

1 [Planning Code - City Housing Balance Monitoring and Reporting]

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3 **Ordinance amending the Planning Code to require the Planning Department to monitor**
4 **the balance between new market rate housing and new affordable housing, and publish**
5 **a bi-annual Housing Balance Report; requiring an annual hearing at the Board of**
6 **Supervisors on strategies for achieving and maintaining the required housing balance**
7 **in accordance with San Francisco’s housing production goals; and making**
8 **environmental findings, Planning Code, Section 302 findings, and findings of**
9 **consistency with the General Plan, and the eight priority policies of Planning Code,**
10 **Section 101.1.**

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

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

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18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 150029 and is incorporated herein by reference. The Board of
23 Supervisors affirms this determination.

24 (b) On March 19, 2015, the Planning Commission, in Resolution No. 19337, adopted
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
3 Board of Supervisors in File No. 150029, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
5 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
6 in Planning Commission Resolution No. 150029 and the Board incorporates such reasons
7 herein by reference.

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9 Section 2. The Planning Code is hereby amended by adding new Section 103 to read
10 as follows:

11 **SEC. 103. HOUSING BALANCE MONITORING AND REPORTING.**

12 *(a) Purposes. To maintain a balance between new affordable and market rate housing City-*
13 *wide and within neighborhoods, to make housing available for all income levels and housing need*
14 *types, to preserve the mixed income character of the City and its neighborhoods, to offset the*
15 *withdrawal of existing housing units from rent stabilization and the loss of single-room-occupancy*
16 *hotel units, to ensure the availability of land and encourage the deployment of resources to provide*
17 *sufficient housing affordable to households of very low, low, and moderate incomes, to ensure adequate*
18 *housing for families, seniors and the disabled community, to ensure that data on meeting affordable*
19 *housing targets City-wide and within neighborhoods informs the approval process for new housing*
20 *development, and to enable public participation in determining the appropriate mix of new housing*
21 *approvals, there is hereby established a requirement, as detailed in this Section 103, to monitor and*
22 *regularly report on the housing balance between market rate housing and affordable housing.*

23 **(b) Findings.**

24 *(1) In November 2014, the City voters enacted Proposition K, which established City*
25 *policy to help construct or rehabilitate at least 30,000 homes by 2020. More than 50% of this housing*

1 would be affordable for middle-class households, with at least 33% affordable for low- and moderate-
2 income households, and the City is expected to develop strategies to achieve that goal. This section
3 103 sets forth a method to track performance toward the City's Housing Element goals and the near-
4 term Proposition K goal that 33% of all new housing shall be affordable housing, as defined herein.

5 (2) The City's rent stabilized and permanently affordable housing stock serves very low-,
6 low-, and moderate-income families, long-time residents, elderly seniors, disabled persons and others.
7 The City seeks to achieve and maintain an appropriate balance between market rate housing and
8 affordable housing City-wide and within neighborhoods because the availability of decent housing and
9 a suitable living environment for every San Franciscan is of vital importance. Attainment of the City's
10 housing goals requires the cooperative participation of government and the private sector to expand
11 housing opportunities to accommodate housing needs for San Franciscans at all economic levels and to
12 respond to the unique needs of each neighborhood where housing will be located.

13 (3) For tenants in unsubsidized housing, affordability is often preserved by the
14 Residential Rent Stabilization and Arbitration Ordinance's limitations on the size of allowable rent
15 increases during a tenancy. As documented in the Budget and Legislative Analyst's October 2013
16 Policy Analysis Report on Tenant Displacement, San Francisco is experiencing a rise in units
17 withdrawn from rent controls. Such rises often accompany periods of sharp increases in property
18 values and housing prices. From 1998 through 2013, the Rent Board reported a total of 13,027 no-fault
19 evictions (i.e., evictions in which the tenant had not violated any lease terms, but the owner sought to
20 regain possession of the unit). Total evictions of all types have increased by 38.2% from Rent Board
21 Year (i.e. from March through February) 2010 to Rent Board Year 2013. During the same period, Ellis
22 Act evictions far outpaced other evictions, increasing by 169.8% from 43 in Rent Board Year 2010 to
23 116 in Rent Board Year 2013. These numbers do not capture the large number of owner buyouts of
24 tenants, which contribute further to the loss of rent-stabilized units from the housing market. Any fair
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1 assessment of the affordable housing balance must incorporate into the calculation units withdrawn
2 from rent stabilization.

