

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

May 8, 2018

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On May 1, 2018, Mayor Farrell introduced the following legislation:

**File No. 180453**

**Ordinance amending the Business and Tax Regulations and Planning Codes to create the Central South of Market Housing Sustainability District (encompassing an area generally bounded on its western portion by Sixth Street, on its eastern portion by Second Street, on its northern portion by the border of the Downtown Plan Area (an irregular border that generally tracks Folsom, Howard, or Stevenson Streets), and on its southern portion by Townsend Street) to provide a streamlined and ministerial approval process for certain housing projects within the District meeting specific labor, on-site affordability, and other requirements; creating an expedited Board of Appeals process for appeals of projects within the District; and making approval findings under the California Environmental Quality Act, findings of public convenience, necessity, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

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

- c: John Rahaim, Director of Planning
- Aaron Starr, Acting Manager of Legislative Affairs
- Scott Sanchez, Zoning Administrator
- Lisa Gibson, Environmental Review Officer
- AnMarie Rodgers, Director of Citywide Planning
- Laura Lynch, Environmental Planning
- Joy Navarrete, Environmental Planning

1 [Business and Tax Regulations, Planning Codes - Central South of Market Housing  
2 Sustainability District]

3 **Ordinance amending the Business and Tax Regulations and Planning Codes to create**  
4 **the Central South of Market Housing Sustainability District (encompassing an area**  
5 **generally bounded on its western portion by Sixth Street, on its eastern portion by**  
6 **Second Street, on its northern portion by the border of the Downtown Plan Area (an**  
7 **irregular border that generally tracks Folsom, Howard, or Stevenson Streets), and on**  
8 **its southern portion by Townsend Street) to provide a streamlined and ministerial**  
9 **approval process for certain housing projects within the District meeting specific labor,**  
10 **on-site affordability, and other requirements; creating an expedited Board of Appeals**  
11 **process for appeals of projects within the District; and making approval findings under**  
12 **the California Environmental Quality Act, findings of public convenience, necessity,**  
13 **and welfare under Planning Code, Section 302, and findings of consistency with the**  
14 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

23 Section 1. Environmental and Planning Code Findings.

24 (a) On \_\_\_\_\_, 2018 after a duly noticed public hearing, the Planning  
25 Commission certified the Final Environmental Impact Report (EIR) for the proposed Central  
SoMa Area Plan (the Project) by Motion No. \_\_\_\_\_, finding the Final EIR reflects

1 the independent judgment and analysis of the City and County of San Francisco, is adequate,  
2 accurate and objective, and contains no significant revisions to the Draft EIR, and the content  
3 of the report and the procedures through which the Final EIR was prepared, publicized, and  
4 reviewed comply with the provisions of the California Environmental Quality Act (CEQA)  
5 (Public Resources Code Sections 21000 et seq.), the CEQA Guidelines (14 Cal. Code Regs.  
6 Sections 15000 et seq.) and Chapter 31 of the Administrative Code. Copies of the Planning  
7 Commission Motion and Final EIR are on file with the Clerk of the Board of Supervisors in File  
8 No. \_\_\_\_\_ and are incorporated herein by reference.

9 (b) The Project evaluated in the Final EIR includes proposed amendments to the  
10 Planning Code, Administrative Code, and Zoning Map, as well as amendments to the General  
11 Plan to adopt the Central South of Market (“Central SoMa”) Area Plan and other related  
12 amendments. The proposed Planning Code amendments and Business and Tax Regulations  
13 Code amendments set forth in this ordinance are within the scope of the Project evaluated in  
14 the Final EIR.

15 (c) At the same hearing during which the Planning Commission certified the Final EIR,  
16 the Planning Commission adopted findings under CEQA regarding the Project’s  
17 environmental impacts, the disposition of mitigation measures, and project alternatives, as  
18 well as a statement of overriding considerations (CEQA Findings) and adopted a mitigation  
19 monitoring reporting program (MMRP), by Resolution No. \_\_\_\_\_.

