

BOARD of SUPERVISORS



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MEMORANDUM

Date: July 12, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230808
Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

[Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District]

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3 **Ordinance amending 1) the Planning Code to create the Family Housing Opportunity**
4 **Special Use District; 2) the Planning Code to authorize the greater of up to four units or**
5 **one unit per 1,000 square feet of lot area on individual lots in the RH (Residential,**
6 **House) District, up to six dwelling units on individual Corner Lots in the RH District, the**
7 **greater of up to ~~twelve~~12 units or one unit per 1,000 square feet of lot area on three**
8 **merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot**
9 **area on two merged lots in RH-1 (Residential, House: One Family) districts, up to 18**
10 **units on Corner Lots resulting from three lot mergers in RH-1 districts, up to 12 units**
11 **on Corner Lots resulting from two lot mergers in RH-1 districts, and Group Housing in**
12 **RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to**
13 **exempt eligible projects in the Special Use District from certain height, open space,**
14 **dwelling unit exposure, and rear-yard setback requirements, conditional use**
15 **authorizations, and neighborhood notification requirements; 4) amending the**
16 **Subdivision Code to authorize eligible projects in the Special Use District to qualify for**
17 **condominium conversion or a condominium map that includes the existing dwelling**
18 **units and the new dwelling units that constitute the project; 5) amending the**
19 **Administrative Code to require new dwelling or group housing units constructed**
20 **pursuant to the density limit exception to be subject to the rent increase limitations of**
21 **the Rent Ordinance; 6) amending the Zoning Map to show the Family Housing**
22 **Opportunity Special Use District; and affirming the Planning Department’s**
23 **determination under the California Environmental Quality Act, and making findings of**
24 **consistency with the General Plan, and the eight priority policies of Planning Code,**

1 **Section 101.1, and findings of public necessity, convenience, and welfare under**
2 **Planning Code, Section 302.**

3 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
4 **Additions to Codes** are in *single-underline italics Times New Roman font*.
5 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
6 **Board amendment additions** are in double-underlined Arial font.
7 **Board amendment deletions** are in ~~strikethrough Arial font~~.
8 **Asterisks (* * * *)** indicate the omission of unchanged Code
9 subsections or parts of tables.

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

11 Section 1. CEQA and Land Use Findings.

12 (a) The Planning Department has determined that the actions contemplated in this
13 ordinance comply with the California Environmental Quality Act (California Public Resources
14 Code Section 21000 *et seq.*). Said determination is on file with the Clerk of the Board of
15 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
16 determination.

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

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

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Section 2. General Findings.

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

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

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

(d) These housing cost trends come after decades of underproduction of housing in the Bay Area. The City’s Chief Economist has estimated that approximately 5,000 new market-rate housing units per year would be required to keep housing prices in San Francisco constant with the general rate of inflation. To this end, the City’s COVID-19 Economic Recovery Task Force included a recommendation in its October 2020 report to support

1 construction of small multifamily buildings in low density areas to support “missing middle”
2 housing opportunities.

3 (e) Moreover, San Francisco will be challenged to meet increased Regional Housing
4 Needs Allocation (“RHNA”) goals in the 2023-2031 Housing Element cycle, which total 82,069
5 units over eight years, more than 2.5 times the goal of the previous eight-year cycle. At the
6 same time, relatively new State laws like Senate Bill 35 (2017) would limit San Francisco’s
7 local zoning control and discretion if the City does not meet these RHNA housing production
8 goals.

9 (f) San Francisco’s new housing production in recent years has been heavily
10 concentrated in the eastern and southeastern parts of the City, with 90% of all new housing
11 produced in just ten eastside and central neighborhoods, according to the 2019 Housing
12 Affordability Strategies Report. These neighborhoods are home to many of the City’s most
13 established communities of color and communities most vulnerable to displacement
14 pressures.

15 (g) The California Fair Housing Task Force annually updates the Tax Credit Allocation
16 Committee/Department of Housing and Community Development Opportunity Map
17 (“TCAC/HCD Opportunity Map”). The TCAC/HCD Opportunity Map identifies high-resource
18 and highest-resource areas in the state whose concentration of resources have been shown
19 to support positive economic, educational, and health outcomes for low-income families —
20 particularly long-term outcomes for children. The ~~2020~~2021 TCAC/HCD Opportunity Map is
21 the basis for the Well-Resourced Neighborhoods Map in the 2023-2031 Housing Element, on
22 file with the Clerk of the Board of Supervisors in File No. 230001. The Well-Resourced
23 Neighborhoods Map is also on file with the Clerk of the Board of Supervisors in File No.
24 ~~_____~~230026 and is incorporated herein by reference.

1 (h) Since 2005, just 10% of all new housing in San Francisco and 10% of new
2 affordable housing in San Francisco has been built in high- and highest-resource
3 neighborhoods, though these areas cover nearly 52% of the residential land in the city. In
4 these high-resource neighborhoods, 65% of the land is limited to one or two units. Permitting
5 additional units in high-resource areas will increase the supply of available housing, including
6 the supply of modestly-sized family units that are more affordable than large, single-family
7 homes.

8 (i) While recent legislation has authorized multi-family homes in these neighborhoods,
9 additional procedural requirements may render them too expensive to deliver. Streamlining
10 and simplifying permit processes will help provide more equitable access to the application
11 process and improve certainty of development outcomes for small multifamily buildings in
12 high- and highest-resource neighborhoods.

13 (j) This ordinance creates the Family Housing Opportunity Special Use District (SUD),
14 whose boundaries are generally coterminous with the Well-Resourced Neighborhoods Map in
15 the 2023-2031 Housing Element. This legislation expands upon and complements recently
16 enacted state legislation, such as SB 9, that aims to promote multifamily housing development
17 in single-family neighborhoods. To this end, the legislation provides project sponsors
18 flexibility to choose from a menu of incentives to fit their project needs – be it relief from
19 procedural requirements like conditional use authorizations, neighborhood notification, and
20 public-initiated discretionary review, relief from development standards like density, or a
21 combination of the two.

