[Planning Code - Inclusionary Housing Waiver and Land Dedication in Well-Resourced Neighborhoods]

Ordinance amending the Planning Code to allow the City to waive the Inclusionary Housing Fee and other requirements in certain residential and neighborhood commercial districts ~~areas~~ outside of the Priority Equity Geographies Special Use District (SUD) in exchange for a project sponsor's agreement to subject all units in the project to rent control; and allow projects in certain residential and neighborhood commercial districts outside of the Priority Equity Geographies SUD to comply with the Inclusionary Housing Ordinance by dedicating land to the City; requiring periodic reports to the Planning Commission; 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 public necessity, convenience, and welfare findings under Planning Code, Section 302.

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

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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

Supervisors in File No. 250815 and is incorporated herein by reference. The Board affirms this determination.

(b) On October 9, 2025, the Planning Commission, in Resolution No. 21844, 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 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 250815, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 21844, and the Board adopts such reasons as its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. 250815 and is incorporated herein by reference.

Section 2. General Findings.

(a) Since 1969, California has required that all local governments adequately plan to meet the housing needs of everyone in the community. California's local governments meet this requirement by adopting housing elements as part of their "general plans," as required by the state. A general plan serves as a local government's "blueprint" for how it will grow and develop. Among other requirements, a housing element in a general plan must identify and analyze the jurisdiction's existing and projected housing needs, including a statement of goals, policies, and objectives for the preservation, improvement, and development of housing, and identify adequate sites for housing for all economic segments of the community. (California Government Code Section 65583.)

(b) A jurisdiction's existing and projected housing needs is known as its Regional Housing Needs Allocation (RHNA). In December 2021, the Association of Bay Area

Governments determined that the City and County of San Francisco's (City) RHNA is approximately 82,000 new residential units, broken down into tiers of affordability to meet the needs of very low-, low-, and moderate-income San Franciscans.

(c) In furtherance of the imperative to meet San Francisco's RHNA, the City updated its Housing Element in 2022. The 2022 Update to the Housing Element (2022 Housing Element) is San Francisco's plan for housing between 2023 and 2031, and the first such plan in the City that is centered on racial and social equity.

(d) The California Department of Housing and Community Development publishes "Opportunity Area Maps" where it designated "Highest Resource" and "High Resource" areas. These areas are neighborhoods that provide strong economic, health, and educational outcomes for its residents, and were called "Well-resourced Neighborhoods" in the 2022 Housing Element. One of the objectives of the 2022 Housing Element is to foster inclusive neighborhoods throughout the City and ensure access to housing for all members of the community, including Indian, Black, and other communities of color. To do so, the 2022 Housing Element recognized that the City needed to allow more housing, including affordable housing, in Well-resourced Neighborhoods, by, among other strategies, amending the zoning to allow mid-rise, multifamily buildings. This ordinance fosters the goals of the 2022 Housing Element to increase housing in the Well-resourced Neighborhoods by waiving the requirements of San Francisco's Inclusionary Housing Ordinance for project sponsors that agree to subject the project to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Rent Ordinance) (Chapter 37 of the Administrative Code).

(e) In contrast with Well-resourced Neighborhoods, the Department of Public Health's Community Health Needs Assessment identified areas of vulnerability, which are neighborhoods or areas with a higher density of vulnerable populations. These areas and

neighborhoods, identified in the 2022 Housing Element, have been designated in the Priority Equity Geographies Special Use District, as adopted in 2024 in Ordinance 248-23.

(f) The 2022 Housing Element acknowledges that in the face of widening inequality, and the historic and ongoing displacement of low-income communities and communities of color, the City faces an extraordinary imperative over the next decade to permit more housing, facilitate its construction, and prevent further displacement. The 2022 Housing Element analyzes housing needs in San Francisco, includes policies that address those needs based on the collective vision and values of local communities, and identifies programs that will help implement those policies and a guiding framework for future legislation. To meet these challenges, the City must implement a multi-pronged strategy that includes, among other approaches, the development of affordable housing and the expansion of tenant protections to ensure the long-term stability of residents and communities.

(g) Several of these strategies center around rent control. Rent control is one of the most important tools for individuals, families, and vulnerable communities seeking to establish roots in a community. A 2022 study performed by the UC Berkeley Urban Displacement Project, "Who Benefits From Tenant Protections?", identified rent control as among the most effective tools for preventing displacement of residential tenants and for stabilizing neighborhoods and communities. The study also found that combining rent control with just cause eviction protections reduces the rate of displacement for residential tenants, particularly those of lower socio-economic status. This has been particularly true in San Francisco. The City adopted its Rent Ordinance in 1979, and the Rent Ordinance has been critical in safeguarding tenants from excessive rent increases and evictions without just cause. Similarly, a 2018 working paper from the National Bureau of Economic Research titled "The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco," found that rent control helps tenants by providing security and enabling them to

remain in their apartments longer, compared to those not protected by rent control. Thus, rent control serves as an important policy tool to stabilize communities and prevent displacement.

