

BOARD of SUPERVISORS



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MEMORANDUM

TO: Dan Adams, Acting Director, Mayor's Office of Housing and Community Development
Phil Ginsburg, General Manager, Recreation and Parks Department
Vincent C. Matthews, Ed.D, Superintendent, San Francisco Unified School District
Linda Shaw, Liaison to the Board, City College of San Francisco

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: October 16, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Fewer on October 8, 2019:

File No. 191016

Ordinance amending the Planning Code to require at least half of residential units in Educator Housing projects to have two or more bedrooms, to eliminate the requirement that Educator Housing projects have a minimum amount of three-bedroom units, conditioned on the passage of Proposition E in the November 5, 2019, Municipal Consolidated Election; 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 adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.

If you have comments or reports to be included with the files, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development
Viva Mogi, San Francisco Unified School District
Esther Casco, San Francisco Unified School District
Kevin Truitt, San Francisco Unified School District

1 [Planning Code - 100% Affordable Housing and Educator Housing Streamlining Program]

2
3 **Ordinance amending the Planning Code to require at least half of residential units in**
4 **Educator Housing projects to have two or more bedrooms, to eliminate the requirement**
5 **that Educator Housing projects have a minimum amount of three-bedroom units,**
6 **conditioned on the passage of Proposition E in the November 5, 2019, Municipal**
7 **Consolidated Election; affirming the Planning Department’s determination under the**
8 **California Environmental Quality Act; making findings of consistency with the General**
9 **Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting**
10 **findings of public convenience, necessity, and welfare under Planning Code,**
11 **Section 302.**

12 NOTE: **Unchanged Code text proposed by Proposition E, and uncodified text,**
13 **are in plain Arial font.**
14 **Additions to Code text proposed by Proposition E are in *single-underline***
15 ***italics Times New Roman font.***
16 **Deletions to Code text proposed by Proposition E are in *strikethrough***
17 ***italics Times New Roman font.***
18 **Board amendment additions are in double-underlined Arial font.**
19 **Board amendment deletions are in ~~strikethrough Arial font.~~**
20 **Asterisks (* * * *) indicate the omission of unchanged Code**
21 **subsections or parts of tables.**

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

23 Section 1. Environmental and Planning Code Findings.

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

1 (b) On _____, the Planning Commission, in Resolution No. _____, 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. _____, and is incorporated herein by reference.

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

11
12 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
13 206.9, as proposed by Proposition E on the November 5, 2019 Consolidated Municipal
14 Election ballot, to read as follows:

15 **SECTION 206.9. 100% AFFORDABLE HOUSING AND EDUCATOR HOUSING**
16 **STREAMLINING PROGRAM.**

17 (a) **Purpose.** The purpose of the 100% Affordable Housing and Educator Housing
18 Streamlining Program is to facilitate the construction and development of 100% Affordable
19 Housing Projects and Affordable Educator Housing Projects, as defined in subsection (b), in
20 which Residential Units are affordable to Very-Low, Low, and Moderate Income Households.

21 (b) **Definitions.** The definitions of Section 102 and the definitions in Section 401 for
22 "Area Median Income" or "AMI," "Housing Project," and "Life of the Project," shall generally
23 apply to Section 206.9. The following definitions shall also apply, and shall prevail if there is a
24 conflict with other sections of the Planning Code, including Section 206.2.

1 (1) "100% Affordable Housing." Residential Units that are deed-restricted
2 for 55 years or the Life of the Project, whichever is longer and consistent with any applicable
3 tax credit regulatory requirements, to be affordable to Very-Low, Low, or Moderate income
4 households with an income up to 120% of the unadjusted area median family income (AMI)
5 for the HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco, as published
6 annually by MOHCD.

7 (2) "100% Affordable Housing Project." A project for the development of
8 Residential Units all of which are 100% Affordable Housing, up to a maximum overall average
9 of 80% AMI across all Residential Units in the project. A 100% Affordable Housing Project
10 may also include principally permitted non-residential uses on the ground floor, and non-
11 residential uses that are accessory to and supportive of the affordable housing.

12 Notwithstanding the foregoing, the maximum affordable rent or sales price for a Residential
13 Unit in a 100% Affordable Housing Project may be no higher than 20% below median market
14 rents or sales prices for that unit size in the neighborhood in which the project is located,
15 which neighborhood shall be defined in accordance with the American Community Survey
16 Neighborhood Profile Boundaries Map. MOHCD shall determine the allowable rents and
17 sales prices, and the eligible households for such units accordingly.