22 (k) The Family Housing Opportunity SUD permits development of the greater of up to
23 four units or one unit per 1,000 square feet of lot area on an individual parcel in an RH District,
24 provided that the proposed project complies with the heights and bulk specified in the City's
25 Zoning Maps (Height & Bulk Maps HT01 through HT14), in addition to other eligibility criteria

1 detailed in this ordinance. The SUD would also permit up to six units on a Corner Lot in an
2 RH District, subject to certain eligibility criteria. The SUD also permits up to one Group
3 Housing ~~unit~~bedroom per 415 square feet of lot area in RH-1, RH-1(D), and RH-1(S) districts,
4 with the exception of certain projects on Corner Lots. In those same districts, the SUD
5 permits the greater of up to 12 units or one unit per 1,000 square feet of lot area if the lot is the
6 result of a merger of three lots, or the greater of eight units or one unit per 1,000 square feet
7 of lot area if the lot is the result of a merger of two lots. If the resulting lot is a Corner Lot, the
8 SUD permits up to 18 units for a three-lot merger and up to 12 units for a two-lot merger. This
9 ordinance also streamlines approval by exempting eligible projects from conditional use
10 authorization and neighborhood notification requirements and public-initiated discretionary
11 review hearings in Planning Code Section 311.

12 (l) All parcels affected by this ordinance are considered urban infill sites under
13 California Government Code Section 65913(e)(3). This Board therefore declares that this
14 ordinance is enacted pursuant to California Government Code Section 65913(e)(3).

15 (m) This Board finds that this ordinance is consistent with San Francisco's obligation to
16 affirmatively further fair housing pursuant to California Government Code Section 8899.50, by
17 increasing density for projects that enter into regulatory agreements with the City
18 acknowledging that, in consideration for the density exceptions, the new units shall be subject
19 to local rent control notwithstanding the Costa-Hawkins Rental Housing Act (California Civil
20 Code Section 1954.50 *et seq.*). Increasing density in this manner meaningfully addresses
21 significant disparities in housing needs and access to opportunity. Additionally, this ordinance
22 streamlines the approval process to promote certainty in development outcomes in high- and
23 highest-resource neighborhoods.

24 (n) This Board finds that it is in the public interest to encourage the production of a
25 variety of unit types, sizes, and tenure to accommodate people in different living situations,

1 including a mix of smaller units that can help young adults secure housing and seniors to
2 downsize, and larger units that can help growing or multi-generational families stay
3 adequately housed.

4 (o) This Board recognizes that additional development opportunities may lead to
5 speculative real estate investments that may seek to displace current residents, demolish
6 existing housing stock, build new units, and quickly sell those units. To discourage such
7 speculation, demolition of existing units, and displacement of current residents, this ordinance
8 makes the benefit of the streamlining and development incentives available only to persons
9 who have owned their properties for one year prior to the date of their application, including
10 the ownership duration of their Eligible Predecessor, as defined herein, subject to exceptions
11 for multiple ownership structures and vacant buildings described further in the ordinance.

12
13 Section 3. Article 2 of the Planning Code is hereby amended by adding Section
14 249.94, to read as follows:

15
16 **SEC. 249.94. FAMILY HOUSING OPPORTUNITY SPECIAL USE DISTRICT.**

17 *(a) Purpose. To incentivize the development of multifamily housing in the City’s well-*
18 *resourced neighborhoods, a special use district entitled “Family Housing Opportunity Special Use*
19 *District” is hereby established.*

20 *(b) Boundaries. The boundaries of the Family Housing Opportunity Special Use District are*
21 *shown on Special Use District Maps Sheets SU 1, SU 2, SU 3, SU 4, SU 5, SU 6, SU 7, SU 11, SU 12,*
22 *and SU 13. These boundaries consist generally of the areas designated as high-resource and highest-*
23 *resource on the Well-Resourced Neighborhoods Map of the 2023-2031 Housing Element.*

24 *(c) Eligibility. An eligible project under this Section 249.94 shall be a project that complies*
25 *with all the following criteria:*

1 (1) is located in an RH District in the Family Housing Opportunity Special Use

2 District;

3 (2) is not seeking or receiving approval under the provisions of Planning Code Sections
4 206.3, 206.5, or 206.6;

5 (3) is not located on a parcel resulting from a lot split under California Government
6 Code Section 66411.7;

7 (4) proposes any of the following project types:

8 (A) **Single-Lot Development Project.** The construction on a single lot,
9 including through the alteration of an existing structure, of at least two dwelling units and no more
10 than the maximum number of four dwelling units on a single lot prescribed in subsection
11 (d)(1)(A) of this Section 249.94, inclusive of any existing dwelling units on the site. For a project
12 proposing four dwelling units, the fourth dwelling unit shall be constructed in the rear yard pursuant to
13 subsection (d)(3) of this Section 249.94. For a project proposing fewer than four dwelling units, up to
14 one unit may be located in the rear yard pursuant to subsection (d)(3) of this Section 249.94.

15 (B) **Lot-Merger Development Project in RH-1 Districts.** A merger of up to
16 three lots in RH-1, RH-1(D), or RH-1(S) districts and the construction on the resulting lot of at least
17 nine dwelling units and no more than the maximum number of 42 dwelling units prescribed in
18 subsection (d)(1)(B) of this Section 249.94 for a three-lot merger project, or at least six dwelling
19 units and no more than the maximum number of eight dwelling units prescribed in subsection
20 (d)(1)(B) of this Section 249.94 for a two-lot merger project. A project proposing a lot merger shall
21 not be eligible to construct a rear-yard unit pursuant to subsection (d)(3) of this Section 249.94. A
22 project may not propose a lot merger that would result in a lot having both its front and its rear
23 lot line along Streets, Alleys, or a Street and an Alley (“through lot”), unless at least one of the
24 lots that will be merged is a through lot.

1 (C) Group Housing Development Project. A single-lot project pursuant to
2 subsection (c)(4)(A) of this Section 249.94 and a lot-merger project pursuant to subsection (c)(4)(B) of
3 this Section 249.94 may also propose the construction of Group Housing up to the density limits
4 prescribed in subsection (d)(1)(C) of this Section 249.94 or currently otherwise permitted under the
5 Planning Code, whichever is greater. A project shall not propose both dwelling units and Group
6 Housing bedrooms. Projects proposing Group Housing unitsbedrooms shall not be eligible for
7 condominium subdivision, including but not limited to conversion pursuant to Subdivision Code Section
8 1396.7;

9 (5) contains the following bedroom configurations:

10 (A) for single-lot projects under subsection (c)(4)(A) of this Section
11 249.94, at least two dwelling units with two or more bedrooms;

12 (B) for two-lot merger projects under subsection (c)(4)(B) of this Section
13 249.94, at least two dwelling units with two bedrooms, or at least one dwelling unit with three
14 bedrooms;

15 (C) for three-lot merger projects under subsection (c)(4)(B) of this
16 Section 249.94, at least three dwelling units with two bedrooms, or at least two dwelling units
17 with three bedrooms.