(h) The Rent Ordinance exempts units lawfully constructed after June 30, 1979 from rent control, and in 1995, the Legislature enacted the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et seq.) (Costa-Hawkins), which prohibited the City from changing this rule. But Costa-Hawkins allows a local government to impose rent control on a unit if the owner has agreed to rent control in exchange for direct financial assistance or density exceptions and other zoning modifications.

(i) As of 2022, the majority of San Francisco's rental housing stock is subject to rent control. The 2022 Housing Element finds that rent control has been critical to protecting low- and moderate-income residents, including many persons of color, from being at risk of eviction or displacement. But despite these benefits, the 2022 Housing Balance Report No. 14, published by the Planning Department, identifies the absence of policies to protect against the removal of residential units from "protected status," including units subject to the Rent Ordinance. Since 2011, approximately 4,200 units have been removed from protected status, with a relatively even distribution of loss across all 11 Supervisorial Districts.

(j) While ample evidence demonstrates the short- and long-term benefits of rent control to tenants and communities facing eviction and displacement, empirical evidence suggests that rent control has not been a constraint on new construction. A 2007 report in the Journal of Urban Economics, "Out of Control: What can we learn from the end of Massachusetts rent control?", found that rent control had "little effect on the construction of new housing." Under a "moderate" rent control system like San Francisco's, where landlords generally can reset the rent to market at the start of new tenancies, developers and housing providers are able to secure financing for their projects using initial market rents to approximate a reasonable return on investment. In a 2009 study of New York's rent control

system titled "Rent Regulation: Myths & Facts," by Timothy Collins, the former Executive Director and Counsel to the New York City Rent Guidelines Board, Mr. Collins found that "New York's moderate rent regulations have had few, if any, of the negative side effects so confidently predicted by industry advocates. More important, rent regulations have been the single greatest source of affordable housing for middle- and low-income households." In "Residential Rent Controls," a 1988 study for the Urban Land Institute, Anthony Downs, economist and Senior Fellow of the Brookings Institute, found the hypothesis that temperate rent control inhibits new construction "unproven," and determined that repeated studies of temperate rent controls in the United States fail to provide "any persuasive evidence that temperate rent control ordinances inhibit the construction of new housing."

(k) Another long-standing City strategy for the creation of affordable housing is the Inclusionary Housing Ordinance found in Planning Code Section 415 et seq., and related requirements designed for specific areas of the City. Under the Inclusionary Housing Ordinance, developments with 10 or more units must pay an impact fee, or set aside a certain percentage of those units as affordable to households of low, moderate, or middle income, or provide affordable units off-site. In some areas of the City, developers may dedicate land to the City for affordable housing. The Inclusionary Housing Program has created more than 4,700 affordable units since its inception. The Inclusionary Housing fee is approximately $250 per square foot of floor area, multiplied by a percentage of the project, ranging from 12% to 27% of the total project, depending on the project's size, location, and application date.

(l) As the City grows and more residential units are created in Well-resourced areas consistent with the 2022 Housing Element, it is in the public interest to couple this growth with policies intended to ensure that resulting housing will foster the long-term community bonds critical to neighborhood stability and sustainability. Thus, by allowing project sponsors to choose to provide rent control on new construction, in exchange for the

City's waiver of the Inclusionary Housing Ordinance requirements, or by choosing to dedicate land to the City for affordable housing, the City will enhance the feasibility of new construction and thereby achieve the policy goals of adding much-needed housing supply, increasing the availability of land for affordable housing, and increasing the number of rent-controlled units.

(m) Finally, in certain areas of the City, projects can comply with the Inclusionary Housing Ordinance by dedicating a portion of the total developable area of the principal site to the City for the purpose of constructing affordable housing. Expanding this option to projects in the Well Resourced neighborhoods will facilitate affordable housing development, by reducing land costs which is a considerable portion of affordable housing development costs. Expanding this option is consistent with the 2022 Housing Element.

Section 3. The Planning Code is hereby amended by adding Section 436, to read as follows:

SEC. 436. WELL-RESOURCED NEIGHBORHOODS INCLUSIONARY HOUSING ORDINANCE WAIVER AND ADDITIONAL INCLUSIONARY HOUSING OPTIONS.

This Section 436 provides for a waiver of the requirements in the Inclusionary Housing Ordinance, Section 415 et seq., for specified Housing Projects in certain districts in *Well-Resourced Neighborhoods. This Section 436 also allows Housing Projects in* those districts ~~Well-Resourced Neighborhoods~~ *to comply with the Inclusionary Housing Ordinance through a land dedication. As used in this Section 436, Well-Resourced Neighborhoods means those areas outside the Priority Equities Geographies Special Use District (SUD), Section 249.97.*

(a) **Eligibility.** This Section 436 shall apply to Housing Projects in Residential – House (RH), Residential Mixed (RM), Neighborhood Commercial or Named Neighborhood Commercial Districts with a height limit of 65 feet or less located in Well-Resourced Neighborhoods.

