

1 [Planning Code - Housing Balance Special Use District]

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3 **Ordinance amending the Planning Code to establish a special use district in the Central**  
 4 **City South of Market area to balance market rate housing and affordable housing and**  
 5 **to require conditional use permit for market rate housing if the balance is not**  
 6 **maintained; amending the Zoning Map to establish this special use district; and,**  
 7 **making environmental findings and findings of consistency with the General Plan and**  
 8 **the eight priority policies of Planning Code Section 101.1.**

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.

13

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

15

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 Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
 20 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.

21 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
 22 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
 23 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
 24 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
 25 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

1 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code  
2 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
3 in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such reasons  
4 herein by reference.

5  
6 Section 2. The Planning Code is hereby amended by adding new Section 249.56 to  
7 read as follows:

8 **SEC. 249.56. Central City South of Market Housing Balance Special Use District.**

9 *In order to maintain a balance in the approval and construction of new affordable and*  
10 *market rate housing in the Central City South of Market Housing Balance Special Use District, to*  
11 *preserve the mixed income character of the area and its neighborhoods, to offset the withdrawal of*  
12 *existing housing units from rent stabilization, to ensure the availability of land and encourage the*  
13 *deployment of resources to provide sufficient housing affordable to households of very low , low, and*  
14 *moderate incomes, to ensure that data on meeting affordable housing targets City-wide and within this*  
15 *Special Use District informs the approval process for new housing development, and to enable public*  
16 *participation in determining the appropriate mix of new housing approvals, there is hereby established*  
17 *the Central City South of Market Housing Balance Special Use District in the area roughly bounded by*  
18 *Market Street east of Waller Street to Van Ness Avenue, from Van Ness Avenue North to Cedar Street,*  
19 *East on Cedar Street to Polk Street, North on Polk Street to Post Street, East on Post Street to*  
20 *Leavenworth Street , South to Geary Street, East on Geary Street to Taylor Street, South on Taylor*  
21 *Street to O'Farrell Street, East on O'Farrell Street to Cyril Magnin Street, South on Cyril Magnin*  
22 *Street to Ellis Street, West on Ellis Street to Mason Street, South on Mason Street to Eddy Street, South*  
23 *on Eddy Street to 5<sup>th</sup> Street and Market Street, Northeast on Market Street to Steuart Street, Southeast*  
24  
25

1 on Steuart Street to Mission Street, East on Mission Street to the Embarcadero, South on the  
2 Embarcadero to Terry A. Francois Street, West on Terry A. Francois Street to Mariposa Street, West  
3 on Mariposa Street to 7<sup>th</sup> Street, Northwest on 7<sup>th</sup> Street to Townsend Street, West on Townsend Street  
4 to Division Street, Northwest on Division Street to Market Street and Waller Street, and including  
5 Treasure Island, as designated on Sectional Maps 1SU, 2SU, 7SU, 8SU and 14SU of the Zoning Map  
6 for the City and County of San Francisco. The following provisions and controls shall apply within the  
7 Special Use District.

8  
9 (a) Findings. This Special Use District is an area that includes many different kinds of uses  
10 and housing, including many multi-unit apartment buildings and residential hotels that are home to  
11 very low, low, and moderate income individuals where affordable housing currently serves the working  
12 class, and families, long-time residents, elderly seniors and disabled persons, artists, musicians and  
13 others. Currently, City inventories show that the approximate balance in this Special Use District  
14 between market rate housing and affordable housing is roughly equal to 70% market rate housing and  
15 30% affordable housing since 2006. The City seeks to preserve this approximate balance because the  
16 availability of decent housing and a suitable living environment for every San Franciscan is of vital  
17 importance, and attainment of the City's housing goal requires the cooperative participation of  
18 government and the private sector to expand housing opportunities and accommodate housing needs at  
19 all economic levels, responsive to the unique needs of the neighborhood where housing will be located.

20  
21 (1) The Planning Department's May 2012 Socio-Economic Profiles for Supervisorial  
22 Districts shows that median household income in this Special Use District was \$37,431, only 52.4% of  
23 the City-wide median of \$71,416. Twenty-two percent (22%) of neighborhood residents have incomes  
24 below the poverty level.  
25

1                   (2) The Board of Supervisors endorsed a study conducted in May 2011 by the Western  
2 SoMa Citizens Planning Taskforce in support of its Community Stabilization Policy, which the Board of  
3 Supervisors endorsed in Resolution 264-11. The study documented that in the Western SoMa  
4 neighborhood, 37.8% of new housing units built from 1993 through 2009 were affordable to low or  
5 moderate income households (707 units of affordable housing out of 1,872 total new housing units).

