

BOARD of SUPERVISORS



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MEMORANDUM

TO: Eric D. Shaw, Director, Mayor's Office of Housing and Community Development
Christina Varner, Acting Executive Director, Rent Board

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

DATE: February 23, 2022

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Mandelman on February 15, 2022:

File No. 210866-2

Ordinance amending the Planning Code to rezone all Residential, One Family (RH-1) zoning districts to Residential, Two Family (RH-2) zoning districts, and to provide a density limit exception to permit up to four dwelling units per lot, and up to six dwelling units per lot in Corner Lots, in all RH (Residential, House) zoning districts, subject to certain requirements, including among others the replacement of protected units; amending the Subdivision Code to authorize a subdivider that is constructing new dwelling units pursuant to the density exception to submit an application for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

cc: Eugene Flannery, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development

1 [Planning, Subdivision Codes; Zoning Map - Density Exception in Residential Districts]

2

3 **Ordinance amending the Planning Code to rezone all Residential, One Family (RH-1)**

4 **zoning districts to Residential, Two Family (RH-2) zoning districts, and to provide a**

5 **density limit exception to permit up to four dwelling units per lot, and up to six dwelling**

6 **units per lot in Corner Lots, in all RH (Residential, House) zoning districts, subject to**

7 **certain requirements, including among others the replacement of protected units;**

8 **amending the Subdivision Code to authorize a subdivider that is constructing new**

9 **dwelling units pursuant to the density exception to submit an application for**

10 **condominium conversion or a condominium map that includes the existing dwelling**

11 **units and the new dwelling units that constitute the project; affirming the Planning**

12 **Department’s determination under the California Environmental Quality Act; and**

13 **making findings of consistency with the General Plan, and the eight priority policies of**

14 **Planning Code, Section 101.1, and findings of public necessity, convenience, and**

15 **welfare under Planning Code, Section 302.**

16 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.

17 **Additions to Codes** are in *single-underline italics Times New Roman font*.

18 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.

19 **Board amendment additions** are in double-underlined Arial font.

20 **Board amendment deletions** are in ~~strikethrough Arial font~~.

21 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or parts of tables.

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

23 Section 1. CEQA and Land Use Findings.

24 (a) The Planning Department has determined that the actions contemplated in this

25 ordinance comply with the California Environmental Quality Act (California Public Resources

1 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
2 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
3 determination.

4 (b) On _____, the Planning Commission, in Resolution No. _____,
5 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
6 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
7 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
8 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

14

15 Section 2. Background and Findings.

16 (a) California faces a severe crisis of housing affordability and availability, prompting
17 the Legislature to declare, in Section 65589.5 of the Government Code, that the state has “a
18 housing supply and affordability crisis of historic proportions. The consequences of failing to
19 effectively and aggressively confront this crisis are hurting millions of Californians, robbing
20 future generations of a chance to call California home, stifling economic opportunities for
21 workers and businesses, worsening poverty and homelessness, and undermining the state’s
22 environmental and climate objectives.”

23 (b) This crisis of housing affordability and availability is particularly severe in San
24 Francisco. It is characterized by dramatic increases in rent and home sale prices over recent
25

1 years and historic rates of underproduction of new housing units across income levels,
2 particularly in the City's western neighborhoods and RH (Residential, House) zoning districts.

3 (c) According to the Planning Department's 2020 Housing Inventory, the cost of
4 housing in San Francisco has increased dramatically since the Great Recession of 2008-
5 2009, with the median sale price for a two-bedroom house more than tripling from 2011 to
6 2021, from \$493,000 to \$1,580,000. This includes a 9% increase from 2019 to 2020 alone,
7 even in the face of the COVID-19 pandemic. The median rental price for a two-bedroom
8 apartment saw similar although slightly smaller increases, nearly doubling from \$2,570 to
9 \$4,500 per month, from 2011 to 2019, before declining in 2020 due to the pandemic.

10 (d) These housing cost trends come after decades of underproduction of housing in
11 San Francisco, with only 600 net new units on average added per year from 1960 to 1990,
12 compared with 37,000 per year in the Bay Area as a whole, and fewer than 1,000 net new
13 units on average per year in San Francisco in the 1990s, before increasing to an average of
14 roughly 2,500 per year from 2000 to 2019, according to the Planning Department's 2019
15 Housing Affordability Strategies Report.

16 (e) The City's Chief Economist has estimated that approximately 5,000 new market-
17 rate housing units per year would be required to keep housing prices in San Francisco
18 constant with inflation generally, rather than greatly exceeding general rates of inflation.

