

[Planning and Economic Development Commission]

## CHARTER AMENDMENT

### PROPOSITION \_\_\_\_

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by deleting Section 4.121 and Appendix D that establish the Building Inspection Commission, and amending Section 4.105 to establish a Planning and Economic Development Commission consisting of the current members of the Planning Commission that would manage the Department of Planning and the Department of Building Inspection.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 4, 2003, a proposal to amend the Charter of the City and County by deleting Section 4.121 and Appendix D, and amending Section 4.105 to read as follows:

Note: Additions are *single-underline italics Times New Roman*.  
Deletions are ~~*strikethrough italics Times New Roman*~~.

#### SEC. 4.105. PLANNING AND ECONOMIC DEVELOPMENT COMMISSION.

GENERAL. The Planning and Economic Development Commission shall consist of seven members nominated and appointed pursuant to this section. Four of the members shall be nominated by the Mayor, and three of the members shall be nominated by the President of the Board of Supervisors. Charter Section 4.101 shall apply to these appointments, with particular emphasis on the geographic diversity of City neighborhoods. Vacancies shall be filled by the appointing officer.

Each nomination of the Mayor and the President of the Board of Supervisors is subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days. If the Board fails to act on the nomination within 60 days of the date the

nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the nomination or after 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors. In the event that the number of nominees appointed and sworn in to office is not sufficient to constitute a quorum of the Commission, the Board of Supervisors is empowered to adopt by emergency ordinance an alternative temporary structure for conducting the Commission's business, including but not limited to appointing itself as the acting Planning and Economic Development Commission.

The members of the Planning and Economic Development Commission shall be those persons currently serving as members of the Planning Commission. Those members shall continue to serve the two- or four-year staggered terms to which they were appointed. All subsequent terms shall be for four years. Members may be removed by the appointing officer only pursuant to Section 15.105.

~~In order to stagger the terms, three members shall initially serve two year terms, and four members shall initially service four year terms. The initial two and four year terms of office shall be instituted as follows:~~

~~1. The respective terms of office of members of the Planning Commission who hold office on the first day of July, 2002, shall expire at 12 o'clock noon on that date, and the four members appointed by the Mayor and the three members appointed by the President of the Board of Supervisors shall succeed to said offices at that time.~~

~~2. The clerk of the Board of Supervisors shall determine by lot which two of the four Mayoral appointees shall serve an initial two year term, and which one of the three appointees of the President of the Board of Supervisors shall serve an initial two year term. The remaining appointees shall serve four year terms. All subsequent terms shall be four years.~~

GENERAL POWERS AND DUTIES. The Planning and Economic Development Commission shall manage the Department of Planning and the Department of Building

Inspection. The Commission shall also manage the Central Permit Bureau located within the Department of Building Inspection.

The Commission shall provide the Mayor with at least three qualified candidates for Director of Planning and the Director of Building Inspection, selected on the basis of administrative and technical qualifications, ~~with special regard for.~~ The Director of Planning shall have experience, training and knowledge in the field of city planning. The Director of Building Inspection shall be qualified by either technical training or administrative experience in the enforcement of building and other construction codes and shall also serve as the building official of the City and County. The Director of Building Inspection shall not serve as an officer or member of any standing or ad hoc committee of any building industry or code development or enforcement organization, or any public agency other than the City and County of San Francisco, without prior approval of the Commission.

The Commission shall appoint and may remove at its pleasure members of the Abatement Appeals Board, Board of Examiners, Access Appeals Commission, the Code Advisory Committee, and other technical bodies established by the San Francisco Building Code, all of which shall have the powers and duties set forth in the Building Code or other applicable construction code. Incumbents legally appointed to these respective bodies prior to the Commission's assumption of management of the Department of Building Inspection shall serve at the pleasure of the Commission.

The Commission may contract with consultants for such services as it may require subject to the fiscal provisions of this Charter.

The Commission shall have the sole authority to contract for the publication of the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing Codes, and any amendments thereto. Other provisions of this Charter and the Administrative Code notwithstanding, the selection of a publisher shall be based on the lowest retail cost to the public of a complete set of these codes.

GENERAL PLAN. The Commission shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan. If the Board of Supervisors fails to act within 90 days of receipt, the proposed General Plan or amendments shall be deemed approved. The General Plan which will initially consist of the Master Plan in effect immediately prior to the effective date of this Charter shall consist of goals, policies and programs for the future physical development of the City and County that take into consideration social, economic and environmental factors. In developing their recommendations, the Commission shall consult with commissions and elected officials, and shall hold public hearings as part of a comprehensive planning process. The Planning Department, in consultation with other departments and the City Administrator, shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan, and periodically prepare implementation programs and schedules which link the General Plan to the allocation of local, state and federal resources. The Planning Department may make such other reports and recommendations to the Mayor, Board of Supervisors and other offices and governmental units as it may deem necessary to secure understanding and a systematic effectuation of the General Plan.

