

BOARD of SUPERVISORS



City Hall
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MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: July 18, 2023

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 18, 2023

The following file was forwarded as a **COMMITTEE REPORT** to the Board meeting, Tuesday, July 18, 2023. This item was acted upon at the Committee Meeting on Monday, July 17, 2023, at 1:30 p.m., by the votes indicated below.

Item No. 76 **File No. 230770**

Ordinance amending the Administrative Code to provide that tenant-occupied units in buildings that will be receiving either low-income housing tax credits or tax-exempt multifamily revenue bonds shall remain subject to the Rent Ordinance, as long as any of the existing tenants continue to reside in the unit, or unless all the tenants in the unit agree otherwise in writing; and for any such units that may have previously become exempt from the Rent Ordinance since 2018, restoring rents to the levels allowed had the Rent Ordinance continuously applied.

AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Vote:

Supervisor Myrna Melgar - Aye
Supervisor Dean Preston - Aye
Supervisor Aaron Peskin - Aye

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote:

Supervisor Myrna Melgar - Aye
Supervisor Dean Preston - Aye
Supervisor Aaron Peskin - Aye

cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Anne Pearson, Deputy City Attorney

1 [Administrative Code - Government Regulated Rents]

2

3 **Ordinance amending the Administrative Code to provide that tenant-occupied units in**
4 **buildings that will be receiving either low-income housing tax credits or tax-exempt**
5 **multifamily revenue bonds shall remain subject to the Rent Ordinance, as long as any**
6 **of the existing tenants continue to reside in the unit, or unless all the tenants in the unit**
7 **agree otherwise in writing; and for any such units that may have previously become**
8 **exempt from the Rent Ordinance since 2018, restoring rents to the levels allowed had**
9 **the Rent Ordinance continuously applied.**

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. The Administrative Code is hereby amended by revising Section 37.2, to
20 read as follows:

21 **SEC. 37.2. DEFINITIONS.**

22 * * * *

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

* * * *

1 The term "rental units" shall not include:

2 * * * *

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

11 * * * *

12 (C) The term "rental units" shall include units in a building for which
13 either tax credits are reserved or obtained pursuant to the federal ~~Low-Income Housing Tax~~
14 Credit program ~~under LIHTC~~, Section 42 of the Internal Revenue Code, 26 U.S.C. Section 42
15 (“LIHTC”), and/or tax-exempt multifamily revenue bonds are allocated or obtained pursuant to
16 Section ~~403142(d)~~ of the Internal Revenue Code, 26 U.S.C. Section ~~403142(d)~~ (“Bonds”), and that
17 were already tenant-occupied and subject to this Chapter 37 at the time the applicable LIHTC
18 regulatory agreement and/or Bond regulatory agreement was recorded, as follows ~~that satisfy the~~
19 following criteria:

20 (i) If ~~Where~~ a tenant's occupancy of the unit began before the
21 applicable LIHTC regulatory agreement ~~and/or Bond regulatory agreement~~ was recorded, ~~then~~
22 subsection (C) shall apply to that unit so long as any of the occupants who resided in the unit at the
23 time of the recording still permanently reside there. If the applicable regulatory agreement(s) were
24 recorded on or after January 1, 2018, then the base rent as of the effective date of the ordinance in
25

1 Board File No. 230770 shall be equal to the rent that was in effect as of the date the recording plus any
2 annual rent increases that may have been allowed under Sections 37.3(a)(1)-(2). ~~and,~~

3 _____ (ii) The tenants in a unit described in subsection (C)(i) shall have a one-
4 time option at any time to opt the unit out of subsection (C), and thereby subject the unit going forward
5 to such rent controls and use restrictions as may apply under the applicable LIHTC and/or Bond
6 regulatory agreement(s). All tenants residing in the unit at the time of the opt-out must consent to the
7 opt-out in writing, on a form prepared by the Rent Board, that advises the tenants of the requirements
8 under subsection (C) and that opt-outs may not be withdrawn. Once an opt-out has occurred in a unit,
9 subsection (C) will not apply to that unit and the unit will be exempt from Chapter 37 for the remaining
10 duration of the applicable regulatory agreement(s).

11 ~~(ii)~~(iii) This exception for tenant-occupied units subject to LIHTC and/or Bond
12 regulatory agreements is not intended to affect the application of Section 37.2(r)(4) to units w~~Where~~
13 the rent is ~~otherwise~~not controlled or regulated by any use restrictions imposed by the City and
14 County of San Francisco, the ~~Office of Community Investment and Infrastructure~~San Francisco
15 ~~Redevelopment Agency~~, ~~the Housing Authority of the City and County of San Francisco~~, the State of
16 California ~~Office~~Department of Housing and Community Development, or the United States
17 Department of Housing and Urban Development.

18 _____ (iv) Nothing in this ~~S~~subsection 37.2(r)(4)(C) precludes a landlord from
19 seeking an exemption from rent regulation on the basis of substantial rehabilitation under
20 Section 37.3(g).

