

1 [Administrative Code - Housing Innovation Program]

2 **Ordinance amending the Administrative Code to create the Housing Innovation**
3 **Program to develop, finance, and support certain additional housing opportunities for**
4 **low-income and moderate-income residents, including loans and technical assistance**
5 **for certain low-income and moderate-income property owners to construct accessory**
6 **dwelling units or other new units on their property, subject to certain conditions, loans**
7 **for certain low-income and moderate-income tenants who are at risk of displacement**
8 **and licensed childcare providers, and grants for organizations to create marketing and**
9 **educational materials about wealth-building and homeownership for residents who**
10 **have been historically disadvantaged and to develop creative construction design**
11 **prototypes for low-income and moderate-income residents.**

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

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

21 Section 1. The Administrative Code is hereby amended by adding Chapter 85,
22 consisting of Sections 85.1 through 85.6, to read as follows:

23 ///
24 ///
25 ///

CHAPTER 85: THE HOUSING INNOVATION PROGRAM

1 **SEC. 85.1. FINDINGS.**

2 *The Board of Supervisors finds and declares the following:*

3 (a) *San Francisco faces a severe and continuing housing crisis. This crisis is caused*
4 *by a shortage of affordable rental housing as well as a shortage of affordable homeownership*
5 *opportunities. The City is committed to responding to this housing crisis with a multifaceted and*
6 *innovative approach.*

7 (b) *A housing innovation program can: (1) promote homeownership and housing*
8 *preservation, especially for communities that are at high risk of displacement and have been*
9 *historically denied equal access to capital; (2) develop and finance the construction of additional*
10 *housing units that provide low-income and moderate-income homeowners the ability to leverage their*
11 *assets to support multi-generational living and/or support their ability to age in place; and (3) explore*
12 *creative prototypes for construction designs and financing options to provide housing for low-income*
13 *and moderate-income residents.*

14 (c) *Further, a housing innovation program can create additional housing*
15 *opportunities and complement the existing housing opportunities and resources administered by the*
16 *Mayor’s Office of Housing and Community Development, such as homeownership programs that*
17 *provide income-eligible residents with grants or loans to purchase or rehabilitate single-family homes,*
18 *including for the development of additional units.*

19
20 **SEC. 85.2. DEFINITIONS.**

21 *For purposes of this Chapter 85, the following definitions apply:*

22 *“Accessory Dwelling Unit” has the meaning set forth in Section 102 of the Planning Code, as it*
23 *may be amended from time to time.*

24 *“Area Median Income” means the median income of a household for the County of San*
25 *Francisco, adjusted for household size, as annually published by the California Department of Housing*

1 and Community Development under California Code of Regulations Title 25 Section 6932 and pursuant
2 to the authority granted under California Health and Safety Code Section 50093, as it may be amended
3 from time to time.

4 “Board” means the Board of Supervisors.

5 “City” means the City and County of San Francisco.

6 “Family Child Care Program” means a State-licensed childcare program provided by a Family
7 Child Care Provider in accordance with all applicable laws, regulations, and other requirements.

8 “Family Child Care Provider” means a State-licensed child care provider as defined in
9 California Health and Safety Code Section 1596.791, as it may be amended from time to time.

10 “Low-Income and Moderate Income” has the same meaning as “Persons and families of low or
11 moderate income” as set forth in California Health and Safety Code Section 50093, as it may be
12 amended from time to time.

13 “MOHCD” means the Mayor’s Office of Housing and Community Development, or any
14 successor agency, department, or office.

15 “New Unit(s)” means one or more new Accessory Dwelling Units or other units constructed in
16 accordance with the Program on the real property in San Francisco owned by the Property Owner.

17 “Partner Organization” means an organization with the experience and capacity to administer
18 the Program.

19 “Program” means the Housing Innovation Program authorized by this Chapter 85.