20 (d) At the same hearing, the Planning Commission, in Resolution No. \_\_\_\_\_,  
21 recommended the proposed Planning Code amendments for approval and adopted findings  
22 that the actions contemplated in this ordinance creating the Central South of Market Housing  
23 Sustainability District are consistent, on balance, with the City’s General Plan and eight  
24 priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.  
25

1 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.  
2 \_\_\_\_\_, and is incorporated herein by reference.

3 (e) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the  
4 Planning Code amendments and Business and Tax Regulations Code amendments will serve  
5 the public necessity, convenience, and welfare for the reasons set forth in Planning  
6 Commission Resolution No. \_\_\_\_\_, and the Board incorporates such reasons herein  
7 by reference.

8 (f) The Board of Supervisors has reviewed and considered the Final EIR and the  
9 environmental documents on file referred to herein. The Board of Supervisors has reviewed  
10 and considered the CEQA Findings, and hereby adopts them as its own and incorporates  
11 them by reference as though such findings were fully set forth herein.

12 (g) The Board of Supervisors adopts the MMRP as a condition of this approval, and  
13 endorses those mitigation measures that are under the jurisdiction of other City Departments,  
14 and recommends for adoption those mitigation measures that are enforceable by agencies  
15 other than City agencies, all as set forth in the CEQA Findings and MMRP.

16 (h) The Board of Supervisors finds that no substantial changes have occurred in the  
17 proposed Project that would require revisions in the Final EIR due to the involvement of new  
18 significant environmental effects or a substantial increase in the severity of previously  
19 identified significant effects; no substantial changes have occurred with respect to the  
20 circumstances under which the proposed Project is to be undertaken that would require major  
21 revisions to the Final EIR due to the involvement of new environmental effects or a substantial  
22 increase in the severity of effects identified in the Final EIR, and no new information of  
23 substantial importance to the proposed Project has become available that indicates that (1)  
24 the Project will have significant effects not discussed in the Final EIR, (2) significant  
25 environmental effects will be substantially more severe, (3) mitigation measures or

1 alternatives found not feasible that would reduce one or more significant effects have become  
2 feasible or (4) mitigation measures or alternatives that are considerably different from those in  
3 the Final EIR would substantially reduce one or more significant effects on the environment.  
4

5 Section 2. The Business and Tax Regulations Code is hereby amended by revising  
6 Sections 8 and 26, to read as follows:  
7

8 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

9 (a) Except for variance decisions and permits issued by the Entertainment Commission  
10 or its Director, and as otherwise specified in this Section 8, appeals to the Board of Appeals shall  
11 be taken within 15 days from the making or entry of the order or decision from which the  
12 appeal is taken. Appeals of variance decisions shall be taken within 10 days.

13 (b) Appeals to the Board of Appeals of permit decisions made pursuant to Planning Code  
14 Section 343 shall be taken within 10 days of the permit decision. This subsection (b) shall expire on the  
15 Sunset Date of Planning Code Section 343, as defined in that Section. Upon the expiration of this  
16 subsection, the City Attorney shall cause this subsection to be removed from the Business and Tax  
17 Regulations Code.

18 (c) Appeals of actions taken by the Entertainment Commission or its Director on the  
19 granting, denial, amendment, suspension, or revocation of a permit, or on denial of exceptions  
20 from regulations for an Extended-Hours Premises Permit, shall be taken within 10 days from  
21 the making of the decision. Nothing in this Section 8 is intended to require an appeal to the  
22 Board of Appeals if any provision of Article 15, Article 15.1 (Entertainment Regulations Permit  
23 and License Provisions), or Article 15.2 (Entertainment Regulations for Extended-Hours  
24 Premises) of the Police Code governing these permits otherwise provides.  
25

1            (d) Appeals shall be taken by filing a notice of appeal with the Board of Appeals and  
2 paying to said Board at such time a filing fee as follows:

3            (a1) **Zoning Administrator, Planning Department, Director of Planning,**  
4 **and Planning Commission.**

5            (1A) For each appeal from the Zoning Administrator's variance decision,  
6 the fee shall be \$600.

7            (2B) For each appeal from any order, requirement, decision, or other  
8 determination (other than a variance) made by the Zoning Administrator, the Planning  
9 Department or Commission or the Director of Planning, including an appeal from disapproval  
10 of a permit which results from such an action, the fee shall be \$600.

