

BOARD of SUPERVISORS



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June 15, 2016

**File No. 160668**

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Jones:

On June 7, 2016, Supervisor Peskin introduced the following proposed legislation:

**File No. 160668**

**Ordinance amending the Planning Code to create the "Density Done Right; Development Without Displacement Program" to provide for development bonuses and zoning modifications for development projects that include 100% affordable housing; and amending the Planning Code to allow heights above the height limits specified in the Planning Code and the Zoning Maps; 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.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

1 [Planning Code - 100% Affordable Housing Density and Development Bonuses]

2  
3 **Ordinance amending the Planning Code to create the “Density Done Right;**  
4 **Development Without Displacement Program” to provide for development bonuses and**  
5 **zoning modifications for development projects that include 100% affordable housing;**  
6 **and amending the Planning Code to allow heights above the height limits specified in**  
7 **the Planning Code and the Zoning Maps; affirming the Planning Department’s**  
8 **determination under the California Environmental Quality Act; and making findings of**  
9 **consistency with the General Plan, and the eight priority policies of Planning Code,**  
10 **Section 101.1.**

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

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

19 Section 1.

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

25 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
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. \_\_\_\_\_, 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. \_\_\_\_\_, and the Board incorporates such  
7 reasons herein by reference.

8  
9 Section 2. The Planning Code is hereby amended by adding Sections 206 through  
10 206.4 to read as follows:

11 **SEC. 206. DENSITY DONE RIGHT; DEVELOPMENT WITHOUT DISPLACEMENT**  
12 **PROGRAM.**

13 *This section shall be known as the Density Done Right; Development Without Displacement*  
14 *Program.*

15 **SEC. 206.1. PURPOSE AND FINDINGS.**

16 *(a) The purpose of the Density Done Right; Development Without Displacement Program is to*  
17 *facilitate the development and construction of affordable housing in San Francisco. Affordable*  
18 *housing is of paramount statewide concern, and the California State legislature has declared that local*  
19 *and state governments have a responsibility to use the powers vested in them to facilitate the*  
20 *improvement and development of housing to make adequate provision for the housing needs of all*  
21 *economic segments of the community. The State Legislature has found that local governments must*  
22 *encourage the development of a variety of types of housing for all income levels, including multifamily*  
23 *rental housing and assist in the development of adequate housing to meet the needs of low- and*  
24 *moderate-income households.*

1           (b) Affordable housing is an especially paramount concern in San Francisco. San Francisco  
2 has one of the highest housing costs in the nation, but San Francisco's economy and culture rely on a  
3 diverse workforce at all income levels. It is the policy of the Board of Supervisors to provide housing  
4 to these workers and ensure that they pay a proportionate share of their incomes to live in adequate  
5 housing and to not commute ever-increasing distances to their jobs. The Association of Bay Area  
6 Governments determined that San Francisco's share of the Regional Housing Need for January 2015  
7 to June 2022 was provision of 28,870 new housing units, with 6,234 (or 21.6%) as very low, 4,639 (or  
8 16.1%) as low, and 5,460 (or 18.9%) as moderate income units. This does not account for replacement  
9 of units removed from rent control.

10           (c) This Board of Supervisors, and the voters in San Francisco, have long recognized the need  
11 for the production of affordable housing. The voters, or this Board have adopted measures such as the  
12 establishment of the mandatory Inclusionary Affordable Housing Ordinance in Planning Code section  
13 415; the San Francisco Housing Trust Fund, adopted in 2012, which established a fund to create,  
14 support and rehabilitate affordable housing, and set aside \$20 million in its first year, with increasing  
15 allocations to reach \$50 million a year for affordable housing; the adoption of Proposition K in 2014  
16 which established as City policy that the City, by 2020, will help construct or rehabilitate at least  
17 30,000 homes, with at least 33% as affordable for low-and moderate income households; and the  
18 multiple programs that rely on Federal, State and local funding sources as identified in the Mayor's  
19 Office of Housing and Community Development Comprehensive Plan.

