



NOTICE OF MEETING

Regular Meeting of the CODE ADVISORY COMMITTEE

DATE: January 8, 2014 (Wednesday)
TIME: 9:00 a.m. to 11:00 a.m.
LOCATION: 1650 Mission Street, Room 528 ◀◀◀ Note Room Number
(Thru Room 400, Planning Dept. Forth floor)

This Committee meets regularly every second Wednesday of the month at 1650 Mission Street, Room 431, 4th Floor (City Planning Department). If you wish to be placed on a mailing list for agendas, please call (415) 575-6832.

Note: Public comment is welcome and will be heard during each item. Reference documents relating to agenda are available for review at the 1660 Mission Street, 1st floor. For information, please call Kirk Means at (415) 575-6832.

AGENDA

- 1.0 Call to Order, Roll Call and confirmation of quorum.
- 2.0 Discussion and possible action regarding a proposed ordinance (File #131148) amending the Planning and Building Codes to provide a process for granting legal status to existing dwelling units constructed without the required permits, and establishing a fee for administering the authorization program; amending the Administrative Code to provide that a dwelling unit that was subject to the Rent Ordinance before legalization will remain under the Rent Ordinance, and requiring the property owner to provide relocation assistance to displaced tenants. The possible action would be to make a recommendation to the Building Inspection Commission for their further action.(30 minutes)
- 3.0 Discussion and possible action regarding a proposed ordinance amending the San Francisco Health Code Section 3801-3813 to require an enhanced ventilation system for Urban Infill Sensitive Use Development within the Air Pollutant Exposure Zone; amending the San Francisco Building Code section 1203.5 to reflect changes in the Health Code; and making environmental findings. The possible action would be to make a recommendation to the Building Inspection Commission for their further action. (30 minutes)
- 4.0 Discussion and possible action regarding proposed revisions to Administrative Bulletin AB-093, Implementation of Green Building Regulations, as required to implement the 2013 San Francisco Green Building Code. The action would be to make a recommendation to the Building Inspection Commission for their further action. (15 minutes)

5.0 Public Comments on items not on this agenda but within the jurisdiction of the Code Advisory Committee. Comment time is limited to 3 minutes or as determined by of the Chairperson.

6.0 Committee comments on items not on this agenda.

7.0 Subcommittee Reports: (Discussion & possible action) (15 minutes)

- a. Housing Code Subcommittee:
Subcommittee Chair: Jim Reed
Subcommittee Members: Jerry Cunningham, P.E., Shane O'Reilly; Ira Dorter
- b. Mechanical Electrical Plumbing & Fire Subcommittee:
Subcommittee Chair: Jim Reed
Subcommittee Members: Jerry Cunningham, P.E., Marc Cunningham,
Robert Wong, M.E., Shane O'Reilly, Henry Karnilowicz
- c. Administrative & General Design and Disability Access Subcommittee
Subcommittee Chair: Tony Sanchez-Corea
Subcommittee Members: Arnie Lerner, AIA, CASp, Jerry Cunningham, P.E., Zachary
Nathan, AIA, CASp, Lee Philips, Henry Karnilowicz
- d. Structural Subcommittee:
Subcommittee Chair: Stephen Harris, S.E.
Subcommittee Members: Rene' Vignos, S.E., LEED A.P., Marc Cunningham, Tony
Lau, Ned Fennie, AIA
- e. Green Building Subcommittee:
Subcommittee Chair: Zachary Nathan, AIA, CASp
Subcommittee Members: Arnie Lerner, AIA, CASp, Ilene Dick; Kevin Wallace, Henry
Karnilowicz, Robert Wong, M.E.

7.0 Review of communication items. The Committee may discuss or acknowledge communication items received for discussion.

8.0 Committee Member's and Staff's identification agenda items for the next meeting, as well as current agenda items to be continued to another CAC regular meeting or special meeting, or a subcommittee meeting. CAC discussion and possible action regarding administrative issues related to building codes.

9.0 Adjournment.

Note to Committee Members: Please review the appropriate material and be prepared to discuss at the meeting. If you are unable to attend, please call Chairperson Ned Fennie at (415) 278-9596 or Building Inspector Kirk Means at (415) 575-6832. The meeting will begin promptly.



ACCESSIBLE MEETING INFORMATION POLICY

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

The meeting will be held at the Department of Building Inspection, 1650 Mission Street, Room 431 (thru Room 400, Planning Dept.) The closest accessible BART stations are the Civic Center Station at 8th (at the United Nations Plaza) and Market Street and 16th at Mission Street.

Accessible MUNI/Metro lines servicing this location are the, 42 - Downtown, 14 & 14 Limited - Mission, and F - Market bus lines. For information about MUNI accessible services call (415) 923-6142.

The meeting room is wheelchair accessible. Accessible curb side parking spaces have been designated on Mission and Otis Streets. There is accessible parking available within the Department of Building Inspection parking lot. The entrance to this lot is on Otis Street.

Accessible seating for persons with disabilities (including those using wheelchairs) will be available. Assistive Listening devices will be available at the meeting. A sign language interpreter will be available upon request. Agendas and Minutes of the meeting are available in large print/tape form and/or readers upon request. Please contact Kirk Means at (415) 575-6832 at least 72 hours in advance of the meeting to request these services.

If you require use of a reader or other special services, please contact Kirk Means at (415) 575-6832 at least 72 hours in advance of the meeting to request these services.

Materials are available in alternate formats on request



KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE, TO OBTAIN A COPY OF THE SUNSHINE ORDINANCE, OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT CHRIS RUSTOM BY MAIL TO: ADMINISTRATOR, SUNSHINE TASK FORCE CITY HALL, ROOM 244, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689. OFFICE (415) 554-7724, FAX (415) 554-7854, E-MAIL: SOTF@SFGOV.ORG.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Rustom or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/> and at the San Francisco Public Library.

POLICY STATEMENT OF PUBLIC HEARING OR MEETING

Pursuant to Section 67.7-1(c) of the San Francisco Administrative Code, members of the public who are unable to attend the public meeting or hearing may submit written comments regarding a calendared item to the Technical Services Division at 1660 Mission Street, San Francisco, CA 94103 or at the place of the scheduled meeting. These written comments shall be made a part of the official public record.

SAN FRANCISCO LOBBYIST ORDINANCE

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Administrative Code Sec. 16.520-16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, SF, CA 94102 or (415) 554-9510 voice, or (415) 703-0121 fax, or visit their website at <http://www.sfgov/ethics/>.

1 [Planning, Building, Administrative Codes - Authorization of Dwelling Units Installed Without a
2 Permit]

3 **Ordinance amending the Planning and Building Codes to provide a process for**
4 **granting legal status to existing dwelling units constructed without the required**
5 **permits, and establishing a fee for administering the authorization program; amending**
6 **the Administrative Code to provide that a dwelling unit that was subject to the Rent**
7 **Ordinance before legalization will remain under the Rent Ordinance, and requiring the**
8 **property owner to provide relocation assistance to displaced tenants; making**
9 **environmental findings, and findings of consistency with the General Plan and the**
10 **eight priority policies of Planning Code, Section 101.1; and directing the Clerk to**
11 **submit this Ordinance to the California Department of Housing and Community**
12 **Development in accordance with state law.**

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

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

21 Section 1. General and Environmental Findings.

22 (a) This ordinance is adopted under the California Second Unit Law (Government Code
23 Section 65852.2 et seq.

24 (b) The Planning Department has determined that the actions contemplated in this
25 ordinance comply with the California Environmental Quality Act (California Public Resources

1 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
2 Supervisors in File No. _____ and is incorporated herein by reference

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

8 (d) On _____, in Resolution No. _____, the Planning Commission
9 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
10 with the City's General Plan and the eight priority policies of Planning Code Section 101.1.
11 The Board adopts these findings as its own.

12 Section 2. The Planning Code is hereby amended by adding Section 207.3, to read as
13 follows:

14 **SEC. 207.3. AUTHORIZATION OF DWELLING UNITS CONSTRUCTED WITHOUT A PERMIT**
15 **IN AN EXISTING BUILDING ZONED FOR RESIDENTIAL USE.**

16 *Notwithstanding Section 207.2 or any other provision of this Code, certain dwelling units that*
17 *were constructed without benefit of permit in an existing residential building or in an ancillary*
18 *structure located on the same lot may be granted legal status subject to the conditions and procedures*
19 *set forth below.*

20 **(a) Purpose and Findings.**

21 *(1) In Government Code Section 65852.150, the State Legislature declared that second*
22 *units are a valuable form of housing in California because they “provide housing for family members,*
23 *students, the elderly, in-home health care providers, the disabled, and others, at below market prices*
24 *within existing neighborhoods” and that “homeowners who create second units benefit from added*
25 *income, and an increased sense of security.”*

1 (2) San Francisco has long had a housing shortage, especially of affordable housing.
2 The housing market continues to be tight and housing costs are beyond the reach of many households.
3 Policy 1.5 of the City's 2009 Housing Element states that secondary units in existing residential
4 buildings represents a simple and cost-effective method of expanding the City's housing supply.