11            (b2) **Department of Building Inspection.**

12            (1A) For each appeal from a Department of Building Inspection denial,  
13 conditional approval, or granting of a residential hotel or apartment conversion permit, the fee  
14 shall be \$525.

15            (2B) For each appeal from the granting or denial of a building demolition,  
16 or other permit (other than residential hotel conversion), the fee shall be \$175.

17            (3C) For each appeal from the imposition of a penalty only, the fee shall  
18 be \$300.

19            (e3) **Police Department and Entertainment Commission.**

20            (1A) For each appeal from the denial or granting of a permit or license  
21 issued by the Police Department, Entertainment Commission, or the Director of the  
22 Entertainment Commission, to the owner or operator of a business, the fee shall be \$375; for  
23 each such permit or license issued to an individual employed by or working under contract to  
24 a business, the fee shall be \$150.

1                   (~~2B~~) For each appeal from the revocation or suspension of a permit or  
2 license by the Police Department, Entertainment Commission, or the Director of the  
3 Entertainment Commission, the fee shall be \$375 for an entity or individual.

4                   (~~4~~) **Department of Public Works.** For each appeal from the decision of the  
5 Director of the Department of Public Works concerning street tree removal by a City agency,  
6 commission, or department, the fee shall be \$100.

7                   (~~5~~) For each appeal from any other order or decision, the fee shall be \$300.

8                   (~~6~~) For requests for rehearing under Section 16 of this Article 1, the fee shall  
9 be \$150.

10                   (~~7~~) For requests for jurisdiction, the fee shall be \$150.

11                   (~~8~~) An exemption from paying the full fee specified in ~~S~~subsections (d)(1)  
12 through (7)(a), (b), (c), (d), (e), (f), and (g) herein may be granted upon the filing under penalty of  
13 perjury of a declaration of indigency on the form provided and approved by the Board. All  
14 agencies of the City and County of San Francisco are exempted from these fees.

15                   (~~9~~) **Additional Requirements.**

16                   (~~1A~~) Notice of appeal shall be in such form as may be provided by the  
17 rules of the Board of Appeals.

18                   (~~2B~~) On the filing of any appeal, the Board of Appeals shall notify in  
19 writing the department, board, commission, officer or other person from whose action the  
20 appeal is taken of such appeal. On the filing of any appeal concerning a structural addition to  
21 an existing building, the Board of Appeals shall additionally notify in writing the property  
22 owners of buildings immediately adjacent to the subject building.

23                   (~~3C~~) Except as otherwise specified in this subsection (d)(9)(C), ~~t~~The Board of  
24 Appeals shall fix the time and place of hearing, which shall be not less than 10 nor more than  
25

1 45 days after the filing of said appeal, and shall act thereon not later than 60 days after such  
2 filing or a reasonable time thereafter.

3 (i) In the case of a permit issued by the Entertainment  
4 Commission or its Director, the Board of Appeals shall set the hearing not less than 15 days  
5 after the filing of said appeal, shall act thereon not more than 30 days after such filing, and  
6 shall not entertain a motion for rehearing.

7 (ii) In the case of a decision on a permit application made pursuant to  
8 Planning Code Section 343, the Board of Appeals shall set the hearing not less than 10 days after the  
9 filing of said appeal, shall act thereon not more than 30 days after such filing, and shall not entertain a  
10 motion for rehearing. This subsection (d)(9)(C)(ii) shall expire on the Sunset Date of Planning Code  
11 Section 343, as defined in that Section. Upon the expiration of this subsection, the City Attorney shall  
12 cause this subsection to be removed from the Business and Tax Regulations Code.

13 (4D) With respect to any decision of the Board of Appeals related to any  
14 "dwelling" in which "protected class members" are likely to reside (each as defined in  
15 Administrative Code Chapter 87), the Board of Appeals shall comply with the requirements of  
16 Administrative Code Chapter 87 which requires, among other things, that the Board of  
17 Appeals not base any decision regarding the development of such units on information which  
18 may be discriminatory to any member of a "protected class."

