

BOARD of SUPERVISORS



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MEMORANDUM

TO: Tom Paulino, Liaison to the Board of Supervisors, Mayor's Office
Anne Pearson, Deputy City Attorney, Office of the City Attorney
John Arntz, Director, Department of Elections
LeeAnn Pelham, Executive Director, Ethics Commission
Patrick O'Riordan, Interim Director, Building Inspection Department
Sonya Harris, Commission Secretary, Building Inspection Commission

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*
Board of Supervisors

DATE: January 27, 2022

SUBJECT: CHARTER AMENDMENT INTRODUCED
June 7, 2022 Election

The Board of Supervisors' Rules Committee amended the following Charter Amendment for the June 7, 2022, Election. This matter is being **re-referred** to you in accordance with Rules of Order 2.22.4.

File No. 211286 (ver2)

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to revise the duties, composition, and method of appointment for members of the Building Inspection Commission; and affirming the Planning Department's determination under the California Environmental Quality Act; at an election to be held on June 7, 2022.

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Andres Power, Mayor's Office
Patrick Ford, Ethics Commission
Patty Lee, Building Inspection Department
John Murray, Building Inspection Department

1 [Charter Amendment - Building Inspection Commission]

2
3 **Describing and setting forth a proposal to the voters at an election to be held on June 7,**
4 **2022, to amend the Charter of the City and County of San Francisco to revise the duties,**
5 **composition, and method of appointment for members of the Building Inspection**
6 **Commission; and affirming the Planning Department’s determination under the California**
7 **Environmental Quality Act.**

8
9 Section 1. The Planning Department has determined that the actions contemplated in this
10 proposed Charter Amendment comply with the California Environmental Quality Act (California
11 Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of
12 the Board of Supervisors in File No. 211286 and is incorporated herein by reference. The Board
13 affirms this determination.

14 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
15 and County, at an election to be held on June 7, 2022, a proposal to amend the Charter of the
16 City and County by revising Section 4.121 and Appendix D, to read as follows:

17 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
18 **Additions** are *single-underline italics Times New Roman font*.
19 **Deletions** are ~~*strike-through italics Times New Roman font*~~.
20 **Asterisks (* * * *)** indicate the omission of unchanged Charter
21 subsections.

22 **SEC. 4.121. BUILDING INSPECTION COMMISSION.**

23 The Building Inspection Commission shall consist of seven members *nominated and*
24 *appointed pursuant to this Section 4.121 and with an emphasis on seeking to include members*
25 *concerned with tenant safety and habitability issues*. Four members shall be ~~*nominated*~~*appointed*
by the Mayor for a term of two years. Three members shall be ~~*nominated*~~*appointed* by the
President of the Board of Supervisors for a term of two years.

1 Each nomination of the Mayor and the President of the Board of Supervisors is subject to
2 approval by the Board of Supervisors, and shall be the subject of a public hearing and vote
3 within 60 days. If the Board fails to act on the nomination within 60 days of the date the
4 nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed
5 approved. The appointment shall become effective on the date the Board adopts a motion
6 approving the nomination or after 60 days of the date the nomination is transmitted to the Clerk
7 of the Board of Supervisors. Members may be removed by the appointing officer only pursuant
8 to Section 15.105. Vacancies occurring in the offices of ~~appointive~~ members, ~~either during or at~~
9 ~~the expiration of a term,~~ shall be nominated and appointed in accordance with the appointment
10 process specified in this paragraph~~filled by the appointing officer.~~

11 The Building Inspection Commission shall have responsibility for oversight of the
12 Department of Building Inspection, which shall have responsibility for the enforcement,
13 administration, and interpretation of the San Francisco Housing, Building, Mechanical,
14 Electrical, and Plumbing Codes, except where this Charter specifically grants that power to
15 another department.

