter Amendment creates Section 16.132 to establish a Senior and Families Affordable Housing Opportunity Fund (“Fund”) to be administered by the Mayor’s Office of Housing and Community Development (“MOHCD”). This new law requires that, beginning in Fiscal Year 2026-2027, the City must appropriate to the Fund \$8.25 million. The amount the City must appropriate to the Fund will increase each year by an additional \$8.25 million until Fiscal Year 2029-2030, at which point the City must appropriate \$33 million to the Fund. Thereafter and through Fiscal Year 2045-2046, the City must appropriate to the Fund at least the amount appropriated the prior year, adjusted up by up to 3% based on the City’s revenues. However, in Fiscal Year 2026-2027 or thereafter, the City may reduce the amount it appropriates to the Fund in the event of a projected budget deficit exceeding \$250 million. In such cases, the City must still appropriate at least \$8.25 million to the Fund.

Money in the Fund must be disbursed by MOHCD through grants or other types of payments to provide project-based rent subsidies for new and existing permanent affordable housing in the City. The projects MOHCD may fund are those intended to benefit extremely low income (“ELI”) households consisting of seniors and disabled adults earning up to 25% of median income and families earning up to 35% of median income. The legislation establishes categories of eligible projects to benefit these households, including acutely low-income disabled persons and seniors earning up to 15% of median income. Except that the funds may be used to expand available housing in existing Senior Operating Subsidies Program Fund programs, the Fund may not be used to fund other rental subsidy programs that already exist in the City. The Fund will expire on December 31, 2046 unless it is extended by the voters.

1 [Charter Amendment - Affordable Housing Opportunity Fund for Seniors and Families]

2
3 **Describing and setting forth a proposal to the voters at an election to be held on November**
4 **5, 2024, to amend the Charter of the City and County of San Francisco to require the**
5 **Board of Supervisors set aside specified funds in the City’s budget each year, beginning in**
6 **Fiscal Year 2026-2027, to fund project-based rental subsidies for extremely low-income**
7 **households consisting of seniors, families with children, and persons with disabilities.**

8
9 Section 1. Findings.

10 (a) California law requires the City to adopt a Housing Element that commits to
11 approving an annual number of 1,748 units of housing, or 13,981 units total, over eight years,
12 affordable to Extremely Low-Income (“ELI”) households making up to 30% of the region’s Area
13 Median Income (“AMI”). The rents affordable to households making 30% of AMI do not cover
14 the operational costs of affordable housing projects, and as a result, project sponsors serving ELI
15 households in affordable housing projects face a financial operating deficit. In addition, there are
16 an insufficient number of higher-paying renters within affordable housing projects to cover the
17 financial operating deficit based on affordable rents for ELI households. Thus, project sponsors
18 of affordable housing projects cannot subsidize a sufficient number of units for ELI renters to
19 meet the City’s Housing Element goals and feasibly operate their affordable housing projects.

20 (b) Due to the high cost of developing and operating housing in San Francisco, most
21 affordable housing rents are set at income limits that are out of reach for ELI households. The
22 largest funding source for affordable housing development – the Low-Income Housing Tax
23 Credit (“LIHTC”) – is designed to make units affordable to households with incomes at 50%-
24 60% of AMI, with rents up to twice that which would be affordable to ELI households.
25 Additionally, the City’s Below Market Rate (“BMR”) units under the Inclusionary Housing
Program (Planning Code Section 415 *et seq.*) are also out of reach for extremely low-income (as

1 well as very low-income) households, as the Inclusionary Housing Program only requires
2 developers to set rents for low-income (55% of AMI), moderate-income (80% of AMI), and
3 middle-income households (110% of AMI). Given these barriers to the production of affordable
4 housing for ELI households, it is not surprising that the majority of affordable housing produced
5 in San Francisco since 2005 has only targeted very low-income (30%-50% of AMI) and low-
6 income (50%-80% of AMI) households.

7 (c) Seniors on fixed incomes and adults with disabilities are particularly rent-burdened.
8 According to the Department of Disability and Aging Services (“DAAS”), there are
9 approximately 52,600 households in San Francisco with a senior aged 62 years or older, and
10 20,000 households with a disabled adult aged 18-61 years. Of those households with a senior
11 member, 33,900 income-qualify as ELI, and of those households with a disabled adult, 8,900
12 income-qualify as ELI.