6                   (3) This area has been particularly affected by the current housing production boom,  
7 where, between 2006 and 2013, 71% of new housing consists of market rate housing, and 29% of new  
8 housing is available at below market rates. Income levels in this Special Use District reflect a wide  
9 diversity, with two-thirds of the population earning less than the City of San Francisco median income  
10 of \$70,000. According to the Planning Department's February 2014 San Francisco Pipeline Report for  
11 the Fourth Quarter of 2013, a total of 57,285 new housing units will be added to the City's housing  
12 stock. This Special Use District, with 8.8% of the City's population (70,790 out of 805,240) is slated for  
13 at least 28.9% of that projected housing development, or 15,554 housing units.

14                   (4) The purpose of this Special Use District is to encourage a balanced approach to the  
15 approval and construction of new housing that is available to all income levels, to preserve the mixed  
16 income character of the area and its component neighborhoods, to offset the withdrawal of existing  
17 housing units from rent stabilization, to ensure the availability of land and encourage the deployment  
18 of resources to provide sufficient housing affordable to households of very-low-, low-, and moderate-  
19 incomes, to ensure that data on meeting affordable housing targets within the Special Use District  
20 informs the approval process for new housing development, and to enable public participation in  
21 determining the appropriate mix of new housing approvals.

22                   (5) For tenants in unsubsidized housing, affordability is often preserved by the San  
23 Francisco Residential Rent Stabilization and Arbitration Ordinance's limitations on the size of  
24 allowable rent increases during a tenancy. As documented in the Budget and Legislative Analyst's  
25 October 2013 Policy Analysis Report on Tenant Displacement, San Francisco is experiencing a rise in

1 units withdrawn from rent controls. Such rises often accompany periods of sharp rises in property  
2 values and housing prices. From 1998 through 2013, City-wide a total of 13, 027 no-fault evictions  
3 (i.e., evictions in which the tenant had not violated any lease terms, but the owner sought to regain  
4 possession of the unit) were reported by the Rent Board. Total evictions of all types have increased by  
5 38.2% between Rent Board Years (i.e. from March through February) 2010-2013. During the same  
6 period, Ellis Act evictions far outpaced other evictions, increasing by 169.8% from 43 in Rent Board  
7 Year 2010 to 116 in Rent Board Year 2013. These numbers do not capture the large number of owner  
8 buyouts of tenants, which are not recorded by the City and contribute further to the loss of rent-  
9 controlled units from the housing market. Units withdrawn from rent control need to be incorporated  
10 into calculations of the affordable housing need in this Special Use District.

11 (6) In 2012, the City enacted the “Housing Preservation and Production Ordinance,”  
12 codified in Administrative Code Chapter 10E.4, to require Planning Department staff to regularly  
13 report data on progress toward meeting San Francisco’s quantified production goals for different  
14 household income levels as provided in the General Plan’s Housing Element. The data on the number  
15 of units in all stages of the housing production process at various affordability levels is required to be  
16 included in staff reports on all proposed projects of five residential units or more and in quarterly  
17 housing production reports to the Planning Commission. Planning Department staff has long tracked  
18 the number of affordable housing units and total number of housing units built throughout the City and  
19 in specific areas and should be able to track the ratio called for in this Special Use District.

20 (7) As the private market has embarked upon, and government officials have urged, an  
21 ambitious program to produce significant amounts of new housing in the City, including this Special  
22 Use District, with limited remaining available land, it is essential to assess the impact of the approval  
23 of new housing projects on the availability of land for affordable housing and to encourage the  
24 deployment of resources to provide such housing. Most or all of this Special Use District has been  
25

1 designated a Priority Development Area slated for substantial housing development, and the housing  
2 pipeline confirms the intensity of development already approved for the Special Use District.

3 (8) The purpose of this Special Use District is to encourage a balanced approach to  
4 construction of new housing that is available to all income levels.