18 (3) "Educator Housing Project." A project for the development of deed-
19 restricted Residential Units all of which are restricted for the Life of the Project or 55 years,
20 whichever is longer and consistent with any applicable tax credit regulatory requirements, to
21 occupancy by at least one employee of the San Francisco Unified School District ("SFUSD")
22 or San Francisco Community College District ("SFCCD"), as verified by the Planning
23 Department or MOHCD. At least four-fifths of the units in an Educator Housing Project must
24 be deed restricted for the Life of the Project or 55 years, whichever is longer and consistent
25 with any applicable tax credit regulatory requirements to be affordable to households with an

1 income from 30% to 140% of the unadjusted area median family income (AMI), with an overall
2 average of 100% AMI across all such units. Up to one-fifth of the units may be deed restricted
3 up to a maximum 160% AMI for the HUD Metro Fair Market Rent Area (HMFA) that contains
4 San Francisco, as published annually by MOHCD. An Educator Housing Project is also
5 allowed to be a mixed-use development project with a maximum 20% of the gross building
6 square footage designated for non-residential neighborhood-serving uses.

7 (A) No units in an Educator Housing Project shall be smaller than
8 the minimum unit sizes set forth by the California Tax Credit Allocation Committee as of May
9 16, 2017, or smaller than 300 square feet for a studio.

10 (B) Any units in an Educator Housing Project with a rental rate set
11 *at above* 120% of Area Median Income ~~or above~~ shall have a minimum occupancy of two
12 persons.

13 (C) Notwithstanding any other provision of this Code, an Educator
14 Housing Project shall include a minimum of ~~30%~~ 50% of the total units as 2-bedroom units or
15 larger. ~~and a minimum of 20% of the total units as 3-bedroom units or larger.~~

16 All references in this Section 206.9 to other sections of the Planning Code shall refer to
17 those other sections as they may be amended from time to time after the effective date of the
18 initiative measure enacting this Section 206.9.

19 (c) **Applicability.** A 100% Affordable Housing Project or Educator Housing Project
20 under this Section 206.9 shall be a Housing Project that:

- 21 (1) is located in any zoning district that allows Residential Uses;
- 22 (2) is located on a lot or lots equal to or greater than 10,000 square feet;
- 23 (3) is not located on land under the jurisdiction of the Recreation and Parks

24 Department for the purpose of a public park;

1 (4) meets the definition of a “100 Percent Affordable Housing Project” or an
2 “Educator Housing Project” in subsection (b); and

3 (5) does not demolish, remove, or convert any Residential Units, and does not
4 include any other parcel that has any Residential Units that would be demolished, removed, or
5 converted as part of the project.

6 (d) **Density.** Notwithstanding any other provisions of this Code, density of an 100%
7 Affordable Housing Project or Educator Housing Project shall not be limited by lot area or
8 zoning district maximums but rather by the applicable requirements and limitations set forth
9 elsewhere in this Code, including consistency with the Affordable Housing Bonus Program
10 Design Guidelines, referenced in Section 315.1, as determined by the Planning Department.

11 (e) **Zoning Modifications.** Notwithstanding any other provision of this Code, 100%
12 Affordable Housing Projects and Educator Housing Projects may select any or all of the
13 following Planning Code modifications:

14 (1) Rear Yard. The required rear yard per Section 134 or any applicable special
15 use district may be reduced to no less than 15 feet. Rear yards shall be provided with an
16 open area at the lowest story containing a Dwelling Unit, and at each succeeding level or
17 story of the building. Projects located on corner parcels may meet the minimum rear yard
18 requirement at the interior corner of the property provided that each horizontal dimension of
19 the open space is a minimum of 15 feet, and that the open area is wholly or partially
20 contiguous to the existing midblock open space, if any, formed by the rear yards of adjacent
21 properties, and provides for access to light and air to and views from adjacent properties.

22 (2) Open Space. The required common open space per Section 135 may be
23 reduced to no less than 36 square feet of open space per unit.

24 (3) Inner Courts as Open Space. Inner courts qualifying as useable common
25 open space per Section 135(g)(2) may be provided by courtyards with no less than 25 feet in

1 every horizontal dimension, with no restriction on the heights of adjacent walls. All area within
2 such an inner court shall qualify as common open space under Section 135.