20 “Property Owner” means the legal owner of record of a single-family property in San
21 Francisco the Residence who has owned the Residence for at least five years prior to their
22 application for assistance under the Program. For the purposes of establishing eligibility under
23 the Program, a property owner who has inherited the Residence, including any inheritance in
24 or through a trust, from a blood, adoptive, or step family relationship, specifically from a
25 grandparent, parent, sibling, child, or grandchild, or the spouse or registered domestic partner

1 of such relations, or the property owner’s spouse or registered domestic partner (each an
2 “Eligible Predecessor”), may add an Eligible Predecessor’s duration of ownership of the
3 Residence to the property owner’s duration of ownership of the Residence.

4 “Residence” means the real single-family property, without regards to zoning
5 classification, in San Francisco owned and occupied by the Property Owner and for which the
6 Property Owner is applying for assistance under the Program.

7 “State” means the State of California.

8
9 **SEC. 85.3. HOUSING INNOVATION PROGRAM.**

10 (a) **Establishment.** There is hereby created a Housing Innovation Program for the City to
11 be administered by MOHCD.

12 (b) **Purpose.** The purpose of the Program is to develop additional housing opportunities
13 that complement the existing housing opportunities and resources offered through programs
14 administered by MOHCD, including, but not limited to (1) promoting homeownership and housing
15 preservation, especially for communities that are at high risk of displacement and have been
16 historically denied equal access to capital; (2) financing the construction of additional housing units
17 that support Low-Income and Moderate-Income homeowners with multi-generational living and/or the
18 ability to age in place; and (3) exploring creative prototypes for housing and financing options for
19 Low-Income and Moderate-Income residents.

20 (c) **Duties.** To administer the Program, MOHCD shall:

21 (1) Provide grants to organizations, including a Partner Organization, of up to 10%
22 of each disbursement of Program funds for the following purposes:

23 (A) to establish marketing and educational materials about wealth-building and
24 homeownership, with the goal of promoting racial equity and increasing participation in the Program

1 by current and displaced San Francisco residents who have been historically disadvantaged by
2 government and private actions; and

3 (B) to provide professional development, capacity building, and training for staff
4 to implement the purposes of the Program;

5 (C) to develop creative construction design prototypes that could be pre-
6 approved for simplified permitting and financing options for Low-Income and Moderate-Income
7 residents, especially to add additional dwelling units to single family homes;

8 (2) Provide loans and technical assistance for Low-Income and Moderate-Income
9 Property Owners to construct the New Unit(s), with the goal of supporting multi-generational living
10 and/or aging in place, provided that the following conditions shall apply to these loans:

11 (A) the value of the Residence shall not be considered when assessing the
12 Property Owner's eligibility for a loan;

13 (B) as long as the borrower is not in default and as long as the borrower
14 continues to occupy the Residence or one of the New Unit(s) as their primary residence
15 (except in extenuating circumstances as determined by MOHCD): (i) repayment shall be
16 deferred until the earlier of: five years after the first certificate of occupancy is issued for the
17 New Unit(s), or seven years after the deed of trust for the loan is recorded on the Residence
18 or New Unit(s) for a five-year term, except as described in subsection (c)(2)(C) below, (ii) the
19 loan shall not accrue interest prior to the maturity date, and (iii) the loan shall be repaid in full on the
20 maturity date;

21 (C) if the borrower enters into an agreement, effective upon
22 commencement of the loan, to receive referrals of households with rental subsidies from the
23 San Francisco Housing Authority and/or the Department of Homelessness and Supportive
24 Housing or any successor agency to fill any and all vacancies in the New Unit(s) or the
25 Residence during the loan term, repayment shall be deferred until the earlier of: 10 years after

1 the first certificate of occupancy is issued for the New Unit(s), or 12 years after the deed of
2 trust for the loan is recorded on the Residence or New Unit(s):

3 ~~(D)~~ ~~(C)~~ if the New Unit(s) is sold, separately or in conjunction with the sale of
4 the Residence, prior to the ~~maturity date~~ ~~end of the five-year loan term~~, the loan shall either be (i)
5 assumed by the new owner of the New Unit(s), if the new owner meets all other loan eligibility
6 requirements, for the remainder of the ~~five-year~~ loan term, or (ii) repaid in full with interest
7 immediately upon the sale of the New Unit(s):