18 (D) The requirements of this subsection (c)(5) may be satisfied by
19 existing dwelling units retained on site. This provision subsection (c)(5) does not apply to
20 projects where all of the units qualify as Group Housing projects or to certain Corner Lot
21 projects, as detailed in subsection (d)(7) of this Section 249.94;

22 (6) includes more dwelling units than are existing on the site at the time of application.

23 For the purposes of this subsection (c)(6), an Unauthorized Unit, as that term is defined in
24 Planning Code Section 317, shall not be considered an existing dwelling unit. In the case of

1 Group Housing projects utilizing this Section 249.94 shall provide more bedrooms than are existing on
2 the site at the time of application;

3 (7) does not propose the demolition of a building that is:

4 (A) listed as a Contributor to located in an Article 10 Historic Districts;

5 (B) listed as a Landmark under Article 10;

6 (C) located in an Article 11 Conservation District, where the building has a
7 rating of Category I, II, III or IV;

8 (D) listed in or determined eligible for listing in the California Register of
9 Historical Resources individually and/or as a contributor to a historic district; or,

10 (E) listed in or determined eligible for listing in the National Register of
11 Historic Places individually and/or as a contributor to a historic district;

12 (8) complies with the Planning Code and any applicable design guidelines, including
13 but not limited to the provisions of this Section 249.94. Notwithstanding the previous sentence, an
14 eligible project shall strive for consistency with the Residential Design Guidelines to the extent
15 feasible;

16 (9) complies with the requirements of Section 66300(d) of the California Government
17 Code, as may be amended from time to time and as are in effect at the time a complete project
18 application is submitted, except as otherwise specified herein, including but not limited to
19 requirements to replace all protected units and to offer existing occupants of any protected units that
20 are lower income households relocation benefits and a right of first refusal for a comparable unit, as
21 those terms are defined therein. Notwithstanding the foregoing sentence, if California
22 Government Code Section 66300 becomes inoperative, the project shall comply with the last
23 operative version of Section 66300 before it became inoperative. This subsection (c)(9) does
24 not modify or supersede any other City requirements related to relocation, including but not
25 limited to the requirements of Chapter 37 of the Administrative Code; and

1 (10) demonstrates that the project sponsor has owned the subject lot for a minimum of
2 one year prior to the time of the submittal of their application, subject to the following:

3 (A) **Eligible Predecessor.** A property owner who has inherited the subject lot,
4 including any inheritance in or through a trust, from a blood, adoptive, or step family relationship,
5 specifically from either (i) a grandparent, parent, sibling, child, or grandchild, or (ii) the spouse or
6 registered domestic partner of such relations, or (iii) the property owner’s spouse or registered
7 domestic partner (each an “Eligible Predecessor”), may add an Eligible Predecessor’s duration of
8 ownership of the subject lot to the property owner’s duration of ownership of the same lot.

9 (B) **Multiple Ownership.** Whenever property proposed for development is
10 jointly owned, owned as common property or is otherwise subject to multiple ownership, the durational
11 requirements of this subsection (c)(10) must be satisfied by: (i) the majority ownership, whether
12 represented by stock, membership interest, partnership interest, co-tenancy interest, or otherwise, in
13 the case of projects proposed under subsection (c)(4)(A); or (ii) the majority ownership of each lot to
14 be merged, whether represented by stock, membership interest, partnership interest, co-tenancy
15 interest, or otherwise, in the case of projects proposed under subsection (c)(4)(B).

16 (C) **Vacant or Abandoned Property.** The requirement in this subsection (c)(10)
17 that the project sponsor has owned the subject lot for a minimum of one year prior to the time of the
18 submittal of their application shall not apply if the property has been vacant for one or more years at
19 the time of application, or if the property has been registered as a vacant or abandoned building
20 pursuant to Building Code Section 103A.4 et seq.; and

21 (11) does not propose the demolition of:

22 (A) **three or more dwelling units that are or were:**

23 (i) **subject to a recorded covenant, ordinance, or law that restricts**
24 **rents to levels affordable to persons and families of lower or very low income within the past**
25 **five years; or**

1 (ii) subject to limits on rent increases under the Residential Rent
2 Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) within the past
3 five years; or

4 (iii) rented by lower or very low income households within the past
5 five years; or

6 (B) a dwelling unit occupied by a tenant at the time of application; or

7 (C) a dwelling unit from which a tenant has been evicted under
8 Administrative Code Sections 37.9(a)(8)-(12) or 37.9(a)(14)-(16) within the past five years or a
9 dwelling unit that has been vacated within the past five years pursuant to a Buyout
10 Agreement, as defined in Administrative Code Section 37.9E, as it may be amended from
11 time to time.

12 (D) For the purposes of this subsection (c)(11) of Section 249.94, “lower
13 or very low income households” shall have the same meaning as in Government Code
14 Section 66300.

15 *(d) Other Controls.*

16 *(1) Density Exceptions. Projects that meet the eligibility criteria in subsection (c) of*
17 *this Section 249.94 are exempt from residential density limits, calculation of which shall not include*
18 *any Accessory Dwelling Units permitted under Section 207, as follows:*

19 *(A) Single-Lot Density Exception. For projects eligible under subsection*
20 *(c)(4)(A), the greater of up to four dwelling units per lot or one dwelling unit per 1,000 square feet*
21 *of lot area are allowable. Projects on a single Corner Lot may propose up to six dwelling*
22 *units;*

23 *(B) Lot-Merger Density Exception. For projects eligible under subsection*
24 *(c)(4)(B), the greater of up to twelve dwelling units per lot or one dwelling unit per 1,000 square*
25 *feet of lot area are allowable, if the lot is the result of a merger of three lots, or the greater of up to*

1 eight dwelling units per lot or one dwelling unit per 1,000 square feet of lot area are allowable, if
2 the lot is the result of a merger of two lots. Projects on a resulting Corner Lot may propose up to
3 18 dwelling units for a three-lot merger project, or up to 12 dwelling units for a two-lot merger
4 project.