3 (4) Dwelling Unit Exposure. The dwelling unit exposure requirements of
4 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open
5 area that is no less than 15 feet in every horizontal dimension, and such open area is not
6 required to expand in every horizontal dimension at each subsequent floor.

7 (5) Required commercial space. Notwithstanding any other provision of this
8 Code, any required ground-floor commercial space may include Arts Activities or
9 Neighborhood-Serving Businesses, as defined in Section 102. Ground floor commercial
10 spaces accessory to the 100% Affordable Housing or Educator Housing Project shall not be
11 limited by use size restrictions. Ground floor Arts Activities or Neighborhood-Serving
12 Businesses shall be considered active uses if more than 50 percent of the linear street
13 frontage provides transparent walls and direct pedestrian access to a public sidewalk, and are
14 consistent with the Ground Floor Residential Design Guidelines.

15 (6) Ground Floor Ceiling Height. Projects with active ground floors, as defined
16 in Section 145.1(b)(2), shall receive up to a maximum of an additional five feet above the
17 height limit, exclusively to provide a minimum 14-foot (floor to ceiling) ground floor ceiling
18 height.

19 (7) Projects located entirely or partially on a parcel or parcels designated on the
20 San Francisco Zoning Map as open space (OS) that are not under the jurisdiction of the
21 Recreation and Parks Department shall be deemed to have a height limit and a bulk
22 designation of the closest zoning district that allows Residential Uses.

23 (f) Controls. Notwithstanding any other provision of this Code, no conditional use
24 authorization shall be required for a 100% Affordable Housing Project and Educator Housing
25 Project, unless the voters adopted such conditional use requirement.

1 (g) Authorization. Projects under this Section 206.9 shall be approved under the
2 provisions set forth in Section 315.

3 (h) Amendment by Board of Supervisors. The Board of Supervisors by not less than
4 two-thirds vote of all its members may by ordinance amend any part of this Section 206.9 if
5 the amendment furthers the purpose of this Section.

6
7 Section 3. Purpose Finding.

8 The Board of Supervisors finds that the amendments of Planning Code Section 206.9
9 contained in this ordinance further the purpose of that Section.

10
11 Section 4. Effective and Operative Dates.

12 (a) This ordinance shall become effective 30 days after enactment. Enactment
13 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
14 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
15 overrides the Mayor's veto of the ordinance.

16 (b) This ordinance shall become operative on the later of its effective date or the
17 effective date of Proposition E on the November 5, 2019 Consolidated Municipal Election
18 ballot. If Proposition E does not pass, this ordinance shall be null and void.


19
20 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
23 Code (as proposed by Proposition E on the November 5, 2019 Consolidated Municipal
24 Election ballot) that are explicitly shown in this ordinance as additions, deletions, Board
25

1 amendment additions, and Board amendment deletions in accordance with the "Note" that
2 appears under the official title of the ordinance.

3
4 Section 5. Supermajority Vote Requirement. Under Planning Code Section 206.9(h), if
5 Proposition E on the November 5, 2019 Consolidated Municipal Election ballot is approved,
6 the City may enact this ordinance only if the Board approves the ordinance by at least a two-
7 thirds vote of all its members.

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

11 By:


12 AUDREY WILLIAMS PEARSON
13 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - 100% Affordable Housing and Educator Housing Streamlining Program]

Ordinance amending the Planning Code to require at least half of residential units in Educator Housing projects to have two or more bedrooms, to eliminate the requirement that Educator Housing projects have a minimum amount of three-bedroom units, conditioned on the passage of Proposition E in the November 5, 2019, Municipal Consolidated Election; 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 adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.

Existing Law

If Proposition E in the November 5, 2019 Municipal Consolidated Election passes and Planning Section 206.9 is adopted, that section – called the 100% Affordable Housing and Educator Housing Streamlining Program – requires that Educator Housing projects, as defined, include at least 20% of units as three-bedroom units, and 30% of units as two-bedroom units.

Amendments to Current Law

This ordinance would eliminate the requirement that Educator Housing projects include a minimum amount of three bedroom units, but would require that half of residential units be two-bedrooms or larger.

Background Information

Proposition E on the November 5, 2019 Municipal Consolidated Election ballot establishes the 100% Affordable Housing and Educator Housing Streamlining Program in Planning Code section 206.9. This ordinance would amend that program if Proposition E passes, and the Board approves the ordinance by at least a two-thirds vote of all its members.

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