In preparing any plans, the Planning Department may include plans for systems and areas within the Bay Region which have a planning relationship with the City and County.

REFERRAL OF CERTAIN MATTERS. The following matters shall, prior to passage by the Board of Supervisors, be submitted for written report by the Planning Department regarding conformity with the General Plan:

1. Proposed ordinances and resolutions concerning the acquisition or vacation of property by, or a change in the use or title of property owned by, the City and County;
2. Subdivisions of land within the City and County;
3. Projects for the construction or improvement of public buildings or structures within the City and County;

4. Project plans for public housing, or publicly assisted private housing in the City and County;
5. Redevelopment project plans within the City and County; and
6. Such other matters as may be prescribed by ordinance.

The Commission shall disapprove any proposed action referred to it upon a finding that such action does not conform to the General Plan. Such a finding may be reversed by a vote of two-thirds of the Board of Supervisors.

All such reports and recommendations shall be issued in a manner and within a time period to be determined by ordinance.

PERMITS AND LICENSES. All permits and licenses dependent on, or affected by, the ~~City San Francisco~~ Planning Code administered by the Planning Department or the Building Code, Housing Code, Electrical Code, Plumbing Code, and Mechanical Code administered by the Building Department shall be approved by the Commission prior to issuance. The Commission may delegate this approval function to the ~~Planning~~ respective Department.

ENFORCEMENT. The Planning Department shall administer and enforce the ~~City San Francisco~~ Planning Code. The Building Department shall administer and enforce the San Francisco Building Code, Housing Code, Electrical Code, Plumbing Code, and Mechanical Code.

ZONING AMENDMENTS. The Commission may propose for consideration by the Board of Supervisors ordinances regulating or controlling the height, area, bulk, set-back, location, use or related aspects of any building, structure or land. An ordinance proposed by the Board of Supervisors concerning zoning shall be reviewed by the Commission. Applications for the reclassification of property may be made by interested parties and must be reviewed by the Commission.

Notwithstanding the Commission's disapproval of a proposal from the Board of Supervisors or the application of interested parties, the Board of Supervisors may adopt the

proposed ordinance; however, in the case of any proposal made by the application of interested parties, any such adoption shall be by a vote of not less than two-thirds of the Board of Supervisors.

No application of interested parties proposing the same or substantially the same ordinance as that disapproved by the Commission or by the Board of Supervisors shall be resubmitted to or reconsidered by the Commission within a period of one year from the effective date of final action upon the earlier application.

CONSTRUCTION CODE AMENDMENTS. The Commission shall hold public hearings on all proposed amendments to the San Francisco Building Code, Housing Code, Electrical Code, Plumbing Code, and Mechanical Code. Notwithstanding the Commission's disapproval of a proposal from the Board of Supervisors, the Board of Supervisors may adopt the proposed ordinance.

ZONING ADMINISTRATOR. The director of planning shall appoint a Zoning Administrator from a list of qualified applicants provided pursuant to the Civil Service provisions of the Charter. The Zoning Administrator shall be responsible for the determination of all zoning variances. The administrator shall have the power to grant only those variances that are consistent with the general purpose and the intent of the zoning ordinance, and in accordance with the general and specific rules of the zoning ordinance, subject to such conditions and safeguards as the Zoning Administrator may impose. The power to grant variances shall be applied only when the plain and literal interpretation and enforcement of the zoning ordinance would result in practical difficulties, unnecessary hardships or where the results would be inconsistent with the general purpose of the zoning ordinance. Decisions of the Zoning Administrator regarding zoning variances may be appealed to the Board of Appeals.

Before any such variance may be granted, there shall appear, and the Zoning Administrator shall specify in his or her findings, the facts in each case which shall establish:

(a) That there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same district or zone;

(b) That owing to such exceptional or extraordinary circumstances the literal enforcement of the zoning ordinance would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;

(c) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, possessed by other property in the same zone and vicinity;

(d) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located; and

(e) That the granting of such variance will be in harmony with the general purpose and intent of the zoning ordinance and will not adversely affect the general plan.

The determination of the Zoning Administrator shall be final except that appeals therefrom may be taken, as hereinafter provided, to the Board of Appeals, exclusively and notwithstanding any other provisions of this Charter, by any person aggrieved or by any office, agency, or department of the City and County. An appeal from a determination of the Zoning Administrator shall be filed with the Board of Appeals within ten days from the date of such determination. Upon making a ruling or determination upon any matter under his or her jurisdiction, the Zoning Administrator shall thereupon furnish a copy thereof to the applicant and to the Director of Planning. No variance granted by the Zoning Administrator shall become effective until ten days thereafter. An appeal shall stay all proceedings in furtherance of the action appealed from.