5 (C) Group Housing Density Exception. For both Single-Lot and Lot-Merger
6 Development Projects under subsection (c)(4)(A) or (B), up to one Group Housing unit/bedroom per
7 415 square feet of lot area is allowable in RH-1, RH-1(D), and RH-1(S) districts.

8 (2) Height. Notwithstanding any other provision of this Code, including but not limited
9 to Section 261(b), the height limit for a project that meets the eligibility criteria in subsection (c) of this
10 Section 249.94 shall be 40 feet, if 40 feet is authorized by the Height Map of the Zoning Map.

11 Notwithstanding the foregoing sentence, a project shall comply with the requirements of
12 Section 261(c).

13 (3) Construction of Rear-Yard Unit. Construction of a rear-yard unit shall be a
14 permitted obstruction in the required rear yard under Section 136(c), provided that the project
15 complies with governed by the following standards:

16 (A) The subject parcel must be at least 2,400 square feet;

17 (B) The rear-yard unit shall be located at least four feet from the side and rear
18 lot lines and shall not share structural walls with any other structure on the lot;

19 (C) Compliance with minimum rear-yard requirements shall not be
20 required, except that a minimum 25 feet separation of unobstructed open area shall be provided
21 between the facades of the rear-yard building and the primary building that face each other. Such
22 open area shall comply with the requirements of Section 135(a)-(c);

23 (D) For the rear-yard unit and units in the primary building that obtain
24 their only Code-complying exposure from the rear yard, the dwelling unit exposure
25 requirements of Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed

1 open area that is no less than 25 feet in every horizontal dimension, and such open area is not required
2 to expand in every horizontal dimension at each subsequent floors. Such open area shall be
3 unobstructed except for fire escapes not projecting more than necessary for safety, and in no
4 case more than four feet six inches; chimneys; and those obstructions permitted in Sections
5 136(c)(14), (15), (16), (19), (20), and (26):

6 (E) The rear-yard building height shall be limited to 20 feet measured from
7 existing grade at any given point to either i) the highest point of a finished roof, in the case of a flat
8 roof, or ii) the average height of a pitched roof or stepped roof, or similarly sculptured roof form. The
9 rear-yard building shall not be eligible for any height exemptions in subsection (d)(2) of this Section
10 249.94 or in Section 260(b); and

11 (F) Each dwelling unit or group housing bedroom shall have at least 100
12 square feet of usable open space if private, and/or 133 square feet if common.

13 (G) For the purposes of this subsection (d)(3), the unobstructed open
14 area shall be measured from the greatest depth of the rear façade for the primary building and
15 the front façade of the rear-yard building that is closest to the rear yard.

16 (4) **Rear-Yard Setback Requirements.** For projects that do not construct a rear-
17 yard unit pursuant to subsection (d)(3) of this Section 249.94, the The basic rear yard
18 setback requirement shall be equal to 30% of the total depth of the lot on which the building is
19 situated, but in no case less than 15 feet.

20 (5) **Open Space Requirements for Lot-Merger Projects.** For projects eligible under
21 subsection (c)(4)(B) of this Section 249.94, each dwelling unit shall have at least 100 square feet of
22 usable open space if private, and/or 133 square feet if common.

23 (6) **Minimum Density Requirement on Merged Lots.** For lots merged pursuant to
24 subsection (c)(4)(B) of this Section 249.94, any development on the resulting lot shall be subject to the
25 following minimum densities:

1 (A) six units per lot, if the lot results from a two-lot merger; or

2 (B) nine units per lot, if the lot results from a three-lot merger.

3 **(7) Additional Requirements for Certain Corner Lot Projects.** For projects

4 on Corner Lots that propose at least five units under subsection (c)(4)(A) of this Section

5 249.94, or at least 15 units for a three-lot merger or at least 10 units for a two-lot merger

6 under subsection (c)(4)(B), the following requirements shall apply:

7 (A) The height limit shall be 65 feet, notwithstanding any provision to the

8 contrary in the Height Map of the Zoning Map and notwithstanding subsection (d)(2) of this

9 Section 249.94. Compliance with Section 261(c) shall not be required;

10 (B) The basic rear yard requirement shall be equal to 25% of the total

11 depth of the lot on which the building is situated, but in no case less than 15 feet;

12 (C) Each dwelling unit shall have at least 100 square feet of usable open

13 space if private, and or 133 square feet if common;

14 (D) Group Housing shall not be permitted;

15 (E) The minimum bedroom requirements in subsection (c)(5) of this

16 Section 249.94 shall not apply; and

17 (F) No units may be located in the rear yard pursuant to subsection (d)(3)

18 of this Section 249.94.

19 **(e) Applicability of Rent Ordinance; Regulatory Agreements.**

20 (1) Sponsors of projects utilizing any of the density exceptions above the base

21 density up to the limits in subsection (d)(1) of this Section 249.94 shall enter into a regulatory

22 agreement with the City subjecting the new units created pursuant to such density exception, except for

23 any required Affordable Units as defined in Planning Code Section 401, to the Residential Rent

24 Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code), as a condition of

25 approval of the density exception (“Regulatory Agreement”).

1 (2) The property owner and the Planning Director, or the Director’s designee, on
2 behalf of the City, will execute the Regulatory Agreement, which is subject to review and approval by
3 the City Attorney’s Office. The Regulatory Agreement shall be executed prior to the City’s issuance of
4 the First Construction Document for the project, as defined in Section 107 A.13.1 of the Building Code.
5 Following execution of the Regulatory Agreement by all parties and approval by the City Attorney, the
6 Regulatory Agreement or a memorandum thereof shall be recorded in the title records in the Office of
7 the Assessor-Recorder against the property and shall be binding on all future owners and successors in
8 interest.

9 (3) At a minimum, the Regulatory Agreement shall contain the following:

10 (A) A description of the total number of units approved, including the number of
11 units subject to the Rent Stabilization and Arbitration Ordinance and other restricted units, if any, and
12 the location, square footage of dwelling units, and number of bedrooms in each unit;

13 (B) A statement that the new units created pursuant to the density exception are
14 not subject to the Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.50 et seq.),
15 Further because under Section 1954.52(b), the property owner has entered into and agreed to the
16 terms of the agreement with the City in consideration for an exception from residential density limits,
17 or other direct financial contribution or other forms of assistance specified in California Government
18 Code Section 65915 et seq.;

19 (C) A description of the residential density exception or other direct financial
20 contribution or forms of assistance provided to the property owner; and

21 (D) A description of the remedies for breach of the agreement and other
22 provisions to ensure implementation and compliance with the agreement.