19 (5E) Pending decision by the Board of Appeals, the action of such  
20 department, board, commission, officer or other person from which an appeal is taken, shall  
21 be suspended, except for: (i) actions of revocation or suspension of permit by the Director of  
22 Public Health when determined by the Director to be an extreme public health hazard; (ii)  
23 actions by the Zoning Administrator or Director of the Department of Building Inspection  
24 stopping work under or suspending an issued permit; (iii) actions of suspension or revocation  
25 by the Entertainment Commission or the Director of the Entertainment Commission when the



1 suspending or revoking authority determines that ongoing operation of the activity during the  
2 appeal to the Board of Appeals would pose a serious threat to public safety; and *(iv)* actions of  
3 the Director of the Office of Cannabis awarding a Temporary Cannabis Business Permit.

4  
5 **SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.**

6 (a) Subject to ~~§~~subsection (b)-~~below~~, in the granting or denying of any permit, or the  
7 revoking or the refusing to revoke any permit, the granting or revoking power may take into  
8 consideration the effect of the proposed business or calling upon surrounding property and  
9 upon its residents, and inhabitants thereof; and in granting or denying said permit, or revoking  
10 or refusing to revoke a permit, may exercise its sound discretion as to whether said permit  
11 should be granted, transferred, denied, or revoked.

12 \* \* \* \*

13 *(e) Notwithstanding subsection (a), the provisions of Planning Code Section 343 shall govern*  
14 *actions taken on the granting, denial, amendment, suspension, and revocation of permits regulated*  
15 *under that Section 343, not the standards set forth in subsection (a) of this Section 26. This subsection*  
16 *(e) shall become operative upon receipt of preliminary approval of Planning Code Section 343 by the*  
17 *California Department of Housing and Community Development under California Government Code*  
18 *Section 66202. This subsection shall expire by the operation of law in accordance with the provisions*  
19 *of Planning Code Section 343(k). Upon its expiration, the City Attorney shall cause this subsection to*  
20 *be removed from the Business and Tax Regulations Code.*

21  
22  
23 Section 3. The Planning Code is hereby amended by adding Section 343, to read as  
24 follows:

25 **SEC. 343. CENTRAL SOMA HOUSING SUSTAINABILITY DISTRICT.**

1           (a) Purpose. This Section 343 establishes a Housing Sustainability District within the Central  
2 SoMa Plan Area (“Central SoMa Housing Sustainability District” or “Central SoMa HSD”) under  
3 California Government Code Sections 66200 et seq. The purpose of the Central SoMa Housing  
4 Sustainability District is to encourage the provision of on-site affordable housing in new residential  
5 and mixed-use projects in Central SoMa by providing a streamlined, ministerial approval process for  
6 such projects. The Central SoMa Plan anticipates that 33% of all new residential units produced  
7 within the Plan Area will be permanently affordable to households of very low, low, or moderate  
8 income. This Section 343 sets forth eligibility criteria, design review standards, and entitlement and  
9 approval procedures for projects seeking approval pursuant to the requirements of the Central SoMa  
10 Housing Sustainability District.

11           (b) Geography. The Central SoMa Housing Sustainability District shall include all parcels  
12 within the Central SoMa Special Use District, which is defined in Section 249.78(b). The entirety of the  
13 Central SoMa Special Use District is an “eligible location,” as that term is defined in California  
14 Government Code Section 66200(e).

15           (c) Relationship to Other Planning Code Provisions. Except as otherwise provided in this  
16 Section 343, all provisions of the Planning Code, including Section 249.78, that would be applicable to  
17 projects approved pursuant to this Section 343 shall apply to such projects. In the event of a conflict  
18 between other provisions of the Planning Code and this Section, this Section shall control.

19           (d) Eligibility. Projects seeking approval pursuant to this Section 343 shall meet all of the  
20 following requirements:

21                   (1) The project is located in a zoning district that principally permits residential uses.

22                   (2) The project proposes no less than 50 dwelling units per acre, and no more than 750  
23 dwelling units per acre.

24                   (3) A majority of the project’s gross square footage is designated for residential uses.

