

BOARD of SUPERVISORS



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MEMORANDUM

TO: Eric D. Shaw, Director, Mayor's Office of Housing and Community Development

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

DATE: January 18, 2022

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Melgar on January 11, 2022:

File No. 211232

Ordinance amending the Administrative Code to create the Housing Innovation Program to develop, finance, and support certain additional housing opportunities for low-income and moderate-income residents, including loans and technical assistance for certain low-income and moderate-income property owners to construct accessory dwelling units or other new units on their property, subject to certain conditions, loans for certain low-income and moderate-income tenants who are at risk of displacement and licensed childcare providers, and grants for organizations to create marketing and educational materials about wealth-building and homeownership for residents who have been historically disadvantaged and to develop creative construction design prototypes for low-income and moderate-income residents.

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: Lydia Ely, Mayor's Office of Housing and Community Development
Brian Cheu, Mayor's Office of Housing and Community Development
Maria Benjamin, Mayor's Office of Housing and Community Development

1 [Administrative Code - Housing Innovation Program]

2

3 **Ordinance amending the Administrative Code to create the Housing Innovation**
4 **Program to develop, finance, and support certain additional housing opportunities for**
5 **low-income and moderate-income residents, including loans and technical assistance**
6 **for certain low-income and moderate-income property owners to construct accessory**
7 **dwelling units or other new units on their property, subject to certain conditions, loans**
8 **for certain low-income and moderate-income tenants who are at risk of displacement**
9 **and licensed childcare providers, and grants for organizations to create marketing and**
10 **educational materials about wealth-building and homeownership for residents who**
11 **have been historically disadvantaged and to develop creative construction design**
12 **prototypes for low-income and moderate-income residents.**

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

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

19

20 Section 1. The Administrative Code is hereby amended by adding Chapter 85,
21 consisting of Sections 85.1 through 85.6, to read as follows:

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23 ///
24 ///
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1 “Area Median Income” means the median income of a household for the County of San
2 Francisco, adjusted for household size, as annually published by the California Department of Housing
3 and Community Development under California Code of Regulations Title 25 Section 6932 and pursuant
4 to the authority granted under California Health and Safety Code Section 50093, as it may be amended
5 from time to time.

6 “Board” means the Board of Supervisors.

7 “City” means the City and County of San Francisco.

8 “Family Child Care Program” means a State-licensed childcare program provided by a Family
9 Child Care Provider in accordance with all applicable laws, regulations, and other requirements.

10 “Family Child Care Provider” means a State-licensed child care provider as defined in
11 California Health and Safety Code Section 1596.791, as it may be amended from time to time.

12 “Low-Income and Moderate Income” has the same meaning as “Persons and families of low or
13 moderate income” as set forth in California Health and Safety Code Section 50093, as it may be
14 amended from time to time.

15 “MOHCD” means the Mayor’s Office of Housing and Community Development, or any
16 successor agency, department, or office.

17 “New Unit(s)” means one or more new Accessory Dwelling Units or other units constructed in
18 accordance with the Program on the real property in San Francisco owned by the Property Owner.

19 “Partner Organization” means an organization with the experience and capacity to administer
20 the Program.

21 “Program” means the Housing Innovation Program authorized by this Chapter 85.

22 “Property Owner” means the owner of a single-family property in San Francisco.

23 “Residence” means the real property in San Francisco owned and occupied by the Property
24 Owner and for which the Property Owner is applying for assistance under the Program.

25 “State” means the State of California.

1 **SEC. 85.3. HOUSING INNOVATION PROGRAM.**

2 (a) Establishment. There is hereby created a Housing Innovation Program for the City to
3 be administered by MOHCD.

4 (b) Purpose. The purpose of the Program is to develop additional housing opportunities
5 that complement the existing housing opportunities and resources offered through programs
6 administered by MOHCD, including, but not limited to (1) promoting homeownership and housing
7 preservation, especially for communities that are at high risk of displacement and have been
8 historically denied equal access to capital; (2) financing the construction of additional housing units
9 that support Low-Income and Moderate-Income homeowners with multi-generational living and/or the
10 ability to age in place; and (3) exploring creative prototypes for housing and financing options for
11 Low-Income and Moderate-Income residents.