16 The Commission shall oversee the inspection and regulation of additions, alterations,
17 and repairs in all buildings and structures covered by the San Francisco Housing, Building,
18 Mechanical, Electrical, and Plumbing Codes. However, nothing in this Section 4.121 shall
19 diminish or alter the jurisdiction of the Planning Commission or Department over changes of use
20 or occupancy under the Planning Code. The Commission shall ensure the provision of minimum
21 standards to safeguard life or limb, health, property, and the public welfare by regulating and
22 controlling the safe use of such buildings and structures. The Commission shall ensure the
23 vigorous enforcement of City laws mandating the provision of heat and hot water to residential
24 tenants. The Commission shall also ensure the enforcement of local, state, and federal disability
25 access laws. The Commission shall exercise all the powers and duties of boards and

1 commissions set forth in Sections 4.102, 4.103, and 4.104, and may take other actions as
2 prescribed by ordinance. The members of the Commission shall serve without compensation.

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

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

14 The Commission may reverse, affirm, or modify determinations made by the Department
15 of Building Inspection on all permits required for a final certificate of completion. The
16 Commission's jurisdiction under this paragraph, however, shall not extend to permits appealable
17 to the Planning Commission or Board of Appeals. Appeals of decisions within the Commission's
18 jurisdiction must be filed with the Commission within fifteen days of the challenged
19 determination. The Commission's action shall be final.

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

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

1 **APPENDIX D:**

2 **BUILDING INSPECTION PROVISIONS**

3 **~~D3.750 ESTABLISHMENT~~**

4 ~~—Recognizing that the provision of safe and sanitary buildings is essential to the welfare~~
5 ~~of the inhabitants of the City and County of San Francisco, there is hereby established a~~
6 ~~Department of Building Inspection which shall consist of a Building Inspection Commission, a~~
7 ~~Director of Building Inspection, and such employees as may be necessary to carry out the~~
8 ~~functions and duties of said department. The commission shall organize, reorganize, and manage~~
9 ~~the department. When the commission assumes management of the department, the Bureau of~~
10 ~~Building Inspection shall cease to exist. Unless modified or repealed by the commission, all~~
11 ~~orders, regulations, rules, and policies of the Bureau of Building Inspection will remain in effect.~~
12 ~~Except as limited below, positions in the Bureau of Building Inspection of the Department of~~
13 ~~Public Works legally authorized on the date the commission assumes management of the~~
14 ~~department shall be continued, and incumbents therein legally appointed thereto shall be~~
15 ~~continued as officers and employees of the department under the conditions governing their~~
16 ~~respective appointments.~~

17 **~~D3.750-1. COMMISSION; COMPOSITION.~~**

18 ~~The Department of Building Inspection shall be under the management of a Building~~
19 ~~Inspection Commission consisting of seven members. Four members shall be appointed by the~~
20 ~~mayor for a term of two years; provided that the respective terms of office of those first~~
21 ~~appointed shall be as follows: two for one year, and two for two years from the effective date of~~
22 ~~this section. Three members shall be appointed by the President of the Board of Supervisors for~~
23 ~~a term of two years; provided that the respective terms of office of those first appointed shall be~~
24 ~~as follows: three for one year from the effective date of this section. The initial appointments~~
25 ~~shall be made no later than fifteen days after the effective date of this section, and the~~

1 ~~commission's management shall begin no later than forty five days after the effective date of this~~
2 ~~section. Vacancies occurring in the offices of appointive members, either during or at expiration~~
3 ~~of term, shall be filled by the electoral office that made the appointment. The four mayoral~~
4 ~~appointments shall be comprised of a structural engineer, a licensed architect, a residential~~
5 ~~builder, and a representative of a community based non profit housing development~~
6 ~~corporation. The three Supervisorial appointments shall be comprised of a residential tenant, a~~
7 ~~residential landlord, and a member of the general public. The members of the commission shall~~
8 ~~serve without compensation.~~

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

14 **D3.750 AMENDMENT OF CHARTER PROVISIONS; TRANSITION**

15 The amendments of Section 4.121 and of provisions of this Appendix D, adopted at the
16 June 7, 2022 election, shall become operative on July 1, 2023; provided, however, that the new
17 process for nominating and confirming members to the Building Inspection Commission, along
18 with the change in qualifications for members accompanying that new process, as specified in
19 Section 4.121 as amended, shall commence sufficiently in advance of July 1, 2023 such that
20 members may be appointed under the new process and be prepared to assume office on that
21 date.