5 (3) The City has no definitive information on the number of dwelling units that have
6 been added to existing residential buildings without benefit of permit, but unofficial estimates indicate
7 that as many as 30,000 to 40,000 such dwelling units exist as of 2013. Often these illegal units have
8 been built in the basements, garages, and attics of existing buildings or in rear-yard structures. While
9 many of these units may not meet existing Planning Code requirements, they constitute a major supply
10 of San Francisco's affordable housing units and often meet life and safety standards and may require
11 only exceptions from density, open space, and other Planning Code requirements in order to become
12 legal.

13 (4) Providing a mechanism to grant legal status to an illegally constructed dwelling
14 unit in an existing building zoned for residential use furthers several public policy objectives. By
15 encouraging the legalization of these units, the City can add legitimate units to the City's supply of
16 affordable housing, ensure that these units are safe and habitable, and properly include these units
17 when calculating the City's existing housing supply.

18 (b) Scope. This Section 207.3 shall apply to an existing building, or to an ancillary structure
19 on the same lot, in a district where residential use is principally permitted and that has one or more
20 dwelling units that were constructed prior to January 1, 2013 without benefit of permit. One dwelling
21 unit per lot meeting this threshold requirement may be granted legal status under this Section,
22 regardless of the density limits of the zoning district.

23 **(c) Compliance with Planning Code Requirements; Exceptions.**

24 (1) A dwelling unit authorized under this Section 207.3 must satisfy all applicable
25 requirements of this Code except for the usable open space requirements set forth in Section 135 and

1 the light and air requirements set forth in Section 140 so long as open space requirements are met for
2 the other existing units.

3 (2) A dwelling unit in an ancillary structure on the same lot as the single-family or
4 multi-family building shall not require a variance from the rear yard requirements of Section 134 in
5 order to be granted legal status under this Section 207.3.

6 (3) One such dwelling unit on the lot is allowed to exceed the permitted density
7 authorized for that zoning district provided that a residential use is principally permitted in that zoning
8 district. Authorization of an additional unit over the density limits will not change the official zoning
9 classification of the lot.

10 (4) A legalized unit will be considered a legal nonconforming unit and subject to the
11 same privileges and restrictions contained in Section 181 of this Code.

12 (d) **Compliance With Other City Codes.** A dwelling unit authorized under this Section 207.3
13 must meet all applicable provisions of other City codes other than the provisions of the Planning Code
14 cited in subsection (c). Any Code equivalencies authorized under the San Francisco Building Code,
15 Electrical Code, Plumbing Code, Mechanical Code, Fire Code, or other applicable Code shall be
16 considered by the relevant agency. As provided by Section 37.2(r) of the Administrative Code, a
17 dwelling unit that was subject to the Residential Rent Stabilization and Arbitration Ordinance (Chapter
18 37 of the San Francisco Administrative Code) prior to legalization under this Section 207.3 shall
19 remain subject to the Residential Rent Stabilization and Arbitration Ordinance after legalization.

20 (e) **Additional Dwelling Unit Considered a Lawful Nonconforming Use.** Any dwelling unit
21 authorized under this Section 207.3 shall be considered a lawful nonconforming use subject to the
22 provisions of Planning Code Sections 180 through 189.

23 (f) **Subdivision and Lot Splits Prohibited.** Notwithstanding the provisions of Article 9 of the
24 San Francisco Subdivision Code, a lot with an additional unit authorized under this Section 207.3 may
25 not be subdivided in a manner that would allow for the additional unit to be sold or separately financed

1 pursuant to any condominium plan, housing cooperative, or similar form of separate ownership. The
2 additional unit may be re-merged per Section 317 of the Planning Code.

3 (g) **Reports.** Six months from the effective date of this ordinance and every six months for the
4 first three years after the effective date, the Zoning Administrator and the Director of the Department of
5 Building Inspection shall issue a joint report on the effectiveness of the additional dwelling unit
6 authorization program. After three years, the report will be included in the City's Annual Housing
7 Inventory. The report shall, at a minimum, state the number of pre-screening forms and building
8 permit applications that have been filed pursuant to this Section 207.3. For the first three years, copies
9 of these reports shall be submitted to the Clerk of the Board of Supervisors, the Mayor, and the
10 Controller.

11 (h) **Master List of Additional Dwelling Units Approved.** The Planning Department shall
12 create and maintain a master list of dwelling units approved pursuant to the provisions of this Section
13 207.3 and corresponding property addresses for use by the San Francisco Rent Stabilization and
14 Arbitration Board, Tax Assessor, and other interested City departments, boards or commissions.

15 Section 3. The Planning Code is hereby amended by amending Section 311, to reach
16 as follows:

17 **SEC. 311. RESIDENTIAL PERMIT REVIEW PROCEDURES FOR RH, RM, AND RTO**
18 **DISTRICTS.**

19 * * * *

20 (b) **Applicability.** Except as indicated herein, all building permit applications for
21 demolition and/or new construction, and/or alteration of residential buildings in RH, RM, and
22 RTO Districts shall be subject to the notification and review procedures required by this
23 Section. Subsection 311(e) regarding demolition permits and approval of replacement
24 structures shall apply to all R Districts.

1 (1) For the purposes of this Section, an alteration in RH and RM Districts shall be
2 defined as any change in use ~~or change in the number of dwelling units of a residential building,~~
3 removal of more than 75 percent of a residential building's existing interior wall framing or the
4 removal of more than 75 percent of the area of the existing framing, or an increase to the
5 exterior dimensions of a residential building except those features listed in Section 136(c)(1)
6 through 136(c)(24) and 136(c)(26).

7 (2) For the purposes of this Section, an alteration in RTO Districts shall be defined as a
8 change of use described in Section 312(c) ~~or a change in the number of dwelling units of a~~
9 ~~building,~~ removal of more than 75 percent of a building's existing interior wall framing or the
10 removal of more than 75 percent of the existing framing, or an increase to the exterior
11 dimensions of a building except for those features listed in Section 136(c)(1) through
12 136(c)(24) and 136(c)(26).

13 * * * *

14 Section 4. The Building Code is hereby amended by adding Section 106A.3.1.3, to
15 read as follows:

16 **106A.3.1.3. Authorization of Dwelling Units Installed Without a Permit.**

17 **(a) Pre-Screening required.** Prior to filing a permit application for approval of an existing
18 unauthorized dwelling unit under Section 207.3 of the Planning Code, the owner of the building or the
19 owner's authorized agent shall submit the following information to the Department for the purpose of
20 determining whether the unauthorized dwelling unit can comply with the requirements of this Code or
21 other codes administered and enforced by the Department, or whether equivalencies from Code
22 requirements can be obtained:

23 (1) a pre-screening form, together with floor plans for the entire building and a plan
24 showing the location of all structures on the subject lot;

1 (2) evidence from the San Francisco Water Department, telephone, gas or electric
2 records, written lease agreements, or other evidence acceptable to the Department showing that the
3 dwelling unit for which approval is sought existed prior to January 1, 2013;

4 (3) an assessment prepared by a licensed contractor, architect, or engineer that outlines
5 a plan to comply with all applicable requirements of the Building Code and other Codes administered
6 and enforced by the Department; and

7 (4) such other information as the Building Official shall require.

8 (b) **Alternative review process.** The Department shall provide a list of consultants who are
9 expert in Code requirements or develop an equivalent process that would enable the property owner to
10 consult with outside experts in advance of submitting to the Department the pre-screening form and
11 other information required by subsection (a).

12 (c) **Fee.** The Standard Hourly Rates for Administration shall apply to compensate the
13 Department for its costs in administering the pre-screening program.

14 (d) **Application Process; Permit(s) Required.** After completion of the pre-screening process
15 required by subsection (a) a property owner or the owner's authorized agent may file an application
16 for a building permit to grant legal status to one existing dwelling unit on the property along with
17 applications for any required plumbing and electrical permits. The building permit application shall
18 explicitly refer to this Code section and designate the unit for which approval is sought. The approval,
19 issuance, expiration and cancellation of an application filed pursuant to this Section and any resulting
20 permits shall be in accordance with the provisions of all City codes, except as provided below.

