

BOARD of SUPERVISORS



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November 7, 2018

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On October 30, 2018, Supervisor Tang introduced the following legislation:

File No. 181046

Ordinance amending the Planning Code to require additional findings for HOME-SF project authorizations; amending the fee for Affordable Housing Bonus Program projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

for By:  Erica Major, Assistant Clerk
Land Use and Transportation Committee

- c: John Rahaim, Director of Planning
- Dan Sider, Director of Executive Programs
- Aaron Starr, Manager of Legislative Affairs
- AnMarie Rodgers, Director of Citywide Planning
- Scott Sanchez, Zoning Administrator
- Lisa Gibson, Environmental Review Officer
- Joy Navarrete, Environmental Planning
- Laura Lynch, Environmental Planning

1 [Planning Code - HOME-SF Project Authorization]

2
3 **Ordinance amending the Planning Code to require additional findings for HOME-SF**
4 **project authorizations; amending the fee for Affordable Housing Bonus Program**
5 **projects; affirming the Planning Department's determination under the California**
6 **Environmental Quality Act; making findings of consistency with the General Plan, and**
7 **the eight priority policies of Planning Code, Section 101.1; and making findings of**
8 **public necessity, convenience, and welfare under Planning Code, Section 302.**

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

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

17 Section 1.

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

23 (b) On _____, the Planning Commission, in Resolution No. _____,
24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
25 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
4 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
5 Planning Commission Resolution No. _____, and incorporates such reasons by this
6 reference thereto. A copy of said resolution is on file with the Clerk of the Board of
7 Supervisors in File No. _____.

8
9 Section 2. The Planning Code is hereby amended by revising Section 206.3, to read
10 as follows:

11 **Section 206.3 HOUSING OPPORTUNITIES MEAN EQUITY – SAN FRANCISCO**
12 **PROGRAM**

13 * * * *

14 (e) Implementation.

15 (1) Application. An application to participate in the HOME-SF Program shall be
16 submitted with the first application for approval of a Housing Project and processed
17 concurrently with all other applications required for the Housing Project. The application shall
18 be submitted on a form prescribed by the City and shall include at least the following
19 information:

20 (A) A full plan set, including a site plan, elevations, sections, and floor
21 plans, showing total number of units, number of and location of HOME-SF Units; and a draft
22 Regulatory Agreement;

23 (B) The requested development bonuses and/or zoning modifications
24 from those listed in subsection (d).

1 (C) A list of all on-site family friendly amenities. Family friendly amenities
2 shall include, but are not limited to, dedicated cargo bicycle parking, dedicated stroller
3 storage, open space and yards designed for use by children.

4 (D) Documentation that the applicant has provided written notification to
5 all existing commercial or residential tenants that the applicant intends to develop the property
6 pursuant to this section 206.3 and has provided any existing commercial tenants with a copy
7 of the Office of Economic and Workforce Development's Guide to Small Business Retention
8 and Relocation Support. Any affected commercial tenants shall be given priority processing
9 similar to the Department's Community Business Priority Processing Program, as adopted by
10 the Planning Commission on February 12, 2015, under Resolution Number 19323, to support
11 relocation of such business in concert with access to relevant local business support
12 programs.

13 (2) Procedures Manual. The Planning Department and MOHCD shall amend
14 the Procedures Manual, authorized in Section 415, to include policies and procedures for the
15 implementation, including monitoring and enforcement, of HOME-SF Units. As an amendment
16 to the Procedures Manual, such policies and procedures are subject to review and approval
17 by the Planning Commission under Section 415. Amendments to the Procedures Manual shall
18 include a requirement that project sponsors in specified areas complete a market survey of
19 the area before marketing HOME-SF Units.

20 (3) Notice and Hearing. HOME-SF Projects shall comply with Section 306 for
21 review and approval.

22 (4) Controls. HOME-SF Projects shall be governed by the procedures and
23 timelines in Section 328. A HOME-SF Project shall be exempt from any other discretionary
24 approval process by the Planning Commission, including but not limited to a conditional use
25 authorization, unless that conditional use authorization requirement or other discretionary approval

1 process was adopted by the voters of San Francisco. If a HOME-SF Project would otherwise require a
2 conditional use authorization due to the type of use or use size, then the Planning Commission shall
3 make any findings or comply with any criteria required by such conditional use in its HOME-SF
4 authorization under Section 328.

5 (5) Regulatory Agreements. Recipients of development bonuses under this
6 Section 206.3 shall enter into a Regulatory Agreement with the City, as follows.

7 (A) The terms of the agreement shall be acceptable in form and content
8 to the Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director
9 shall have the authority to execute such agreements.

10 (B) Following execution of the agreement by all parties, the completed
11 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed
12 and recorded on the Housing Project.

13 (C) The approval and recordation of the Regulatory Agreement shall
14 take place prior to the issuance of the First Construction Document. The Regulatory
15 Agreement shall be binding to all future owners and successors in interest.