19 (f) Moreover, San Francisco will be challenged to meet increased Regional Housing
20 Needs Allocation ("RHNA") goals in the upcoming 2023-2031 Housing Element cycle, which
21 total 72,000 units over eight years, more than 2.5 times the goal of the previous eight-year
22 cycle. At the same time, relatively new State laws like Senate Bill 35 (2017) would limit San
23 Francisco's local zoning control and discretion if the City does not meet these RHNA housing
24 production goals.

25 (g) San Francisco's new housing production in recent years has been heavily

1 concentrated in the eastern and southeastern parts of the City, with 90% of all new housing
2 produced in just ten eastside and central neighborhoods, according to the Housing
3 Affordability Strategies Report. These neighborhoods are home to many of the City's most
4 established communities of color and communities most vulnerable to displacement
5 pressures.

6 (h) Roughly 60% of San Francisco's developable land area is in the RH (Residential,
7 House) zoning districts, concentrated primarily on the City's west side, with 38% of the City's
8 developable land area zoned exclusively for single-family homes in RH-1 (Residential, House,
9 One Family) and RH-1(D) (Residential, House, One Family, Detached Dwellings) zoning
10 districts. In spite of the expansive geographic coverage of RH zoning districts throughout the
11 City, only 10% of the total new housing units in 2020 were built in these districts.

12 (i) Neighborhoods zoned for RH encompass a wide variety of housing and building
13 typologies, with a distinct historic pattern of taller, higher-density buildings often located on
14 corner lots throughout residential neighborhoods in the City, which predate the advent of RH
15 zoning, in the 1970s.

16 (j) The City's COVID-19 Economic Recovery Task Force included a recommendation
17 in its October 2020 report to support construction of small multifamily buildings in low density
18 areas to support "missing middle" housing opportunities.

19 (k) This ordinance allows the development of up to four units, and up to six units in
20 Corner Lots, in all RH districts throughout the City (as shown on the Zoning Maps ZN 01
21 through ZN 14), at the heights currently specified in the City's Zoning Maps (Height Maps HT
22 01 through HT 14). All parcels affected by this ordinance are considered urban infill sites
23 under California Government Code Section 65913.5(e)(3). This Board therefore declares that
24 this ordinance is enacted pursuant to California Government Code Section 65913.5.

25

1 (l) This Board acknowledges that new housing developments approved under this
2 ordinance will be subject to the requirements of California Government Code Section
3 66300(d), such as the obligation to replace all existing or demolished protected units and
4 protections for existing occupants, including, for lower income occupants of protected units,
5 relocation benefits and a right of first refusal for a comparable unit available in the new
6 housing development at an affordable rent or cost, as provided by state law.

7 (m) This Board finds that this ordinance is consistent with San Francisco’s obligation to
8 affirmatively further fair housing pursuant to California Government Code Section 8899.50, by
9 increasing density in a manner that meaningfully addresses significant disparities in housing
10 needs and access to opportunity. The ordinance achieves the increase in density by
11 increasing the principally permitted residential density in areas subject to historically
12 exclusionary density limits.

13
14 Section 3. Article 2 of the Planning Code is hereby amended by revising Sections 207
15 and 209.1, to read as follows:

16
17 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

18 * * * *

19 **(c) Exceptions to Dwelling Unit Density Limits.** An exception to the calculations
20 under this Section 207 shall be made in the following circumstances:

21 * * * *

22 **(8) Residential Density Exception in RH Districts.**

23 **(A) Density Exception.** *Projects located in RH Districts that are not seeking or*
24 *receiving a density bonus under the provisions of Planning Code Sections 206.5 or 206.6 shall receive*
25 *an exception from residential density limits for up to four dwelling units per lot, excluding Corner Lots.*

1 or up to six dwelling units per lot in Corner Lots, not inclusive of any Accessory Dwelling Units as
2 permitted under this Section 207, provided that the dwelling units meet the requirements set forth in
3 this subsection (c)(8).

4 (B) Eligibility of Historic Resources. To receive the density exception
5 authorized under this subsection (c)(8), a project must demonstrate to the satisfaction of the
6 Environmental Review Officer that it does not cause a substantial adverse change in the significance of
7 an historic resource as defined by California Code of Regulations, Title 14, Section 15064.5, as may be
8 amended from time to time.

9 (C) Applicable Standards. Projects utilizing the density exception of this
10 subsection (c)(8) and that provide at least four dwelling units shall be subject to a minimum Rear Yard
11 requirement of the greater of 30% of lot depth or 15 feet. All other building standards shall apply in
12 accordance with the applicable zoning district as set forth in Section 209.1.

