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DEPARTMENT OF ELECTIONS

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BOARD OF SUPERVISORS  
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**Submittal Form**  
**For Proposed Initiative Measure(s)**  
**Prior to the Submittal**  
**to the**  
**Department of Elections**

By 4 or more Board of Supervisors or the Mayor

I, hereby submit the following proposed initiative measure(s) for hearing before the Board of Supervisors, Rules Committee prior to the submittal of the proposed initiative measure to the Department of Elections. (Prop C. Nov. 2007)

This matter is for the **November 4, 2014** Election.

**Sponsor(s): Supervisor or Mayor**

Supervisors Jane Kim, David Campos, John Avalos, Eric Mar and Norman Yee

**SUBJECT:** Initiative Ordinance – Planning Code – City Housing Balance Requirement

The text is listed below or attached:

Signature of Sponsoring Supervisor(s) or Mayor

*[Handwritten signatures of David Campos and Norman Yee]*

Time Stamp by Clerk's Office:

140716

**PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY FOUR OR MORE  
SUPERVISORS TO THE VOTERS AT THE NOVEMBER 4, 2014 ELECTION.**

[Under Charter Section 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than *45 days prior* to deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Planning Code - City Housing Balance Requirement]

**Ordinance amending the Planning Code to establish, in the approval and construction of new housing, a balance of 70%-30% between market rate housing and affordable housing; and to require a conditional use permit for new market rate housing if the balance of affordable housing is not maintained.**

NOTE: **Unchanged Code text and uncodified text** are in plain font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. The Planning Code is hereby amended by adding new Subsection 303(q) to read as follows:

**SEC. 303. CONDITIONAL USES.**

\* \* \* \*

**(q) Citywide Housing Balance.**

**(1) Findings and Purpose.**

**(A) The City's rent-controlled and permanently affordable housing stock serves very low, low, and moderate income families, long-time residents, elderly seniors and disabled persons.**

and others who cannot affordable market rate housing. The City seeks to preserve the balance between market rate housing production and affordable housing production because decent housing for every San Franciscan is of vital importance. Attainment of the City's housing goals requires the cooperative participation of government and the private sector to expand housing opportunities for San Franciscans at all economic levels.

(B) The purpose of this citywide housing balance requirement is to encourage a balanced approach in the permitting and construction of new affordable and market rate housing citywide; to ensure new housing is available to all income levels and housing need types; to preserve the mixed income character of the City and its neighborhoods; to offset the withdrawal of existing housing units from rent stabilization; to ensure the availability of land and encourage the deployment of resources to provide sufficient housing affordable to households of very low, low, and moderate incomes; to ensure adequate housing for families, seniors and the disabled community; to ensure that data related to meeting citywide affordable housing targets and to affordable housing production by Planning Neighborhood informs the approval process for new housing development; and to enable public participation in determining the appropriate mix of new housing approvals.

(C) For tenants in unsubsidized housing, affordability is often preserved by the San Francisco Residential Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code Chapter 37 et seq., limitations on the size of allowable rent increases during a tenancy. As documented in the "Budget and Legislative Analyst's October 2013 Policy Analysis Report on Tenant Displacement," San Francisco has been and is experiencing a rise in the number of units withdrawn from rent control. Such rises often accompany periods of sharp increases in property values and housing prices. From 1998 through 2013, citywide a total of 13,027 no-fault evictions (i.e., evictions in which the tenant had not violated any lease terms, but the owner sought to regain possession of the unit) were reported by the Rent Board. Total evictions of all types have increased by 38.2% between Rent Board Years (i.e., March through February) 2010-2013. These numbers do not capture the large

number of owner buyouts of tenants, which the City does not record and which contribute further to the loss of rent-controlled units from the housing market. Units withdrawn from rent control need to be incorporated into calculations of the affordable housing performance citywide.

(D) Pursuant to Government Code Section 65584, the Association of Bay Area Governments (ABAG), in coordination with the California State Department of Housing and Community Development (HCD), determines the Bay Area's regional housing need based on regional trends, projected job growth, and existing needs. The regional housing needs assessment (RHNA) determination includes production targets addressing housing needs of a range of household income categories. ABAG has projected that at least 39% of new housing demands will be from low and very low income households (households earning under 80% of area median income), and another 22% should be affordable to households of moderate means (earning between 80% and 120% of area median income). The remaining 39% of housing demand is driven by households making at or above 120% of median income.

(E) Objective 1 of the San Francisco Housing Element states that the City should "identify and make available for development adequate sites to meet the City's housing needs, especially permanently affordable housing." Objective 7 states that San Francisco's projected affordable housing needs far outpace the capacity for the City to secure subsidies for new affordable units.

