

[Planning Code - Dwelling Unit Density]

1
2 **Ordinance amending the Planning Code to exclude Affordable Housing Units as**
3 **defined from density calculations for projects that provide at least 20% of their units as**
4 **Affordable Units and amending density calculations under certain scenarios; and**
5 **adopting findings, including environmental findings, Planning Code, Section 302,**
6 **findings, and findings of consistency with the General Plan, and the eight priority**
7 **policies of Planning Code, Section 101.1.**

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

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

16 Section 1. Findings.

17 (a) The Planning Department has determined that the actions contemplated in this
18 ordinance comply with the California Environmental Quality Act (California Public Resources
19 Code Section 21000, et seq.). Said determination is on file with the Clerk of the Board of
20 Supervisors in File No. 140036 and is incorporated herein by reference.

21 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning
22 Code amendments will serve the public necessity, convenience, and welfare for the reasons
23 set forth in Planning Commission Resolution No. 19173 and the Board incorporates such
24 reasons herein by reference. A copy of Planning Commission Resolution No. 19173 is on file
25 with the Board of Supervisors in File No. 140036.

1 (c) On June 12, 2014, the Planning Commission, in Resolution No. 19173, adopted
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
5 Board of Supervisors in File No. 140036, and is incorporated herein by reference.

6 (d) The Board re-adopts and incorporates by reference the findings in Planning Code
7 Section 415.1. Specifically the Board re-adopts its findings in Section 415.1, Subsection 12,
8 related to the Keyser Marston nexus analysis in support of the Inclusionary Affordable
9 Housing Program, or an analysis of the impact of development of market rate housing on
10 affordable housing supply and demand. This study is found in Board of Supervisors File No.
11 061529. The Board finds that a higher on-site inclusionary housing requirement than that
12 required by Planning Code Section 415, et seq. may be justified in the event that a project
13 sponsor seeks and chooses to exempt the affordable units from the density calculations set
14 forth in Section 207.1.

15
16 Section 2. The Planning Code is hereby amended, by revising Sections 207.1 and
17 207.4, to read as follows:

18 **SEC. 207.1. RULES FOR CALCULATION OF DWELLING UNIT DENSITIES.**

19 In districts that establish a maximum dwelling unit density, the ~~The~~ following rules shall apply
20 in the calculation of dwelling unit densities under this Code:

21 (a) The entire amount of lot area per dwelling unit specified by the Code in Sections
22 207.5 or 209.1 of this Code shall be required for each dwelling unit on the lot. ~~Fractional numbers~~
23 ~~shall be adjusted downward to the next lower whole number of dwelling units. A remaining fraction of~~
24 one-half or more of the minimum amount of lot area per dwelling unit shall be adjusted upward to the
25 next higher whole number of dwelling units.

1 (b) Where permitted by this Code, ~~the provisions of Sections 207.5, 209.1 and 209.2 of~~
2 ~~this Code~~, two or more of the dwelling and other housing uses specified in the Code said sections
3 may be located on a single lot, either in one structure or in separate structures, provided that
4 the specified density limits are not exceeded by the total of such combined uses. Where
5 dwelling units and group housing are combined, the maximum permitted density for dwelling
6 units and for group housing shall be prorated to the total lot area according to the quantities of
7 these two uses that are combined on the lot.

8 (c) Where any portion of a lot is narrower than five feet, such a portion shall not be
9 counted as part of the lot area for purposes of calculating the permitted dwelling density.

10 (d) No private right-of-way used as the principal vehicular access to two or more lots
11 shall be counted as part of the lot area of any such lot for purposes of calculating the
12 permitted dwelling unit density.

13 (e) Where a lot is divided by a use district boundary line, the dwelling unit density
14 limit for each district shall be applied to the portion of the lot in that district, and none of the
15 dwelling units attributable to the district permitting the greater density shall be located in the
16 district permitting the lesser density.

