

1 [Initiative Ordinance - Administrative Code - Seawall Lot 337 Height Limit Increase and
2 Affordable Housing Requirement]

3 **Motion ordering submitted to the voters an Ordinance amending the Administrative**
4 **Code to authorize City agencies and officers to increase the height limit from a single**
5 **story to 120 feet on a portion of Seawall Lot 337 and on certain adjacent property**
6 **(waterfront property generally bounded on the north by China Basin Park, on the west**
7 **by Third Street, on the east by Pier 48 and Pier 50, and on the south by Mission Rock**
8 **Street), and to require any residential use located on the property to achieve specified**
9 **affordability requirements, at an election to be held on November 3, 2015; and affirming**
10 **the Planning Department’s determination under the California Environmental Quality**
11 **Act.**

12
13 MOVED, That the Planning Department has determined that the actions contemplated
14 in this ordinance comply with the California Environmental Quality Act (California Public
15 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
16 Board of Supervisors in File No. ____ and is incorporated herein by reference. The Board
17 affirms this determination; and be it

18 MOVED, That the Board of Supervisors hereby submits the following ordinance to the
19 voters of the City and County of San Francisco, at an election to be held on November 3,
20 2015.

21
22 **Ordinance amending the Administrative Code to authorize City agencies and officers to**
23 **increase the height limit from a single story to 120 feet on a portion of Seawall Lot 337**
24 **and on certain adjacent property (waterfront property generally bounded on the north**
25 **by China Basin Park, on the west by Third Street, on the east by Pier 48 and Pier 50,**

1 and on the south by Mission Rock Street), and to require any residential use located on
2 the property to achieve specified affordability requirements, at an election to be held
3 on November 3, 2015.

4 NOTE: **Unchanged Code text and uncodified text** are in plain font.
5 **Additions to Codes** are in *single-underline italics Times New Roman font*.
6 **Deletions to Codes** are in ~~italics Times New Roman font~~.
7 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or
8 parts of tables.

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

9 Section 1. Background.

10 (a) Administrative Code Section 61.5.1 requires a vote of the electors of the City and
11 County of San Francisco before any City agency or officer permits development located on
12 waterfront property that exceeds the height limits in effect as of January 1, 2014, as set forth
13 in Planning Code Article 2.5.

14 (b) This initiative ordinance concerns Port waterfront property generally bounded on
15 the north by China Basin Park, on the west by Third Street, on the east by Pier 48 and Pier
16 50, and on the south by Mission Rock Street (collectively, the “SWL 337 Site”). The SWL 337
17 Site consists of a portion of Seawall Lot 337, parcel P20 in the Mission Bay Redevelopment
18 Plan Area, as currently defined or as modified in the future, both of which comprise a portion
19 of Assessor’s Block 8719, and portions of Terry A. Francois Boulevard located north and east
20 of Seawall Lot 337.

21 (c) Seawall Lot 337 is currently designated as Mission Bay Open Space District (MB-
22 OS), as set forth in Planning Code Article 9. The MB-OS classification limits building heights
23 to a single story and provides that the height and bulk of buildings and structures shall be
24 consistent with the design guidelines adopted by the Planning Commission for the property
25 and applicable General Plan policies. Parcel P20 is currently designated as open space in

1 the Mission Bay South Redevelopment Plan. No other height or bulk district classifications
2 apply to the SWL 337 Site.

3 Section 2. The Administrative Code is hereby amended by adding Section 61.5.2, to
4 read as follows:

5 **SEC. 61.5.2. SEAWALL LOT 337 HEIGHT AUTHORIZATION AND HOUSING**
6 **AFFORDABILITY REQUIREMENT**

7 (a) Seawall Lot 337. This Section 61.5.2 concerns Port waterfront property generally
8 bounded on the north by China Basin Park, on the west by Third Street, on the east by Pier 48 and Pier
9 50, and on the south by Mission Rock Street (collectively, the “SWL 337 Site”). The SWL 337 Site
10 consists of a portion of Seawall Lot 337, parcel P20 in the Mission Bay Redevelopment Plan Area, as
11 currently defined or as modified in the future, both of which comprise a portion of Assessor’s Block
12 8719, and portions of Terry A. Francois Boulevard located north and east of Seawall Lot 337.

13 (b) Voter Authorization of Height Limit Increase on the SWL 337 Site. By adopting this
14 Section 61.5.2, the electors of the City and County of San Francisco authorize City agencies and
15 officers, consistent with the provisions of this Section 61.5.2, to increase the height on the SWL 337
16 Site.