25 All non-residential uses must be principally permitted in the underlying zoning district and any

1 applicable special use district(s), and may not include greater than 24,999 gross square feet of office  
2 space that would be subject to the annual limit on office development set forth in Sections 321 et seq.

3 (4) The project does not exceed a height of 160 feet, except that any project whose  
4 principal use is housing, where all such housing is restricted for a minimum of 55 years as affordable  
5 for "persons and families of low or moderate income," as defined in California Health & Safety Code  
6 Section 50093, shall be deemed to satisfy this subsection (c)(4) regardless of height.

7 (5) If the project sponsor seeks a density bonus pursuant to California Government  
8 Code Section 65915 et seq., the project sponsor demonstrates to the satisfaction of the Planning  
9 Department that the project would not result in a significant shadow impact.

10 (6) The project is not located on a lot containing a structure listed as a designated  
11 landmark pursuant to Article 10 of the Planning Code or a contributory or significant structure  
12 pursuant to Article 11 of the Planning Code.

13 (7) The project provides no less than 10% of its dwelling units as units affordable to  
14 very low or low income families, using one of the following methods:

15 (A) For projects subject to Section 415, by electing to comply with Section 415  
16 by choosing the On-Site Affordable Housing Alternative under Sections 415.5(g)(1)(A) or  
17 415.5(g)(1)(D); or

18 (B) For projects not subject to Section 415, by entering into a regulatory  
19 agreement with the City that contains the terms specified in Section 206.6(f).

20 (8) The project does not demolish, remove, or convert to another use any existing  
21 dwelling unit(s).

22 (9) The project complies with all applicable zoning and any adopted design review  
23 standards.

1                   (10) The project sponsor complies with all Mitigation Measures in the Central SoMa  
2 Environmental Impact Report (Central SoMa EIR) that the Planning Department determines are  
3 applicable to the project.

4                   (11) The project sponsor certifies that the project will comply with all applicable  
5 requirements of California Government Code Section 66201(f)(4).

6                   (12) The project shall comply with Government Code Section 66201(f)(5).

7                   (13) A project is not deemed to be for residential use if it is infeasible for actual use as  
8 a single or multifamily residence.

9                   (e) Approving Authority. The Planning Department is the approving authority designated to  
10 review permit applications for compliance with this Section 343.

11                   (f) Application.

12                   (1) Prior to submittal of an application for required approvals from the Planning  
13 Department, a project sponsor seeking to apply pursuant to this Section 343 shall submit an  
14 application for a preliminary project assessment (PPA), pursuant to Planning Department procedures.

15                   (2) In addition to any requirements under other provisions of this Code for submittal of  
16 application materials, an application under this Section 343 shall be submitted to the Department on a  
17 form prescribed by the Department and shall include at minimum the following materials:

18                   (A) A full plan set, including site plan, elevations, sections, and floor plans,  
19 showing total number of units, and number of and location of units affordable to very low or low  
20 income households;

21                   (B) All documentation required by the Department in its response to the project  
22 sponsor's previously-submitted PPA application;

23                   (C) Documentation sufficient to support determinations that:

24                   (i) the project meets all applicable zoning and any adopted design  
25 review standards;

1 (ii) the project sponsor will implement any and all Mitigation Measures  
2 in the Central SoMa EIR that the Planning Department determines are applicable to the project,  
3 including but not limited to the following:

4 a. An agreement to implement any and all Mitigation Measures  
5 in the Central SoMa EIR that the Planning Department determines are applicable to the project; and

6 b. Scope(s) of work for any studies required as part of any and all  
7 Mitigation Measures in the Central SoMa EIR that the Planning Department determines are applicable  
8 to the project. An application pursuant to this Section 343 shall not be deemed complete until such  
9 studies are completed to the satisfaction of the Environmental Review Officer.

10 (iii) the project sponsor will comply with subsections (d)(10) and (d)(11)  
11 of this Section 343.

12 (g) **Decision and Hearing.** The Department shall exercise ministerial approval of projects that  
13 meet all the requirements in this Section 343. Section 329 of this Code shall not apply to projects that  
14 are approved pursuant to this Section 343.