5 (b) Conditional Use Permit Required. Approval of a conditional use permit shall be required  
6 for any market rate housing project, consisting of ten residential units or more, when the Planning  
7 Department determines that the cumulative housing balance ratio, as defined herein, in this Special  
8 Use District is less than thirty percent. For purposes of this Planning Code Section 249.56,  
9 “cumulative housing balance ratio” shall be defined as the proportion of all new housing units  
10 affordable to households of very low, low or moderate income households (including on-site  
11 inclusionary units and off-site inclusionary units located within the Special Use District), as defined in  
12 Planning Code Section 401, constructed or entitled within the current boundaries of the Special Use  
13 District on or after January 1, 1993, through the end of the most recent calendar quarter, minus the  
14 number of affordable housing units that may have been lost, including but not limited to those  
15 affordable housing units withdrawn from rent control within that same time period, divided by the total  
16 number of all new housing units constructed or entitled within this Special Use District within the same  
17 time period. An “affordable housing unit withdrawn from rent control” is a unit that has been subject  
18 to rent control under the San Francisco Residential Rent Stabilization and Arbitration Ordinance but  
19 that a property owner removes, temporarily or permanently, from the rental market through move-in by  
20 the owner or eligible relative pursuant to Administrative Code Section 37.9(a)(8), condominium  
21 conversion pursuant to Administrative Code Section 37.9(a)(9), demolition or permanent removal  
22 pursuant to Administrative Code Section 37.9(a)(10), or the Ellis Act pursuant to Administrative Code  
23 Section 37.9(a)(11).  
24 Section 37.9(a)(11).  
25 Section 37.9(a)(11).

1 Section 37.9(a)(13). For purposes of this Subsection 249.56, a “market rate housing project” shall be  
2 defined as any residential project that is not 100% affordable housing, which shall be defined as  
3 housing affordable to a low or middle income household, as defined in Planning Code Section 401.  
4 The cumulative housing balance ratio shall be determined at the time the first application for  
5 development of market rate housing is submitted to the Department of Building Inspection or the  
6 Planning Department. Any residential project that has received an approval from the Planning  
7 Commission or Planning Department shall be considered in the calculation of the housing balance in  
8 this Special Use District, even if the housing project has not yet commenced construction. In the event  
9 the Planning Department is unable to ascertain the current ratio for the special use district, a  
10 conditional use permit shall be required for any proposed market rate housing project.

12 (c) Conditional Use Permit Criteria. In addition to the criteria set forth in Section 303 and, if  
13 applicable, Section 316, the Planning Commission shall consider the following criteria when it  
14 considers approval of a conditional use permit for a housing project: (1) the extent to which the  
15 proposed project affects the cumulative housing balance ratio for this Special Use District and moves  
16 the Special Use District closer to or further from meeting the cumulative housing balance ratio of thirty  
17 percent; (2) the location, intensity and size of the proposed housing project and whether allowing the  
18 use will substantially hamper the location or viability of affordable housing in the Special Use District;  
19 (3) the extent to which approval of the project, in conjunction with projects previously constructed or  
20 entitled within the Special Use District, will cause or exacerbate the direct or indirect displacement of  
21 households of very low, low, or moderate income from the Special Use District; (4) specific adverse  
22 impacts on this Special Use District if the project is approved or disapproved; and, (5) the extent to  
23 which the proposed project otherwise mitigates any potential adverse impact on preserving the mixed  
24   
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1 income character of this Special Use District. In granting any conditional use permit, the Planning  
2 Commission shall make an explicit finding that, despite any City-wide failure to have authorized  
3 sufficient affordable housing units to meet the City's fair share of the Regional Housing Needs  
4 Allocation and the quantified housing production goals of the City's General Plan Housing Element  
5 and/or to meet the Special Use District's cumulative housing balance ratio of at least thirty percent,  
6 and despite any direct or indirect impact the proposed project may have on displacing households of  
7 very low, low, or moderate income from the Special Use District, the project nonetheless promotes the  
8 health, safety and welfare of the City and this Special Use District. In the event the Planning  
9 Commission disapproves the housing project, it shall make findings to explain how the project as  
10 proposed would have specific adverse impacts upon the the public health and safety of the City and this  
11 Special Use District.

13 (d) Within 30 days of the effective date of this Ordinance, Planning Department staff shall  
14 calculate the cumulative housing balance ratio for the Special Use District, report it to the Planning  
15 Commission and Board of Supervisors, and publish it on the Planning Department's website on a page  
16 devoted to this Special Use District. With each new project authorization within the Special Use  
17 District, the Planning Department staff shall continuously update the cumulative housing balance ratio  
18 and within 10 days of the end of each calendar quarter shall report it to the Planning Commission and  
19 Board of Supervisors along with the other quarterly reporting requirements of Administrative Code  
20 section 10E.4(b)(2) and publish it on the Planning Department's website on a page devoted to this  
21 Special Use District.

24 (e) For purposes of this Special Use District, the property located within a  
25 Redevelopment Area shall be included in the calculation of the cumulative housing balance ratio, but



the conditional use permit requirements set forth in this Section 249.56 shall not apply to such property as long as the Redevelopment Plan remains in effect.