13 (d) There are approximately 66,000 ELI households in San Francisco, and 80% of them
14 are rent-burdened or paying more than 30% of their income on rent.

15 (e) While funding for the development and construction of affordable senior housing has
16 historically been generated through affordable housing bond issuances, LIHTC, and MOHCD
17 loans, the 15-year underwriting standards of private lenders and the Mayor’s Office of Housing
18 and Community Development (“MOHCD”) require rents affordable to low income households
19 that are well out of reach for ELI households. Many affordable senior housing projects lack the
20 operating subsidies that would be necessary to maintain rents required under such underwriting
21 guidelines while charging affordable rents to ELI seniors, meaning that the seniors most in need
22 of safe, stable, and affordable senior housing end up in our city’s Single Room Occupancy
23 (“SRO”) hotels or shelter system – or worse, on the streets.

24 (f) Approximately 12% (or 8,000) of ELI households are families with children. A full-
25 time minimum wage worker in San Francisco makes approximately \$37,600 per year. A single

1 parent working full-time at a minimum wage job does not earn enough to pay or qualify for two-
2 or three-bedroom units at the majority of the City's affordable housing developments as their
3 income falls just under 30% of AMI.

4 (g) The DAAS estimates that there are 41,900 ELI households with a senior or disabled
5 member and that over 56% of those households are rent-burdened. The median monthly income
6 of a single-senior household is \$1,511, and that of a household consisting of a single adult with a
7 disability is \$1,493 – or approximately 15% of AMI in both cases. The rent for a studio
8 apartment at a majority of the City's affordable housing developments is only affordable to
9 households with incomes at or above 50% of AMI.

10 (h) More than 75% of all ELI residents in the City are people of color. Forty-eight
11 percent of African American, 31% of American Indian, 23% of Latino, and 22% of Asian
12 households are ELI. In response to the COVID-19 pandemic, the City funded the Emergency
13 Rental Assistance Program (“ERAP”). Of ERAP's 23,462 applicants, more than half had
14 incomes below 19% of AMI and over 85% had incomes below 30% of AMI. Twenty-seven
15 percent of applicants identified as Black or African American and almost 21% identified as
16 Latino.

17 (i) The San Francisco Reparations Plan 2023, prepared by the San Francisco Human
18 Rights Commission, identified the establishment and enforcement of a City policy to prioritize
19 the creation of low-income and acutely low-income housing based on 30% of AMI as a key
20 policy recommendation (Policy Recommendation 1.5).

21 (j) The lack of stable and continuous operating subsidies leads to rents that disqualify the
22 City's neediest and most vulnerable populations, including rents for affordable housing acquired
23 or preserved through bond funds. Affordable housing non-profits are struggling to acquire and
24 preserve “small-sites,” funded through MOHCD, given the high cost of deferred maintenance
25 and lack of operating subsidies to make the rents affordable to ELI households.

1 (k) Despite hundreds of millions raised from revenue measures, and unanimous Board of
2 Supervisors support, the City’s budget has failed to fund crucial affordable housing strategies
3 each year for ELI households, including seniors, families with children, and persons with
4 disabilities. To ensure ELI households can afford to reside in the City’s affordable housing, the
5 City must provide annual funding specifically to the City’s affordable housing serving ELI
6 households.

7 (l) MOHCD estimates that the total cost to subsidize the 13,981 ELI units mandated in
8 the Housing Element will be \$175 million annually.

9 (m) There have been dramatic cuts to United States Department of Housing and Urban
10 Development (“HUD”) operating subsidy programs (including Section 8 low-income rent
11 subsidies, HUD Section 202 housing program for seniors, and HUD Section 811 housing
12 program for people with disabilities). The State of California does not fund any operating
13 subsidy programs.

14 (n) The Bay Area Housing Finance Agency (“BAHFA”) is expected to place a \$20
15 billion regional affordable housing bond on the November 2024 ballot. While BAHFA’s
16 Business Plan prioritizes the production of units for ELI households, the operating subsidies
17 needed to create ELI-affordable units are not an eligible use of bond revenue. The BAHFA
18 Business Plan acknowledges that, “this housing type requires reliable, ongoing operating
19 subsidies to successfully stabilize households’ tenancies” and that BAHFA expects to work
20 closely with local jurisdictions to create the financing programs necessary to make ELI housing
21 successful.

22 (o) This Charter Amendment addresses a chronic budgetary problem by setting aside a
23 portion of the City’s existing revenue each year to fund project-based rent subsidies for existing
24 and newly constructed permanent affordable housing for ELI households.