13 (D) Unit Replacement Requirements. Projects utilizing the density exception of
14 this subsection (c)(8) shall comply with the requirements of Section 66300(d) of the California
15 Government Code, as may be amended from time to time, including but not limited to requirements to
16 produce at least as many dwelling units as the projects would demolish; to replace all protected units;
17 and to offer existing occupants of any protected units that are lower income households relocation
18 benefits and a right of first refusal for a comparable unit, as those terms are defined therein.

19
20 **SEC. 209.1. RH (RESIDENTIAL, HOUSE) DISTRICTS.**

21 These Districts are intended to recognize, protect, conserve, and enhance areas
22 characterized by dwellings in the form of houses and small multi-family buildings, usually with
23 one, two, or three units with separate entrances, and limited scale in terms of building width
24 and height, and characterized by rear yards and a pattern of mid-block open spaces. Such areas
25 tend to have similarity of building styles and predominantly contain large units suitable for

1 family occupancy, considerable open space, and limited nonresidential uses. The RH
2 Districts are composed of ~~five separate~~ two classes of districts, as follows:

3 ~~*RH-1(D) Districts: One-Family (Detached Dwellings). These Districts are characterized by lots*~~
4 ~~*of greater width and area than in other parts of the City, and by single-family houses with side yards.*~~
5 ~~*The structures are relatively large, but rarely exceed 35 feet in height. Ground level open space and*~~
6 ~~*landscaping at the front and rear are usually abundant. Much of the development has been in sizable*~~
7 ~~*tracts with similarities of building style and narrow streets following the contours of hills. In some*~~
8 ~~*cases private covenants have controlled the nature of development and helped to maintain the street*~~
9 ~~*areas.*~~

10 ~~*RH-1 Districts: One-Family. These Districts are occupied almost entirely by single-family*~~
11 ~~*houses on lots 25 feet in width, without side yards. Floor sizes and building styles vary, but tend to be*~~
12 ~~*uniform within tracts developed in distinct time periods. Though built on separate lots, the structures*~~
13 ~~*have the appearance of small-scale row housing, rarely exceeding 35 feet in height. Front setbacks are*~~
14 ~~*common, and ground level open space is generous. In most cases the single-family character of these*~~
15 ~~*Districts has been maintained for a considerable time.*~~

16 ~~*RH-1(S) Districts: One-Family with Minor Second Unit. These Districts are similar in*~~
17 ~~*character to RH-1 Districts, except that a small second dwelling unit has been installed in many*~~
18 ~~*structures, usually by conversion of a ground-story space formerly part of the main unit or devoted to*~~
19 ~~*storage. The second unit remains subordinate to the owner's unit, and may house one or two persons*~~
20 ~~*related to the owner or be rented to others. Despite these conversions, the structures retain the*~~
21 ~~*appearance of single-family dwellings.*~~

22 **RH-2 Districts: Two-Family.** These Districts are devoted to one-family and two-
23 family houses, with the latter commonly consisting of two large flats, one occupied by the
24 owner and the other available for rental. Structures are finely scaled and usually do not
25 exceed 25 feet in width or 40 feet in height. Building styles are often more varied than in

1 *historically* single-family areas, but certain streets and tracts are quite uniform. Considerable
 2 ground-level open space is available, and it frequently is private for each unit. The Districts
 3 may have easy access to shopping facilities and transit lines. In some cases, Group Housing
 4 and institutions are found in these areas, although nonresidential uses tend to be quite limited.

5 **RH-3 Districts: Three-Family.** These Districts have many similarities to RH-2
 6 Districts, but structures with three units are common in addition to one-family and two-family
 7 houses. The predominant form is large flats rather than apartments, with lots 25 feet wide, a
 8 fine or moderate scale, and separate entrances for each unit. Building styles tend to be varied
 9 but complementary to one another. Outdoor space is available at ground level, and also on
 10 decks and balconies for individual units. Nonresidential uses are more common in these areas
 11 than in RH-2 Districts.

12
 13 **Table 209.1**
ZONING CONTROL TABLE FOR RH DISTRICTS

Zoning Category	§ References	<i>RH-1(D)</i>	<i>RH-1</i>	<i>RH-1(S)</i>	RH-2	RH-3
BUILDING STANDARDS						
Massing and Setbacks						
Height and Bulk Limits	§§ 102, 105, 106, 250-252, 253, 260, 261, 261.1, 270, 271. See also Height and Bulk District Maps.	<i>No portion of a Dwelling may be taller than 35 feet. Structures with uses other than Dwellings may be constructed to the prescribed height limit, which is generally 40 feet. Per § 261 the height limit may be decreased or increased based on the slope of the lot.</i>			No portion of a Dwelling may be taller than 40 feet. Structures with uses other than Dwellings may be constructed to the prescribed height limit. Per § 261 the height limit	Varies, but generally 40 feet. Height sculpting on Alleys per § 261.1.