17 (c) Authorized Height Limit. City agencies and officers may approve height increases on
18 the SWL 337 Site up to a maximum height of 120 feet. Any action by a City agency or officer to permit
19 development on the SWL 337 Site with a height above 120 feet shall require voter approval.

20 (d) Residential Use Affordability Requirement. Development on the SWL 337 Site that
21 allows residential use shall require the residential use to meet the housing affordability criteria in this
22 Section 61.5.2(d). No City agency or officer shall permit residential use on the SWL 337 Site that does
23 not meet or exceed the housing affordability criteria in this Section 61.5.2(d) unless the alternative
24 housing affordability criteria for the residential use have been approved by a vote of the electors of the
25 City and County of San Francisco.

1 (1) Fifty percent of residential units constructed on the SWL 337 Site shall be affordable
2 to middle income households, defined as households with an annual gross income of 0% to 150% of
3 area median income.

4 (2) Of the residential units required to be affordable, 66% (or 33% of the total of all
5 residential units), shall be affordable to low and moderate income households, defined as households
6 with an annual gross income of between 0% and 120% of area median income.

7 (e) Definitions. The following definitions shall govern the interpretation of this Section
8 61.5.2.

9 “Affordable to a household” shall mean a rent that does not exceed 30% of a
10 household’s combined annual gross income, or a purchase price that a household can afford to pay
11 based on an annual payment for all housing costs, as defined in California Code of Regulations
12 (“CCR”) Title 25, Section 6920, as amended from time to time, of 33% of combined household annual
13 gross income, assuming a down payment recommended by the Mayor’s Office of Housing and
14 Community Development in the City and County of San Francisco Inclusionary Affordable Housing
15 Program Monitoring Procedures Manual issued by the Department of City Planning, as amended, and
16 available financing.

17 “Annual gross income” shall mean gross income as defined in CCR Title 25, Section
18 6914, as amended from time to time.

19 “Area median income” shall mean the unadjusted median income levels derived from
20 the Department of Housing and Urban Development on an annual basis for the San Francisco area,
21 adjusted solely for household size, but not high housing cost area.

22 Section 3. Government and Public Review of Development on SWL 337 Site. No
23 development proposal to increase heights on the SWL 337 Site shall be effective unless and
24 until the Port Commission, after compliance with the California Environmental Quality Act
25 (“CEQA”), approves a development plan for the SWL 337 Site, and other governmental

1 agencies with jurisdiction to review and approve the development plan, adopt other
2 implementation actions as applicable, following environmental review under CEQA.

3 Section 4. Severability. If any subsection, sentence, clause, phrase, or word of this
4 initiative ordinance, or any application thereof to any person or circumstance, is held to be
5 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
6 shall not affect the validity of the remaining portions or applications of the ordinance. The
7 Board of Supervisors hereby declares that it would have passed this initiative ordinance and
8 each and every subsection, sentence, clause, phrase, and word not declared invalid or
9 unconstitutional without regard to whether any other portion of this ordinance or application
10 thereof would be subsequently declared invalid or unconstitutional.

11 Section 5. No Conflict with Federal or State Law. Nothing in this initiative ordinance
12 shall be interpreted or applied so as to create any requirement, power, or duty in conflict with
13 any federal or state law.

14 Section 6. Effective Date. In accordance with the provisions of Municipal Elections
15 Code §380 and California Elections Code §9217, if a majority of the voters vote in favor of this
16 initiative ordinance, and regardless of whether or not the ballot question for the ordinance is
17 determined to meet all requirements of Proposition B (the “Waterfront Height Limit Right To
18 Vote Act”), adopted at the June 3, 2014 election, the initiative ordinance shall go into effect 10
19 days after the vote is declared by the Board of Supervisors.

20 Section 7. Conflicting Ballot Measures. In the event that this initiative ordinance and
21 another measure or measures relating or applying to height restrictions on and/or
22 development of the SWL 337 Site shall appear on the same Citywide election ballot, the
23 provisions of such other measures shall be deemed to be in conflict with this ordinance. In
24 the event that this initiative ordinance shall receive a greater number of affirmative votes, the
25 provisions of this ordinance shall prevail in their entirety and each and every provision of the

1 other measure or measures shall be null and void in their entirety. In the event that the other
2 measure or measures shall receive a greater number of votes, the provisions of this initiative
3 ordinance shall take effect to the extent permitted by law.

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney
7

8 By: _____
9 Elaine C. Warren
Deputy City Attorney

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