1 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
2 and County, at an election to be held on November 5, 2024, a proposal to amend the Charter of
3 the City and County by adding Section 16.132, to read as follows:

4 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
5 **Additions** are single-underline italics Times New Roman font.
6 **Deletions** are ~~strike-through italics Times New Roman font~~.
7 **Asterisks (* * * *)** indicate the omission of unchanged Charter
8 subsections.

8 **SEC. 16.132. SENIORS AND FAMILIES AFFORDABLE HOUSING**

9 **OPPORTUNITY FUND.**

10 (a) Establishment of Fund. There is hereby established the Affordable Housing
11 Opportunity Fund for Seniors and Families (“Fund”) to be administered by the Mayor’s Office
12 of Housing and Community Development (“MOHCD”), or any successor agency. Monies
13 therein shall be expended or used solely by MOHCD, subject to the budgetary and fiscal
14 provisions of the Charter. The Fund shall be administered as a Category Four fund as set forth
15 in Administrative Code Section 10.100-1.

16 (b) Purpose of Fund. The purpose of the Fund is to increase and fund subsidies for
17 permanently affordable housing to make rents affordable for Extremely Low-Income
18 Households.

19 (c) Definitions.

20 “Acutely Low-Income Disabled Persons” shall mean households consisting of persons
21 eligible for accessible units for disabled households and earning up to 15% of median income.

22 “Acutely Low-Income Seniors” shall mean households consisting of seniors and
23 earning up to 15% of Median Income.

1 “Extremely Low-Income Disabled Persons” shall mean households consisting of
2 persons eligible for accessible units for disabled households and earning up to 25% of Median
3 Income, and including Acutely Low-Income Disabled Persons.

4 “Extremely Low-Income Families” shall mean households consisting of families with
5 children and earning up to 35% of Median Income.

6 “Extremely Low-Income Households” shall mean, collectively, Extremely Low-Income
7 Disabled Persons, Extremely Low-Income Families, and Extremely Low-Income Seniors.

8 “Extremely Low-Income Seniors” shall mean households consisting of seniors and
9 earning up to 25% of Median Income, and including Acutely Low-Income Seniors.

10 “Fund” shall mean the Affordable Housing Opportunity Fund for Seniors and Families
11 established in this Section 16.132.

12 “Housing Preservation Program” shall mean a program administered by MOHCD to
13 preserve multifamily residential buildings or buildings with SRO Units as Permanent Affordable
14 Housing that are at risk of loss of affordability or at risk of loss of the opportunity to create
15 permanent housing affordability, due to vacancy decontrol or market speculation, and/or at risk
16 due to their physical condition and need for life safety improvements.

17 “LOSP” shall mean MOHCD’s Local Operating Subsidy Program for homeless
18 individuals and families as described by Administrative Code Section 120.1, or any successor
19 provision.

20 “Median Income” means the median income published annually by MOHCD for the
21 City and County of San Francisco, adjusted solely for household size, and derived in part from
22 the income limits and area median income determined by the United States Department of
23 Housing and Urban Development for the San Francisco area, but not adjusted for a high
24 housing cost area.

1 “MOHCD” shall mean the Mayor’s Office of Housing and Community Development,
2 or any successor agency.

3 “Permanent Affordable Housing” shall mean a multifamily housing building or a
4 building with SRO Units that is: (1) regulated and monitored by the City under a recorded deed
5 restriction, recorded regulatory agreement, and/or ground lease ensuring permanent
6 affordability for the useful life of the property but for no less than 75 years; (2) 100% of the
7 residential units are restricted to income qualified households (except any manager units) with a
8 maximum average of not more than 80% of Median Income across all units in a project, but not
9 to exceed 120% of Median Income for any unit; and (3) with a rent for all units in a project
10 affordable to such households, at initial residence and at re-rental at no more than 30% of the
11 maximum household income. Permanent Affordable Housing may include principally permitted
12 non-residential uses on the ground floor, and non-residential uses that are accessory to and
13 supportive of the affordable housing.

14 “Senior Housing” shall have the same meaning as in Planning Code Sections 102 and
15 202.2(f)(1), as amended from time to time.

16 “Senior Operating Subsidies (SOS) Program Fund” shall refer to the program
17 established and described by Administrative Code Section 10.100-324, or any successor
18 program.