23 (f) **Review and Approvals.** Notwithstanding any other provision of this Code and irrespective
24 of whether a project is utilizing a density exception pursuant to subsection (d)(1) of this Section 249.94,

1 for any project that meets the eligibility criteria in subsection (c) of this Section 249.94 the following
2 shall apply:

3 (1) No conditional use authorization shall be required, including but not limited to the
4 requirements of Sections 303 and 317 of this Code, unless a project would demolish two units that
5 are subject to limits on rent increases under the Residential Rent Stabilization and Arbitration
6 Ordinance (Chapter 37 of the Administrative Code):

7 (2) Compliance with Section 311 of this Code shall not be required; and

8 (3) A Notice of Special Restrictions (“NSR”) shall be recorded on the title of any
9 property receiving approval under this Section 249.94. The NSR shall:

10 (A) Describe the uses, restrictions, and development controls approved under
11 Planning Code Section 249.94, including but not limited to the minimum density restrictions set forth in
12 subsection (d)(6);

13 (B) State that the NSR runs with the land and is binding on all future owners and
14 successors in interest;

15 (C) Provide the Planning Department with the ability to enforce the provisions
16 of this Section 249.94;

17 (D) Describe any other conditions that the Planning Director or Planning
18 Commission deems appropriate to ensure compliance with this Section 249.94; and

19 (E) Be signed by the City and recorded prior to issuance of the building permit
20 for the project receiving approval under this Section 249.94.

21 (g) **Review of Program.** The Planning Department shall include the location and number of
22 units of projects using this Section 249.94 in the Housing Inventory Report. Prior to December 31,
23 2030, the Planning Department shall prepare a report containing recommendations for modifications
24 to this Section 249.94, including modifications to the boundaries described in subsection (b), to further
25 the goals of the City’s Seventh Housing Element Cycle.

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Section 4. Pursuant to Sections 106 and 302(c) of the Planning Code, Sheets SU 1, SU 2, SU 3, SU 4, SU 5, SU 6, SU 7, SU 11, SU 12, and SU 13 of the Zoning Map of the City and County of San Francisco are hereby amended, as follows:

Description of Property	Special Use District Hereby Approved
All parcels within the westernmost boundary of the Great Highway; the northernmost boundary of the City; and the area bounded by Leavenworth between Jefferson and North Point; Columbus between North Point and Chestnut; Chestnut between Taylor and Montgomery; Montgomery between Chestnut and Greenwich; Greenwich between Montgomery and Sansome; Sansome between Greenwich and Vallejo; Vallejo between Sansome and Kearny; Kearny between Vallejo and Filbert; Filbert between Kearny and Columbus; Columbus between Filbert and Greenwich; Mason between Greenwich and Green; Green between Mason and Leavenworth; Leavenworth between Green and Washington; Washington between	Family Housing Opportunity Special Use District

1 Leavenworth and Powell; Powell between
2 Washington and California; California
3 between Powell and Leavenworth;
4 Leavenworth between California and Bush;
5 Bush between Leavenworth and Van Ness;
6 Van Ness between Bush and California;
7 California between Van Ness and Steiner;
8 Steiner between California and Sutter; Sutter
9 between Steiner and Gough; Gough
10 between Sutter and Geary; Geary between
11 Gough and Baker; St. Joseph's Avenue
12 between Geary and Turk; Turk between St.
13 Joseph's Avenue and Scott; Scott between
14 Turk and McAllister; McAllister between
15 Scott and Steiner; Steiner between
16 McAllister and Fulton; Fulton between
17 Steiner and Laguna; Laguna between Fulton
18 and Oak; Oak between Laguna and
19 Fillmore; Fillmore between Oak and Page;
20 Page between Fillmore and Webster;
21 Webster between Page and Haight; Haight
22 between Webster and Laguna; Laguna
23 between Haight and Market; Market between
24 Laguna and Castro; Castro between Market
25 and 21st Street; 21st Street between Castro

1 and Dolores; Dolores between 21st Street
2 and Cesar Chavez; Cesar Chavez between
3 Dolores and Noe; Noe between Cesar
4 Chavez and Laidley; Harry Street Stairs
5 between Laidley and Beacon; Beacon
6 between Harry Street Stairs and Miguel;
7 Miguel between Beacon and Bemis; Bemis
8 between Miguel and Castro; Sussex
9 between Castro and Diamond; Diamond
10 between Sussex and Surrey; Surrey
11 between Diamond and Bosworth; Bosworth
12 between Surrey and San Jose; San Jose
13 between Bosworth and Ocean; Ocean
14 between San Jose and Howth; Howth
15 between Ocean and Mt. Vernon; Mt. Vernon
16 between Howth and Harrold; Grafton
17 between Harold and Capitol; Capitol
18 between Grafton and Lakeview; Lakeview
19 between Capitol and Ashton; Ashton
20 between Lakeview and Holloway; Holloway
21 between Ashton and Junipero Serra;
22 Junipero Serra between Holloway and 19th
23 Avenue; 19th Avenue between Junipero
24 Serra and Eucalyptus; Eucalyptus between
25 19th Avenue and Middlefield; Middlefield

<p>1 between Eucalyptus and Lake Merced 2 Boulevard; Lake Merced Boulevard between 3 Middlefield and Skyline Boulevard; Skyline 4 between Lake Merced Boulevard and Sloat; 5 Sloat between Skyline and the Great 6 Highway. 7</p>	
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8
9 Section 5. Article 9 of the Subdivision Code is hereby amended by amending Sections
10 1359, 1396.4,1396.5 and adding Section 1396.7, to read as follows:

11
12 **SEC. 1359. PARCEL MAP.**

13 * * * *

14 (c) In the case of Conversions where a Tentative Map is not required, the
15 requirements of Section 1314 and the requirements of Article 9 on Conversions shall apply,
16 provided that hearings as provided in Sections 1313 and 1332 shall not be required, and
17 provided further that Article 9 shall not be applied to two-unit buildings where both units are
18 owner-occupied for one year prior to the application for Conversion. This exemption for
19 owner-occupied two-unit buildings shall not apply to units legalized pursuant to Section 207.3
20 of the Planning Code *or units constructed pursuant to Section 249.94 of the Planning Code.*