17 (f) For projects that are not located in any RH-1 or RH-2 zoning district, or are not seeking
18 and receiving a density bonus under the provisions of California Government Code Section 65915,
19 where 20 percent or more of the dwelling units on-site are "Affordable Units," the on-site Affordable
20 Units shall not count towards the calculation of dwelling unit density. This Planning Code Section
21 does not provide exceptions to any other Planning Code requirements such as height or bulk. For
22 purposes of Section 207.1, "Affordable Units" shall be defined as meeting (1) the criteria of Section
23 406(b); (2) the requirements of Section 415 et seq. for on-site units; or (3) restricted units in a project
24 using California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4 percent
25 tax credits under the Tax Credit Allocation Committee (TCAC). If a project sponsor proposes to

1 provide “Affordable Units” that are not restricted by any other program, in order to receive the benefit
2 of the additional density permitted under this Subsection (f) or Subsection (g), the project sponsor shall
3 elect and the Planning Department and MOHCD shall be authorized to enforce, restricting the units as
4 affordable under Planning Code Section 415.6 up to a maximum of 2025 percent of the units in the
5 principal project. The project sponsor shall make such election through the procedures described in
6 Section 415.5(g) including submitting an Affidavit of Compliance indicating the project sponsor’s
7 election to pursue the benefits of Subsection (f) or (g) and committing to 20up to 25% on-site units
8 restricted under Section 415.6 prior to approval by the Planning Commission or Planning Department
9 staff. If a project sponsor obtains the exemption from the density calculation for Affordable Units
10 provided in this subsection, the exemption shall be recorded against the property. Any later request to
11 decrease the number of Affordable Units shall require the project to go back to the Planning
12 Commission or Planning Department, whichever entity approved the project as a whole.

13 (g) In ~~the~~ RTO Districts, on-site dwelling units that are “Affordable Units,” as defined in
14 Subsection (f), affordable (meeting the criteria of Section 406(b) or the requirements of Section 415)
15 shall not count toward density calculations or be limited by lot area.

16
17 **SEC. 207.4. DENSITY OF DWELLING UNITS IN NEIGHBORHOOD COMMERCIAL**
18 **DISTRICTS.**

19 The density of dwelling units in Neighborhood Commercial Districts shall be as stated
20 in the following subsections:

21 (a) The rules for calculation of dwelling unit densities set forth in Section 207.1 of
22 this Code shall apply in Neighborhood Commercial Districts, except that any remaining
23 fraction of one-half $\frac{1}{2}$ or more of the minimum amount of lot area per dwelling unit shall be
24 adjusted upward to the next higher whole number of dwelling units.

1 The dwelling unit density in Neighborhood Commercial Districts shall be at a
2 density ratio not exceeding the number of dwelling units permitted in the nearest Residential
3 District, provided that the maximum density ratio shall in no case be less than the amount set
4 forth in the zoning control table for the district. The distance to each Residential District shall
5 be measured from ~~the midpoint of the front lot line~~ any portion of the lot or from a point directly
6 across the street therefrom, whichever permits the greater density.

7 (b) The dwelling unit density for dwellings specifically designed for and occupied by
8 senior citizens or persons with physical disabilities shall be at a density ratio not exceeding
9 twice the number of dwelling units permitted by the limits set forth in Subsection (a).

10 (c) The dwelling unit density in the RCD District and NCT Districts, as listed in
11 Section 702.1(b), shall not be limited by lot area, but by the applicable requirements and
12 limitations elsewhere in this Code, including but not limited to height, bulk, setbacks, open
13 space, exposure, and unit mix, as well as by applicable design guidelines, applicable
14 elements and area plans of the General Plan, and design review by the Planning Department.

15
16 Section 3. In enacting this ordinance, the Board of Supervisors intends to revisit its
17 provisions, especially Section 207.1(f), should the 2014 Mayor's Housing Working Group
18 advance a broader legislative density bonus proposal for consideration.

19
20 Section 4. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

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

7

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

10 By: _____
11 Susan Cleveland-Knowles
Deputy City Attorney

12 n:\legana\as2014\1400328\00936772.doc

13

14

15

16

17

18

19

20

21

22

23

24

25