

1 [Business and Tax Regulations, Planning Codes - Hub Housing Sustainability District]

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3 **Ordinance amending the Business and Tax Regulations and Planning Codes to create**
 4 **the Hub Housing Sustainability District, encompassing an area generally bounded by**
 5 **Haight Street from Octavia Boulevard to Gough Street, Gough Street from Haight Street**
 6 **to Page Street, Franklin Street from Page Street to Fell Street, Fell Street from Franklin**
 7 **Street to Van Ness Avenue, Van Ness Avenue from Fell Street to Hayes Street, Hayes**
 8 **Street from Van Ness Avenue to Larkin Street, Market Street from Ninth Street to 10th**
 9 **Street, midblock between 10th Street and 11th Street from Market Street to Mission**
 10 **Street, Mission Street from 10th Street to Washburn Street, a portion of Washburn**
 11 **Street, Minna Street from 10th Street to just past Lafayette Street (with certain lots**
 12 **excluded), midblock between Lafayette Street and 12th Street to Howard Street,**
 13 **Howard Street just north of 12th and 13th streets, and 13th Street to Octavia Boulevard**
 14 **and Haight Street), to provide a streamlined and ministerial approval process for**
 15 **certain housing projects within the District meeting specific labor, on-site affordability,**
 16 **and other requirements; creating an expedited Board of Appeals process for appeals of**
 17 **projects within the District; and making approval findings under the California**
 18 **Environmental Quality Act, findings of public convenience, necessity, and welfare**
 19 **under Planning Code, Section 302, and findings of consistency with the General Plan,**
 20 **and the eight priority policies of Planning Code, Section 101.1.**

21 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 22 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 23 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 24 **Board amendment additions** are in double-underlined Arial font.
 25 **Board amendment deletions** are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

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3 Section 1. Environmental and Planning Code Findings.

4 (a) On _____, 2020 after a duly noticed public hearing, the Planning
5 Commission certified the Final Environmental Impact Report (EIR) for the proposed Hub Plan
6 (the Project) by Motion No. _____, finding the Final EIR reflects the independent
7 judgment and analysis of the City and County of San Francisco, is adequate, accurate and
8 objective, and contains no significant revisions to the Draft EIR, and the content of the report
9 and the procedures through which the Final EIR was prepared, publicized, and reviewed
10 comply with the provisions of the California Environmental Quality Act (CEQA) (Public
11 Resources Code Sections 21000 et seq.), the CEQA Guidelines (14 Cal. Code Regs.
12 Sections 15000 et seq.) and Chapter 31 of the Administrative Code. Copies of the Planning
13 Commission Motion and Final EIR are on file with the Clerk of the Board of Supervisors in File
14 No. _____ and are incorporated herein by reference.

15 (b) The Project evaluated in the Final EIR includes proposed amendments to the
16 Planning Code, Administrative Code, and Zoning Map, as well as amendments to the General
17 Plan to amend the Market and Octavia Area Plan and other related amendments. The
18 proposed Planning Code amendments and Business and Tax Regulations Code amendments
19 set forth in this ordinance are within the scope of the Project evaluated in the Final EIR.

20 (c) At the same hearing during which the Planning Commission certified the Final EIR,
21 the Planning Commission adopted findings under CEQA regarding the Project's
22 environmental impacts, the disposition of mitigation measures, and project alternatives, as
23 well as a statement of overriding considerations (CEQA Findings) and adopted a mitigation
24 monitoring reporting program (MMRP), by Resolution No. _____. A copy of said
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1 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and
2 is incorporated herein by reference.

3 (d) At the same hearing, the Planning Commission, in Resolution No. _____,
4 recommended the proposed Planning Code amendments for approval and adopted findings
5 that the actions contemplated in this ordinance creating the Hub Housing Sustainability
6 District are consistent, on balance, with the City's General Plan and eight priority policies of
7 Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said
8 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is
9 incorporated herein by reference.

10 (e) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
11 Planning Code amendments and Business and Tax Regulations Code amendments will serve
12 the public necessity, convenience, and welfare for the reasons set forth in Planning
13 Commission Resolution No. _____, and the Board incorporates such reasons herein
14 by reference.

15 (f) The Board of Supervisors has reviewed and considered the Final EIR and the
16 environmental documents on file referred to herein. The Board of Supervisors has reviewed
17 and considered the CEQA Findings, and hereby adopts them as its own and incorporates
18 them by reference as though such findings were fully set forth herein.