22 **D3.750-1 TERMS OF OFFICE OF BUILDING INSPECTION COMMISSION**

23 The terms of office of all members of the Commission who hold office as of July 1, 2023
24 shall expire at noon on that date, at which time the terms of office for members of the
25 Commission appointed pursuant to the new process for nominating and confirming members as

1 referenced in Section D3.750 shall commence. In order to stagger the terms, three members
2 (appointees to Seats 3 and 4, as designated by the Mayor when nominated; and the appointee to
3 Seat 7, as designated by the President of the Board of Supervisors when nominated) shall
4 initially serve one-year terms, and four members (appointees to Seats 1 and 2, as designated by
5 the Mayor when nominated; and appointees to Seats 5 and 6, as designated by the President of
6 the Board of Supervisors when nominated) shall initially serve two-year terms. All subsequent
7 terms of office for all members of the Commission shall be two years.

8 **D3.750-2 DIRECTOR OF BUILDING INSPECTION; ~~OTHER EXECUTIVES~~**

9 The Director of Building Inspection shall be the department head and appointing officer
10 of the Department of Building Inspection and shall be qualified by either technical training or
11 administrative experience in the enforcement of building and other construction codes. The
12 Director shall serve as the building official of the City and County ~~and, upon his or her~~
13 ~~appointment, shall assume all of the powers and duties of the Director of Public Works with~~
14 ~~respect to the administration and enforcement of the building code and other construction codes.~~
15 ~~The Director shall have all the powers provided for department heads as set forth in Section~~
16 ~~3.501 of this Charter. The Director shall be appointed by the commission and hold office at its~~
17 ~~pleasure; the person who has civil service status in the position of Superintendent of the Bureau~~
18 ~~of Building Inspection on the date the commission assumes management of the department shall~~
19 ~~serve as interim Director pending the appointment of a Director by the commission. Subject to~~
20 ~~the approval of the commission, and the budgetary and fiscal provisions of this Charter, the~~
21 ~~Director shall have the power to appoint and remove, at his or her pleasure, up to one deputy~~
22 ~~superintendent and no more than two assistant superintendents, all of whom shall be exempt~~
23 ~~from the civil service provisions of this Charter.~~

24 The Director shall not serve as an officer or member of any standing or ad hoc
25 committee of any building industry or code development or enforcement organization or public

1 agency other than the City and County of San Francisco without the prior approval of the
2 Ceommission.

3 ~~**D3.750-3 SECRETARY OF COMMISSION; CONSULTANTS**~~

4 ~~—The Building Inspection Commission may appoint a secretary, which appointment shall~~
5 ~~not be subject to the civil service provisions of this Charter. Subject to the provisions of Section~~
6 ~~6.302, 6.312 and 6.313 of this Charter, the commission may also contract with engineers or~~
7 ~~other consultants for such services as it may require.~~

8 ~~**D3.750-4 POWERS AND DUTIES**~~

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

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

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

6 ~~The commission shall have the power to hold hearings and hear appeals on all~~
7 ~~decisions made by the Department of Public Works regarding permits under one or more of the~~
8 ~~codes enumerated in this section and on sidewalk or encroachment permits. The commission may~~
9 ~~reverse, affirm or modify determinations made by the Department of Public Works, Water~~
10 ~~Department, or Department of Building Inspection on all permits required for a final certificate~~
11 ~~of completion. The commission's jurisdiction under this section, however, shall not extend to~~
12 ~~permits appealable to the Planning Commission or Board of Permit Appeals. Departmental~~
13 ~~decisions on permits subject to commission review shall be made within the time mandates of the~~
14 ~~state Permit Streamlining Act. Appeals of decisions must be filed with the commission within~~
15 ~~fifteen days of the challenged determination. The commission shall act on the appeal within a~~
16 ~~reasonable time. The commission's action shall be final.~~

17 **D3.750-35 CODE PUBLICATION ACTIONS OF COMMISSION**

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

24 The ~~Building Inspection~~ Commission shall have the sole authority to contract for the
25 publication of the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing

1 Codes, and any amendments thereto. Other provisions of this Charter and the Administrative
2 Code notwithstanding, the selection of a publisher shall be based on the lowest retail cost to the
3 public of a complete set of these codes.