20           (d) Development bonuses are a long standing zoning tool that enable cities to encourage  
21 development projects to provide public benefits including affordable housing. By offering increased  
22 development potential, the Density Done Right; Development Without Displacement Program provides  
23 incentives for developers of 100% affordable housing projects, thereby reducing the overall cost of  
24 such developments on a per unit basis.

1 (e) A key objective of the Density Done Right; Development Without Displacement Program is  
2 to facilitate affordable housing projects while protecting existing uses.

3  
4 **SEC. 206.2 DEFINITIONS.**

5 This Section applies to Sections 206 through 206.4. The definitions of Section 102 and the  
6 definitions in Section 401 for “household of low income”, “household of moderate income”, “Housing  
7 Project” and “MOHCD” shall generally apply. For purposes of this Section 206 et seq., the following  
8 definitions shall apply, and shall prevail if there is a conflict with other sections of the Planning Code.

9 (a) A “Density Done Right; Development Without Displacement Project” shall be a project  
10 where all of the dwelling units are:

11 (1) affordable to a household of very-low, low or moderate income, up to a maximum  
12 of 100% of the Neighborhood Median Income (as published by the MOHCD and beginning with the  
13 first Program Report under Section 206.4), including units that qualify as replacement Section 8 units  
14 under the HOPE SF Program; or is subsidized by the Mayor’s Office of Housing and Community  
15 Development, the San Francisco Housing Authority, and or the Office of Community Investment and  
16 Infrastructure or their successor agencies; and

17 (2) subsidized in a manner which maintains its affordability for the life of the building,  
18 whether it is a rental or ownership opportunity.

19 (b) “Neighborhood Median Income” means the median income levels derived from the  
20 Department of Housing and Urban Development (“HUD”) adjusted on an annual basis for  
21 neighborhood areas within San Francisco, adjusted for household size, but not high housing cost area.  
22 MOHCD shall determine a methodology for and publish a table of Neighborhood Median Income by  
23 neighborhood area in the Program Report under Section 206.4, and shall publish a table of  
24 Neighborhood Median Incomes annually thereafter. Until MOHCD establishes a methodology for

1 Neighborhood Median Income by neighborhood area, Neighborhood Median Income shall be  
2 determined by zip code.

3 **SEC. 206.3. APPLICABILITY.**

4 (a) Applicability. A Density Done Right; Development Without Displacement Project under  
5 this Section 206.3 shall be a Housing Project that:

6 (1) contains three or more Residential Units, as defined in Section 102, not including  
7 any additional units permitted through this Section 206;

8 (2) restricts all residential units as affordable to very-low, low or moderate income  
9 households, up to a maximum of 100% of the Neighborhood Median Income;

10 (3) is located in on any parcel that meets all of the following criteria:

11 (A) is not designated as an RH-1 or RH-2 Zoning District;

12 (B) allows Residential Uses;

13 (C) does not contain any buildings with residential uses;

14 (D) does not contain any neighborhood serving uses, as defined in Article Seven  
15 of this Code, except that the site may contain the following uses: Automobile Parking as defined in  
16 section 790.8; Automotive Gas Station as defined in section 790.14; Automotive Wash as defined in  
17 Section 790.18; Automotive Sale or Rental as defined in Section 790.12; and Community Residential  
18 Parking as defined in Section 790.10;

19 (E) does not contain, or did not contain in the three years prior to submittal of  
20 the application, any production, distribution or repair uses;

21 (F) does not contain philanthropic administrative service uses or arts activities;

22 and;

23 (G) has not been rezoned to increase height or density within the 10 years  
24 preceding the application.

1                   (4) is not seeking and receiving a density or development bonus under the provisions of  
2 California Government Code Section 65915 et seq., Planning Code Sections 207, 124(f), 304, 803.8 or  
3 any other state or local program that provides development bonuses; and

4                   (5) provides minimum unit sizes in accordance with California Tax Credit Allocation  
5 Committee standards or unit size standards established by the Mayor's Office of Housing and  
6 Community Development, whichever is greater.