15 (1) **Hearing.** The Planning Department shall conduct an informational public hearing  
16 for all projects that are subject to this Section 343 within 100 days of receipt of a complete application,  
17 as defined in subsection (f).

18 (2) **Decision.** Within 120 days of receipt of a complete application, as defined in  
19 subsection (f), the Planning Director or the Director's designee shall issue a written decision  
20 approving, disapproving, or approving subject to conditions, the project. The applicant and the  
21 Department may mutually agree to extend this 120-day period. If no written decision is issued within  
22 120 days of the Department's receipt of a complete application, or within the period mutually agreed  
23 upon by the Department and applicant, the project shall be deemed approved. The Planning Director  
24 or the Director's designee shall include any certifications required by California Government Code  
25 Section 66205(e) in a copy of the written decision.

1                   (3) **Grounds for Permit Denial.** The Department may deny a Central SoMa HSD  
2 project application only for one or more of the following reasons:

3                   (A) The proposed project does not fully comply with this Section 343, including  
4 but not limited to meeting all adopted design review standards and demonstrating compliance with all  
5 applicable Mitigation Measures in the Central SoMa EIR that the Department determines are  
6 applicable to the project.

7                   (B) The project sponsor has not submitted all of the information or paid any  
8 application fee required by this Section 343 and necessary for an adequate and timely design review or  
9 assessment of potential impacts on neighboring properties.

10                   (C) The Department determines, based upon substantial evidence in light of the  
11 whole record of the public hearing on the project, that a physical condition on the site of development  
12 that was not known and could not have been discovered with reasonable investigation at the time the  
13 application was submitted would have a specific adverse impact upon the public health or safety and  
14 that there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. As used  
15 in this subsection (g)(3)(C), “specific adverse impact” means a significant, quantifiable, direct, and  
16 unavoidable impact based on identified objective written public health or safety standards, policies, or  
17 conditions, as in existence at the time the application is deemed complete.

18                   (4) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the  
19 Department under this Section 343 shall be as set forth in Section 8 of the Business and Tax  
20 Regulations Code.

21                   (5) **Discretionary Review.** No requests for discretionary review shall be accepted by  
22 the Planning Department or heard by the Planning Commission or Board of Appeals for projects  
23 subject to this Section 343.

24                   (6) **Progress Requirement.** The project sponsor of any project approved pursuant to  
25 this Section 343 shall obtain the first site or building permit for the project from the Department of

1 Building Inspection within 36 months of the Department's issuance of a written decision pursuant to  
2 subsection (g)(2) of this Section 343. If the project sponsor has not obtained the first site or building  
3 permit from the Department of Building Inspection within 36 months, then as soon as is feasible after  
4 36 months has elapsed, the Planning Director shall hold a hearing requiring the project sponsor to  
5 report on the status of the project, to determine whether the project sponsor has demonstrated good  
6 faith in its effort to obtain the first site or building permit for the project. If the Planning Director finds  
7 that the project sponsor has not demonstrated good faith in its efforts to obtain the first site or building  
8 permit for the project, the Planning Director shall revoke the approvals for the project. Factors in  
9 determining whether the project sponsor has demonstrated good faith in its efforts include, but are not  
10 limited to, whether any delays are the result of conditions outside the control of the project sponsor and  
11 whether changes in the financing of the project are necessary in order for construction to proceed.

12 (h) **Design Review Standards.** Projects subject to this Section 343 shall be reviewed for  
13 compliance with the design standards set forth in the San Francisco Urban Design Guidelines and the  
14 Central SoMa Plan's Guide to Urban Design, which are on file with the Planning Department, as  
15 approved by the California Department of Housing and Community Development.

16 (i) **District Affordability Requirement.** At the request of the California Department of Housing  
17 and Community Development, the Planning Department shall demonstrate that at least 20% of the  
18 residential units constructed in the Central SoMa Housing Sustainability District during the life of the  
19 District and pursuant to this Section 343 will be affordable to very low, low-, and moderate-income  
20 households and subject to a recorded affordability restriction for at least 55 years.