21 * * * *

22
23 **SEC. 1396.4. CONDOMINIUM CONVERSION FEE AND EXPEDITED**
24 **CONVERSION PROGRAM.**

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

5 (b) Any building may be exempted from the annual lottery provisions of Section
6 1396 if the building owners for said building comply with either: (1) Section 1396.3(g)(1) and
7 all the requirements of this Section 1396.4; ~~or~~ (2) all the requirements of Section 1396.6; or
8 (3) all the requirements of Section 1396.7. Notwithstanding the foregoing sentence, no property or
9 applicant subject to any of the prohibitions on conversions set forth in Section 1396.2, in
10 particular a property with the eviction(s) set forth in Section 1396.2(b), is eligible for the
11 Expedited Conversion program under this Section 1396.4. Eligible buildings as set forth in this
12 subsection (b) may exercise their option to participate in this program according to the
13 following requirements:

14 * * * *

15
16 **SEC. 1396.5. SUSPENSION OF THE LOTTERY PENDING PRODUCTION OF**
17 **REPLACEMENT UNITS FOR EXPEDITED CONVERSION UNITS.**

18 * * * *

19 (c) Except as otherwise authorized under Section 1396.6 or Section 1396.7, the
20 Department shall not accept an application for the conversion of residential units under
21 Section 1396 nor conduct a lottery under this Article prior to January 1, 2024. Thereafter, the
22 lottery shall resume upon the earlier of the following: (1) the first February following the
23 Mayor's Office of Housing and Community Development report pursuant to subsection (b)
24 showing that the total number of Conversion Replacement Units produced in the City of San
25 Francisco exceeded the total number of units converted as identified in the Department's

1 report prepared pursuant to Subsection (a); or (2) completion of the “Maximum Suspension
2 Period” as defined below.

3 * * * *

4
5 **SEC. 1396.7. CONDOMINIUM CONVERSION ASSOCIATED WITH PROJECTS**
6 **CONSTRUCTED PURSUANT TO PLANNING CODE SECTION 249.94.**

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

10 *(b) Definition. “Existing Dwelling Unit” shall mean the dwelling unit in existence on a lot at*
11 *the time of the submittal of an application to construct a new dwelling unit pursuant to Planning Code*
12 *Section 249.94.*

13 *(c) Notwithstanding Section 1396.4 of this Code and Ordinance No. 117-13, a subdivider of a*
14 *one-unit building that has obtained a permit to build one or more new dwelling units pursuant to*
15 *Planning Code Section 249.94, which results in two or more dwelling units, and that has signed an*
16 *affidavit stating the subdivider’s intent to reside in one of those resulting dwelling units, or in the*
17 *Existing Dwelling Unit, for a period of three years after the approval of the Certificate of Final*
18 *Completion and Occupancy for the new dwelling units, shall (1) be exempt from the annual lottery*
19 *provisions of Section 1396 of this Code with respect to the dwelling units built as part of the Project*
20 *and (2) be eligible to submit a condominium conversion application for the Existing Dwelling Units*
21 *and/or include the Existing Dwelling Units in a condominium map application for the project approved*
22 *pursuant to Planning Code Section 249.94. Notwithstanding the foregoing sentence, no property or*
23 *applicant subject to any of the prohibitions on conversions set forth in Section 1396.2 of this Code,*
24 *including but not limited to a property with the eviction(s) set forth in Section 1396.2(b), shall be*
25 *eligible for condominium conversion under this Section 1396.7. Eligible buildings as set forth in this*

1 subsection (c) may exercise their option to participate in this program according to the following
2 requirements:

3 (1) The applicant(s) for the subject building seeking to convert dwelling units to
4 condominiums or subdivide dwelling units into condominiums under this subsection shall pay the fee
5 specified in Section 1315 of this Code.

6 (2) In addition to all other provisions of this Section 1396.7, the applicant(s) shall
7 comply with all of the following:

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

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

12 (C) The applicant(s) must certify that to the extent any tenant vacated their unit
13 after March 31, 2013, and before recordation of the final parcel or subdivision map, such tenant did so
14 voluntarily or if an eviction or eviction notice occurred it was not pursuant to Administrative Code
15 Sections 37.9(a)(8)-(12) and 37.9(a)(14). If a temporary eviction occurred under Sections 37.9(a)(11)
16 or 37.9(a)(14), then the applicant(s) shall certify that the original tenant reoccupied the unit after the
17 temporary eviction.

18 (3) If the Department finds that a violation of this Section 1396.7 occurred prior to
19 recordation of the final map or final parcel map, the Department shall disapprove the application or
20 subject map. If the Department finds that a violation of this Section occurred after recordation of the
21 final map or parcel map, the Department shall take such enforcement actions as are available and
22 within its authority to address the violation.

23 (4) This Section 1396.7 shall not prohibit a subdivider who has lawfully exercised the
24 subdivider's rights under Administrative Code Section 37.9(a)(13) from submitting a condominium
25 conversion application under this Section 1396.7.

1 **(d) Decisions and Hearing on the Application.**

2 (1) The applicant shall obtain a final and effective tentative map or tentative parcel
3 map approval for the condominium subdivision or parcel map within one year of paying the fee
4 specified in subsection (e) of this Section 1396.7. The Director of the Department of Public Works or
5 the Director's designee is authorized to waive the time limits set forth in this subsection (d)(1) as it
6 applies to a particular building due to extenuating or unique circumstances. Such waiver may be
7 granted only after a public hearing and in no case shall the time limit extend beyond two years after
8 submission of the application.

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

21 (3) Any map application subject to a Departmental public hearing on the subdivision
22 or a subdivision appeal shall receive a six-month extension on the time limit set forth in subsection
23 (d)(1) of this Section 1396.7.

1 (e) Should the subdivision application be denied or be rejected as untimely in accordance with
2 the dates specified in subsection (d)(1) of this Section 1396.7, or should the tentative subdivision map
3 or tentative parcel map be disapproved, the City shall refund the entirety of the application fee.

4 (f) Conversion of buildings pursuant to this Section 1396.7 shall have no effect on the terms
5 and conditions applicable to such buildings under Section 1385A or 1396 of this Code.