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			may be decreased based on the slope of the lot.
Front Setback	§§ 130, 131, 132	Required. Based on average of adjacent properties or if subject property has a Legislated Setback. When front setback is based on adjacent properties, in no case shall the required setback be greater than 15 feet.	
Rear Yard <i>(10)</i>	§§ 130, 134	<i>30% of lot depth, but in no case less than 15 feet.</i>	45% of lot depth or average of adjacent neighbors. If averaged, no less than 25% or 15 feet, whichever is greater.
Side Yard	§§ 130, 133	<i>Required for lots 28 feet and wider. Width of side setback depends on width of lot.</i>	Not Required.
Residential Design Guidelines	§ 311	Subject to the Residential Design Guidelines. Other design guidelines that have been approved by the Planning Commission may also apply.	
Street Frontage and Public Realm			
Front Setback Landscaping and Permeability Requirements	§ 132	Required. At least 50% of Front Setback shall be permeable so as to increase storm water infiltration and 20% of Front Setback shall be unpaved and devoted to plant material.	
Streetscape and Pedestrian Improvements (Street Trees)	§ 138.1	Required.	
Street Frontage Requirements	§ 144	§ 144 applies generally. Additional requirements apply to Limited Commercial Uses, as specified in § 186.	

1	Street Frontage, Parking and Loading Access Restrictions	§ 155(r)	As specified in § 155(r)				
2	Miscellaneous						
3	Large Project Review	§ 253	C required for projects over 40 feet in height.				
4	Planned Unit Development	§ 304	€	€	€	C	C
5	Awning	§ 136.1	<i>P(1)</i>	<i>P(1)</i>	<i>P(1)</i>	P (1)	P (1)
6	Canopy or Marquee	§ 136.1	<i>NP</i>	<i>NP</i>	<i>NP</i>	NP	NP
7	Signs	§ 606	As permitted by Section § 606				
8	RESIDENTIAL STANDARDS AND USES						
9	Development Standards						
10	Usable Open Space [Per Dwelling Unit]	§§ 135, 136	<i>At least 300 square feet if private, and 400 square feet if common.</i>	<i>At least 300 square feet if private, and 400 square feet if common.</i>	<i>At least 300 square feet for the first unit and 100 for the minor second unit if private, and 400 square feet for the first unit and 133 square feet for the second unit if common.</i>	At least 125 square feet if private, and 166 square feet if common.	At least 100 square feet if private, and 133 square feet if common.
11							
18	Parking Requirements	§§ 151, 161	None required. Maximum permitted per § 151.				
19	Residential Conversion, Demolition, or Merger	§ 317	C for Removal of one or more Residential Units or Unauthorized Units.				
20	Use Characteristics						
21	Intermediate Length Occupancy	§§102, 202.10	<i>P(9)</i>	<i>P(9)</i>	<i>P(9)</i>	P(9)	P(9)
22							
23							
24							
25							