21 (j) **Monitoring and Enforcement.** The Planning Department shall include, as conditions of  
22 approval of all projects approved pursuant to this Section 343, monitoring and enforcement provisions  
23 to ensure that the project meets all labor and wage requirements and complies with all identified  
24 applicable mitigation measures. Projects found to be in violation of any of these conditions shall be  
25 subject to the Administrative Enforcement Procedures in Section 176.1 of this Code, including

1 initiation of abatement proceedings or referral to the City Attorney or District Attorney for prosecution,  
2 if not corrected within 90 days of service of any notice of violation issued under Section 176.1(c).

3 Conditions of approval shall include, but are not limited to:

4 (1) A project sponsor shall submit weekly reports to the Office of Labor Standards  
5 Enforcement, certifying that a project approved pursuant to this Section 343 is complying with  
6 subsections (d)(11) and (d)(12), if applicable to the project. Projects found to be in violation of  
7 subsections (d)(11) and (d)(12) shall be subject to penalties pursuant to Section 1741 of the Labor  
8 Code, in addition to any penalties assessed pursuant to Section 176.1 of this Code. All penalties shall  
9 be paid prior to issuance of the project's First Certificate of Occupancy.

10 (2) The Planning Department shall monitor compliance with Central SoMa EIR  
11 Mitigation Measures.

12 (3) The Planning Department shall monitor and report the construction of affordable  
13 housing units under the Central SoMa Housing Sustainability District in its annual Housing Inventory,  
14 which shall include the following information:

15 (A) Number of projects approved pursuant to this Section 343.

16 (B) Number of projects under construction pursuant to approvals obtained  
17 under this Section 343.

18 (C) Number of projects completed pursuant to approvals obtained under this  
19 Section 343.

20 (D) Number of dwelling units within projects completed pursuant to approvals  
21 obtained under this Section 343.

22 (E) Number of dwelling units affordable to very low, low, moderate, and middle  
23 income households within projects completed pursuant to approvals obtained under this Section 343.

24 (k) Operative and Sunset Dates.



1                   (1) This Section 343 shall become operative upon receipt of preliminary approval by  
2 the California Department of Housing and Community Development under California Government  
3 Code Section 66202 (“Operative Date”).

4                   (2) This Section 343 shall expire by operation of law seven years from the Operative  
5 Date, unless this Section 343 is renewed by ordinance pursuant to Government Code Section 66201(g),  
6 in which case this Section 343 shall expire on the date specified in that ordinance (“Sunset Date”).

7                   (3) Upon the expiration of this Section 343, the City Attorney shall cause this Section  
8 343 to be removed from the Planning Code. Pursuant to Government Code Section 66205(b), this  
9 Section 343 shall govern the processing and review of any complete application submitted pursuant to  
10 this Section 343 prior to the Sunset Date.

11  
12                   Section 4. Effective Date; Operative Date.

13                   (a) This ordinance shall become effective 30 days after enactment. Enactment occurs  
14 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not  
15 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the  
16 Mayor’s veto of the ordinance.

17                   (b) Consistent with Section 343(k)(1) of the Planning Code, this ordinance in its  
18 entirety shall become operative upon receipt of preliminary approval by the California  
19 Department of Housing and Community Development under California Government Code  
20 Section 66202.

21  
22                   Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under  
2 the official title of the ordinance.

3  
4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By:   
7 PETER R. MILJANICH  
8 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Business and Tax Regulations, Planning Codes - Central South of Market Housing Sustainability District]

**Ordinance amending the Business and Tax Regulations and Planning Codes to create the Central South of Market Housing Sustainability District (encompassing an area generally bounded on its western portion by Sixth Street, on its eastern portion by Second Street, on its northern portion by the border of the Downtown Plan Area (an irregular border that generally tracks Folsom, Howard, or Stevenson Streets), and on its southern portion by Townsend Street) to provide a streamlined and ministerial approval process for certain housing projects within the District meeting specific labor, on-site affordability, and other requirements; creating an expedited Board of Appeals process for appeals of projects within the District; and making approval findings under the California Environmental Quality Act, findings of public convenience, necessity, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Existing Law

1. City law.

The Planning Code regulates development in the City, including residential and mixed-use developments. Article 3 of the Planning Code sets forth zoning procedures, including procedures for the City's consideration and approval of certain development permit applications.