21 _____ ~~This Section 37.2(r)(4)(C) definition of "rental unit" shall apply to any unit where the~~
22 ~~qualifying tenant (see Section 37.2(r)(4)(C)(i)) is in possession of the unit on or after the effective date~~
23 ~~of this ordinance (Ord. No. 281-06), including but not limited to any unit where the tenant has been~~
24 ~~served with a notice to quit but has not vacated the unit and there is no final judgment against the~~
25 ~~tenant for possession of the unit as of the effective date of this ordinance (Ord. No. 281-06).~~

1 * * * *

2
3 Section 2. Effective Date. This ordinance shall become effective 30 days after
4 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
5 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
6 of Supervisors overrides the Mayor's veto of the ordinance.

7
8 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
12 additions, and Board amendment deletions in accordance with the "Note" that appears under
13 the official title of the ordinance.

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15 //
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20
21 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of
22 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
23 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
24 affect the validity of the remaining portions or applications of the ordinance. The Board of
25 Supervisors hereby declares that it would have passed this ordinance and each and every

1 section, subsection, sentence, clause, phrase, and word not declared invalid or
2 unconstitutional without regard to whether any other portion of this ordinance or application
3 thereof would be subsequently declared invalid or unconstitutional.

4
5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/
8 MANU PRADHAN
9 Deputy City Attorney
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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 7/17/2023)

[Administrative Code - Government Regulated Rents]

Ordinance amending the Administrative Code to provide that tenant-occupied units in buildings that will be receiving either low-income housing tax credits or tax-exempt multifamily revenue bonds shall remain subject to the Rent Ordinance, as long as any of the existing tenants continue to reside in the unit, or unless all the tenants in the unit agree otherwise in writing; and for any such units that may have previously become exempt from the Rent Ordinance since 2018, restoring rents to the levels allowed had the Rent Ordinance continuously applied.

Existing Law

The Rent Ordinance does not apply to units that are subject to another government program that regulates rents (“regulated units”). Thus, if a landlord enrolls in a government program for to obtain tax-exempt multifamily revenue bonds, the landlord may follow the rent regulations of that government program instead of the Rent Ordinance.

Amendments to Current Law

Under the proposed ordinance, if a unit was already tenant-occupied and subject to the Rent Ordinance at the time the landlord sought or obtained tax-exempt multifamily revenue bonds, the unit would not be exempt as a “regulated unit.” The ordinance would prevent landlords from removing their units from the Rent Ordinance by obtaining bond financing in the future, and would require landlords to restore rent control to tenants who previously lost it due to past bond financings. For units that became exempt due to a bond financing on after January 1, 2018, the landlord would also have to reset the rent going forward to the amount that would have been allowed had the unit continuously remained under the Rent Ordinance.

The ordinance is meant to protect existing tenants in bond-financed units. Once all the occupants who lived in the unit at the time of the financing ceased to permanently reside there, or if all the remaining tenants in the unit agreed to opt out of the Rent Ordinance in writing, then the unit could become exempt from the Rent Ordinance as a “regulated unit” and the landlord could set the rents set under the applicable government program.

Background

The ordinance was amended in committee to correct a cross-reference to the Internal Revenue Code. The ordinance is based on an existing provision of the Rent Ordinance that preserves rent control for units participating in the federal low-income housing tax credit (“LIHTC”) program. Tenant-occupied LIHTC units do not qualify as “regulated units” and instead are subject to the Rent Ordinance.

FILE NO. 230770

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Member, Board of Supervisors
District 7



City and County of San Francisco

MYRNA MELGAR

DATE: July 12, 2023

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

A handwritten signature in blue ink, appearing to be "MM", located to the right of the "TO:" field.

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, July 18, 2023, as Committee Reports:

File No. 230770

Administrative Code - Government Regulated Rents

Sponsors: Preston; Walton and Chan

Ordinance amending the Administrative Code to provide that tenant-occupied units in buildings that will be receiving either low-income housing tax credits or tax-exempt multifamily revenue bonds shall remain subject to the Rent Ordinance, as long as any of the existing tenants continue to reside in the unit, or unless all the tenants in the unit agree otherwise in writing; and for any such units that may have previously become exempt from the Rent Ordinance since 2018, restoring rents to the levels allowed had the Rent Ordinance continuously applied.