19 “SRO Unit” shall mean a Single Room Occupancy Unit and shall have the same
20 meaning as in Planning Code Section 890.88(c), as amended from time to time.

21 **(d) Annual Appropriations to the Fund.**

22 (1) In Fiscal Year 2026-2027, the City shall appropriate \$8.25 million to the Fund.
23 In Fiscal Year 2027-2028, the City shall appropriate \$16.5 million to the Fund. In Fiscal Year
24 2028-2029, the City shall appropriate \$24.75 million to the Fund. In Fiscal Year 2029-2030, the
25 City shall appropriate \$33 million to the Fund.

1 (2) In each year after Fiscal Year 2029-2030 and through Fiscal Year 2045-2046, the
2 City shall appropriate to the Fund an amount equal to the prior year's appropriation, adjusted
3 by the percentage increase or decrease in aggregate discretionary revenues, as determined by
4 the Controller, based on calculations consistent from year to year, provided that the City may
5 not increase appropriations to the Fund under this subsection (d)(2) by more than 3% in any
6 fiscal year. In determining aggregate City discretionary revenues, the Controller shall only
7 include revenues received by the City that are unrestricted and may be used at the option of the
8 Mayor and the Board of Supervisors for any lawful City purpose.

9 (3) Notwithstanding subsections (d)(1) and (d)(2), the City may reduce the amount
10 appropriated to the Fund in any fiscal year when the City's projected budget deficit for the
11 upcoming fiscal year at the time of the March Joint Report or March Update to the Five Year
12 Financial Plan as prepared jointly by the Controller, the Mayor's Budget Director, and the
13 Board of Supervisors' Budget Analyst exceeds \$250 million, adjusted annually beginning with
14 Fiscal Year 2026-2027 by the percentage increase or decrease in aggregate City discretionary
15 revenues, as determined by the Controller, based on calculations consistent from year to year;
16 provided, however, that the amount appropriated to the Fund in any fiscal year must be no less
17 than \$8.25 million.

18 (4) The Controller shall set aside and maintain appropriations, together with any
19 interest earned thereon, in the Fund.

20 (e) **Uses of the Fund.** The City, acting through MOHCD, shall disburse monies from
21 the Fund through grants or other types of payments, on terms determined by MOHCD in its sole
22 discretion. Any repayment of a grant or other payment from the Fund that the City receives will
23 be returned to the Fund. Monies in the Fund shall be used to provide project-based rent
24 subsidies only for new and existing Permanent Affordable Housing that would allow:
25

1 (1) Extremely Low-Income Seniors to afford a unit with rent restricted at 30% of
2 50% of Median Income in new or existing Permanent Affordable Housing that is Senior Housing
3 and such households to pay a maximum rent not to exceed 30% of 15% of Median Income or
4 30% of 25% of Median Income, as applicable to the household's income, with priority for Senior
5 Housing that provides housing to persons at or over the age of 62; or

6 (2) Extremely Low-Income Families to afford a unit with rent restricted at 30% of
7 50% of Median Income in new or existing Permanent Affordable Housing and such households
8 pay a maximum rent not to exceed 30% of 35% of Median Income, provided that no more than
9 20% of annual funding from the Fund shall be used for the purpose of subsidizing existing
10 Permanent Affordable Housing described in this subsection (e)(2); or

11 (3) Extremely Low-Income Disabled Persons to afford new or existing accessible
12 units designated and designed for disabled households in Permanent Affordable Housing with
13 rent restricted at 30% of 50% of Median Income and such households to pay a maximum rent
14 not to exceed 30% of 15% of Median Income or 30% of 25% of Median Income, as applicable to
15 the household's income; or

16 (4) Extremely Low-Income Households to afford a unit with rent restricted at 30% of
17 50% of Median Income in existing multifamily residential housing or existing buildings with
18 SRO Units preserved through funding under a Housing Preservation Program and such
19 households to pay a maximum rent not to exceed 30% of 15% of Median Income, 30% of 25% of
20 Median Income, or 30% of 35% of Median Income, as applicable to the household's income.

21 Monies in the Fund shall not be used to provide rent subsidies directly to tenants to
22 lease market-rate residential units or to provide any other form of housing assistance that is not
23 supporting the operation of a Permanent Affordable Housing unit, except that funds may be used
24 to adjust rent levels for Extremely Low-Income Households to reflect changes in household size
25 or income. Except for expanding the availability of existing Senior Operating Subsidies (SOS)