1	Single Room Occupancy	§ 102	P	P	P	P	P
2	Student Housing	§ 102	P	P	P	P	P
3	Residential Uses						
4	Residential Density, Dwelling Units (6)(11)	§§ 102, 207	One unit per lot.	P up to one unit per lot. C up to one unit per 3,000 square feet of lot area, with no more than three units per lot.	P up to two units per lot, if the second unit is 600 sq. ft. or less. C up to one unit per 3,000 square feet of lot area, with no more than three units per lot.	P up to two units per lot. C up to one unit per 1,500 square feet of lot area.	P up to three units per lot. C up to one unit per 1,000 square feet of lot area.
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9	Senior Housing	§§ 102, 202.2(f)	P up to twice the number of dwelling units otherwise permitted as a principal use in the district and meeting all the requirements of § 202.2(f)(1). C up to twice the number of dwelling units otherwise permitted as a principal use in the district and meeting all requirements of Section § 202.2(f)(1) except for § 202.2(f)(1)(D)(iv), related to location.				
10	Residential Density, Group Housing	§ 208	NP	NP	NP	C, up to one bedroom for every 415 square feet of lot area.	C, up to one bedroom for every 275 square feet of lot area.
11							
12							
13	Homeless Shelter	§§ 102, 208	NP	NP	NP	C	C
14	NON-RESIDENTIAL STANDARDS AND USES						
15	Development Standards						
16	Floor Area Ratio	§§ 102, 123, 124	1.8 to 1	1.8 to 1	1.8 to 1	1.8 to 1	1.8 to 1
17							
18							
19							
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1	Off-Street Parking	§§ 150, 151, 161	None required. Maximum permitted per § 151.			
2	Limited Commercial Uses	§§ 186, 186.3	Continuing nonconforming uses are permitted, subject to the requirements of § 186. Limited Commercial Uses may be conditionally permitted in historic buildings subject to § 186.3.			
3	Agricultural Use Category					
4	Agricultural Uses*	§§ 102, 202.2(c)	€	€	€	C C
5	Agriculture, Industrial	§§ 102, 202.2(c)	NP	NP	NP	NP NP
6	Agriculture, Neighborhood	§§ 102, 202.2(c)	P	P	P	P P
7	Automotive Use Category					
8	Automotive Uses*	§ 102	NP	NP	NP	NP NP
9	Parking Garage, Private	§ 102	€	€	€	C C
10	Parking Lot, Private	§ 102	€	€	€	C C
11	Parking Lot, Public	§§ 102, 142, 156	NP	NP	NP	NP (8) NP
12	Entertainment, Arts and Recreation Use Category					
13	Entertainment, Arts and Recreation Uses*	§ 102	NP	NP	NP	NP NP
14	Open Recreation Area	§ 102	€	€	€	C C
15	Passive Outdoor Recreation	§ 102	P	P	P	P P
16	Industrial Use Category					
17	Industrial Uses*	§ 102	NP	NP	NP	NP NP
18	Institutional Use Category					
19	Institutional Uses*	§ 102	NP	NP	NP	NP NP
20	Child Care Facility	§ 102	P	P	P	P P
21	Community Facility	§ 102	€	€	€	C C
22	Hospital	§ 102	€	€	€	C C

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1	Post-Secondary Ed. Institution	§ 102	€	€	€	C	C
2	Public Facilities	§ 102	P	P	P	P	P
3	Religious Institution	§ 102	€	€	€	C	C
4	Residential Care Facility	§ 102	P	P	P	P	P
5	School	§ 102	€	€	€	C	C
6	Sales and Service Category						
7	Retail Sales and Service Uses*	§ 102	NP	NP	NP	NP	NP
8	Hotel	§ 102	NP	NP	NP	C (4)	C (4)
9	Mortuary	§ 102	€(5)	€(5)	€(5)	C (5)	C (5)
10	Non-Retail Sales and Service*	§ 102	NP	NP	NP	NP	NP
11	Utility and Infrastructure Use Category						
12	Utility and Infrastructure*	§ 102	NP	NP	NP	NP	NP
13	Internet Service Exchange	§ 102	€	€	€	C	C
14	Utility Installation	§ 102	€	€	€	C	C
15	Wireless Telecommunications Services Facility	§ 102	€ or P (7)	€ or P (7)	€ or P (7)	C or P (7)	C or P (7)

18 * Not listed below.

19 * * * *

20 (10) Projects utilizing the density exception of Section 207(c)(8) and that provide at least four
 21 dwelling units shall be subject to a minimum Rear Yard requirement of 30% of lot depth, but in no case
 22 less than 15 feet.

23 (11) P for up to four dwelling units per lot, excluding Corner Lots, and P for up to six dwelling units
 24 in Corner Lots, pursuant to Section 207(c)(8).

1 Section 4. The Planning Code is hereby amended by revising Sheets ZN01, ZN02,
 2 ZN03, ZN04, ZN05, ZN06, ZN07, ZN08, ZN09, ZN10, ZN11, ZN12, and ZN13 of the Zoning
 3 Map of the City and County of San Francisco, as follows:

<u>Zoning Districts to be Superseded</u>	<u>Zoning Districts Hereby Approved</u>
RH-1(D); RH-1; RH-1(S)	RH-2

10 Section 5. Article 9 of the Subdivision Code is hereby amended by revising Sections
 11 1396.4 and 1396.5 and adding Section 1396.6, to read as follows:

13 **SEC. 1396.4. CONDOMINIUM CONVERSION FEE AND EXPEDITED CONVERSION**
 14 **PROGRAM.**

15 * * * *

16 (b) Any building may be exempted from the annual lottery provisions of Section 1396
 17 if the building owners for said building comply with *either: (1) Section 1396.3 (g)(1) and all the*
 18 *requirements of this Section 1396.4 or (2) all the requirements of Section 1396.6.*

19 Notwithstanding the foregoing *sentence*, no property or applicant subject to any of the
 20 prohibition_s on conversions set forth in Section 1396.2, in particular a property with the
 21 eviction(s) set forth in Section 1396.2 (b), is eligible for the Expedited Conversion program
 22 under this Section 1396.4. Eligible buildings as set forth in this *sub*Section (b) may exercise
 23 their option to participate in this program according to the following requirements:

24 * * * *

1 **SEC. 1396.5. SUSPENSION OF THE LOTTERY PENDING PRODUCTION OF**
2 **REPLACEMENT UNITS FOR EXPEDITED CONVERSION UNITS.**

3 * * * *

4 (c) Except as otherwise authorized under Section 1396.6, the Department shall not accept
5 an application for the conversion of residential units under Section 1396 nor conduct a lottery
6 under this Article prior to January 1, 2024. Thereafter, the lottery shall resume upon the
7 earlier of the following: (1) the first February following the Mayor’s Office of Housing and
8 Community Development report pursuant to ~~S~~subsection (b) showing that the total number of
9 Conversion Replacement Units produced in the City of San Francisco exceeded the total
10 number of units converted as identified in the Department’s report prepared pursuant to
11 subsection (a); or (2) completion of the “Maximum Suspension Period” as defined below.

12 * * * *

13 **1396.6. CONDOMINIUM CONVERSION ASSOCIATED WITH PROJECTS THAT**
14 **UTILIZE THE RESIDENTIAL DENSITY EXCEPTION IN RH DISTRICTS TO CONSTRUCT**
15 **NEW DWELLING UNITS PURSUANT TO PLANNING CODE SECTION 207(C)(8).**

16 (a) Findings. The findings of Planning Code Section 415.1 concerning the City’s inclusionary
17 affordable housing program are incorporated herein by reference and support the basis for charging
18 the fee set forth herein as it relates to the conversion of dwelling units into condominiums.

19 (b) Definition. “Existing Dwelling Units” shall refer to the dwelling units in existence on a lot
20 at the time of the submittal of an application to construct a new dwelling unit pursuant to Planning
21 Code Section 207(c)(8).

22 (c) Notwithstanding Section 1396.4 and Ordinance No. 117-13, the subdivider of a building
23 that has obtained a permit to build one or more new dwelling units by utilizing the exception to
24 residential density in RH districts set forth in Planning Code Section 207(c)(8), which results in a
25 greater number of dwelling units than the number of Existing Dwelling Units, shall (1) be exempt from

1 the annual lottery provisions of Section 1396 with respect to the dwelling units built as part of the
2 Project Units and (2) be eligible to submit a condominium conversion application for such Existing
3 Dwelling Units and/or include Existing Dwelling Units in a condominium map application for the
4 project approved pursuant to Planning Code Section 207(c)(8). Notwithstanding the foregoing
5 sentence, no property or applicant subject to any of the prohibitions on conversions set forth in Section
6 1396.2, in particular a property with the eviction(s) set forth in Section 1396.2(b), shall be eligible for
7 condominium conversion under this Section 1396.6. Eligible buildings as set forth in this subsection
8 (c) may exercise their option to participate in this program according to the following requirements:

9 (1) The applicant(s) for the subject building seeking to convert dwelling units to
10 condominiums or subdivide dwelling units into condominiums under this subsection shall pay the fee
11 specified in Section 1315.

12 (2) In addition to all other provisions of this Section 1396.6, the applicant(s) comply
13 with all of the following:

14 (A) The requirements of Subdivision Code Article 9, Sections 1381, 1382, 1383,
15 1386, 1387, 1388, 1389, 1390, 1391(a) and (b), 1392, 1393, 1394, and 1395.

16 (B) The applicant(s) must certify that within the 60 months preceding the date of
17 the subject application, no tenant resided at the property.

18 (C) The applicant(s) must certify that to the extent any tenant vacated their unit
19 after March 31, 2013 and before recordation of the final parcel or subdivision map, such tenant did so
20 voluntarily or if an eviction or eviction notice occurred it was not pursuant to Administrative Code
21 Sections 37.9(a)(8)-(14). If an eviction has taken place under Sections 37.9(a)(11) or 37.9(a)(14), then
22 the applicant(s) shall certify that the original tenant reoccupied the unit after the temporary eviction.

23 (3) If the Department finds that a violation of this Section 1396.6 occurred prior to
24 recordation of the final map or final parcel map, the Department shall disapprove the application or
25 subject map. If the Department finds that a violation of this Section occurred after recordation of the

1 final map or parcel map, the Department shall take such enforcement actions as are available and
2 within its authority to address the violation.

3 (d) Decisions and Hearing on the Application.