8 ~~(E)~~ ~~(D)~~ the Property Owner enters into one or more ~~agreement~~s with the City
9 (i) subjecting the New Unit(s) to Administrative Code Chapter 37, as it may be amended from time to
10 time, including but not limited to the rent increase limitations of Chapter 37, and (ii) waiving the
11 Property Owner's ability to displace one or more tenants in the New Unit(s) in accordance with
12 the Ellis Act, California Government Code Sections 7060, et seq., as it may be amended from
13 time to time:

14 ~~(F)~~ ~~(E)~~ within the ~~five~~ 10 years prior to the Property Owner's application for
15 the loan, and continuing until the commencement of the loan, the Property Owner has not at the
16 Residence: (i) displaced one or more tenants in accordance with the Ellis Act, California Government
17 Code Sections 7060, et seq., as it may be amended from time to time; (ii) recovered possession of a unit
18 pursuant to Administrative Code Section 37.9(a)(8), as it may be amended from time to time; (iii)
19 recovered possession of a unit pursuant to a Buyout Agreement as defined in Administrative Code
20 Section 37.9E, as it may be amended from time to time; or (iv) otherwise withdrawn any rental unit
21 from rental housing use;

22 ~~(G)~~ ~~(F)~~ the Property Owner has not received a notice of violation of
23 Administrative Code Chapter 37 within the ~~five~~ 10 years prior to the Property Owner's application for
24 the loan, and continuing until the commencement of the loan; and

1 (H) ~~(G)~~ MOHCD shall require any other loan terms it deems necessary, except
2 that MOHCD may not impose any conditions or restrictions that prohibit the inheritance of the New
3 Unit(s) or Residence by the heir(s) of the Low-Income and Moderate-Income Property Owners; and

4 (3) Provide down payment assistance loans for:

5 (A) the acquisition of units by Low-Income and Moderate-Income tenants who:
6 (i) are at risk of displacement from their rental unit due to the anticipated sale of their tenancy-in-
7 common building, and (ii) desire to purchase their rental unit;

8 (B) the acquisition of single-family homes, condominiums, and residential units
9 by Low-Income and Moderate-Income tenants who: (i) are at risk of displacement due to sale or
10 conversion of the single-family home, condominium, or residential unit that they are currently renting,
11 and (ii) desire to purchase that single-family home, condominium, or residential unit; and

12 (C) Family Child Care Providers who desire to purchase a residence to operate
13 a Family Child Care Program; and

14 ~~(4) Provide loans to Low-Income and Moderate-Income tenants in existing~~
15 ~~rental housing cooperatives that are converting to Limited Equity Housing Cooperatives, as~~
16 ~~defined in Subdivision Code Section 1399.3, as it may be amended from time to time, who~~
17 ~~wish to purchase a share in the Limited Equity Housing Cooperative, with the goal of reducing~~
18 ~~tenant displacement and supporting homeownership.~~

19
20 **SEC. 85.4. ADMINISTRATION OF PROGRAM.**

21 (a) MOHCD may administer the Program through one or more Partner Organizations,
22 subject to this Chapter 85 and any rules or regulations adopted by MOHCD. If MOHCD administers
23 the Program through one or more Partner Organizations, MOHCD shall comply with Administrative
24 Code Chapter 21 and Chapter 21G, as applicable, and give preference to Partner Organizations that

1 demonstrate successful prior experience working with initiatives similar to the Program in historically
2 disadvantaged communities in San Francisco.

3 (b) The Program shall be funded through the General Fund, subject to the City's annual
4 appropriations ordinance. MOHCD shall establish an account for \$10 million appropriated to
5 MOHCD under Ordinance No. 108-21 for the creation of additional affordable housing opportunities
6 and innovation. MOHCD, and the Partner Organizations if applicable, shall administer the Program in
7 a manner that can leverage any applicable external funding, including but not limited to funding
8 administered by the State, federal government, private foundations, or lenders.