4 **D3.750-~~46~~ APPROVAL OF BUDGETS**

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

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

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

14 **D3.750-~~57~~ TECHNICAL BOARDS AND ADVISORY COMMITTEES**

15 * * * *

16 **D3.750-~~68~~ SEVERABILITY**

17 * * * *

18
19 Section 3. Conflicting Ballot Measures. In the event that this measure and another
20 measure relating to the duties, composition, qualifications, and methods of appointment of
21 members of the Building Inspection Commission appear on the same municipal election ballot,
22 the provisions of such other measure shall be deemed in conflict with this measure. In the event
23 that this measure shall receive a greater number of affirmative votes than the other measure, the
24 provisions of this measure shall prevail in their entirety and each and every provision of the other
25

1 measure that pertains to the Building Inspection Commission shall be null and void, to the
2 extent it pertains to the Building Inspection Commission.

3
4 APPROVED AS TO FORM:
5 DAVID CHIU, City Attorney

6 By: /s/ Robb Kapla
7 ROBB KAPLA
8 Deputy City Attorney

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LEGISLATIVE DIGEST

(revised 01/26/2022)

[Charter Amendment - Building Inspection Commission]

Describing and setting forth a proposal to the voters at an election to be held on June 7, 2022, to amend the Charter of the City and County of San Francisco to revise the duties, composition, and method of appointment for members of the Building Inspection Commission; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Charter Section 4.121 and Appendix D outline the duties, composition, and method of appointment for the Building Inspection Commission, which oversees the Department of Building Inspection (“DBI”). Under Section 4.121, Building Inspection Commission members are appointed directly to the Commission by the Mayor (four seats consisting of a structural engineer, a licensed architect, a residential builder, and a representative of non-profit housing development corporation) and the President of the Board of Supervisors (three seats consisting of a residential tenant, a residential landlord, and a member of the general public). Commissioners serve two-year terms and vacancies are filled by the appointing officer.

Unlike other Charter commissions that, pursuant to Section 4.102, must forward at least three candidates for the director position to the Mayor to make the appointment, the Building Inspection Commission has the power to appoint and remove the Director of DBI.

Under Charter Appendix D3.750-2, the Director of DBI may appoint and remove one deputy superintendent and up to two assistant superintendents that are exempt from civil service provisions of the Charter.

Many of the provisions in Appendix D pertain to the creation of DBI, formerly the Bureau of Building Inspection within Public Works, as an independent department upon enactment of Proposition G in 1994. These provisions include the initial 1994-1995 budget, identifying personnel and agencies within Public Works that would transition to DBI, and Building Inspection Commission powers, responsibilities, and procedures that are duplicative of general provisions made applicable to all departments in the 1996 Charter.

Amendments to Current Law

This Charter amendment would change the composition of the Building Inspection Commission by eliminating the requirement that each seat have a specific profession, background, or industry affiliation and would instead, as amended in Rules Committee,

emphasize the inclusion of members concerned with tenant and habitability issues. The amendment would preserve the Mayor and the President of the Board of Supervisors as the nominating officers of Commission (four seats and three seats, respectively), but would make each nomination subject to approval by the Board of Supervisors within 60 days. The amendment outlines provisions to transition to the new composition of the Commission by July 1, 2023.

The amendment would remove the ability of the Commission to directly appoint the Director of DBI and would make the Commission subject to Section 4.102. Section 4.102, among several provisions, mandates that commissions provide the names of at least three qualified candidates to the Mayor for department director positions and that the Mayor makes the appointment.

The amendment also eliminates the ability of the Director to appoint one deputy superintendent and two assistant superintendents that are exempt from civil service. DBI would remain subject to Article X of the Charter, including Section 10.104 regarding appointment of civil service exempt positions.

In an effort to eliminate moot and redundant provisions resulting from the wholesale incorporation of Proposition G into Appendix D when the 1996 Charter was enacted, the amendment consolidates the Building Inspection Commission composition, duties and responsibilities into Section 4.121; explicitly incorporates Sections 4.102, 4.103, and 4.104 and deletes duplicative provisions within Appendix D; and deletes moot provisions that only pertained to the initial separation of DBI from Public Works. The amendment includes Section 3, which states that if other Charter amendments that impact the same provisions as this Charter amendment are passed by voters in the June election, the amendment with the most votes shall apply.

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