12 (c) Duties. To administer the Program, MOHCD shall:

13 (1) Provide grants to organizations, including a Partner Organization, of up to 10%
14 of each disbursement of Program funds for the following purposes:

15 (A) to establish marketing and educational materials about wealth-building and
16 homeownership, with the goal of promoting racial equity and increasing participation in the Program
17 by current and displaced San Francisco residents who have been historically disadvantaged by
18 government and private actions; and

19 (B) to provide professional development, capacity building, and training for staff
20 to implement the purposes of the Program;

21 (C) to develop creative construction design prototypes that could be pre-
22 approved for simplified permitting and financing options for Low-Income and Moderate-Income
23 residents, especially to add additional dwelling units to single family homes;

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1 (2) Provide loans and technical assistance for Low-Income and Moderate-Income
2 Property Owners to construct the New Unit(s), with the goal of supporting multi-generational living
3 and/or aging in place, provided that the following conditions shall apply to these loans:

4 (A) the value of the Residence shall not be considered when assessing the
5 Property Owner's eligibility for a loan;

6 (B) as long as the borrower is not in default: (i) repayment shall be deferred for
7 a five-year term, (ii) the loan shall not accrue interest prior to the maturity date, and (iii) the loan shall
8 be repaid in full on the maturity date;

9 (C) if the New Unit(s) is sold, separately or in conjunction with the sale of the
10 Residence, prior to the end of the five-year loan term, the loan shall either be (i) assumed by the new
11 owner of the New Unit(s), if the new owner meets all other loan eligibility requirements, for the
12 remainder of the five-year loan term, or (ii) repaid in full with interest immediately upon the sale of the
13 New Unit(s);

14 (D) the Property Owner enters into an agreement with the City subjecting the
15 New Unit(s) to Administrative Code Chapter 37, as it may be amended from time to time, including but
16 not limited to the rent increase limitations of Chapter 37;

17 (E) within the five years prior to the Property Owner's application for the loan,
18 and continuing until the commencement of the loan, the Property Owner has not at the Residence: (i)
19 displaced one or more tenants in accordance with the Ellis Act, California Government Code Sections
20 7060, et seq., as it may be amended from time to time; (ii) recovered possession of a unit pursuant to
21 Administrative Code Section 37.9(a)(8), as it may be amended from time to time; (iii) recovered
22 possession of a unit pursuant to a Buyout Agreement as defined in Administrative Code Section 37.9E,
23 as it may be amended from time to time; or (iv) otherwise withdrawn any rental unit from rental
24 housing use;

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1 (F) the Property Owner has not received a notice of violation of Administrative
2 Code Chapter 37 within the five years prior to the Property Owner's application for the loan, and
3 continuing until the commencement of the loan; and

4 (G) MOHCD shall require any other loan terms it deems necessary, except that
5 MOHCD may not impose any conditions or restrictions that prohibit the inheritance of the New Unit(s)
6 or Residence by the heir(s) of the Low-Income and Moderate-Income Property Owners;

7 (3) Provide down payment assistance loans for:

8 (A) the acquisition of units by Low-Income and Moderate-Income tenants who:
9 (i) are at risk of displacement from their rental unit due to the anticipated sale of their tenancy-in-
10 common building, and (ii) desire to purchase their rental unit;

11 (B) the acquisition of single-family homes, condominiums, and residential units
12 by Low-Income and Moderate-Income tenants who: (i) are at risk of displacement due to sale or
13 conversion of the single-family home, condominium, or residential unit that they are currently renting,
14 and (ii) desire to purchase that single-family home, condominium, or residential unit; and

15 (C) Family Child Care Providers who desire to purchase a residence to operate
16 a Family Child Care Program; and

17 (4) Provide loans to Low-Income and Moderate-Income tenants in existing rental
18 housing cooperatives that are converting to Limited Equity Housing Cooperatives, as defined in
19 Subdivision Code Section 1399.3, as it may be amended from time to time, who wish to purchase a
20 share in the Limited Equity Housing Cooperative, with the goal of reducing tenant displacement and
21 supporting homeownership.