21 Cancellation or disapproval of a permit application shall terminate all rights under this Section
22 created by the application. A dwelling unit is not lawful unless and until all necessary approvals have
23 been obtained.

24 Section 5. The Administrative Code is hereby amended by amending Sections 37.2
25 and 37.7, to read as follows:

1 * * * *

2 **SEC. 37.2. DEFINITIONS.**

3 (r) **Rental Units.** All residential dwelling units in the City and County of San Francisco
4 together with the land and appurtenant buildings thereto, and all housing services, privileges,
5 furnishings and facilities supplied in connection with the use or occupancy thereof, including
6 garage and parking facilities.

7 Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks,
8 patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy
9 (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed
10 from the tenancy by the landlord without just cause as required by Section 37.9(a). Any
11 severance, reduction or removal permitted under this Section 37.2(r) shall be offset by a
12 corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent
13 Board to determine the amount of the rent reduction.

14 The term "rental units" shall not include:

15 (1) Housing accommodations in hotels, motels, inns, tourist houses, rooming and
16 boarding houses, provided that at such time as an accommodation has been occupied by a
17 tenant for 32 continuous days or more, such accommodation shall become a rental unit
18 subject to the provisions of this Chapter; provided further, no landlord shall bring an action to
19 recover possession of such unit in order to avoid having the unit come within the provisions of
20 this Chapter. An eviction for a purpose not permitted under Section 37.9(a) shall be deemed
21 to be an action to recover possession in order to avoid having a unit come within the
22 provisions of this Chapter;

23 (2) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a
24 majority of the residents or dwelling units solely owned by a nonprofit public benefit
25 corporation governed by a board of directors the majority of which are residents of the

1 dwelling units and where it is required in the corporate by-laws that rent increases be
2 approved by a majority of the residents;

3 (3) Housing accommodation in any hospital, convent, monastery, extended care
4 facility, asylum, residential care or adult day health care facility for the elderly which must be
5 operated pursuant to a license issued by the California Department of Social Services, as
6 required by California Health and Safety Chapters 3.2 and 3.3; or in dormitories owned and
7 operated by an institution of higher education, a high school, or an elementary school;

8 (4) Except as provided in Subsections (A), (B) and (C), dwelling units whose rents
9 are controlled or regulated by any government unit, agency or authority, excepting those
10 unsubsidized and/or unassisted units which are insured by the United States Department of
11 Housing and Urban Development; provided, however, that units in unreinforced masonry
12 buildings which have undergone seismic strengthening in accordance with Building Code
13 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
14 ordinance is not in conflict with the seismic strengthening bond program or with the program's
15 loan agreements or with any regulations promulgated thereunder;

16 (A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A,
17 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A
18 applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall
19 include units occupied by recipients of tenant-based rental assistance where the tenant-based
20 rental assistance program does not establish the tenant's share of base rent as a fixed
21 percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-
22 FMR Tenancy" program defined in 24 CFR Section 982.4;

23 (B) For purposes of Sections 37.2, 37.3(a)(10)(B), 37.4, 37.5, 37.6, 37.9, 37.9A,
24 37.10A, 37.11A and 37.13, the term "rental units" shall include units occupied by recipients of
25 tenant-based rental assistance where the rent payable by the tenant under the tenant-based

1 rental assistance program is a fixed percentage of the tenant's income; such as in the Section
2 8 certificate program and the rental subsidy program for the Housing Opportunities for
3 Persons with Aids ("HOPWA") program (42 U.S.C. Section 12901 et seq., as amended);

4 (C) The term "rental units" shall include units in a building for which tax credits
5 are reserved or obtained pursuant to the federal low income housing tax credit program
6 (LIHTC, Section 42 of the Internal Revenue Code, 26 U.S.C. Section 42), that satisfy the
7 following criteria:

8 (i) Where a tenant's occupancy of the unit began before the applicable
9 LIHTC regulatory agreement was recorded; and,

10 (ii) Where the rent is not controlled or regulated by any use restrictions
11 imposed by the City and County of San Francisco, the San Francisco Redevelopment
12 Agency, the State of California Office of Housing and Community Development, or the United
13 States Department of Housing and Urban Development.

14 Nothing in this Section 37.2(r)(4)(C) precludes a landlord from seeking an exemption
15 from rent regulation on the basis of substantial rehabilitation under Section 37.2(r)(6).

16 This Section 37.2(r)(4)(C) definition of "rental unit" shall apply to any unit where the
17 qualifying tenant (see Section 37.2(r)(4)(C)(i)) is in possession of the unit on or after the
18 effective date of this ordinance (Ord. No. 281-06), including but not limited to any unit where
19 the tenant has been served with a notice to quit but has not vacated the unit and there is no
20 final judgment against the tenant for possession of the unit as of the effective date of this
21 ordinance (Ord. No. 281-06).

22 (D) The term "rental units" shall a dwelling unit constructed without benefit of permit
23 in an existing residential building and subsequently authorized pursuant to Section 207.3 of the
24 Planning Code if that unit had been subject to the Residential Rent Stabilization and Arbitration
25 Ordinance prior to authorization.

1 (5) Rental units located in a structure for which a certificate of occupancy was first
2 issued after the effective date of this ordinance; (A) except as provided for certain categories
3 of units and dwellings by Section 37.3(d) and Section 37.9A(b) of this Chapter, (B) except as
4 provided in a development agreement entered into by the City under San Francisco
5 Administrative Code Chapter 56; and (C) except as provided for foreclosed units and
6 dwellings by Section 37.9D.

7 (6) Dwelling units in a building which has undergone substantial rehabilitation after
8 the effective date of this ordinance; provided, however, that RAP rental units are not subject to
9 this exemption; and except as provided for foreclosed units and dwellings by Section 37.9D.

10 (7) Dwellings or units otherwise subject to this Chapter 37, to the extent such
11 dwellings or units are partially or wholly exempted from rent increase limitations by the Costa-
12 Hawkins Rental Housing Act (California Civil Code Sections 1954.50, et seq.) and/or San
13 Francisco Administrative Code Section 37.3(d).

14 * * * *

15 **SEC. 37.7. CERTIFICATION OF RENT INCREASES FOR CAPITAL IMPROVEMENTS,**
16 **REHABILITATION WORK, ENERGY CONSERVATION IMPROVEMENTS, AND**
17 **RENEWABLE ENERGY IMPROVEMENTS.**

18 (a) **Authority.** In accordance with such guidelines as the Board shall establish, the
19 Board and designated Administrative Law Judges shall have the authority to conduct hearings
20 in order to certify rental increases to the extent necessary to amortize the cost of capital
21 improvements, rehabilitations, energy conservation improvements, and renewable energy
22 improvements. Costs determined to be attributable to such work and improvements shall be
23 amortized over a period which is fair and reasonable for the type and the extent of the work
24 and improvements, and which will provide an incentive to landlords to maintain, improve and
25 renovate their properties while at the same time protecting tenants from excessive rent

1 increases. Costs attributable to routine repair and maintenance, or any costs attributable to
2 legalizing an existing dwelling unit under Section 207.3 of the Planning Code shall not be certified.

3 * * * *

4 Section 6. The Administrative Code is hereby amended by adding Chapter 73, to read
5 as follows:

6 **CHAPTER 73. RELOCATION ASSISTANCE FOR RESIDENTS DISPLACED DUE TO**
7 **LEGALIZATION OF EXISTING DWELLING UNITS UNDER PLANNING CODE SECTION**
8 **207.3.**

9 **SEC. 73.1. INTENT AND PURPOSE.**

10 (a) The Board of Supervisors finds that authorization of an illegally installed dwelling unit
11 pursuant to Planning Code Section 207.3 may require temporary vacation of the tenants because the
12 work necessary to authorize the unit cannot be performed while they remain in place and that tenants
13 who are required to vacate their units may experience difficulty in finding affordable replacement
14 housing because of San Francisco’s housing market.

15 (b) The Board of Supervisors specifically finds that tenants displaced as a result of the property
16 owner’s obtaining legal authorization for the unit suffer a financial burden because of the acute lack of
17 resources available for locating and securing suitable relocation housing. Additional hardship is often
18 caused by lack of safe and decent comparably sized and located housing at an affordable rent.