9 (c) MOHCD may adopt rules or regulations to administer the Program consistent with this
10 Chapter 85, including but not limited to rules or regulations designed to avoid abuse and fraud,
11 provided that MOHCD shall not require any Partner Organization, as a condition of assistance, to use
12 a Citywide housing portal for any units constructed or assisted under the Program for the purpose of
13 registration, marketing, or leasing.

14 (d) MOHCD shall support Property Owners with the rental of any vacant New
15 Unit(s) to tenants receiving rental assistance from any federal, State, local, or nonprofit-
16 administered benefit or subsidy program.

17 (e)(d) MOHCD shall annually report to the Board of Supervisors regarding the
18 implementation and results of the Program.

19
20 **SEC. 85.5. UNDERTAKING FOR THE GENERAL WELFARE.**

21 In enacting and implementing this Chapter 85, the City is assuming an undertaking only to
22 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
23 obligation or duty for breach of which it is liable in money damages or any other relief to any person
24 who claims that such a breach proximately caused injury or damages, including but not limited to any
25 claims by landlords, tenants, or property owners affected by assistance offered under the Program.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SEC. 85.6. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Chapter 85, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter. The Board hereby declares that it would have enacted this Chapter and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

Section 2. Chapter 37 of the Administrative Code is hereby amended by revising Sections 37.2 and 37.3, to read as follows:

SEC. 37.2. DEFINITIONS.

* * * *

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

* * * *

The term “rental units” shall not include:

* * * *

(4) Except as provided in subsections (A)-(D), dwelling units whose rents are controlled or regulated by any government unit, agency, or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of

1 Housing and Urban Development; provided, however, that units in unreinforced masonry
2 buildings which have undergone seismic strengthening in accordance with Building Code
3 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
4 ordinance is not in conflict with the seismic strengthening bond program or with the program's
5 loan agreements or with any regulations promulgated thereunder;

6 * * * *

7 (D) The term "rental units" shall include (i) Accessory Dwelling Units
8 constructed pursuant to Section 207(c)(4) of the Planning Code and that have received a
9 complete or partial waiver of the density limits and the parking, rear yard, exposure, or open
10 space standards from the Zoning Administrator pursuant to Planning Code Section 307(l), and
11 (ii) New Unit(s) constructed and funded pursuant to Administrative Code Chapter 85.

12
13 **SEC. 37.3. RENT LIMITATIONS.**

14 * * * *

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

16 (1) An owner of a residential dwelling or unit which is newly constructed and
17 first received a certificate of occupancy after the effective date of Ordinance No. 276-79 (June
18 13, 1979), or which the Rent Board has certified has undergone a substantial rehabilitation,
19 may establish the initial and all subsequent rental rates for that dwelling or unit, except:

20 (A) where rent restrictions apply to the dwelling or unit under Sections
21 37.3(d) or 37.3(f);

22 (B) where the dwelling or unit is a replacement unit under Section
23 37.9A(b);

24 (C) as provided for certain categories of Accessory Dwelling Units and
25 New Unit(s) under Section 37.2(r)(4)(D); and

1 (D) as provided in a development agreement entered into by the City
2 under Administrative Code Chapter 56.

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

8
9 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the "Note" that appears under
14 the official title of the ordinance.

15
16 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
17 of this ordinance, or any application thereof to any person or circumstance, is held to be
18 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
19 shall not affect the validity of the remaining portions or applications of the ordinance. The
20 Board of Supervisors hereby declares that it would have passed this ordinance and each and
21 every section, subsection, sentence, clause, phrase, and word not declared invalid or
22 unconstitutional without regard to whether any other portion of this ordinance or application
23 thereof would be subsequently declared invalid or unconstitutional.

24 APPROVED AS TO FORM:
25 DAVID CHIU, City Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

By: /s/
JESSICA ALFARO-CASSELLA
Deputy City Attorney

n:\legana\as2022\2200183\01607581.docx