4 (1) The applicant shall obtain a final and effective tentative map or tentative parcel
5 map approval for the condominium subdivision or parcel map within one year of paying the fee
6 specified in subsection (e). The Director of the Department of Public Works or the Director's designee
7 is authorized to waive the time limits set forth in this subsection (d)(1) as it applies to a particular
8 building due to extenuating or unique circumstances. Such waiver may be granted only after a public
9 hearing and in no case shall the time limit extend beyond two years after submission of the application.

10 (2) No less than 20 days prior to the Department's proposed decision on a tentative
11 map or tentative parcel map, the Department shall publish the addresses of buildings being considered
12 for approval and post such information on its website. During this time, any interested party may file a
13 written objection to an application and submit information to the Department contesting the eligibility
14 of a building. In addition, the Department may elect to hold a public hearing on said tentative map or
15 tentative parcel map to consider the information presented by the public, other City department, or an
16 applicant. If the Department elects to hold such a hearing it shall post notice of such hearing and
17 provide written notice to the applicant, all tenants of such building, any member of the public who
18 submitted information to the Department, and any interested party who has requested such notice. In
19 the event that an objection to the conversion application is filed in accordance with this subsection
20 (d)(2), and based upon all the facts available to the Department, the Department shall approve,
21 conditionally approve, or disapprove an application and state the reasons in support of that decision.

22 (3) Any map application subject to a Departmental public hearing on the subdivision
23 or a subdivision appeal shall have the time limit set forth in subsection (d)(1) extended for another six
24 months.

1 (e) Should the subdivision application be denied or be rejected as untimely in accordance with
2 the dates specified in subsection (d)(1), or the tentative subdivision map or tentative parcel map
3 disapproved, the City shall refund the entirety of the application fee.

4 (f) Conversion of buildings pursuant to this Section 1396.6 shall have no effect on the terms
5 and conditions applicable to such buildings under Section 1341A , 1385A , or 1396 of this Code.

6
7 Section 6. The Planning Department and the Department of Public Works are
8 authorized to adopt regulations to implement this ordinance.

9
10 Section 7. Conforming Amendments in the Municipal Code.

11 (a) This ordinance abolishes RH-1, RH-1(D), and RH-1(S) districts. To conform the
12 Municipal Code to these districts having been abolished, the City Attorney shall cause all
13 references to RH-1, RH-1(D), and RH-1(S) in the Municipal Code to be removed and replaced
14 with a reference to RH-2; provided, however, that where the Municipal Code references one
15 or more of the three abolished districts along with a reference to RH-2, the City Attorney shall
16 cause the reference to the abolished district or districts to be removed from the Municipal
17 Code, with the reference to RH-2 retained.

18 (b) The City Attorney shall provide written notice to the Clerk of the Board of
19 Supervisors of the changes to the Municipal Code resulting from the implementation of
20 subsection (a). The Clerk shall place the City Attorney's notice in Board File No. _____, the
21 file for the ordinance abolishing the RH-1, RH-1(D), and RH-1(S) districts.

22 (c) Any reference in the Municipal Code to RH-1, RH-1(D), or RH-1(S) districts that
23 might remain, for example, due to inadvertence or delay in implementing subsection (a), or for
24 any other reason, shall not be understood to contradict or be in conflict with this ordinance's
25 abolition of said districts.

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Section 8. No Conflict with Federal or State Law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

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

Section 10. 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.

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5 Section 11. Scope of Ordinance. Except as stated in Sections 4 and 7 of this
6 ordinance, in enacting this ordinance, the Board of Supervisors intends to amend only those
7 words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks,
8 charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly
9 shown in this ordinance as additions, deletions, Board amendment additions, and Board
10 amendment deletions in accordance with the "Note" that appears under the official title of the
11 ordinance.

12

13 APPROVED AS TO FORM:
14 DAVID CHIU, City Attorney

15 By: /s/ Andrea Ruiz-Esquide
16 ANDREA RUIZ-ESQUIDE
17 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Substituted, 2/15/2022)

[Planning, Subdivision Codes; Zoning Map - Density Exception in Residential Districts]

Ordinance amending the Planning Code to rezone all Residential, One Family (RH-1) zoning districts to Residential, Two Family (RH-2) zoning districts, and to provide a density limit exception to permit up to four dwelling units per lot, and up to six dwelling units per lot in Corner Lots, in all RH (Residential, House) zoning districts, subject to certain requirements, including among others the replacement of protected units; amending the Subdivision Code to authorize a subdivider that is constructing new dwelling units pursuant to the density exception to submit an application for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Planning Code sets forth different zoning districts throughout the City, where different uses are permitted, conditionally permitted, or prohibited, and where various controls (such as height, bulk, setbacks, etc.) apply. Residential, House (RH) districts are “intended to recognize, protect, conserve and enhance areas characterized by dwellings in the form of houses, usually with one, two or three units with separate entrances, and limited scale in terms of building width and height. Such areas tend to have similarity of building styles and predominantly contain large units suitable for family occupancy, considerable open space, and limited nonresidential uses.” (Planning Code Section 209.1.) The RH districts consist of five separate classes of districts, depending on the number of units permitted in each:

- RH-1(D) Districts: One-Family (Detached Dwellings); RH-1 Districts: One-Family; and RH-1(S) Districts: One-Family with Minor Second Unit, which are generally characterized by single-family houses;
- RH-2 Districts: Two-Family, which generally consist of one-family and two-family houses;
- RH-3 Districts: Three-Family, in which structures with three units are common in addition to one-family and two-family houses.

Currently, San Francisco property owners wishing to convert tenancy-in-common (“TIC”) residential units into condominium units may not convert more than two TIC units due to the conclusion and expiration of the Expedited Condominium Conversion Program, Subdivision

Code Sec. 1396.4 (“ECP”), in January 2020 and the suspension of the condominium conversion lottery until January 1, 2024. While the ECP was in effect, the program had authorized property owners to convert four to six TIC units into condominium units subject to compliance with certain requirements in the Subdivision Code.

Amendments to Current Law

This Ordinance amends the Planning Code and the Zoning Map to rezone all existing RH-1 districts to RH-2 (Residential, Two Family) districts. Further, the ordinance creates a density limit exception to permit up to four units per lot in all RH-2 or RH-3 (Residential, Three Family) districts, and up to six units in Corner Lots, as defined under the Planning Code, for projects that are not seeking or receiving a density bonus. These units would be permitted in addition to any Accessory Dwelling Units permitted under the Code. The ordinance makes projects utilizing the density exception and that provide at least four dwelling units subject to a minimum Rear Yard requirement of the greater of 30% of lot depth or 15 feet; otherwise, it establishes that all other building standards applicable under the Planning Code continue to apply.

The ordinance provides that in order to receive this density exception, projects must demonstrate to the satisfaction of the Environmental Review Officer that they do not cause a substantial adverse change in the significance of an historic resource as defined by the California Environmental Quality Act (CEQA). Further, the ordinance incorporates state law requirements that are applicable to these projects – specifically, the requirements of Section 66300(d) of the California Government Code that projects subject to the density exception including produce at least as many dwelling units as they would demolish; replace all protected units; and offer existing occupants of any protected units that are lower income households relocation benefits and a right of first refusal for a comparable unit, as those terms are defined under that state law.

The ordinance amends the Subdivision Code to authorize a subdivider that is constructing new dwelling units pursuant to the density exception to submit an application for condominium conversion or a condominium map that includes the existing dwelling units as well as the new dwelling units created under the density exception. Applicants must meet certain requirements specified in the ordinance including certifying that within the 60 months preceding the date of the subject application, no tenant resided at the property.

The ordinance authorizes the Planning Department and the Department of Public Works to adopt regulations to implement it, and the City Attorney’s Office to remove all remaining references to RH-1 districts from the Municipal Code.

Background Information

The Ordinance contains ample findings setting forth the need to promote housing development in San Francisco. It states that the City faces a severe crisis of housing affordability and availability, characterized by dramatic increases in rent and home sale prices over recent years and historic underproduction of new housing units across income levels, particularly in the City's western neighborhoods and RH zoning districts. It further explains that adopting policies that promote construction of small multifamily buildings in low density areas to support "missing middle" housing opportunities was one of the recommendations of the City's COVID-19 Economic Recovery Task Force.

This ordinance is a substitute for the ordinance that was introduced on July 27, 2021. The ordinance includes new findings that are necessary to allow the Board to expedite its consideration and approval of the ordinance with respect to the California Environmental Quality Act ("CEQA"), as authorized under Senate Bill 10 (Wiener), which took effect on January 1, 2022 ("SB 10"). Under SB 10, an ordinance that increases the allowed zoning up to 10 units per parcel in a "transit-rich area" or an "urban infill site" (which includes all of San Francisco) would not constitute a "project" under CEQA. Such ordinances would be exempt from CEQA review. However, this exemption applies only to the ordinance, as individual housing projects proposed within a zone subject to an SB 10 ordinance still require review under CEQA.

The substitute ordinance contains other changes compared to the July 27, 2021 ordinance, such as the rezoning of RH-1 districts to RH-2, the requirements regarding historic resources under CEQA, and authorizing certain property owners who utilize the density exception to apply for condominium conversion or condominium maps that include existing residential units as well as new units created pursuant to the density exception.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only