19 (c) In order to ensure that adequate relocation assistance is available to lawful tenants who are
20 subject to displacement due to the fact that the owner of their illegal unit is obtaining authorization for
21 the unit and to provide that assistance in a manner that is as equitable as possible to the tenant, the
22 landlord, and the public at large, the Board of Supervisors finds and declares that this Chapter is
23 necessary to protect and further the public health, safety, and welfare.

24 **SEC. 73.2. DEFINITIONS.** The terms Landlord, Owner, Relocation Assistance, Residential
25 Unit, Right to Occupy, and Tenant shall be as defined in Chapter 72 of this Code.

1 **SEC. 73.3. RELOCATION ASSISTANCE.** *The procedures for Relocation Assistance under*
2 *this Chapter and the provisions for enforcement and penalties for violation shall be as set forth in*
3 *Chapter 72 for Lead Hazard Remediation.*

4 Section 7. Equivalencies. This section is uncodified. The Director of the Department of
5 Building Inspection shall determine whether equivalencies from the provisions of the San
6 Francisco Building Code can be developed in order to facilitate authorization of existing
7 dwelling units under Planning Code Section 207.3, shall prepare one or more Administrative
8 Bulletins to define and implement the code equivalencies, and shall coordinate with the
9 Zoning Administrator in the development of any joint Administrative Bulletins that the Planning
10 and Building Departments determine are necessary or desirable in order to implement the
11 policy and provisions of this ordinance. Any Administrative Bulletins developed jointly or by
12 either Department shall be completed within one year of the effective date of this ordinance.

13 Section 8. Notice. This section is uncodified. Within one month from the effective date
14 of this ordinance, the Clerk of the Board of Supervisors shall cause to be published at least
15 once in a newspaper of general circulation notice that the program for authorization of existing
16 dwelling units under Planning Code Section 207.3 is in effect. The Tax Collector shall mail
17 notice to property owners with the first property tax bill sent after the effective date of this
18 ordinance. The notices by the Clerk of the Board and the Tax Collector shall advise property
19 owners of the provisions of said Section 207.3. The Zoning Administrator and the Director of
20 the Department of Building Inspection shall supplement the aforementioned notices with any
21 additional notice they deem necessary to insure that the public receives adequate notice of
22 the provisions of said Section 207.3.

23 Section 9. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3 Section 10. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
4 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
5 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
6 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
7 additions, and Board amendment deletions in accordance with the "Note" that appears under
8 the official title of the ordinance.

9 Section 11. Severability. If any section, subsection, sentence, clause, phrase, or word
10 of this Section is for any reason held to be invalid or unconstitutional by a decision of any
11 court of competent jurisdiction, such decision shall not affect the validity of the remaining
12 portions of the Section. The Board of Supervisors hereby declares that it would have passed
13 this Section and each and every section, subsection, sentence, clause, phrase, and word not
14 declared invalid or unconstitutional without regard to whether any other portion of this Section
15 would be subsequently declared invalid or unconstitutional.

16 Section 12. Directions to Clerk. The Clerk is hereby directed to submit a copy of this
17 ordinance to the California Department of Housing and Community Development within 60
18 days following adoption pursuant to Section 65852.2(h) of the California Government Code.

19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 JUDITH A. BOYAJIAN
23 Deputy City Attorney

24 n:\egana\as2013\1300490\00887238.doc

[Enhanced Ventilation Required for Urban Infill Sensitive Use Development in the Air Pollutant Exposure Zone]

Ordinance amending the San Francisco Health Code Section 3801 - 3813 to require an enhanced ventilation system for sensitive receptor projects within the Air Pollutant Exposure Zone; amending the San Francisco Building Code section 1203.5 to reflect changes in the Health Code; and making environmental findings.

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strike through italics Times New Roman*~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough-normal~~.

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

Section 1. The San Francisco Health Code is hereby amended by amending Section 3801 to 3813 as follows:

SEC. 3801. Short Title.

This Article shall be entitled "Enhanced Ventilation Required for Urban Infill Sensitive Use Developments ~~in the Air Pollutant Exposure Zone.~~"

SEC. 3802. Findings.

~~(a) Motor vehicles are a major source of air pollution in the United States, particularly in urban areas;~~

(a) Scientific studies have found an association between exposure to particulate matter and significant human health problems, including: aggravated asthma; chronic bronchitis; reduced lung function; irregular heartbeat; heart attack; and premature death in people with heart or lung disease. Exposure

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1 to air pollutants that are carcinogens can also have significant human health consequences. For
2 example, exposure to diesel exhaust is an established cause of lung cancer.

3 (b) Heart disease and stroke are the first and fourth leading causes of death in the U.S, respectively;
4 air pollution affects heart health and can trigger heart attacks and strokes that cause disability and
5 death; one in three Americans has heart or blood vessel disease and is at higher risk from air pollution.
6 Impacts on the lungs may take several forms. Short-term effects include deficits in lung function that
7 can limit breathing, especially during exercise. Irritants may cause airway constriction or chest
8 tightening that is uncomfortable or limiting to normal activity. These changes in lung function
9 sometimes have underlying lung tissue inflammation which over the long term may lead to chronic lung
10 disease. Exposure to air pollutants may be a contributing factor to leading causes of death recorded for
11 San Francisco's population (ischemic heart disease; lung, bronchus and tracheal cancers;
12 cerebrovascular disease; chronic obstructive pulmonary disease; hypertensive heart disease and lower
13 respiratory infection). Pollution from motor vehicles imposes severe health burdens on children and
14 families living near freeways and busy roadways. Health research has consistently shown that
15 (c) ~~P~~ Persons living in close proximity to air pollution sources, such as freeways or busy

16 roadways, have poorer lung functions and are more susceptible to develop asthma and other
17 respiratory problems, compared with persons living at a greater distance from sources.

18 (c) — To avoid the health problems associated with exposure to roadway pollution, the California Air
19 Resources Board recommends avoiding the placement of residential and other sensitive uses within 500
20 feet (approximately 150 meters) of busy freeways and other busy roadways. However, significant
21 residential development in the state is occurring in urban infill sites, near freeways or busy arterial
22 roadways.

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1 ~~roadways, potentially increasing these residents' exposure to air pollutants and their associated health~~
2 ~~risks; and~~

3 ~~(d) — This situation is exacerbated in the City of San Francisco, which, by virtue of being located on a~~
4 ~~peninsula, has a limited amount of land available for new residential development.~~

5 (d) Proximity to sources of air pollution increases exposure and proximity to sources is established to
6 be more common for the poor and for certain ethnic minorities.

7 (e) Consequently, health vulnerability varies among neighborhoods and populations within San
8 Francisco, as measured by population health records of air pollution-associated hospital discharges
9 and emergency room visits, and non-accident mortality. Health vulnerable populations are likely to
10 have more significant health consequences from air pollutant exposure compared to populations that
11 are less vulnerable.

12
13 (f) Existing regulatory control measures, often focused on new stationary sources of emissions and
14 average regional air pollution concentrations, are not sufficient to address all local sources of
15 exposures or disparities in exposure.

16
17 (g) Sensitive Use buildings, as defined in Section 3804(h) of this code, have the highest proportion of
18 individuals that are most vulnerable to air pollutant exposures.

19 (h) Available technologies exist to protect sensitive uses from air pollution health effects. Available
20 and accepted air pollution modeling technology allows for the estimation of certain air pollutant
21 concentrations for individual land parcels. Furthermore, available building ventilation and
22 engineering technologies provide mechanisms to protect indoor environments from the infiltration of
23 ambient air pollutants.

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1 **SEC. 3803. Purposes and Goals.**

2 (a) The purpose of this Article is to protect the public health and welfare by establishing an Air
3 Pollutant Exposure Zone and imposing an enhanced ventilation requirement for all urban infill
4 sensitive use development within the Air Pollutant Exposure Zone.

5 (b) The goals of this law are to maintain and increase the stock of infill housing and other sensitive
6 use buildings in the City and County of San Francisco that reduce the risk of human health impacts
7 from air pollutants among occupants of buildings in the Air Pollutant Exposure Zone.

8 (c) Additionally, the goals of this law are to maintain and increase the stock of housing and other
9 sensitive use buildings in the City and County of San Francisco that provide accessibility to occupants
10 and visitors with chronic disease and related disabilities.

