

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:

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:

22 ///  
23 ///  
24 ///  
25 ///

1                                 **CHAPTER 85: THE HOUSING INNOVATION PROGRAM**

2  
3                                 **SEC. 85.1. FINDINGS.**

4                                 *The Board of Supervisors finds and declares the following:*

5   (i) San Francisco faces a severe and continuing housing crisis. This crisis is caused  
6 by a shortage of affordable rental housing as well as a shortage of affordable homeownership  
7 opportunities. The City is committed to responding to this housing crisis with a multifaceted and  
8 innovative approach.

9   (ii) A housing innovation program can: (1) promote homeownership and housing  
10 preservation, especially for communities that are at high risk of displacement and have been  
11 historically denied equal access to capital; (2) develop and finance the construction of additional  
12 housing units that provide low-income and moderate-income homeowners the ability to leverage their  
13 assets to support multi-generational living and/or support their ability to age in place; and (3) explore  
14 creative prototypes for construction designs and financing options to provide housing for low-income  
15 and moderate-income residents.

16                                        (iii) Further, a housing innovation program can create additional housing  
17 opportunities and complement the existing housing opportunities and resources administered by the  
18 Mayor’s Office of Housing and Community Development, such as homeownership programs that  
19 provide income-eligible residents with grants or loans to purchase or rehabilitate single-family homes,  
20 including for the development of additional units.

21  
22                                 **SEC. 85.2. DEFINITIONS.**

23                                 *For purposes of this Chapter 85, the following definitions apply:*

24                                        “Accessory Dwelling Unit” has the meaning set forth in Section 102 of the Planning Code, as it  
25 may be amended from time to time.

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;

24           ///

25           ///

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  
7 until the earlier of: five years after the first certificate of occupancy is issued for the New  
8 Unit(s), or seven years after the deed of trust for the loan is recorded on the Residence or  
9 New Unit(s) for a five-year term, (ii) the loan shall not accrue interest prior to the maturity date, and  
10 (iii) the loan shall be repaid in full on the maturity date;

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

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

19                   (E) within the five years prior to the Property Owner's application for the loan,  
20 and continuing until the commencement of the loan, the Property Owner has not at the Residence: (i)  
21 displaced one or more tenants in accordance with the Ellis Act, California Government Code Sections  
22 7060, et seq., as it may be amended from time to time; (ii) recovered possession of a unit pursuant to  
23 Administrative Code Section 37.9(a)(8), as it may be amended from time to time; (iii) recovered  
24 possession of a unit pursuant to a Buyout Agreement as defined in Administrative Code Section 37.9E,  
25

1 as it may be amended from time to time; or (iv) otherwise withdrawn any rental unit from rental  
2 housing use;

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

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

9 (3) Provide down payment assistance loans for:

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

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

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

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

24 ///

25 ///

1           **SEC. 85.4. ADMINISTRATION OF PROGRAM.**

2           (a) MOHCD may administer the Program through one or more Partner Organizations,  
3 subject to this Chapter 85 and any rules or regulations adopted by MOHCD. If MOHCD administers  
4 the Program through one or more Partner Organizations, MOHCD shall comply with Administrative  
5 Code Chapter 21 and Chapter 21G, as applicable, and give preference to Partner Organizations that  
6 demonstrate successful prior experience working with initiatives similar to the Program in historically  
7 disadvantaged communities in San Francisco.

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

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

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

20  
21           **SEC. 85.5. UNDERTAKING FOR THE GENERAL WELFARE.**

22           In enacting and implementing this Chapter 85, the City is assuming an undertaking only to  
23 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an  
24 obligation or duty for breach of which it is liable in money damages or any other relief to any person  
25

1 who claims that such a breach proximately caused injury or damages, including but not limited to any  
2 claims by landlords, tenants, or property owners affected by assistance offered under the Program.

3  
4 **SEC. 85.6. SEVERABILITY.**

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

12  
13 Section 2. Chapter 37 of the Administrative Code is hereby amended by revising  
14 Sections 37.2 and 37.3, to read as follows:

15 **SEC. 37.2. DEFINITIONS.**

16 \* \* \* \*

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

21 \* \* \* \*

22 The term “rental units” shall not include:

23 \* \* \* \*

24 (4) Except as provided in subsections (A)-(D), dwelling units whose rents are  
25 controlled or regulated by any government unit, agency, or authority, excepting those



1 unsubsidized and/or unassisted units which are insured by the United States Department of  
2 Housing and Urban Development; provided, however, that units in unreinforced masonry  
3 buildings which have undergone seismic strengthening in accordance with Building Code  
4 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the  
5 ordinance is not in conflict with the seismic strengthening bond program or with the program's  
6 loan agreements or with any regulations promulgated thereunder;

7 \* \* \* \*

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

13  
14 **SEC. 37.3. RENT LIMITATIONS.**

15 \* \* \* \*

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

17 (1) An owner of a residential dwelling or unit which is newly constructed and  
18 first received a certificate of occupancy after the effective date of Ordinance No. 276-79 (June  
19 13, 1979), or which the Rent Board has certified has undergone a substantial rehabilitation,  
20 may establish the initial and all subsequent rental rates for that dwelling or unit, except:

21 (A) where rent restrictions apply to the dwelling or unit under Sections  
22 37.3(d) or 37.3(f);

23 (B) where the dwelling or unit is a replacement unit under Section  
24 37.9A(b);  
25

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

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

5  
6 Section 3. Effective Date. This ordinance shall become effective 30 days after  
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
9 of Supervisors overrides the Mayor's veto of the ordinance.

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

17  
18 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word  
19 of this ordinance, or any application thereof to any person or circumstance, is held to be  
20 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
21 shall not affect the validity of the remaining portions or applications of the ordinance. The  
22 Board of Supervisors hereby declares that it would have passed this ordinance and each and

23 ///

24 ///

25 ///

1 every section, subsection, sentence, clause, phrase, and word not declared invalid or  
2 unconstitutional without regard to whether any other portion of this ordinance or application  
3 thereof would be subsequently declared invalid or unconstitutional.

4

5

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

6

7

By: /s/ \_\_\_\_\_  
JESSICA ALFARO-CASSELLA  
Deputy City Attorney

8

9

n:\legana\as2022\2200183\01579428.docx

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25