7                   (b) **Development Bonuses.** A Density Done Right; Development Without Displacement Project  
8 shall, at the project sponsor's request, receive any or all of the following:

9                   (1) **Priority Processing.** Density Done Right; Development Without Displacement  
10 Projects shall receive Priority Processing.

11                   (2) **Waiver of Application Fees.** Notwithstanding any Planning Code provision to the  
12 contrary, a Density Done Right; Development Without Displacement Project shall not be subject to any  
13 fees authorized by the Planning Code.

14                   (3) **Form based density.** Notwithstanding any zoning designation to the contrary,  
15 density of the Density Done Right; Development Without Displacement Project shall not be limited by  
16 lot area but rather by the applicable requirements and limitations set forth elsewhere in this Code.  
17 Such requirements and limitations include, but are not limited to, height, including any additional  
18 height allowed by subsection (b)(4) herein, Bulk, Setbacks, Open Space, Exposure and unit mix as well  
19 as applicable design guidelines, and elements and area plans of the General Plan.

20                   (4) **Height.** Density Done Right; Development Without Displacement Projects shall be  
21 allowed up to 30 additional feet, not including allowed exceptions per Section 260(b), above the  
22 property's height district limit in order to provide three additional stories of residential use. This  
23 additional height may only be used to provide up to three additional stories to the project.  
24 Notwithstanding the increase in height as allowed by this section, in no case may a Density Done

1 Right; Development Without Displacement Project exceed a total of 90 feet in height, not including  
2 allowed exceptions per Section 260(b).

3 (5) Zoning Modifications. Density Done Right; Development Without Displacement  
4 Projects may select any or all of the following zoning modifications:

5 (A) Rear Yard: the required rear yard per Section 134 or any applicable  
6 special use district may be reduced to no less than 20% of the lot depth or 15 feet, whichever is greater.  
7 Corner properties may provide 20% of the lot area at the interior corner of the property to meet the  
8 minimum rear yard requirement, provided that each horizontal dimension of the open area is a  
9 minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing midblock  
10 open space, if any, formed by the rear yards of adjacent properties.

11 (B) Dwelling Unit Exposure: The dwelling unit exposure requirements of  
12 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that  
13 is no less than 15 feet in every horizontal dimension, and such open area is not required to expand in  
14 every horizontal dimension at each subsequent floor.

15 (C) Off Street Loading: No off-street loading spaces under Section 152.

16 (D) Automobile Parking: Up to a 100% reduction in the minimum off-street  
17 residential and commercial automobile parking requirement under Article 1.5 of this Code.

18 (E) Open Space: Up to a 10% reduction in common open space requirements if  
19 required by Section 135, but no less than 36 square feet of open space per unit.

20 (F) Inner Courts as Open Space: In order for an inner court to qualify as  
21 useable common open space, Section 135(g)(2) requires it to be at least 20 feet in every horizontal  
22 dimension, and for the height of the walls and projections above the court on at least three sides (or 75  
23 percent of the perimeter, whichever is greater) to be no higher than one foot for each foot that such  
24 point is horizontally distant from the opposite side of the clear space in the court. Density Done Right;  
25 Development Without Displacement Projects may instead provide an inner court that is at least 25 feet



1 in every horizontal dimension, with no restriction on the heights of adjacent walls. All area within such  
2 an inner court shall qualify as common open space under Section 135.

3 **(c) Implementation.**

4 **(1) Application.** An application to participate in the Density Done Right;  
5 Development Without Displacement Program shall be submitted with the first application for approval  
6 of a Housing Project and processed concurrently with all other applications required for the Housing  
7 Project. The application shall be submitted on a form prescribed by the City and shall include at least  
8 the following information:

9 (A) A full plan set including a site plan, elevations, sections and floor  
10 plans, showing total number of units, unit sizes and planned affordability levels and any applicable  
11 funding sources;

12 (B) The requested development bonuses from those listed in subsection  
13 (b)(5);

14 (C) Unit size and distribution of multi-bedroom units; and

15 (D) Notwithstanding the restrictions on eligible properties for this  
16 program in Sections (a)(3)(D) and (a)(3)(E), documentation that the applicant has provided written  
17 notification to any existing on-site commercial tenants that will be affected by the proposed project that  
18 the applicant intends to develop the property pursuant to this section. Any such commercial tenants  
19 shall be given priority processing similar to the Department's Community Business Priority Processing  
20 Program, as adopted by the San Francisco Commission on February 12, 2015 under Resolution  
21 Number 19323 to support relocation of such business in concert with access to relevant local business  
22 support programs.