11
12 **SEC. 38034. Definitions.**

13 For the purposes of this Article, the following words shall have the following meanings:

14
15 ~~(a) — "Building" means a new structure containing ten or more dwelling units as those terms are~~
16 ~~defined in the San Francisco Building Code.~~

17 ~~(b) — "Department" means the San Francisco Department of Public Health.~~

18 ~~(c) — "Director" means the Director of the San Francisco Department of Public Health or the~~
19 ~~Director's designee.~~

20 ~~(d) — "Local Roadway Traffic Sources" means traffic generated on roadways within 500 feet from the~~
21 ~~site.~~

22 ~~(e) — "PM 2.5" means solid particles and liquid droplets found in the air, that are less than 2.5~~
23 ~~micrometers in diameter.~~

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1 ~~(f)(a)~~ "Potential Roadway Air Pollutant Exposure Zone" means those areas within the City and
2 County of San Francisco which, by virtue of their proximity to ~~freeways and major roadways, may~~
3 ~~exhibit high PM 2.5 concentration attributable to Local Roadway Traffic Sources.~~ air pollution
4 emissions sources have substantially greater concentrations of air pollutants. Citywide, the designated
5 Air Pollutant Exposure Zone will be modeled according to specific risk factors defined in the Rules and
6 Regulations, and will include at a minimum, criteria for maximum allowed excess cancer risks and
7 maximum PM_{2.5} concentrations; these criteria shall be more stringent in health vulnerable locations.

8
9 ~~(g)~~ "Potential Roadway Exposure Zone" means a map, prepared and periodically updated by the
10 Director and available to the public in the Department's website, depicting the Potential Roadway
11 Exposure Zone.

12 ~~(b)~~ "Building" means a building that contains a "Sensitive Use" and that is either:

13 (1) a new building; or

14 (2) a building undergoing a "Major Alteration to Existing Building" as defined by the San
15 Francisco Green Building ordinance; or

16 (3) a building undergoing a permitted change of use.

17
18 ~~(b)(c)~~ "Department" means the San Francisco Department of Public Health.

19
20 ~~(e)(d)~~ "Director" means the Director of the San Francisco Department of Public Health or the
21 Director's designee.

22 (e) "Enhanced Ventilation" means the ventilation system proposed will be capable of achieving the
23 protection from particulate matter (PM_{2.5}) equivalent to that associated with MERV 13 filtration (as
24

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1 defined by American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)
2 standard 52.2).

3 (f) "Health Vulnerable Locations" means those San Francisco zip codes, census tracts or other
4 defined locations having the highest percentage of health vulnerable residents, based on criteria such
5 as State discharge data from respiratory and cardiovascular related hospitalizations, non-accident
6 mortality, or other criteria as determined by the Director and specified in the Rules and Regulations
7 governing this Article.

8
9 (e)(g) "PM_{2.5}" means solid particles and liquid droplets found in the air, that are less than or
10 equal to 2.5 micrometers (µm) in diameter.

11 (h) "Sensitive Use" means:

12
13 (1) any building designated for residential use, including but not limited to those defined by the
14 San Francisco Housing Code, such as Dwelling Units Guest Rooms, Housekeeping Rooms,
15 Congregate Residences, and Lodging Houses and Hotels, excluding Tourist Hotels;

16 (2) any building designated for residential use, including but not limited to those defined by the
17 San Francisco Planning Code, such as Live/Work Space and Student Housing;

18 (3) any residential facility specifically designed for sensitive populations, including but not
19 limited to California Department of Social Services (CDSS)-licensed Adult Residential Facilities,
20 Residential Care Facilities for the Chronically Ill, Residential Care Facilities for the Elderly and
21 Continuing Care Retirement Communities;

22
23
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1 (4) any facility used for serving sensitive populations, including but not limited to CDSS-
2 licensed Adult Day Cares, Adult Support Centers, Child Care Centers, Family Child Care Homes,
3 Infant Cares, School-Aged Child Care Centers, and Community Treatment Centers;

4 (5) any California Department of Education (CDE)-licensed schools;

5 (6) any California Department of Public Health (CDPH)-licensed Health Care Facilities with
6 24-hour care, except for CDPH-licensed hospitals.

7
8 ~~(h)~~(i) "Site" means a parcel of land as defined in the San Francisco Building Code.

9
10 **SEC. 38045. Applicability of Article.**

11 This Article shall apply to ~~newly constructed~~ buildings containing ~~ten or more dwelling units~~ any
12 Sensitive Use located on a parcel identified as located within the ~~Potential Roadway Exposure Zone,~~
13 ~~and that have been determined to have a PM 2.5 concentration at the proposed site greater than 0.2~~
14 ~~ug/m3 attributable to Local Roadway Traffic Sources, as defined herein.~~ Air Pollutant Exposure Zone
15 that are either:

16 (a) Newly constructed; or

17 (b) A building undergoing a "Major Alteration to Existing Building" as defined by the San Francisco
18 Green Building ordinance; or

19 (c) Applying for a permitted change of use.

20
21 **SEC. 38056. ~~Potential Roadway~~ Air Pollutant Exposure Zone and ~~Potential Roadway~~ Air Pollutant**

22 **Exposure Zone Map.**

23 (a) Pursuant to Section 4.110 of the Charter of the City and County of San Francisco, the
24 Director shall create ~~a Potential Roadway~~ an Air Pollutant Exposure Zone Map, ~~depicting the~~

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1 Potential Roadway Exposure Zone according to Rules and Regulations established pursuant to Section
2 3809. The Air Pollutant Exposure Zone Map shall depict all locations within the city of San Francisco
3 where the estimated cumulative PM_{2.5} concentration is greater than 10 µg/m³ or where the estimated
4 cumulative excess risk of cancer from air pollutants resulting from lifetime (70 year) exposure is
5 greater than 100 in a million. Within Health Vulnerable Locations, the Air Pollutant Exposure Zone
6 Map shall depict all locations where the estimated cumulative PM_{2.5} concentration is greater than 9
7 µg/m³ or where the estimated cumulative excess risk of cancer from air pollutants resulting from
8 lifetime (70 year) exposure is greater than 90 in a million. The Director shall update the Air Pollutant
9 Exposure Zone Map to identify new sources, updated pollutant standards, additional pollutants and
10 standards for those pollutants, and updated methodologies in accordance with Section 3809 and the
11 accompanying Rules and Regulations for this Article..

12
13 (b) The Director shall ~~from time to time~~, at least once every five years, update the Potential
14 Roadway Exposure Zone Map, Rules and Regulations governing creation of the Air Pollutant Exposure
15 Zone Map to account for changes in ~~circumstances in the Potential Roadway Exposure Zone~~
16 information including, but not limited, to:

17
18 (1) Information available to estimate air pollutants of health concern;

19 (2) Information available to determine Health Vulnerable locations; and

20
21 (3) Information that may affect delineation of the Air Pollutant Exposure Zone, including, but
22 not limited to:

23 (A) Construction, ~~expansion or modification of new major~~ roadways ~~in residential areas~~;

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1 ~~(2)~~(B) Changes in traffic patterns in the City's roadway system; ~~or~~

2 ~~(3) Specific scientific data showing that certain areas should be included in the Potential~~
3 ~~Roadway Exposure Zone Map.~~

4 (C) Changes in area sources or siting of industrial or commercial sources of air pollution;
5 and

6 (D) Climatic factors for which there is evidence of impact to air quality.

7
8 (c) The Director shall post the ~~Potential Roadway Air Pollutant~~ Exposure Zone Map ~~in on~~ the
9 Department's website, and make paper copies of the map available to the public upon
10 request.

11
12 (d) In creating and updating the ~~Potential Roadway Air Pollutant~~ Exposure Zone Map, the
13 Director shall follow the procedures ~~of Section 3809, and shall make specific findings explaining~~
14 ~~how the boundaries of the Potential Roadway Exposure Zone Map meet the definition of Section~~
15 ~~3803(f).~~ specified in the Rules and Regulations adopted in accordance with Section 3809.

16
17 (e) The current ~~Potential Roadway Air Pollutant~~ Exposure Zone Map is attached to this
18 ~~Ordinance Article~~ as Attachment A.