File No. 230690

Planning Code - Landmark Designation - Parkside Branch Library

Sponsor: Engardio

Ordinance amending the Planning Code to designate Parkside Branch Library, situated within McCoppin Square Park, 1200 Taraval Street, a portion of Assessor's Parcel Block No. 2351, Lot No. 001, as a Landmark consistent with the standards set forth in Article 10 of the Planning Code; affirming the Planning Department's determination under the California Environmental Quality Act; and making public necessity, convenience, and welfare findings under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. (Historic Preservation Commission)

File No. 230732

Planning and Building Codes - Commercial to Residential Adaptive Reuse and Downtown Economic Revitalization

Sponsors: Mayor; Peskin

Ordinance amending the Planning Code to 1) facilitate residential uses Downtown by authorizing the conversion of non-residential uses to residential use in C (Commercial) zoning districts, and exempting such projects from requirements for rear yard, open space, streetscape

COMMITTEE REPORTS MEMORANDUM

Land Use and Transportation Committee

Page 2 of 3

improvements, dwelling unit exposure, off-street freight loading, curb cuts for vehicular access, bike parking, transportation demand management, dwelling unit mix, and Intermediate Length Occupancy controls, permitting live work units in such project, streamlining administrative approvals for projects in the C-3 zoning district, and modifying the dimensional limits on exemptions to height restrictions for mechanical equipment, elevator, stair, and mechanical penthouses; 2) economically revitalize Downtown by adding Flexible Workspace as a defined use, authorizing large scale retail uses in the C-3 zoning district, allowing window displays in the C-3 zoning district, allowing Flexible Workspace as an active ground floor commercial use along certain street frontages in C-3 zoning districts, allowing accessory storage in any C zoning district, allowing the temporary installation for 60 days of certain signs in the C-3-R district, allowing temporary non-residential uses in vacant spaces for up to one year, including formula retail, reducing density limits for Residential Dwelling Units and Senior Housing in the C-2 zoning districts east of or fronting Franklin Street/13th Street and north of Townsend Street, principally permitting Laboratory, Life Science, Agricultural and Beverage Processing, and Animal Hospitals in C-2 zoning districts, principally permitting Senior Housing, Residential Care Facilities, Outdoor Entertainment, Open Recreation Areas, Animal Hospitals, and Trade Schools in the C-3 zoning district, allowing formula retail as a ground floor use on Market Street, principally permitting office and design professional uses on the second floor and higher in the C-3-R zoning district, and requiring consideration of office vacancy in consideration of granting exceptions in the Transit Center Commercial Special Use District; 3) streamline sign permitting citywide and in the C-3 and portions of the C-2 districts by allowing for the repair and rehabilitation of certain neon signs, and exempting existing business signs in the C-3 zoning district from certain zoning controls; 4) streamline Historic Preservation review of administrative certificates of appropriateness, and minor permits to alter for awnings, and Qualifying Scopes of Work, as may be delegated by the Historic Preservation Commission; 5) increase threshold for large projects subject to commercial to residential ratios in the C-3-O district, and provide alternatives to on-site open space in certain C-3 districts by allowing for payment of an in lieu fee as an alternative to providing open space; 6) facilitate residential adaptive reuse by amending the Building Code to add standards for adaptive reuse of non-residential buildings; and 7) principally permit formula retail and waive size limitations for such uses on a portion of Showplace Square Area (555-9th Street, Assessor's Parcel Block No. 3781, Lot No. 003); 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 pursuant to Planning Code, Section 302.

**

File No. 230745

Building, Planning Codes - Existing Awning Amnesty Program

Sponsors: Mayor; Peskin and Stefani

Ordinance amending the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings and signs that do not comply with the Planning Code; 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 pursuant to Planning Code Section 302.

File No. 230374

Building Code - Streamlining Site Permit Review

Sponsors: Safai; Melgar

Ordinance amending the Building Code to outline the site permit application process, and define and limit the scope of Building Official review of site permits; requiring simultaneous interdepartmental review of electronically submitted applications for site permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

**

File No. 230026

Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District

Sponsors: Melgar; Engardio

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, the greater of up to twelve units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard requirements, conditional use authorizations, and neighborhood notification requirements; 4) the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) the Zoning Map to show the Family Housing Opportunity Special Use District; and 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.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 17, 2023, at 1:30 p.m.



MYRNA MELGAR

DATE: July 12, 2023

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

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COMMITTEE REPORTS MEMORANDUM

Land Use and Transportation Committee

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with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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File No. 230026

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These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 17, 2023, at 1:30 p.m.

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MEMORANDUM

TO: Eric D. Shaw, Director, Mayor's Office of Housing and Community Development
Christina Varner, Acting Executive Director, Rent Board
Thor Kaslofsky, Executive Director, Office of Community Investment and Infrastructure

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: June 30, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Preston on June 27, 2023.

File No. 230770

Ordinance amending the Administrative Code to provide that tenant-occupied units in buildings that will be receiving either low-income housing tax credits or tax-exempt multifamily revenue bonds shall remain subject to the Rent Ordinance, as long as any of the existing tenants continue to reside in the unit, or unless all the tenants in the unit agree otherwise in writing; and for any such units that may have previously become exempt from the Rent Ordinance since 2018, restoring rents to the levels allowed had the Rent Ordinance continuously applied.

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: Erica.Major@sfgov.org.

cc: Lydia Ely, Mayor's Office of Housing and Community Development
Brian Cheu, Mayor's Office of Housing and Community Development
Maria Benjamin, Mayor's Office of Housing and Community Development
Sheila Nickolopoulos, Mayor's Office of Housing and Community Development
Lucinda Nguyen, Office of Community Investment and Infrastructure