6
7 Section 6. Chapter 37 of the Administrative Code is hereby amended by revising
8 Sections 37.2 and 37.3, to read as follows:

9
10 **SEC. 37.2. DEFINITIONS.**

11 * * * *

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

16 * * * *

17 The term “rental units” shall not include:

18 * * * *

19 (4) Except as provided in subsections (A)-(E), dwelling units whose rents are
20 controlled or regulated by any government unit, agency, or authority, excepting those
21 unsubsidized and/or unassisted units which are insured by the United States Department of
22 Housing and Urban Development; provided, however, that units in unreinforced masonry
23 buildings which have undergone seismic strengthening in accordance with Building Code
24 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
25

1 ordinance is not in conflict with the seismic strengthening bond program or with the program's
2 loan agreements or with any regulations promulgated thereunder;

3 * * * *

4 (E) The term "rental units" shall include any new dwelling units created
5 pursuant to the density exception_s set forth in Section_s 207(c)(8) and 249.94 of the Planning
6 Code.

7
8 **SEC. 37.3. RENT LIMITATIONS.**

9 (a) **Rent Increase Limitations for Tenants in Occupancy.** Landlords may impose
10 rent increases upon tenants in occupancy only as provided below and as provided by
11 subsections 37.3(d) and 37.3(g):

12 * * * *

13 (d) **Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).**
14 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
15 and regardless of whether otherwise provided under Chapter 37:

16 (1) **Property Owner Rights to Establish Initial and All Subsequent Rental**
17 **Rates for Separately Alienable Parcels.**

18 (A) An owner or residential real property may establish the initial and all
19 subsequent rental rates for a dwelling or a unit which is alienable separate from the title to any
20 other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b),
21 (d), or (f) of Section 11004.5 of the California Business and Professions Code. The owner's
22 right to establish subsequent rental rates under this paragraph shall not apply to a dwelling or
23 unit where the preceding tenancy has been terminated by the owner by notice pursuant to
24 California Civil Code Section 1946 or has been terminated upon a change in the terms of the
25 tenancy noticed pursuant to California Civil Code Section 827; in such instances, the rent

1 increase limitation provisions of Chapter 37 shall continue to apply for the duration of the new
2 tenancy in that dwelling or unit.

3 * * * *

4 (D) An owner's right to establish subsequent rental rates under
5 subsection 37.3(d)(1) shall not apply to a dwelling or unit that is a new dwelling unit created
6 pursuant to the density exception_s set forth in Section_s 207(c)(8) and 249.94 of the Planning
7 Code.

8 * * * *

9
10 Section 7. The Planning Department, the Department of Public Works, and the Rent
11 Board are authorized to adopt regulations to implement this ordinance.

12
13 Section 8. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 Section ~~89~~9. Severability. If any section, subsection, sentence, clause, phrase, or word
21 of this ordinance, or any application thereof to any person or circumstance, is held to be
22 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
23 shall not affect the validity of the remaining portions or applications of the ordinance. The
24 Board of Supervisors hereby declares that it would have passed this ordinance and each and
25 every section, subsection, sentence, clause, phrase, and word not declared invalid or

1 unconstitutional without regard to whether any other portion of this ordinance or application
2 thereof would be subsequently declared invalid or unconstitutional.

3

4 Section 910. No Conflict with Federal or State Law. Nothing in this ordinance shall be
5 interpreted or applied so as to create any requirement, power, or duty in conflict with any
6 federal or state law.

7

8 Section 4011. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12

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

15 By: /s/ Giulia Gualco-Nelson
16 GIULIA GUALCO-NELSON
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Amended in Committee 7/10/23)

[Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District]

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, up to six dwelling units on individual Corner Lots in the RH District, the greater of up to 12 units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, up to 18 units on Corner Lots resulting from three lot mergers in RH-1 districts, up to 12 units on Corner Lots resulting from two lot mergers in RH-1 districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard requirements, conditional use authorizations, and neighborhood notification requirements; 4) the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) amending the Zoning Map to show the Family Housing Opportunity Special Use District; and 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 General Plan consists of goals, policies and programs for the future physical development of San Francisco. The Housing Element is a component of the General Plan and serves as the City's plan for accommodating its Regional Housing Needs Allocation during an eight-year planning cycle. The 2023-2031 Housing Element identifies Well-Resourced Neighborhoods, comprised of high-resource and highest-resource areas, as defined by the California Tax Credit Allocation Committee and the Department of Housing and Community Development's Fair Housing Taskforce.

The Planning Code sets forth different zoning districts, including Special Use Districts, throughout the City, where different uses are permitted, conditionally permitted, or prohibited,

and where various controls (such as density, height and bulk standards, rear yard, and open space requirements) apply.

The Planning Code prescribes a process to grant conditional use authorizations, which may be required in a variety of circumstances, including but not limited to the demolition, removal, or merger of dwelling units (Planning Code Section 317). The Planning Code also sets forth the procedures for neighborhood notification for building permit applications and the process for members of the public to initiate discretionary review (Section 311).

Amendments to Current Law

This ordinance amends the Planning Code and Zoning Map to create the Family Housing Opportunity Special Use District (SUD). The boundaries of the SUD are generally coterminous with the Well-Resourced Neighborhoods identified in the 2023-2031 Housing Element.

This ordinance exempts qualifying development projects in the SUD from all conditional use authorizations, including, but not limited to, demolition, removal, or merger of dwelling units (Section 317), unless a project would demolish two units that are subject to limits on rent increases under the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code). Qualifying projects are also exempt from neighborhood notification procedures and public-initiated discretionary review (Section 311).

A qualifying project is one that meets all of the following criteria:

- located in an RH zone in the Family Housing Opportunity SUD;
- is not seeking or receiving a density bonus under the provisions of Planning Code Sections 206.3, 206.5, or 206.6;
- is not located on a parcel resulting from a lot split under California Government Code Section 66411.7;
- proposes the construction, including the alteration of an existing structure, of one of the following project types:
 - a “Single-Lot Development Project” of at least two and no more than the greater of four dwelling units or one dwelling unit per 1,000 square feet of lot area, inclusive of any existing dwelling units on the site. Projects on a single Corner Lot may propose up to six dwelling units. For a project proposing four dwelling units, the fourth dwelling unit shall be constructed in the rear yard. For a project proposing fewer than four dwelling units, up to one unit may be located in the rear yard.
 - a “Lot-Merger Development Project” of up to three merged lots in the RH-1, RH-1(D), and RH-1(S) districts and the construction on the resulting lot of at least nine and no more than the greater of 12 dwelling units or one dwelling unit per 1,000 square feet of a lot area for a three-lot merger project, or at least six and no more than the greater of eight dwelling units or one dwelling unit per 1,000

square feet of lot area for a two-lot merger project. Projects on a resulting Corner Lot may propose up to 18 dwelling units for a three-lot merger project, or up to 12 dwelling units for a two-lot merger project. A project may not propose a lot merger that would result in a lot having both its front and its rear lot line along Streets, Alleys, or a Street and an Alley (“through lot”), unless at least one of the lots that will be merged is a through lot.