(F) In 2012, the City enacted the "Housing Preservation and Production Ordinance," Ordinance No. 237-12, codified in Administrative Code Section 10E.4, to require Planning Department staff to regularly report data on progress toward meeting San Francisco's quantified production goals for different household income levels as provided in the General Plan's Housing Element. The data on the number of units in all stages of the housing production process at various affordability levels is required to be included in staff reports on all proposed projects of five residential units or more and in quarterly housing production reports to the Planning Commission.

Planning Department staff has long tracked the number of affordable housing units and total number of housing units built throughout the City and in specific areas. As the private market has embarked upon, and City officials have urged, an ambitious program to produce significant amounts of new housing in the City, recognizing that there is limited remaining available land, it is essential to assess the impact of the approval of new housing developments on the availability of land for affordable housing development and to encourage the deployment of resources to provide affordable housing.

(2) **Definitions.** For purposes of this Planning Code Subsection 303(q), the following definitions shall apply:

“Affordable housing” is housing affordable to households of very low, low or moderate income.

“Cumulative housing balance ratio” shall be the proportion of all new housing units affordable to households of very low, low or moderate income households to the total number of housing units for a Housing Balance period of ten years, beginning with year 2006 and up to ten years following that date, prior to the most recent calendar quarter. The calculation of housing units shall include all units in projects that have been constructed or obtained a site or building permit within the Housing Balance period. The calculation of affordable housing units shall include all new units in 100 percent affordable housing projects that have been entitled, obtained a site or building permit, or have been constructed, existing units that were previously not restricted by deed or regulatory agreement that acquired for preservation as permanently affordable housing at the time of acquisition as determined by MOHCD, all on-site and off-site inclusionary units as defined in Planning Code Section 415 et seq. that have been constructed or obtained a site or building permit, minus the number of affordable housing units that may have been lost, including but not limited to those units withdrawn from rent control (except those units otherwise converted into permanently affordable housing), within the Housing Balance period. Notwithstanding the foregoing, the calculation of affordable housing units may include all new units in 100 percent affordable housing projects that obtained site control as

determined by MOHCD; however affordable units counted as “site control” but not entitled within six years, may no longer be used for the calculation of the cumulative housing balance ratio, and may not be counted again once they obtain entitlements or permits. The Housing Balance ratio shall be expressed as a percentage, obtained by dividing the affordable housing units by the total number of new housing units within the Housing Balance period. The Board of Supervisors, by legislation, may revise this methodology to determine the cumulative housing balance.

“Households of very low, low, or moderate income” are households earning up to 120 percent of Area Median Income, as defined in Charter Section 16.110(b).

“MOHCD” is the Mayor’s Office of Housing and Community Development, or its successor agency.

“Unit withdrawn from rent control” is a unit that has been subject to rent control under the San Francisco Residential Rent Stabilization and Arbitration Ordinance but that a property owner removes permanently from the rental market through: (a) condominium conversion pursuant to Administrative Code Section 37.9(a)(9), (b) demolition or permanent removal pursuant to Administrative Code Section 37.9(a)(10), or (c) the Ellis Act pursuant to Administrative Code Section 37.9(a)(13). It shall not include removal through Administrative Code Section 37.9(a)(8).

(3) **Conditional Use Authorization Required.** Approval of a conditional use shall be required for any housing project when the Planning Department determines that the City’s cumulative housing balance ratio, as defined herein, is less than 30 percent at the time of the project’s Environmental Application. The following projects are exempted from this requirement: housing projects with less than 25 units; housing projects that use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and four percent tax credits under the Tax Credit Allocation Committee (TCAC) and in which not less than 20 percent of the on-site units are affordable housing; additions to existing buildings; rehabilitations of historic buildings; affordable housing as defined in this Subsection; and projects within any area subject to a Development Agreement that already

requires an overall minimum of 30 percent of units to be affordable to very low, low, and moderate income households. Property located in a Redevelopment Area or on Treasure Island shall be included in the calculation of the cumulative housing balance ratio, but the conditional use permit requirements set forth in this Subsection 303(q) shall not apply to such property as long as the applicable Redevelopment Plan or Treasure Island Development Agreement remain in effect.

Whether a project is subject to a Conditional Use requirement under this Section 303(q) shall be determined at the time the Environmental Application for the project is submitted to the Department of Building Inspection or the Planning Department. If a project has submitted an Environmental Application prior to January 1, 2015, such project shall not be subject to the provisions of this Subsection 303(q).