CONDITIONAL USE. The Commission shall have the power to hear and decide conditional use applications. An appeal may be taken to the Board of Supervisors from a

decision of the Commission to grant or deny a conditional use application. The Board of Supervisors may disapprove the decision of the Commission by a vote of not less than two-thirds of the members of the Board. (Amended March 2002)

~~SEC. 4.121. — BUILDING INSPECTION COMMISSION.~~

~~The Building Inspection Commission shall consist of seven members. Four members shall be appointed by the Mayor for a term of two years. Three members shall be appointed by the President of the Board of Supervisors for a term of two years. Members may be removed by the appointing officer only pursuant to Section 15.105. Vacancies occurring in the offices of appointive members, either during or at the expiration of a term, shall be filled by the appointing officer.~~

~~The four Mayoral appointments shall consist of a structural engineer, a licensed architect, a residential builder, and a representative of a community based non profit housing development corporation. The three Supervisorial appointments shall consist of a residential tenant, a residential landlord, and a member of the general public.~~

~~Notwithstanding any other provision of the Charter, the Commission shall have the power to appoint and remove a department head.~~

~~D3.750 — ESTABLISHMENT~~

~~Recognizing that the provision of safe and sanitary buildings is essential to the welfare of the inhabitants of the City and County of San Francisco, there is hereby established a Department of Building Inspection which shall consist of a Building Inspection Commission, a Director of Building Inspection, and such employees as may be necessary to carry out the functions and duties of said department. The commission shall organize, reorganize, and manage the department. When the commission assumes management of the department, the Bureau of Building Inspection shall cease to exist. Unless modified or repealed by the commission, all orders, regulations, rules, and policies of the Bureau of Building Inspection will remain in effect. Except as limited below, positions in the Bureau of Building Inspection of the Department of~~



*Public Works legally authorized on the date the commission assumes management of the department shall be continued, and incumbents therein legally appointed thereto shall be continued as officers and employees of the department under the conditions governing their respective appointments.*

*D3.750-1 — COMMISSION; COMPOSITION*

*The Department of Building Inspection shall be under the management of a Building Inspection Commission consisting of seven members. Four members shall be appointed by the mayor for a term of two years; provided that the respective terms of office of those first appointed shall be as follows: two for one year, and two for two years from the effective date of this section. Three members shall be appointed by the President of the Board of Supervisors for a term of two years; provided that the respective terms of office of those first appointed shall be as follows: three for one year from the effective date of this section. The initial appointments shall be made no later than fifteen days after the effective date of this section, and the commission's management shall begin no later than forty five days after the effective date of this section. Vacancies occurring in the offices of appointive members, either during or at expiration of term, shall be filled by the electoral office that made the appointment. The four mayoral appointments shall be comprised of a structural engineer, a licensed architect, a residential builder, and a representative of a community-based non profit housing development corporation. The three Supervisorial appointments shall be comprised of a residential tenant, a residential landlord, and a member of the general public. The members of the commission shall serve without compensation.*

*Pursuant to Government Code Section 87103, individuals appointed to the commission under this section are intended to represent and further the interest of the particular industries, trades, or professions specified herein. Accordingly, it is found that for purposes of persons who hold such office, the specified industries, trades, or professions are tantamount to and constitute the public generally within the meaning of Government Code Section 87103.*

~~D3.750 2 — DIRECTOR OF BUILDING INSPECTION; OTHER EXECUTIVES~~

~~The Director of Building Inspection shall be the department head and appointing officer of the Department of Building Inspection and shall be qualified by either technical training or administrative experience in the enforcement of building and other construction codes. The Director shall serve as the building official of the city and county and, upon his or her appointment, shall assume all of the powers and duties of the Director of Public Works with respect to the administration and enforcement of the building code and other construction codes. The Director shall have all the powers provided for department heads as set forth in Section 3.501 of this Charter. The Director shall be appointed by the commission and hold office at its pleasure; the person who has civil service status in the position of Superintendent of the Bureau of Building Inspection on the date the commission assumes management of the department shall serve as interim Director pending the appointment of a Director by the commission. Subject to the approval of the commission, and the budgetary and fiscal provisions of this Charter, the Director shall have the power to appoint and remove, at his or her pleasure, up to one deputy superintendent and no more than two assistant superintendents, all of whom shall be exempt from the civil service provisions of this Charter.~~

~~The Director shall not serve as an officer or member of any standing or ad hoc committee of any building industry or code development or enforcement organization or public agency other than the City and County of San Francisco without the prior approval of the commission.~~