(~~a~~b) **Additional Inclusionary Housing Options.**

(1) ***Rent Control.*** ~~Outside the Priority Equity Geographies SUD, if~~ If an eligible ~~a~~ *Housing Project is a Rental Project and agrees to subject all units in the project to the San Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code for the Life of the Project, the project shall not be subject to the Inclusionary Housing Ordinance, Planning Code Section 415 et seq., pursuant to this Section 436.*

(~~1~~A) ***Regulatory Agreement.*** *Project Sponsors of Housing Projects that agree to subject all units in the Housing Project to the San Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) pursuant to this subsection (a) shall enter into a regulatory agreement with the City, as a condition of approval of the project ("Regulatory Agreement"). At a minimum, the Regulatory Agreement shall contain the following: (A) a statement that none of the units in the project are subject to the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et seq.) because, consistent with California Civil Code Section 1954.52(b), the property owner has entered into and agreed to the terms of an agreement with the City in consideration for a direct financial contribution or other form of assistance specified in California Government Code Sections 65915 et seq.; (B) a statement that the units will be rented for the Life of the Project because, consistent with Government Code Section 7060.1(a), the property owner has entered into and agreed to the terms of an agreement with the City, in consideration for a direct financial contribution specified in Section 7060.1(a);* (C) a statement that all units subject to the Regulatory Agreement shall be held as an undivided ownership and will not be subdivided; (~~C~~D) *a calculation of the direct financial contribution or form of assistance provided to the property owner in the form of the fee waiver; and (~~D~~E) a description of the remedies for breach of the agreement and other provisions to ensure implementation and compliance with the agreement. The property owner and the Planning Director or the Director's designee, on behalf of the City, may execute the Regulatory Agreement, which shall be reviewed and approved as to form by the City Attorney's Office. The*

Regulatory Agreement shall be executed prior to the City's issuance of the First Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building Code. Following execution of the Regulatory Agreement by all parties, the Regulatory Agreement or a memorandum thereof shall be recorded to the title records in the Office of the Assessor-Recorder against the property and shall be binding on all future owners and successors in interest.

(~~2~~B) ***Procedures Manual.*** ~~For~~ If a *Housing Project*~~s with~~ subject to this Section 436 includes Rental Units ~~units~~ *subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower income in compliance with any state law, those units shall comply with the timing, type, and marketing requirements of Section 415.6(e), (f), and (g), and the Procedures Manual, as amended from time to time.*

(~~b~~2) ***Land Dedication Alternative.*** *In lieu of Section 415 et seq., the Project Sponsor of any Housing Project outside the Priority Equity Geographies SUD, may comply with the Land Dedication Alternative requirements in Section 419.5(a)(2),* except that in lieu of the Land Dedication Alternative requirements of Table 419.5, projects may satisfy the requirements of Section 415.5 by dedicating land for affordable housing if the dedicated land could accommodate a total amount of units that is equal to or greater than 35% of the units that are being provided on the principal development site, as determined by the Planning Department. *Any land dedicated pursuant to this Section 436 shall be provided outside the Priority Equity Geographies SUD.*

Section 4. The Planning Department shall include the location and number of the units approved under Planning Code Section 436 in the Housing Inventory Report. The Planning Department and/or the Rent Board shall note the existence of such units on a publicly-accessible website. Prior to December 31, 2026, and every 24 months thereafter, the Planning Department shall prepare and submit to the Planning Commission a report containing recommendations as necessary or appropriate for modification to Planning Code

Section 436, including modifications to further the goals of the City's Seventh Housing Element Cycle.

Section 45. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
Audrey Williams Pearson
Deputy City Attorney

4924-7966-3996, v. 1

City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 250815 **Date Passed:** December 16, 2025

Ordinance amending the Planning Code to allow the City to waive the Inclusionary Housing Fee and other requirements in certain residential and neighborhood commercial districts outside of the Priority Equity Geographies Special Use District (SUD) in exchange for a project sponsor's agreement to subject all units in the project to rent control; and allow projects in certain residential and neighborhood commercial districts outside of the Priority Equity Geographies SUD to comply with the Inclusionary Housing Ordinance by dedicating land to the City; requiring periodic reports to the Planning Commission; 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 public necessity, convenience, and welfare findings under Planning Code, Section 302.

December 01, 2025 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

December 01, 2025 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

December 09, 2025 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Chan, Chen, Dorsey, Fielder, Mahmood, Mandelman, Melgar, Sauter, Sherrill and Walton
Excused: 1 - Wong

December 16, 2025 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Chan, Chen, Dorsey, Fielder, Mahmood, Mandelman, Melgar, Sauter, Sherrill, Walton and Wong

File No. 250815

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/16/2025 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Daniel Lurie
Mayor

12 / 23 / 25

Date Approved