If the Planning Department is unable to ascertain the most recent quarter's current ratio or has not made public the Housing Balance report for the quarter, a Conditional Use authorization shall be required for any proposed housing project filing an Environmental Application in that quarter, except those market rate projects otherwise exempt from this Subsection 303(q), until such a time as an updated Cumulative Housing Balance Ratio is made public by the Planning Department.

(4) **Conditional Use Authorization Criteria.** In addition to the applicable criteria set forth in Section 303 and, if applicable, Section 316, as such sections may be amended from time to time, the Planning Commission shall consider the following criteria when it considers approval of a conditional use for a housing project: a) whether, and to what extent, approval of the project, in conjunction with projects previously entitled will cause or exacerbate the displacement of households of very low, low, or moderate income, senior, family, disabled or other special needs populations from the immediate neighborhood, either by displacing their existing housing, or by contributing to economic conditions (including but not limited to rising housing costs) that make it infeasible for very low, low or moderate incomes residents to continue to reside in the City and/ or the immediate neighborhood; and b) notwithstanding the above considerations, any project that provides affordable

housing units in addition to the amount required by the base zoning, through such mechanisms as a density bonus, zoning incentives or off-site partnership with an affordable housing developer, shall be presumed to meet the criteria of this subsection for approval .

In granting any conditional use, the Planning Commission shall make an explicit finding that, despite any citywide failure to have authorized sufficient affordable housing units and secured sufficient development sites to meet the City's fair share of the Regional Housing Needs Allocation and the quantified housing production goals of the City's General Plan Housing Element and/or to meet the City's cumulative housing balance ratio target of at least 30 percent, and despite any impact the proposed project may have on displacing households of very low, low, or moderate income from the immediate neighborhood, the project nonetheless promotes the general health and welfare in the City. Any additional conditional use criteria related to this Subsection 303(q) can be added by legislative action by the Board of Supervisors.

(5) **Department Reports.** Within 30 days of the effective date of the Initiative Ordinance creating this Subsection 303(q), Planning Department staff shall calculate the cumulative housing balance ratio for the most recent quarter citywide, by Supervisorial District and by immediate Planning Neighborhood, report it to the Planning Commission and Board of Supervisors as the Housing Balance Report, and publish it on the Planning Department's website on a page devoted to housing balance. With each new project authorization in the City, Planning Department staff shall continuously update the cumulative housing balance ratio, and within 15 days of the end of each calendar quarter shall report on the Cumulative Housing Balance citywide, by Supervisorial District, and by Planning Neighborhood, to the Planning Commission and Board of Supervisors, along with the other quarterly reporting requirements of Administrative Code section 10E.4(b)(2), and publish it on the Planning Department's website on a page devoted to housing balance. The Housing Balance Report shall be incorporated into the Annual Planning Commission Housing Hearing and Annual Report to the Board of Supervisors required in Administrative Code Chapter 10E.4.

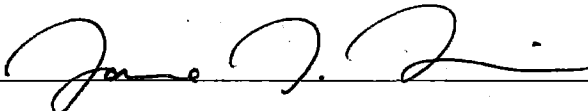


(6) City's contribution of funds to the Mayor's Office of Housing and Community

Development. If the cumulative housing balance falls below 30 percent in any given quarter, the City shall consider the option of contributing additional funds to MOHCD or its successor agency in order to fund development of new affordable units, in order to maintain the cumulative housing balance at or above the 30 percent threshold. This contribution of additional funds can only be used for sites/units that are not counted in the cumulative balance ratio. Following a contribution, the calculation of affordable housing units for the purpose of the cumulative housing balance shall be increased by a number equal to the contribution divided by the average per unit contribution by MOHCD to each 100% new construction affordable housing project funded in whole or in part by MOH over the past 6 years. Any unit that is not currently included within the affordable housing calculation and whose site control and/or development has been funded by this contribution shall not be included in future calculations of affordable housing units. The Board of Supervisors may amend this subsection (6) from time to time by legislation.

\* \* \*

SUBMITTED.



Member, Board of Supervisors

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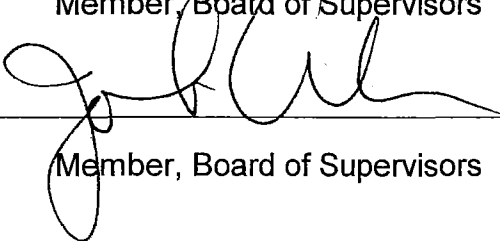
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Member, Board of Supervisors

Date:

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Member, Board of Supervisors

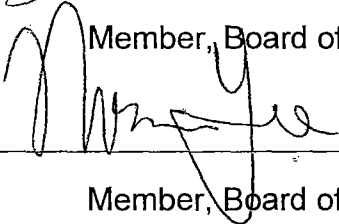
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