

REVISED LEGISLATIVE DIGEST

(Fourth Draft, 7/12/2022)

[Charter Amendment, Initiative Ordinance, and Policy Declaration - Affordable Housing Production Act]

Describing and setting forth a proposal to the voters at an election to be held on November 8, 2022, to amend the Charter of the City and County of San Francisco to provide for accelerated review and approval of eligible 100% affordable housing projects, educator housing projects, and market-rate projects that provide significant increased affordability, and providing for Planning Department ministerial review in lieu of approvals by or certain appeals to City boards and commissions; to make corresponding amendments to the Planning Code and the Business and Tax Regulations Code; to amend the Administrative Code to provide for an Annual Affordable Housing Allocation Report as part of the City’s budget deliberation process; and to declare as City policy the need to accelerate approval of 100% affordable housing projects, educator housing projects, and market-rate projects that provide significant increased affordability; to make findings of compliance with the General Plan and Planning Code, Section 101.1 and findings of public necessity, convenience, and welfare under Planning Code, Section 302; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Currently, under the San Francisco Charter, the San Francisco Planning Code and other municipal codes, housing development projects require discretionary approval or approvals by various City agencies including the Board of Supervisors, Planning Commission, Board of Appeals, Historic Preservation Commission, and Arts Commission. Planning Code section 206.9 provides for Planning Department administrative review of eligible 100% affordable housing projects and educator housing projects.

Housing development projects with 10 units or more must comply with Planning Code section 415, the Inclusionary Affordable Housing Ordinance. Project must provide a certain percentage of housing units as affordable units; projects can comply with Section 415 by providing units on-site, off-site, or by paying an inclusionary housing fee. Units must be affordable to households earning between 55% and 110% of area median income (AMI) if the units are rental units or 80% to 130% of AMI if the units are ownership units.

Housing projects must comply with Planning Code and Building Code requirements, but in some circumstances may seek exceptions to those standards if the project provides on-site affordable units. There is no requirement that housing development projects pay prevailing wages or use skilled and trained workers.

The Mayor's Office of Housing and Community Development (MOHCD) acquires, develops, and funds affordable housing programs in the City. Under current law, MOHCD provides various reports to the Board of Supervisors.

Amendments to Current Law

This proposal would amend the Charter to create a streamlined, ministerial approval process for three types of housing projects: (1) 100% Affordable Housing Projects; (2) Educator Housing Projects (both as defined in Planning Code section 206.9); or (3) "Increased Affordability Housing Projects." Increased Affordability Housing Projects are multi-family housing developments of ten or more units that provide on-site Inclusionary Housing Units under Section 415, plus additional affordable units in an amount equal to 8% of the total number of units in the entire project. During construction of projects, sponsors of 100% Affordable Housing Projects, Educator Housing Projects, and Increased Affordability Housing Projects with 10 or more units, would be required to pay prevailing wages. Educator Housing Projects, Increased Affordability Housing Projects, and Increased Affordability Housing Projects of 25 or more units, would also be required to use a skilled and trained workforce. Projects could not be located on sites under the jurisdiction of the Recreation and Parks Department or in a zoning district that does not allow dwelling units. Projects could not cause the demolition of an existing dwelling unit, or a national, state, or local historical landmark or contributory building in an historic district.

The proposal would amend the Charter to limit review of the three types of projects by the Planning Commission, Board of Appeals, Historic Preservation Commission and Arts Commission. The proposal would make other conforming amendments to the Planning Code and Business and Tax Code. The proposal would allow eligible projects to receive certain modifications to the Planning Code, would allow limited design review by the Planning Department, and would require ministerial approval within 180 days of submittal of a complete development application. Conditional use approval would continue to be required if necessary to allow on-site parking, approval of non-residential uses, modifications to applicable dwelling unit mix requirements, or the location of curb cuts. The Planning Commission would not accept or hear requests for discretionary review for eligible projects. Projects would be reviewed through an administrative process in a new Planning Code section 344.

The City would be required to adopt an ordinance to allow the Office of Labor Standards Enforcement to enforce the prevailing wage and skilled and trained workforce requirements.

The MOHCD, in consultation with the Department of Homelessness and Supportive Housing would be required to submit an Annual Affordable Housing Allocation Report, as well as an Annual Affordable Housing Progress Report to the Board of Supervisors, discussing progress on all affordable housing and supportive housing efforts from various departments within the City.

The measure includes a declaration of policy encouraging the timely development of 100% Affordable Housing Projects, Increased Affordability Housing Projects, and Educator Housing Projects. Finally, the measure includes a “conflicting measure” provision, which states that if there are any other measures on the November 8, 2022 ballot that address the standard of review that would be applicable to 100% Affordable Housing Projects, Increased Affordability Housing Projects, or Educator Housing Projects, or that address review of such projects pursuant to Charter Section 9.118, it would conflict with this measure. Only the measure with the most affirmative votes would go into effect.

Background Information

The California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., requires environmental review of approved discretionary permits. The San Francisco Charter and other municipal codes require discretionary review of most permits for housing development projects.

In 2019, through Proposition E, voters adopted an ordinance amending the Planning Code to allow approval of eligible 100% Affordable Housing Projects and Educator Housing Projects through the administrative review process in Planning Code Section 315.

The Second Draft amended the originally introduced version of the measure to require Increased Affordability Housing Projects of 10 or more units to pay prevailing wages, and Increased Affordability Housing Projects of 25 or more units to use a skilled and trained workforce. The Second Draft also retained Section 315 of the Planning Code, and required MOHCD to provide an Affordable Housing Allocation Report, as well as a Progress Report.

The Fourth Draft amended the definition of “Increased Affordability Housing Project” to require additional affordable units in an amount equal to 8% of the total number of units in the entire project (rather than 15%); and to amend the definition of “multi-family” to 10 or more units (rather than two or more units). Amendments in the Fourth Draft were adopted at a hearing of the full Board of Supervisors on July 12, 2022.

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