~~D3.750 3 — SECRETARY OF COMMISSION; CONSULTANTS~~

~~The Building Inspection Commission may appoint a secretary, which appointment shall not be subject to the civil service provisions of this Charter. Subject to the provisions of Section 6.302, 6.312 and 6.313 of this Charter, the commission may also contract with engineers or other consultants for such services as it may require.~~

~~D3.750 4 — POWERS AND DUTIES~~

~~The Building Inspection Commission shall organize, reorganize, and manage the Department of Building Inspection which shall have responsibility for the enforcement, administration, and interpretation of the city's Housing, Building, Mechanical, Electrical, and Plumbing Codes, except where this Charter specifically grants that power to another department. The Central Permit Bureau, formerly within the Bureau of Building Inspection, shall also be managed by the commission.~~

~~The commission shall inspect and regulate additions, alterations, and repairs in all buildings and structures covered by the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing Codes. Nothing in this chapter shall diminish or alter the jurisdiction of the Planning Department over changes of use or occupancy under the Planning Code. The commission shall ensure the provision of minimum standards to safeguard life or limb, health, property, and the public welfare by regulating and controlling the safe use of such buildings and structures. The commission shall ensure the vigorous enforcement of city laws mandating the provision of heat and hot water to residential tenants. The commission shall also ensure the enforcement of local, state, and federal disability access laws. The commission shall be a policy-making and supervisory body with all the powers provided for in Section 3.500 of this Charter.~~

~~The commission shall constitute the Abatement Appeals Board, and shall assume all powers granted to this entity under this Charter and the San Francisco Building Code. The commission shall appoint and may remove at its pleasure members of the Board of Examiners, Access Appeals Board, and Code Advisory Committee, all of which shall have the powers and duties to the extent set forth in the San Francisco Building Code.~~

~~The commission shall have the power to hold hearings and hear appeals on all decisions made by the Department of Public Works regarding permits under one or more of the codes enumerated in this section and on sidewalk or encroachment permits. The commission may reverse, affirm or modify determinations made by the Department of Public Works, Water Department, or Department of Building Inspection on all permits required for a final certificate~~

~~of completion. The commission's jurisdiction under this section, however, shall not extend to permits appealable to the Planning Commission or Board of Permit Appeals. Departmental decisions on permits subject to commission review shall be made within the time mandates of the state Permit Streamlining Act. Appeals of decisions must be filed with the commission within fifteen days of the challenged determination. The commission shall act on the appeal within a reasonable time. The commission's action shall be final.~~

#### ~~D3.750 5 — ACTIONS OF COMMISSION~~

~~The commission shall adopt rules and regulations consistent with fulfilling its responsibilities under this Charter. The commission shall also adopt rules and regulations governing commission meetings and also adopt requirements for notification and mailing for commission business. The commission shall hold public hearings on all proposed amendments to the San Francisco Building Code, Electrical Code, Housing Code, Plumbing Code, and Mechanical Code.~~

~~The Building Inspection Commission shall have the sole authority to contract for the publication of the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing Codes, and any amendments thereto. Other provisions of this Charter and the Administrative Code notwithstanding, the selection of a publisher shall be based on the lowest retail cost to the public of a complete set of these codes.~~

#### ~~D3.750 6 — APPROVAL OF BUDGETS~~

~~The commission shall initially be funded out of the 1994 95 budget approved for the Bureau of Building Inspection, and subsequent funding shall come from the budget of the Department of Building Inspection.~~

~~The Director of Building Inspection shall submit a proposed department budget for each upcoming fiscal year for approval by the commission. The proposed budget shall be compiled in such detail as shall be required on uniform blanks furnished by the controller. The Building Inspection Commission must hold at least two public hearings on the respective budget proposal.~~

*The final budget for the Department of Building Inspection must be approved by a favorable vote of at least five commissioners.*

~~D3.750 7 — TECHNICAL BOARDS AND ADVISORY COMMITTEES~~

*The technical boards and advisory committees established in the Building Code by ordinance of the Board of Supervisors shall continue in existence as boards and committees within the Department of Building Inspection. Members of the boards and committees shall be appointed by the commission. Incumbents legally appointed to these respective bodies prior to the commission's assumption of management of the department shall serve at the pleasure of the commission.*

~~D3.750 8 — SEVERABILITY~~

*If any provision of this section, or its application to any person or circumstance, shall be held invalid or unenforceable, the remainder of this section and its applications shall not be affected; every provision of this section is intended to be severable.*

*The Clerk of the Board of Supervisors is hereby authorized to recodify this amendment as may be necessary.*

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

By: \_\_\_\_\_  
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