Section 8 of the Business and Tax Regulations Code sets forth requirements for the appeal of permit decisions to the Board of Appeals, including the timeline for filing such appeals. Section 26 of the Business and Tax Regulations Code permits City departments to exercise discretion as to whether permits should be granted, transferred, denied, or revoked.

2. New State law.

Assembly Bill 73 (AB 73), California Government Code Sections 66200 et seq., authorizes local agencies to establish by ordinance one or more Housing Sustainability Districts (HSD) to provide a streamlined, ministerial approval process for residential and mixed use developments meeting certain requirements. Local agencies must obtain approval of any HSD ordinance from the California Department of Housing and Community Development.

AB 73 requires local agencies to prepare an Environmental Impact Report (EIR) to identify and mitigate the environmental impacts of the HSD designation. Projects approved under an HSD ordinance must implement applicable mitigation measures identified in the EIR.

An HSD ordinance must require that at least 20 percent of the residential units constructed within an HSD be affordable to very low, low-, and moderate-income households and subject to a recorded affordability restriction for at least 55 years.

Among other requirements, at least 10 percent of the units in any development project seeking approval under an HSD ordinance must be affordable for lower income households, unless the local agency has adopted a requirement that a greater percentage of the units be affordable for lower income households. Subject to certain exceptions, project sponsors must commit to complying with certain prevailing wage and skilled and trained workforce requirements when constructing a project approved under an HSD ordinance.

AB 73 authorizes local agencies to adopt design review standards applicable to development projects within the HSD.

If a development project meets the requirements of an HSD ordinance, the local agency must hold a hearing and issue a written decision on the project within 120 days of receipt of an application, and must exercise ministerial approval of the project. AB 73 limits the grounds on which a local agency may deny an application for approval under the HSD ordinance.

A local agency that establishes an HSD approved by the California Department of Housing and Community Development will be entitled to a zoning incentive payment, based on the number of new residential units constructed within the HSD, upon appropriation of funds by the California Legislature for that purpose.

#### Amendments to Current Law

The ordinance would add new Planning Code Section 343 to establish the Central SoMa Housing Sustainability District (Central SoMa HSD). The Central SoMa HSD would include all parcels within the proposed Central SoMa Special Use District.

The ordinance would create a streamlined, ministerial approval process for residential and mixed use developments meeting the requirements of AB 73 and other eligibility criteria. The ordinance would provide that the Planning Department, the Planning Commission, and the Board of Appeals will not exercise discretionary review of projects seeking approval under the Central SoMa HSD.

The ordinance would require the Planning Department to hold an informational hearing and issue a written decision on the project within 120 days of receiving a complete application.

The ordinance would require the project sponsor of any project approved under the Central SoMa HSD to obtain the first site or building permit for the project from the Department of Building Inspection within 36 months of the Planning Department's issuance of a written decision on the project. The ordinance would create a process for revocation of the Planning Department's approval.

The ordinance would require the Planning Department to review projects seeking approval under the Central SoMa HSD for compliance with the design standards set forth in the San Francisco Urban Design Guidelines and the Central SoMa Plan's Guide to Urban Design.

The ordinance would require the Planning Department to monitor and enforce compliance with the requirements of the Central SoMA HSD ordinance.

The ordinance would amend Section 8 of the Business and Tax Regulations Code to expedite appeals to the Board of Appeals of permit decisions made under the Central SoMa HSD, as follows: such appeals must be taken within 10 days of the permit decision; the Board of Appeals must set the hearing no less than 10 days after the filing of the appeal; and the Board of Appeals must act on the appeal not more than 30 days after the filing, and shall not entertain a motion for rehearing.

The ordinance would amend Section 26 of the Business and Tax Regulations Code to provide that the Central SoMa HSD's ministerial approval process in Planning Code Section 343 will govern permit decisions.

The ordinance would become operative upon receipt of preliminary approval by the California Department of Housing and Community Development. The ordinance would expire by operation of law seven years after its operative date, unless renewed.

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