22
23 **SEC. 85.4. ADMINISTRATION OF PROGRAM.**

24 (a) MOHCD may administer the Program through one or more Partner Organizations,
25 subject to this Chapter 85 and any rules or regulations adopted by MOHCD. If MOHCD administers

1 the Program through one or more Partner Organizations, MOHCD shall comply with Administrative
2 Code Chapter 21 and Chapter 21G, as applicable, and give preference to Partner Organizations that
3 demonstrate successful prior experience working with initiatives similar to the Program in historically
4 disadvantaged communities in San Francisco.

5 (b) The Program shall be funded through the General Fund, subject to the City's annual
6 appropriations ordinance. MOHCD shall establish an account for \$10 million appropriated to
7 MOHCD under Ordinance No. 108-21 for the creation of additional affordable housing opportunities
8 and innovation. MOHCD, and the Partner Organizations if applicable, shall administer the Program in
9 a manner that can leverage any applicable external funding, including but not limited to funding
10 administered by the State, federal government, private foundations, or lenders.

11 (c) MOHCD may adopt rules or regulations to administer the Program consistent with this
12 Chapter 85, provided that MOHCD shall not require any Partner Organization, as a condition of
13 assistance, to use a Citywide housing portal for any units constructed or assisted under the Program
14 for the purpose of registration, marketing, or leasing.

15 (d) MOHCD shall annually report to the Board of Supervisors regarding the
16 implementation and results of the Program.

17
18 **SEC. 85.5. UNDERTAKING FOR THE GENERAL WELFARE.**

19 In enacting and implementing this Chapter 85, the City is assuming an undertaking only to
20 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
21 obligation or duty for breach of which it is liable in money damages or any other relief to any person
22 who claims that such a breach proximately caused injury or damages, including but not limited to any
23 claims by landlords, tenants, or property owners affected by assistance offered under the Program.

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1 **SEC. 85.6. SEVERABILITY.**

2 *If any section, subsection, sentence, clause, phrase, or word of this Chapter 85, or any*
3 *application thereof to any person or circumstance, is held to be invalid or unconstitutional by a*
4 *decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining*
5 *portions or applications of this Chapter. The Board hereby declares that it would have enacted this*
6 *Chapter and every section, subsection, sentence, clause, phrase, and word not declared invalid or*
7 *unconstitutional without regard to whether any other portion of this Chapter or application thereof*
8 *would be subsequently declared invalid or unconstitutional.*

9
10 Section 2. Chapter 37 of the Administrative Code is hereby amended by revising
11 Sections 37.2 and 37.3, to read as follows:

12 **SEC. 37.2. DEFINITIONS.**

13 * * * *

14 (r) **Rental Units.** All residential dwelling units in the City and County of San Francisco
15 together with the land and appurtenant buildings thereto, and all housing services, privileges,
16 furnishings, and facilities supplied in connection with the use or occupancy thereof, including
17 garage and parking facilities.

18 * * * *

19 The term “rental units” shall not include:

20 * * * *

21 (4) Except as provided in subsections (A)-(D), dwelling units whose rents are
22 controlled or regulated by any government unit, agency, or authority, excepting those
23 unsubsidized and/or unassisted units which are insured by the United States Department of
24 Housing and Urban Development; provided, however, that units in unreinforced masonry
25 buildings which have undergone seismic strengthening in accordance with Building Code

1 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
2 ordinance is not in conflict with the seismic strengthening bond program or with the program's
3 loan agreements or with any regulations promulgated thereunder;

4 * * * *

5 (D) The term "rental units" shall include (i) Accessory Dwelling Units
6 constructed pursuant to Section 207(c)(4) of the Planning Code and that have received a
7 complete or partial waiver of the density limits and the parking, rear yard, exposure, or open
8 space standards from the Zoning Administrator pursuant to Planning Code Section 307(l), and
9 (ii) New Unit(s) constructed and funded pursuant to Administrative Code Chapter 85.