23 **(2) Conditions.** Entitlements of Density Done Right; Development Without  
24 Displacement Projects approved under this Section shall be valid for 10 years from the date of  
25 Planning Commission approval.

1                                    (3) Controls. Density Done Right; Development Without Displacement

2 Projects shall require a conditional use authorization under Section 303 of this Code.

3                                    **SEC. 206.4. THE DENSITY DONE RIGHT; DEVELOPMENT WITHOUT**  
4 **DISPLACEMENT PROGRAM REPORT.**

5                                    (a) Within one year from the effective date of Section 206 and following, and annually  
6 thereafter, the Board of Supervisors shall prepare a Program Report that includes, but is not limited to,  
7 an evaluation of the Density Done Right; Development Without Displacement Projects under this  
8 Program, and recommendations for improvements and potential expansion of the Program. The first  
9 such Program Report shall include the following topics:

10                                    (1) criteria to require replacement space within a development for any displaced  
11 neighborhood-serving small business and adequate relocation expenses;

12                                    (2) devise a “value capture” analysis process to evaluate how to maximize affordable  
13 housing requirements for development projects taking advantage of the development bonuses under this  
14 Section;

15                                    (3) requirements for family-sized units in development project that take advantage of the  
16 development bonuses under this Section;

17                                    (4) requirements for minimum light, air, and rear yard open space for development  
18 projects taking advantage of the development bonuses under this Section;

19                                    (5) a methodology for determining Neighborhood Median Income, as defined in Section  
20 206.2;

21                                    (6) notwithstanding Section 206.3(a)(3)(C), recommendations on policies to strengthen  
22 restrictions on demolition of residential units;

23                                    (7) notwithstanding Section 206.4(a)(1) above, recommendations on policies and  
24 programs for retention of neighborhood serving small business.

1 Section 4. The Planning Code is hereby amended by revising Sections 250 and 260,  
2 to read as follows:

3 **SEC. 250. HEIGHT AND BULK DISTRICTS ESTABLISHED.**

4 (a) In order to carry out further the purposes of this Code, height and bulk districts are  
5 hereby established, subject to the provisions of this Article 2.5.

6 (b) No building or structure or part thereof shall be permitted to exceed, except as  
7 stated in Sections 172, ~~and~~ 188, and 206 of this Code, the height and bulk limits set forth in this  
8 Article for the district in which it is located, including the height limits for use districts set forth  
9 in Section 261.

10 \* \* \* \*

11 **SEC. 260. HEIGHT LIMITS; MEASUREMENT.**


12 (a) **Method of Measurement.** The limits upon the height of buildings and structures  
13 shall be as specified on the Zoning Map, except as permitted by Section 206. In the measurement  
14 of height ~~for purposes of such limits~~, the following rules shall be applicable:

15 \* \* \* \*

16 Section 5. Effective Date and Operative Effect. This ordinance shall become effective  
17 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor  
18 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,  
19 or the Board of Supervisors overrides the Mayor's veto of the ordinance. This ordinance  
20 applies to projects that the Planning Department or Planning Commission have not approved  
21 as of the effective date. For projects that have not yet submitted applications to the Planning  
22 Department or other City entity, all of the provisions of the ordinance apply. The Planning  
23 Department shall develop a policy to apply the provisions of this ordinance to projects that  
24 have already submitted applications, but have not obtained approvals, to permit such projects  
25 to amend their applications.

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

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:   
11 Audrey Williams Pearson  
12 Deputy City Attorney

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