- a “Group Housing Development Project” consisting of a single-lot project or a lot-merger project that proposes the construction of Group Housing up to the density limit prescribed in the SUD or currently otherwise permitted under the Planning Code, whichever is greater.
- includes more dwelling units than are existing on site at the time of application, or in the case of Group Housing, at least as many bedrooms as exist on site at the time of application;
- contains required bedroom configurations, as detailed further in the ordinance;
- does not propose the demolition of certain historic buildings, as defined in the SUD;
- complies with the Planning Code and any applicable design guidelines;
- complies with the requirements of Section 66300(d) of the California Government Code, as may be amended from time to time. The ordinance provides that if California Government Code Section 66300 becomes inoperative, the project shall comply with the last operative version of Section 66300 before it became inoperative;
- demonstrates that the project sponsor has owned the subject lot for a minimum of one year prior to the time of the submittal of their application, subject to certain exceptions, as defined in the SUD;
- does not propose the demolition of three or more dwelling units that are or were:
 - subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years; or
 - subject to limits on rent increases under the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) within the past five years; or
 - rented by lower or very low income households within the past five years; or
- does not propose the demolition of a dwelling unit occupied by a tenant at the time of application; and
- does not propose the demolition of a dwelling unit from which a tenant has been evicted under Administrative Code Sections 37.9(a)(8)-(12) or 37.9(a)(14)-(16) within the past five years or a dwelling unit that has been vacated within the past five years pursuant to a Buyout Agreement, as defined in Administrative Code Section 37.9E, as it may be amended from time to time.

Qualifying projects shall receive a density exception of up to four dwelling units per lot, eight units on a lot resulting from a two-lot merger, or 12 units on a lot resulting from a three-lot merger. The density exception shall be increased to one unit per 1,000 square feet of lot area where that calculation would yield more units than the numerical limits. Projects on a Corner

Lot may construct up to 6 units on a single lot, up to 12 units on a two-lot merger, and up to 18 units on a three-lot merger. Qualifying projects shall also receive a density exception of up to one Group Housing unit per 415 square feet of lot area in RH-1, RH-1(D), and RH-1(S) districts. These density exceptions are not inclusive of any accessory dwelling units.

The height limit for a qualifying project is 40 feet, provided that 40 feet is permitted in the Height Map of the Planning Code, subject to certain exceptions for Corner Lot projects. Qualifying projects are also eligible for other development incentives, such as a reduced rear yard requirement and open space requirement. Qualifying projects that construct a dwelling unit in the rear yard are subject to reduced rear yard, dwelling unit exposure, and open space requirements.

Additional development requirements apply to projects on Corner Lots that propose at least five units on a single lot, at least 15 units for a three-lot merger, or at least 10 units for a two-lot merger:

- The height limit is 65 feet, and compliance with Section 261(c) is not required;
- The basic rear yard requirement is equal to 25% of the total depth of the lot on which the building is situated, but in no case less than 15 feet;
- Each dwelling unit shall provide at least 100 square feet of usable open space if private, or 133 square feet if common;
- Group Housing is not permitted;
- The minimum bedroom requirements in the ordinance do not apply; and
- No units may be located in the rear yard.

In addition, special requirements apply to lot-merger projects. Lot-merger projects are eligible for reduced open space requirements. Lots that are merged pursuant to this ordinance are subject to minimum densities that govern future development on the merged lot. These minimum densities are six units per lot, if the lot results from a two-lot merger, or nine units per lot, if the lot results from a three-lot merger.

Projects that utilize the density exceptions must subject the units created pursuant to those exceptions to rent control, minus any affordable units required by Planning Code Section 415. Project sponsors must enter into a regulatory agreement with the City, agreeing that the incentives they are receiving constitutes adequate consideration to waive their rights under the Costa-Hawkins Rental Housing Act. (California Civil Code Sections 1954.50 et seq.) The ordinance makes parallel amendments to the Administrative Code.

The ordinance also amends the Subdivision Code to authorize a subdivider of a one-unit building that has obtained a permit to build one or more new dwelling units under the SUD, resulting in two or more dwelling units, to submit an application for condominium conversion or a condominium map that includes the existing dwelling unit as well as the new dwelling units created under the SUD. This conversion program does not include projects that propose Group Housing units. Applicants must meet certain requirements specified in the ordinance.

Eligible projects in the SUD that propose Group Housing units are not eligible for condominium maps or the conversion procedures set forth in the ordinance.

The ordinance provides incentives for property owners who sign an affidavit stating their intent to reside on their properties for three years after the issuance of the Certificate of Final Completion and Occupancy for the new dwelling units.

This ordinance requires the Planning Department to report on the outcomes of this SUD in the Housing Inventory Report, in addition to a report containing recommendations for modifications to the SUD to further the goals of the next Housing Element Cycle.

Background Information

The ordinance contains findings setting forth the need to promote housing development in San Francisco's well-resourced neighborhoods. 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 well-resourced neighborhoods. This ordinance also contains findings setting forth the need to affirmatively further fair housing, by increasing density in a manner that meaningfully addresses significant disparities in housing needs and access to opportunity, in addition to streamlining the approval process to promote certainty in development outcomes in these well-resourced neighborhoods.

This ordinance is the duplicate of the Ordinance in Board File No. 230026.

This legislative digest reflects amendments made at the Land Use and Transportation Committee on July 10, 2023. Those amendments:

- created a Corner Lot project typology with increased density limits and additional development requirements;
- prohibit through lot merger, as defined in the ordinance;
- clarify that the rear-yard unit is a permitted obstruction in the required rear yard; and
- applied the reduced rear-yard requirement to projects that construct a rear-yard unit.