3 (4) Pursuant to Government Code Section 65584, the Association of Bay Area
4 Governments (ABAG), in coordination with the California State Department of Housing and
5 Community Development (HCD), determines the Bay Area's regional housing need based on regional
6 trends, projected job growth, and existing needs. The regional housing needs assessment (RHNA)
7 determination includes production targets addressing housing needs of a range of household income
8 categories. For the RHNA period covering 2015 through 2022, ABAG has projected that at least 38%
9 of new housing demands for San Francisco will be from very low and low income households
10 (households earning under 80% of area median income), and another 22% of new housing demands to
11 be affordable to households of moderate means (earning between 80% and 120% of area median
12 income). Market-rate housing is considered housing with no income limits or special requirements
13 attached.

14 (5) The Housing Element of the City's General Plan states: "Based on the growing
15 population, and smart growth goals of providing housing in central areas like San Francisco, near jobs
16 and transit, the State Department of Housing and Community Development (HCD), with the
17 Association of Bay Area Governments (ABAG), estimates that in the current 2015-2022 Housing
18 Element period San Francisco must plan for the capacity for roughly 28,870 new units, 57% of which
19 should be suitable for housing for the extremely low, very low, low and moderate income households to
20 meet its share of the region's projected housing demand." Objective 1 of the Housing Element states
21 that the City should "identify and make available for development adequate sites to meet the City's
22 housing needs, especially permanently affordable housing." Objective 7 states that San Francisco's
23 projected affordable housing needs far outpace the capacity for the City to secure subsidies for new
24 affordable units.

1 (6) In 2012, the City enacted Ordinance 237-12, the “Housing Preservation and
2 Production Ordinance,” codified in Administrative Code Chapter 10E.4, to require Planning
3 Department staff to regularly report data on progress toward meeting San Francisco’s quantified
4 production goals for different household income levels as provided in the General Plan’s Housing
5 Element. That Ordinance requires data on the number of units in all stages of the housing production
6 process at various affordability levels to be included in staff reports on all proposed projects of five
7 residential units or more and in quarterly housing production reports to the Planning Commission. The
8 Planning Department has long tracked the number of affordable housing units and total number of
9 housing units built throughout the City and in specific areas and should be able to track the ratio called
10 for in this Section 103.

11 (7) As the private market has embarked upon, and government officials have urged, an
12 ambitious program to produce significant amounts of new housing in the City, the limited remaining
13 available land makes it essential to assess the impact of the approval of new market rate housing
14 developments on the availability of land for affordable housing and to encourage the deployment of
15 resources to provide such housing.

16 **(c) Housing Balance Calculation.**

17 (1) For purposes of this Section 103, “Housing Balance” shall be defined as the
18 proportion of all new housing units affordable to households of extremely low, very low, low or
19 moderate income households, as defined in California Health & Safety Code Sections 50079.5 et seq.,
20 as such provisions may be amended from time to time, to the total number of all new housing units for a
21 10 year Housing Balance Period.

22 (2) The Housing Balance Period shall begin with the first quarter of year 2005 to the
23 last quarter of 2014, and thereafter for the ten years prior to the most recent calendar quarter.