19 **~~SEC. 3806. Air Quality Assessment and Air Quality Report.~~**

20 ~~(a) — Projects meeting the conditions of Section 3804 shall have performed an Air Quality~~
21 ~~Assessment, to evaluate the concentration of PM 2.5 from Local Roadway Traffic Sources at the site.~~
22 ~~All locations at the site where residential buildings or construction may occur shall be evaluated. The~~
23 ~~Department shall develop guidance, pursuant to Section 3809, setting forth what types of analyses shall~~

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1 ~~be conducted. The project sponsor shall follow the Department's guidance, unless an alternative~~
2 ~~proposal is approved in writing by the Director.~~

3 ~~(b) — At the completion of the Air Quality Assessment required by Section 3806(a), an Air Quality~~
4 ~~Report shall be submitted to the Director. The Air Quality Report shall contain the following~~
5 ~~information:~~

6 ~~(1) The names, addresses and professional expertise of the persons who conducted the Air~~
7 ~~Quality Assessment;~~

8 ~~(2) An explanation of the methodology used in the Air Quality Assessment; and~~

9 ~~(3) The results of the Air Quality Assessment.~~

10 ~~(c) — Review by the Director. The Director shall determine whether the Air Quality Report required~~
11 ~~by this Article was conducted as required by this Article, and whether the Air Quality Report is~~
12 ~~complete. If the Air Quality Report was not conducted as required by this Article or does not comply~~
13 ~~with the requirements of this Section, the Director shall notify the project sponsor in writing within 30~~
14 ~~days of receipt of the Air Quality Report, indicating the reasons the report is unacceptable. A copy of~~
15 ~~the notification shall be sent to the Director of building Inspection.~~

16 ~~(d) Finding of No Dangerous PM 2.5 Concentration. If the Air Quality Report indicates that the~~
17 ~~concentration level of PM 2.5 from Local Roadway Traffic Sources at the site is less than 0.2 ug/m³,~~
18 ~~the Director shall provide the project sponsor with written notification that the project has complied~~
19 ~~with the requirements of this Article.~~

20
21 **SEC. 3807. Enhanced Ventilation Requirement.**

22 ~~(a) If the Air Quality Report indicates that the concentration level of PM 2.5 from Local Roadway~~
23 ~~Traffic Sources at the site is greater than 0.2 ug/m³ the project shall:~~

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1 ~~(1) be designed, or relocated on the site in a way that would avoid residential exposure to PM~~
2 ~~2.5 concentration from Local Roadway Traffic Sources greater than 0.2 ug/m3, as demonstrated by the~~
3 ~~Air Quality Report, or~~

4 ~~(2) Any person or entity to whom this Article applies as defined in Section 3805 (Applicability~~
5 ~~of Article) shall submit to the Director ~~an Enhanced~~ Ventilation Proposal, including all~~
6 ~~mechanical engineering plans, specifications, calculations, and reports prepared by, or under the~~
7 ~~responsible charge of, a licensed mechanical engineer or other individual authorized by the~~
8 ~~California Business and Professions Code Sections 6700-6799 (Professional Engineers Act) to design~~
9 ~~professional, to install in the project a mechanical ventilation system to systems that meet the~~
10 requirements of this Article and San Francisco Building Code Section 1203.5. An Enhanced
11 Ventilation Proposal shall include the name, title and license number of the person submitting such
12 proposal.

13 (b) Building permit documents submitted to the Department of Building Inspection shall
14 incorporate designs and details necessary for the construction of such ventilation system. The
15 Department of Building Inspection shall review plans and issue or deny permits for the construction,
16 installation, or modification of enhanced ventilation systems in accordance with laws and regulations.

17 ~~(b)(c)~~ The Enhanced Ventilation Proposal shall explain in detail how the project will achieve
18 the standards mandated by this Article and accompanying Rules and Regulations, San Francisco
19 Building Code Section 1203.5. The, and any relevant amendments or revisions thereto. The
20 Enhanced Ventilation Proposal shall include a statement signed by the licensed design
21 professional person who prepared it, in accordance with the requirements of 3807(a), certifying that
22 in his or her judgment the ventilation system proposed will be capable of removing >80% of
23
24

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1 ~~ambient PM 2.5~~achieving the protection from habitable areas of dwelling units, particulate matter
2 (PM_{2.5}) equivalent to that associated with MERV 13 filtration (as defined by ASHRAE standard 52.2).
3 In scheduled updates to the Rules and Regulations, the Director may specify additional or alternative
4 protective equivalents as technology and research dictate.

5
6 **SEC. 3808. Maintenance of Documents by Director.**

7 The ~~Air Quality Report, Enhanced~~ Ventilation Proposal, Certification and related documents
8 shall become part of the file maintained by the Department. Such file shall be available to the
9 public upon request.

10 **SEC. 3809. Rules and Regulations.**

11 (a) ~~Adoption of Rules. The Director may adopt, and may thereafter amend, rules, regulations and~~
12 ~~guidelines that the Director deems necessary to implement the provisions of this Article. For the~~
13 ~~purposes of this Article, a public hearing before the Health Commission shall be held prior to the~~
14 ~~adoption or any amendment of the rules, regulations and guidelines recommended for implementation,~~
15 ~~including creation and amendments to update the Potential Roadway Exposure Zone Map. In addition~~
16 ~~to notices required by law, the Director shall send written notice, at least 15 days prior to the hearing,~~
17 ~~to any interested party who sends a written request to the Director for notice of hearings related to the~~
18 ~~adoption of rules, regulations and guidelines pursuant to this Section.~~

19
20 ~~In developing such regulations, the Director shall consider, inter alia, State and federal statutes,~~
21 ~~regulations and guidelines pertaining to the health effects of roadway air pollutants. The Director shall~~
22 ~~also~~ Any person or entity as defined in Section 3805 (Applicability of Article) to whom this Article

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1 applies shall comply with this Article, the Rules and Regulations adopted by the Department, and all
2 applicable local, state, and federal laws.

3 (b) Within 90 days after this Article is chaptered, the Director shall issue Rules and Regulations
4 necessary to effectuate the purposes of the Article and to protect public health and safety.

5 (c) The Director shall consult with the Planning Department's Environmental Review Officer at
6 least 30 days prior to initiating any amendments or modifications to ~~these rules or regulations,~~
7 ~~including changes to the Potential Roadway Exposure Zone Map, and shall seek such officer's~~
8 ~~concurrence on any proposed change.~~ the Rules and Regulations.

10 (d) The Director shall ~~also, from time to time,~~ consult with the Green Building Task Force, to
11 coordinate and resolve any potential conflicts that may arise between the Green Building
12 Ordinance and this ~~Ordinance~~ Article.

14 ~~(b)(e) Guidelines for Rules and Regulations. Rules, regulations and guidelines may~~ shall address
15 ~~among others, the following subjects at a minimum:~~

16 ~~(1) Minimum standards for acceptable Air Quality Assessment tests. The minimum standards shall~~
17 ~~be designed to assist interested persons including, but not limited to, the Director of the~~
18 ~~Department of Building Inspection, other state and local public agencies and licensed design~~
19 ~~professionals, to evaluate whether analyses, other than those required by Section 3806(a) must be~~
20 ~~conducted to detect the presence of harmful roadway air pollutants;~~

22 (1) The criteria to be used for the definition of "Health Vulnerable Locations" shall be at least as
23 health-protective as that of the following Bay Area Air Quality Management District methodology.

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1 The Air Quality District methodology defines those zip codes in San Francisco in the worst quintile
2 of Bay Area health vulnerability scores identified by the Bay Area Air Quality Management
3 District based on two years of State-captured hospitalization and emergency room visit records
4 and estimated costs for the following air pollution related conditions per zip code: Chronic
5 Obstructive Pulmonary Disease (COPD) Hospital Admissions, Pneumonia Hospital Admissions,
6 Myocardial Infarction (MI, Heart Attack) Hospital Admissions and Emergency Room Visits,
7 Cardiovascular Hospital Admissions (less MI), Asthma Emergency Hospital Admissions and
8 Emergency Room Visits, Asthma Hospital Admissions, Hospital Admissions for Respiratory
9 Diseases, combined with the non-accident mortality rate per zip code. For San Francisco based on
10 2009-2011 health records, the zip codes in the worst quintile of Bay Area health vulnerability
11 scores are 94102, 94103, 94105, 94124, and 94130. In updates to the Rules and Regulations, the
12 Director may modify the methodology to identify Health Vulnerable Locations as required to
13 ensure the Air Pollutant Exposure Zone Map is consistent with current scientific evidence.

14
15
16 (2) The criteria for creating and updating the Air Pollutant Exposure Zone Map and the models
17 underlying this map including but not limited to:

18 (A) Identification of parcels with lifetime excess cancer risk due to air pollution greater than
19 100 cases per million population.

20 (B) Identification of parcels in Health Vulnerable Locations with lifetime excess cancer risk
21 due to air pollution greater than 90 cases per million population

22 (C) Identification of parcels where PM_{2.5} concentrations is greater than 10 µg/m³ (including
23 ambient levels).