10
11 **SEC. 37.3. RENT LIMITATIONS.**

12 * * * *

13 **(g) New Construction and Substantial Rehabilitation.**

14 (1) An owner of a residential dwelling or unit which is newly constructed and
15 first received a certificate of occupancy after the effective date of Ordinance No. 276-79 (June
16 13, 1979), or which the Rent Board has certified has undergone a substantial rehabilitation,
17 may establish the initial and all subsequent rental rates for that dwelling or unit, except:

18 (A) where rent restrictions apply to the dwelling or unit under Sections
19 37.3(d) or 37.3(f);

20 (B) where the dwelling or unit is a replacement unit under Section
21 37.9A(b);

22 (C) as provided for certain categories of Accessory Dwelling Units and
23 New Unit(s) under Section 37.2(r)(4)(D); and

24 (D) as provided in a development agreement entered into by the City
25 under Administrative Code Chapter 56.

1 Section 3. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

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

12
13 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
14 of this ordinance, or any application thereof to any person or circumstance, is held to be
15 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
16 shall not affect the validity of the remaining portions or applications of the ordinance. The
17 Board of Supervisors hereby declares that it would have passed this ordinance and each and
18 every section, subsection, sentence, clause, phrase, and word not declared invalid or
19 unconstitutional without regard to whether any other portion of this ordinance or application
20 thereof would be subsequently declared invalid or unconstitutional.

21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney

23 By: /s/
24 JESSICA ALFARO-CASSELLA
Deputy City Attorney

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LEGISLATIVE DIGEST
(Substituted, 01/11/2022)

[Administrative Code - Housing Innovation Program]

Ordinance amending the Administrative Code to create the Housing Innovation Program to develop, finance, and support certain additional housing opportunities for low-income and moderate-income residents, including loans and technical assistance for certain low-income and moderate-income property owners to construct accessory dwelling units or other new units on their property, subject to certain conditions, loans for certain low-income and moderate-income tenants who are at risk of displacement and licensed childcare providers, and grants for organizations to create marketing and educational materials about wealth-building and homeownership for residents who have been historically disadvantaged and to develop creative construction design prototypes for low-income and moderate-income residents.

Existing Law

The City and County of San Francisco (the “City”) provides an array of rental housing and homeownership programs. The Mayor’s Office of Housing and Community Development (“MOHCD”) currently administers certain loan and grant programs for the construction, acquisition, and preservation of affordable housing units, such as homeownership programs that provide income-eligible residents with grants or loans to purchase or rehabilitate single-family homes. There is currently no legal requirement that the City create a program for innovative housing solutions to complement the City’s existing housing programs.

Amendments to Current Law

This ordinance would create a new Housing Innovation Program, administered by MOHCD, to complement the existing housing financing programs currently administered by MOHCD by:

- Providing grants to organizations to create marketing and educational materials about wealth-building and homeownership and to increase participation in the Housing Innovation Program, with the goal of increasing housing preservation and participation in homeownership by current and displaced San Francisco residents who have been historically disadvantaged by government and private actions and at high risk of displacement, and to develop creative construction design prototypes that could be pre-approved for simplified permitting and financing options for low-income and moderate-income residents;

- Providing loans and technical assistance for low-income and moderate-income property owners to construct accessory dwelling units or other new units on their property, with the goal of supporting multi-generational living and/or aging in place;
 - Such loans and technical assistance would be subject to certain conditions, including but not limited to entering into an agreement subjecting the new units to rent control and prohibiting assistance for property owners who have violated the Residential Rent Stabilization and Arbitration Ordinance or displaced one or more tenants at their property pursuant to the Ellis Act within the prior 5 years;
- Providing down payment assistance loans to low-income and moderate-income tenants for the acquisition of a residence by licensed childcare providers or certain at-risk tenants; and
- Providing loans to low-income and moderate-income tenants in rental housing cooperatives that are converting to limited equity housing cooperatives who wish to purchase a share in the limited equity housing cooperative.

MOHCD would be authorized to administer the Housing Innovation Program through one or more qualified organizations.

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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:

create marketing and educational materials about wealth-building and homeownership for residents who have been historically disadvantaged and to develop creative construction design prototypes for low-income and moderate-income residents.

Signature of Sponsoring Supervisor: /s/Myrna Melgar

For Clerk's Use Only