24 (3) For each year that data is available, beginning in 2005, the Planning Department
25 shall report net housing construction by income levels, as well as units that have been withdrawn from

1 protection afforded by City law, such as laws providing for rent-controlled and single resident
2 occupancy (SRO) units. The affordable housing categories shall include net new units, as well as
3 existing units that were previously not restricted by deed or regulatory agreement that are acquired for
4 preservation as permanently affordable housing as determined by the Mayor's Office of Housing and
5 Community Development (MOHCD) (not including refinancing or other rehabilitation under existing
6 ownership), protected by deed or regulatory agreement for a minimum of 55 years. The report shall
7 include, by year, and for the latest quarter, all units that have received Temporary Certificates of
8 Occupancy within that year, a separate category for units that obtained a site or building permit, and
9 another category for units that have received approval from the Planning Commission or Planning
10 Department, but have not yet obtained a site or building permit to commence construction (except any
11 entitlements that have expired and not been renewed during the Housing Balance Period). Master
12 planned entitlements, including but not limited to such areas as Treasure Island, Hunters Point
13 Shipyards and Park Merced, shall not be included in this latter category until individual building
14 entitlements or site permits are approved for specific housing projects. For each year or approval
15 status, the following categories shall be separately reported:

16 (A) Extremely Low Income Units, which are units available to individuals or
17 families making between 0-30% Area Median Income (AMI) as defined in California Health & Safety
18 Code Section 50106, and are subject to price or rent restrictions between 0-30% AMI;

19 (B) Very Low Income Units, which are units available to individuals or families
20 making between 30-50% AMI as defined in California Health & Safety Code Section 50105, and are
21 subject to price or rent restrictions between 30-50% AMI;

22 (C) Lower Income Units, which are units available to individuals or families
23 making between 50-80% AMI as defined in California Health & Safety Code Section 50079.5, and are
24 subject to price or rent restrictions between 50-80% AMI;

1 (D) Moderate Income Units, which are units available to individuals or families
2 making between 80-120% AMI, and are subject to price or rent restrictions between 80-120% AMI;

3 (E) Middle Income Units, which are units available to individuals or families
4 making between 120-150% AMI, and are subject to price or rent restrictions between 120-150% AMI;

5 (F) Market-rate units, which are units not subject to any deed or regulatory
6 agreement with price restrictions;

7 (G) Housing units withdrawn from protected status, including units withdrawn
8 from rent control (except those units otherwise converted into permanently affordable housing),
9 including all units that have been subject to rent control under the San Francisco Residential Rent
10 Stabilization and Arbitration Ordinance but that a property owner removes permanently from the
11 rental market through condominium conversion pursuant to Administrative Code Section 37.9(a)(9),
12 demolition or alterations (including dwelling unit mergers), or permanent removal pursuant to
13 Administrative Code Section 37.9(a)(10) or removal pursuant to the Ellis Act under Administrative
14 Code Section 37.9(a)(13);

15 (H) Public housing replacement units and substantially rehabilitated units
16 through the HOPE SF and Rental Assistance Demonstration (RAD) programs, as well as other
17 substantial rehabilitation programs managed by MOHCD.

18 (4) The Housing Balance shall be expressed as a percentage, obtained by dividing the
19 cumulative total of extremely low, very low, low and moderate income affordable housing units (all
20 units 0-120% AMI) minus the lost protected units, by the total number of net new housing units within
21 the Housing Balance Period. The Housing Balance shall also provide two calculations:

22 (A) the Cumulative Housing Balance, consisting of housing units that have
23 already been constructed (and received a Temporary Certificate of Occupancy or other certificate that
24 would allow occupancy of the units) within the 10-year Housing Balance Period, plus those units that
25 have obtained a site or building permit. A separate calculation of the Cumulative Housing Balance

1 shall also be provided, which includes HOPE SF and RAD public housing replacement and
2 substantially rehabilitated units (but not including general rehabilitation / maintenance of public
3 housing or other affordable housing units) that have received Temporary Certificates of Occupancy
4 within the Housing Balance Period. The Housing Balance Reports will show the Cumulative Housing
5 Balance with and without public housing included in the calculation; and

6 (B) the Projected Housing Balance, which shall include any residential project
7 that has received approval from the Planning Commission or Planning Department , even if the
8 housing project has not yet obtained a site or building permit to commence construction (except any
9 entitlements that have expired and not been renewed during the Housing Balance period). Master
10 planned entitlements shall not be included in the calculation until individual building entitlements or
11 site permits are approved.