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1 (D) Identification of parcels in Health Vulnerable Locations where PM_{2.5} concentrations is
2 greater than 9 µg/m³ (including ambient levels).

3 (3) Required performance standards for Enhanced Ventilation Proposals, which must include
4 the following minimum criteria:

5 (A) Location of air intake for HVAC systems (Heating, Ventilation and Air Conditioning)
6 away from air pollution sources;

7
8 (B) Specification of filtration certified by the ASHRAE capable of achieving protection from
9 particulate matter (PM_{2.5}) equivalent to that associated with a MERV 13 filtration (as defined
10 by ASHRAE standard 52.2).

11 (4) Additional criteria for Enhanced Ventilation Proposals, which may include the following
12 project design information:

13
14 (A) Number of air exchanges per hour of outside filtered air;

15 (B) Building materials and/or design that limits unfiltered infiltration of outside air, such as
16 air sealing or maintenance of positive pressure within the building interior;

17 (C) Location of operable windows oriented away from air pollutant sources, to the extent
18 feasible;

19 (D) Other building design criteria that may reduce air pollution exposure to residents; or

20 (E) Other combinations of technologies and designs to achieve the goals of this Article.

21
22
23 ~~(2)(5) Minimum education and experience-Certification and/or licensing requirements for the~~
24 ~~persons who prepare Air Quality Assessments pursuant to Section 3806(a) and the Enhanced~~

1 Ventilation Proposals pursuant to Section 3807; ~~and~~ The Enhanced Ventilation Proposal
2 must be prepared by, or under the responsible charge of a person who is:

3 ~~(3) Creation and Periodic Updates of the Potential Roadway Exposure Zone Map.~~

4 (A) authorized by the California Business and Professions Code Sections 6700-6799

5 (Professional Engineers Act) to design mechanical ventilation systems that meet the

6 requirements of this Article and San Francisco Building Code Section 1203.5 and either:

7 (B) a licensed mechanical engineer or

8 (C) an individual authorized by the California Business and Professions Code Sections 6700-

9 6799 (Professional Engineers Act) to design mechanical ventilation systems that meet the

10 requirements of this Article and San Francisco Building Code Section 1203.5.

11 ~~(6) Minimum criteria for maintenance and disclosure including but not limited to:~~

12 (A) Minimum standards for proper maintenance

13 ~~SEC. 3810. Maintenance Requirements.~~

14 ~~(a) The ventilation systems installed pursuant to Section 3807 shall be properly maintained,~~
15 following standard practices, and as specified by the manufacturer.

16 ~~(b) Project sponsors shall preserve~~ (B) Preservation of documentation of their actions
17 installing installation and/or maintaining maintenance of the enhanced ventilation systems
18 for five years after installation.

19 (C) Disclosure to buyers (and renters) that the building is located in an area with substantial
20 concentrations of air pollutants, and that the building includes an enhanced ventilation system;

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1 the disclosure shall inform buyers and renters of the proper use of the installed enhanced
2 ventilation system.

3 (f) In updates to the Rules and Regulations, the Director may specify additional or alternative
4 equivalents as justified by accepted research including:

5 (A) addition or substitution of risk factor criteria:

6 (B) inclusion of other pollutants such as Nitrogen Dioxide; or

7 (C) exclusion of parameters.

8
9 (g) In updates to the Rules and Regulations, the Director shall specify that within Health Vulnerable
10 Locations the Air Pollutant Exposure Zone will be defined by more protective risk factors.

11
12 **SEC. 38140. No Conflict with Federal or State Law**

13 Nothing in this Article shall be interpreted or applied so as to create any requirement, power,
14 or duty in conflict with any federal or state law.

15 **SEC. 38121. Severability**

16 If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to
17 be invalid or unconstitutional by a decision of any court of competent jurisdiction, such
18 decision shall not affect the validity of the remaining portions of the Article. The Board of
19 Supervisors hereby declares that it would have passed this Article and each and every
20 section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional
21 without regard to whether any portion of this Article would be subsequently declared invalid or
22 unconstitutional.
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1 **SEC. 381~~32~~. Undertaking for the General Welfare.**

2 In adopting and implementing this Article, the City and County of San Francisco is assuming
3 an undertaking only to promote the general welfare. It is not assuming, nor is it imposing in its
4 officers and employees, an obligation for breach of which it is liable in money damages to any
5 person who claims that such breach proximately caused injury.

6 Section 2. The San Francisco Building Code is hereby amended by amending the third paragraph to
7 Section 1203.5, to read as follows:

8 Sec. 1203.5. Amending third paragraph as follows:

9 ~~Newly constructed~~ For all buildings containing ~~ten or more dwelling units~~ *any sensitive land use*
10 located within the ~~Potential Roadway~~ Air Pollutant Exposure Zone ~~and having a PM2.5~~
11 ~~concentration at the proposed building site greater than 0.2 ug/m3 attributable to Local~~
12 ~~Roadway Traffic Sources, as determined by the Director of Health~~ pursuant to Article 38 of the
13 San Francisco Health Code, that are either:

14 (a) Newly constructed; or

15 (b) A building undergoing a “Major Alteration to Existing Building” as defined by the San
16 Francisco Green Building Ordinance; or

17 (c) Applying for a permitted change of use,

18 such buildings shall incorporate an ~~have~~ enhanced ventilation systems designed and constructed
19 to ~~remove >80% of ambient PM 2.5 from habitable areas of dwelling units~~ *be capable of achieving the*
20 protection from particulate matter (PM2.5) equivalent to that associated with MERV 13 filtration (as
21 defined by ASHRAE standard 52.2).

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Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 4. Environmental Findings.

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 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.

Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Administrative Code and Environment Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By: _____
ATTORNEY'S NAME
Deputy City Attorney

Name of Supervisor/Committee/Department
BOARD OF SUPERVISORS



Building and Health Code Amendment

The proposed Ordinance would amend Article 38 of the Health Code to require an enhanced ventilation system for sensitive receptor projects within the Air Pollutant Exposure Zone, as mapped by Article 38 of the Health Code; amend the Building Code to reflect changes in Article 38 of the Health Code; and make environmental findings.

GOAL OF THE ORDINANCE

The goal of the proposed Ordinance is to protect public health in locations of the City burdened with poor air quality (Air Pollutant Exposure Zone). The proposed Ordinance requires new sensitive receptor construction to include a ventilation system that requires the removal of fine particulate matter (PM_{2.5}) equivalent to that associated with MERV 13 filtration.

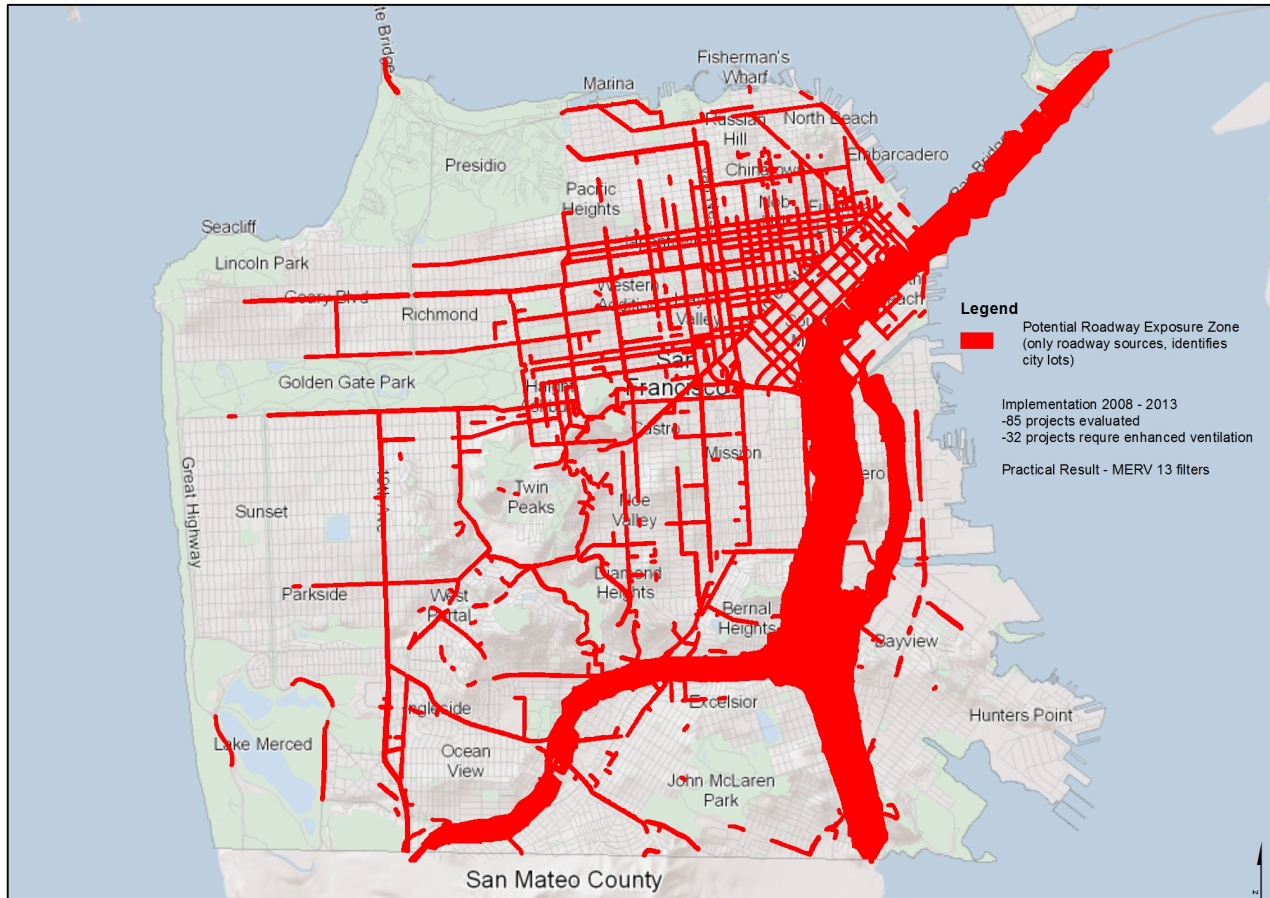
THE WAY IT IS NOW:

- The Department of Public Health (DPH) maintains a map that identifies *potential* roadways with PM_{2.5} concentrations greater than 0.2 µg/m³ (Potential Roadway Exposure Zone). During the building permit review process, any newly constructed building containing 10 or more residential units within the Potential Roadway Exposure Zone requires that an Air Quality model be generated to assess the impact of roadways within 150 meters to determine if building users would be exposed to PM_{2.5} concentrations greater than 0.2 µg/m³. If the project site exceeds this criterion, the project sponsor must install and properly maintain a ventilation system that will achieve the removal of at least 80 percent of ambient PM_{2.5} concentrations. The Air Quality model only includes assessment of certain roadway exposures; it does not include any other sources of pollution such as diesel generators, ocean-going vessels, or Caltrain.
- Since adoption of Article 38 of the Health Code in 2008 scientific methods for understanding the impact of known sources of air pollution (e.g., area, mobile, stationary) have improved dramatically. DPH, the Planning Department, and the Bay Area Air Quality Management District have worked together to utilize third-party-verified modeling to identify locations in the City that exceed two health-based criteria: 1) an excess cancer risk from all modeled sources; and 2) PM_{2.5} concentrations from all modeled sources (including ambient) that exceed defined health-protective limits. These locations are referred to as the Air Pollutant Exposure Zone.
- Currently, Article 38 does not apply to projects of fewer than 10 residential units; nor does it apply to schools, day care facilities, and other sensitive receptors, even when these types of projects would be located within the Potential Roadway Exposure Zone. Although such projects may be required to install the above-mentioned ventilation system through California Environmental Quality Act (CEQA) mitigation measures and conditions of project approval, nothing is required for these types of projects under Article 38, regardless of the project's location.

THE WAY IT WOULD BE:

- DPH would replace the Potential Roadway Exposure Zone map with the more comprehensive Air Pollutant Exposure Zone map. All sensitive receptor projects *within* the Air Pollutant Exposure Zone must install and properly maintain a ventilation system that will achieve the protection from PM_{2.5} equivalent to that associated with MERV 13 filtration and include a disclosure to buyers or renters that the building is located within the Air Pollutant Exposure Zone. Through CEQA, a ventilation system mitigation measure would not be required as this would be required through adopted legislation. Nothing would be required for projects *outside* of the Air Pollutant Exposure Zone.

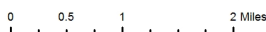
Existing Article 38 - Potential Roadway Exposure Zone



Legend

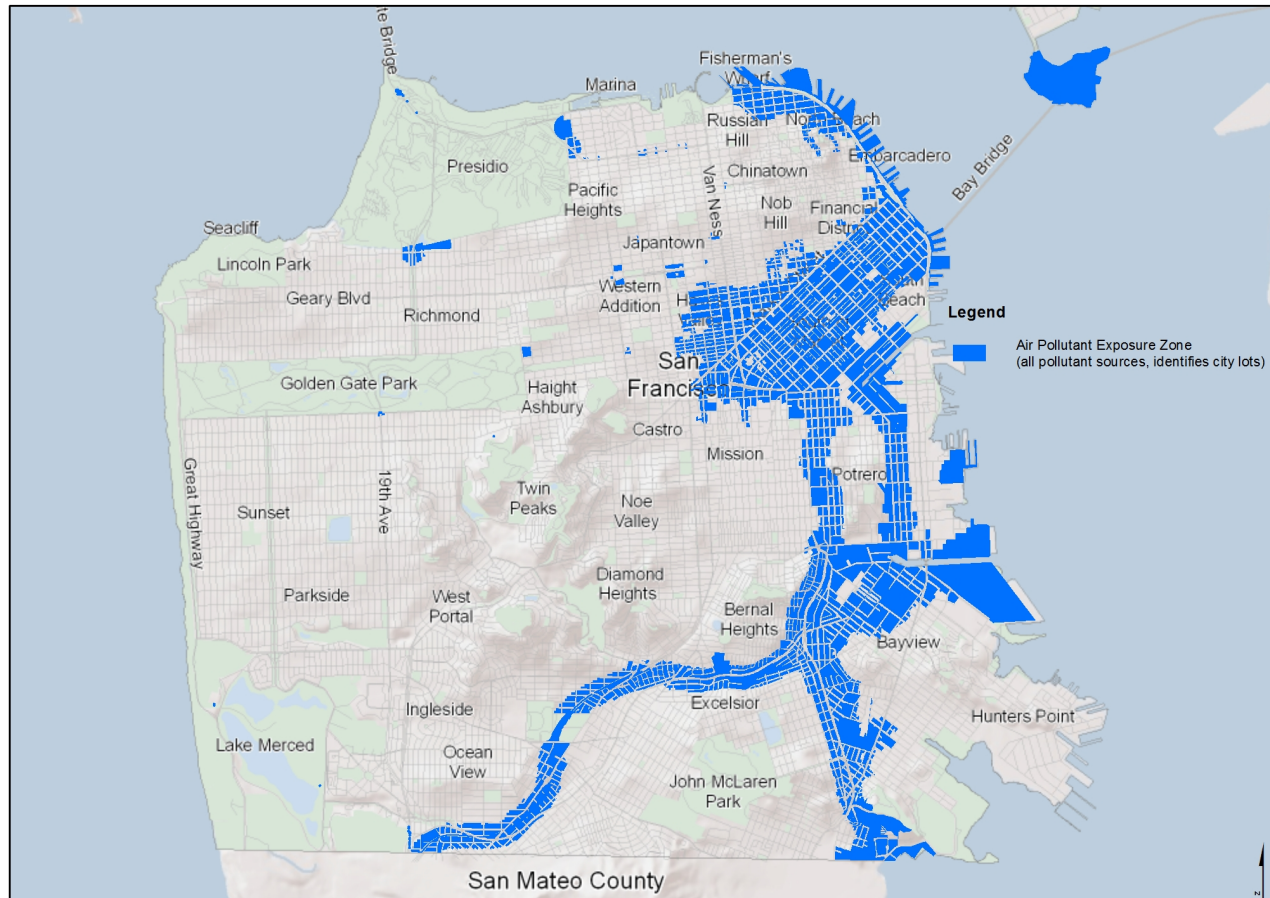
- Potential Roadway Exposure Zone (only roadway sources, identifies city lots)

Implementation 2008 - 2013
-85 projects evaluated
-32 projects require enhanced ventilation
Practical Result - MERV 13 filters



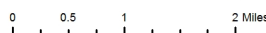
Printed: 2, December 2013

Draft Article 38 - Air Pollutant Exposure Zone



Legend

- Air Pollutant Exposure Zone (all pollutant sources, identifies city lots)



Printed: 30, December 2013