16 (D) The Regulatory Agreement shall be consistent with the guidelines of
17 the City's Inclusionary Housing Program and shall include at a minimum the following:

18 (i) The total number of dwelling units approved for the Housing
19 Project, including the number of HOME-SF Units or other restricted units;

20 (ii) A description of the household income group to be
21 accommodated by the HOME-SF Units, and the standards for determining the corresponding
22 Affordable Rent or Affordable Sales Price. If required by the Procedures Manual, the project
23 sponsor must commit to completing a market survey of the area before marketing HOME-SF
24 Units;

- 1 (iii) The location, dwelling unit sizes (in square feet), and number
2 of bedrooms of the HOME-SF Units;
- 3 (iv) Term of use restrictions for the life of the project;,-
- 4 (v) A schedule for completion and occupancy of HOME-SF Units;
- 5 (vi) A description of any Concession, Incentive, waiver, or
6 modification, if any, being provided by the City;
- 7 (vii) A description of remedies for breach of the agreement (the
8 City may identify tenants or qualified purchasers as third party beneficiaries under the
9 agreement); and
- 10 (viii) Other provisions to ensure implementation and compliance
11 with this Section.

12 * * * *

13

14 Section 3. The Planning Code is hereby amended by revising Section 328, to read as
15 follows:

16 **SECTION 328. HOME-SF PROJECT AUTHORIZATION**

17

18 * * * *

19 (g) **Other Required Findings.** Pursuant to Section 206.3(e)(4), a HOME-SF Project shall be
20 exempt from any other discretionary approval process by the Planning Commission, including but not
21 limited to a conditional use authorization, unless that conditional use authorization requirement or
22 other discretionary approval process was adopted by the voters of San Francisco. If a HOME-SF
23 Project would otherwise require a conditional use authorization due to the type of use or use size, then
24 the Planning Commission shall make any findings or comply with any criteria required by such
25 conditional use requirement. If a HOME-SF Project otherwise requires a conditional use

1 *authorization due only to (1) a specific land use, (2) use size limit, or (3) requirement adopted by the*
2 *voters, then the Planning Commission shall make all findings and consider all criteria required by this*
3 *Code for such use or use size as part of this HOME-SF Project Authorization.*

4
5 Section 4. The Planning Code is hereby amended by revising Section 350, to read as
6 follows:

7 **SECTION 350. FEES**

8 * * * *

9 (b) **Base Fees.** The base fee to be charged and collected by the Department for each
10 class of application, permit, filing request, activity, or service processed or performed by the
11 Department are stated in Section 4 of Ordinance No. 149-16, available in Board of
12 Supervisors File No. 160632 and on the website of the Board of Supervisors. The base fees
13 stated in Section 4 of that ordinance are the fees in effect as of the date of introduction of the
14 ordinance. If the Board of Supervisors adopts a new base fee, or modifies or deletes an existing base
15 fee, the new or modified fee shall be included on the Planning Department Fee Schedule together with
16 the applicable ordinance number.

17
18 Section 5. This section is uncodified.

19 The Planning Department Fee Schedule for Affordable Housing Bonus Program
20 Projects shall be revised to read as follows:

21 ~~(e)~~ 100% Affordable Housing Bonus Program (Section 206). This fee shall not apply to
22 projects approved under Section 206.4 or 206.6. Projects approved under 206.6 shall comply with the
23 Fee Schedule for Planning Department review covered under other sections of the Fee Schedule. For
24 example, if a project seeking review under Section 206.6 needs a Conditional Use authorization, the
25 project would pay the fee required for review of a Conditional Use authorization. The initial fee


1 *amount is not to exceed 50% of the construction cost.* A \$120 surcharge shall be added to the fees
 2 for a conditional use or planned unit development to compensate the City for the costs of
 3 appeals to the Board of Supervisors for Analyzed State Density Bonus Projects under Planning
 4 Code Section 206.5.

Estimated Construction Cost	Initial Fee
<i>No construction cost, excluding extension of hours</i>	\$1,012.00
<i>No construction cost, extension of hours</i>	\$724.00
<i>Wireless Telecommunications Services (WTS)</i>	\$5,061.00
\$1.00 to \$9,999.00	\$724.00
\$10,000.00 to \$999,999.00	\$724.00 plus 0.328% of cost over \$10,000.00
\$1,000,000.00 to \$4,999,999.00	\$4,033.00 plus 0.391% of cost over \$1,000,000.00
\$5,000,000.00 to \$9,999,999.00	\$19,986.00 plus 0.328% of cost over \$5,000,000.00
\$10,000,000.00 to \$19,999,999.00	\$36,701.00 plus 0.171% of cost over \$10,000,000.00
\$20,000,000.00 or more	\$54,120.00

19
 20 Section 6. 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 7. 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 AUDREY WILLIAMS PEARSON
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - HOME-SF Project Authorization]

Ordinance amending the Planning Code to require additional findings for HOME-SF project authorizations; amending the fee for Affordable Housing Bonus Program projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Currently, the HOME-SF program requires the Planning Commission to approve a HOME-SF project under Planning Code Section 328. HOME-SF projects may also require a Conditional Use authorization.

In addition, projects needing a HOME-SF authorization are required to pay a fee under the Planning Department Fee Schedule.

Amendments to Current Law

This ordinance would clarify that HOME-SF projects do not also require a Conditional Use authorization, unless the voters adopted the requirement for a Conditional Use. Instead, the Planning Commission will be required to make any findings otherwise required by the Conditional Use authorization in a HOME-SF authorization under Planning Code Section 328.

This ordinance would also amend the Planning Department Fee Schedule for HOME-SF and other Affordable Housing Bonus Program projects under Section 206.

Background Information

In July 2018, the Board of Supervisors amended the HOME-SF program to require approval by the Planning Commission under Section 328, and not under the conditional use procedures in Planning Code section 303. This ordinance makes conforming amendments.

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