12 (d) **Bi-annual Housing Balance Reports.** ~~Within 30 days of the effective date of this~~
13 ~~Section 103~~By June 1, 2015, the Planning Department shall calculate the Cumulative and Projected
14 Housing Balance for the most recent two quarters City-wide, by Supervisorial District, Plan Area, and
15 by neighborhood Planning Districts, as defined in the annual Housing Inventory, and publish it as an
16 easily visible and accessible page devoted to Housing Balance and Monitoring and Reporting on the
17 Planning Department’s website. By ~~August~~ September 1st and ~~February~~ March 1st of each year, the
18 Planning Department shall publish and update the Housing Balance Report, and present this report at
19 an informational hearing to the Planning Commission and Board of Supervisors, as well as to any
20 relevant body with geographic purview over a plan area upon request, along with the other quarterly
21 reporting requirements of Administrative Code Chapter 10E.4. The annual report to the Board of
22 Supervisors shall be accepted by resolution of the Board, which resolution shall be introduced
23 by the Planning Department. The Housing Balance Report shall also be incorporated into the
24 Annual Planning Commission Housing Hearing and Annual Report to the Board of Supervisors
25 required in Administrative Code Chapter 10E.4.

1 **(e) Annual Hearing by Board of Supervisors.**

2 (1) The Board of Supervisors shall hold a public Housing Balance hearing on an annual
3 basis by April 1 of each year, to consider progress towards the City's affordable housing goals,
4 including the goal of a minimum 33% affordable housing to low and moderate income households, as
5 well as the City's General Plan Housing Element housing production goals by income category. The
6 first hearing shall occur no later than 30 days after the effective date of this ordinance, and by April 1
7 of each year thereafter.

8 (2) The hearing shall include reporting by the Planning Department, which shall present
9 the latest Housing Balance Report City-wide and by Supervisorial District and Planning District; the
10 Mayor's Office of Housing and Community Development, the Mayor's Office of Economic and
11 Workforce Development, the Rent Stabilization Board, by the Department of Building Inspection, and
12 the City Economist on strategies for achieving and maintaining a housing balance in accordance with
13 San Francisco's housing production goals. If the Cumulative Housing Balance has fallen below 33% in
14 any year, MOHCD shall determine how much funding is required to bring the City into a minimum
15 33% Housing Balance and the Mayor shall submit to the Board of Supervisors a strategy to accomplish
16 the minimum of 33% Housing Balance. City Departments shall at minimum report on the following
17 issues relevant to the annual Housing Balance hearing: MOHCD shall report on the annual and
18 projected progress by income category in accordance with the City's General Plan Housing Element
19 housing production goals, projected shortfalls and gaps in funding and site control, and progress
20 toward the City's Neighborhood Stabilization goals for acquiring and preserving the affordability of
21 existing rental units in neighborhoods with high concentrations of low and moderate income
22 households or historically high levels of evictions; the Planning Department shall report on current
23 and proposed zoning and land use policies that affect the City's General Plan Housing Element
24 housing production goals; the Mayor's Office of Economic and Workforce Development shall report on
25 current and proposed major development projects, dedicated public sites, and policies that affect the

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City's General Plan Housing Element housing production goals; the Rent Board shall report on the withdrawal or addition of rent-controlled units and current or proposed policies that affect these numbers; the Department of Building Inspection shall report on the withdrawal or addition of Residential Hotel units and current or proposed policies that affect these numbers; and the City Economist shall report on annual and projected job growth by the income categories specified in the City's General Plan Housing Element.

(3) All reports and presentation materials from the annual Housing Balance hearing shall be maintained by year for public access on the Planning Department's website on its page devoted to Housing Balance Monitoring and Reporting.

Section 4. 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 ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

By: _____
MARLENA BYRNE
Deputy City Attorney

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