Section 3. The Zoning Map for the City and County of San Francisco shall be amended by amending Zoning Map Sheets SU01, SU02, SU07, SU08 and SU14 to designate the following real property as the Central City South of Market Housing Balance Special Use District:

<u>Description of Property</u>	<u>Special Use District Hereby Approved:</u>
<p><u>Entire Assessor's Blocks:</u> 0302; 0303; 0317; 0318; 0319; 0320; 0321; 0322A; 0322; 0323; 0324; 0325; 0326; 0331; 0332; 0333; 0334; 0335; 0336; 0337; 0338; 0339; 0340; 0341; 0342; 0343; 0344; 0345; 0346; 0347; 0348; 0349; 0350; 0351; 0353; 0354; 0355;_0693; 0694; 0715; 0716; 0717; 0718; 0739; 0740; 0741; 0742; 0763; 0764; 0765; 0766; 0787; 0788; 0811; 0812; 0813; 0814; 0835; 1939; 3502; 3503; 3504; 3505; 3506; 3507; 3508; 3509; 3510; 3511; 3512; 3513; 3514; 3515; 3516; 3517; 3518; 3519; 3520; 3521; 3522; 3523; 3524; 3525; 3526; 3527; 3528; 3701; 3702; 3703; 3704; 3705; 3706; 3707; 3708; 3709; 3710; 3711; 3712; 3713; 3715; 3716; 3717; 3718; 3719; 3720; 3721; 3722; 3723;</p>	<p><u>Central City South of Market Housing Balance Special Use District</u></p>

1 3724; 3725; 3726; 3727; 3728; 3729; 3730;  
2 3731; 3732; 3733; 3735; 3735A; 3736; 3737;  
3 3738; 3739; 3740; 3741; 3742; 3743; 3744;  
4 3745; 3746; 3747; 3748; 3749; 3750; 3751;  
5 3752; 3753; 3754; 3755; 3756; 3757; 3758;  
6 3759; 3760; 3761; 3762; 3763; 3764; 3765;  
7 3766; 3767; 3768; 3769; 3770; 3771; 3773;  
8 3774; 3775; 3776; 3777; 3778; 3779; 3780;  
9 3781; 3782; 3783; 3784; 3785; 3786; 3787;  
10 3789; 3790; 3791; 3792; 3793; 3794; 3795;  
11 3796; 3797; 3801; 3802; 3803; 3806; 3809;  
12 3810; 3899; 3940; 3941; 3943; 3992; 8001;  
13 8002; 8003; 8004; 8005; 8006; 8007; 8008;  
14 8009; 8010; 8011; 8012; 8013; 8014; 8015;  
15 8016; 8017; 8018; 8019; 8020; 8021; 8022;  
16 8023; 8024; 8025; 8026; 8027; 8028; 8029;  
17 8030; 8031; 8032; 8033; 8034; 8035; 8036;  
18 8037; 8038; 8039; 8040; 8041; 8042; 8043;  
19 8044; 8045; 8046; 8047; 8048; 8049; 8050;  
20 8051; 8052; 8053; 8054; 8055; 8056; 8057;  
21 8058; 8060; 8061; 8062; 8063; 8064; 8065;  
22 8066; 8067; 8068; 8069; 8070; 8071; 8072;  
23 8073; 8074; 8075; 8076; 8077; 8078; 8079;  
24 8080; 8081; 8082; 8083; 8084; 8085; 8086;  
25 8301; 8302; 8303; 8304; 8305; 8306; 8307;

1	8308; 8309; 8310; 8311; 8312; 8313; 8314;	
2	8315; 8316; 8317; 8318; 8319; 8320; 8321;	
3	8322; 8323; 8324; 8325; 8326; 8327; 8328;	
4	8329; 8330; 8700; 8701; 8702; 8703; 8704;	
5	8705; 8706; 8707; 8708; 8709; 8710; 8711;	
6	8713; 8714; 8715; 8716; 8717; 8718; 8719;	
7	8720; 8721; 8722; 8723; 8724; 8725; 8726;	
8	8727; 8728; 8729; 8730; 8731; 8732; 9900.	

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10           Section 4. Effective Date. This ordinance shall become effective 30 days after  
 11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
 12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
 13 of Supervisors overrides the Mayor’s veto of the ordinance.

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

20

21 APPROVED AS TO FORM:  
 22 DENNIS J. HERRERA, City Attorney

23

By: \_\_\_\_\_  
 KATE H. STACY  
 Deputy City Attorney

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*N: legana/AS2014/1400140/00917236*