19 (g) The Board of Supervisors adopts the MMRP as a condition of this approval, and
20 endorses those mitigation measures that are under the jurisdiction of other City Departments,
21 and recommends for adoption those mitigation measures that are enforceable by agencies
22 other than City agencies, all as set forth in the CEQA Findings and MMRP.

23 (h) The Board of Supervisors finds that no substantial changes have occurred in the
24 proposed Project that would require revisions in the Final EIR due to the involvement of new
25 significant environmental effects or a substantial increase in the severity of previously

1 identified significant effects; no substantial changes have occurred with respect to the
2 circumstances under which the proposed Project is to be undertaken that would require major
3 revisions to the Final EIR due to the involvement of new environmental effects or a substantial
4 increase in the severity of effects identified in the Final EIR, and no new information of
5 substantial importance to the proposed Project has become available that indicates that (1)
6 the Project will have significant effects not discussed in the Final EIR, (2) significant
7 environmental effects will be substantially more severe, (3) mitigation measures or
8 alternatives found not feasible that would reduce one or more significant effects have become
9 feasible or (4) mitigation measures or alternatives that are considerably different from those in
10 the Final EIR would substantially reduce one or more significant effects on the environment.

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12 Section 2. The Business and Tax Regulations Code is hereby amended by revising
13 Sections 8 and 26, to read as follows:

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15 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

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(c) Appeals to the Board of Appeals of permit decisions made pursuant to Planning Code

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Section 344 shall be taken within 10 days of the permit decision. This subsection (c) shall expire on the

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Sunset Date of Planning Code Section 344, as defined in that Section. Upon the expiration of this

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subsection, the City Attorney shall cause this subsection to be removed from the Business and Tax

21

Regulations Code.

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(ed) Appeals to the Board of Appeals of permit decisions made pursuant to Planning

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Code Section 207, subsection (c)(6), shall be taken within 10 days of the permit decision.

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(de) Appeals of actions taken by the Entertainment Commission or its Director on the

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granting, denial, amendment, suspension, or revocation of a permit, or on denial of exceptions

1 from regulations for an Extended-Hours Premises Permit, shall be taken within 10 days from
2 the making of the decision. Nothing in this Section 8 is intended to require an appeal to the
3 Board of Appeals if any provision of Article 15, Article 15.1 (Entertainment Regulations Permit
4 and License Provisions), or Article 15.2 (Entertainment Regulations for Extended-Hours
5 Premises) of the Police Code governing these permits otherwise provides.

6 (ef) Appeals shall be taken by filing a notice of appeal with the Board of Appeals and
7 paying to said Board at such time a filing fee as follows:

8 * * * *

9 (9) **Additional Requirements.**

10 (A) Notice of appeal shall be in such form as may be provided by the
11 rules of the Board of Appeals.

12 (B) On the filing of any appeal, the Board of Appeals shall notify in writing
13 the department, board, commission, officer, or other person from whose action the appeal is
14 taken of such appeal. On the filing of any appeal concerning a structural addition to an
15 existing building, the Board of Appeals shall additionally notify in writing the property owners
16 of buildings immediately adjacent to the subject building.

17 (C) Except as otherwise specified in this subsection (e)(9)(C), the Board
18 of Appeals shall fix the time and place of hearing, which shall be not less than 10 nor more
19 than 45 days after the filing of said appeal, and shall act thereon not later than 60 days after
20 such filing or a reasonable time thereafter.

21 * * * *

22 (v) In the case of a decision on a permit application made pursuant to
23 Planning Code Section 344, the Board of Appeals shall set the hearing not less than 10 days after the
24 filing of said appeal, shall act thereon not more than 30 days after such filing, and shall not entertain a
25 motion for rehearing. This subsection (f)(9)(C)(v) shall expire on the Sunset Date of Planning Code

1 Section 344, as defined in that Section. Upon the expiration of this subsection, the City Attorney shall
2 cause this subsection to be removed from the Business and Tax Regulations Code.

3 * * * *

4
5 **SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.**

6 * * * *

7 (g) Notwithstanding subsection (a), the provisions of Planning Code Section 344 shall govern
8 actions taken on the granting, denial, amendment, suspension, and revocation of permits regulated
9 under that Section 344, not the standards set forth in subsection (a) of this Section 26. This subsection
10 (g) shall become operative upon confirmation of approval of Planning Code Section 344 by the
11 California Department of Housing and Community Development under California Government Code
12 Section 66202(c). This subsection shall expire by the operation of law in accordance with the
13 provisions of Planning Code Section 344(k). Upon its expiration, the City Attorney shall cause this
14 subsection to be removed from the Business and Tax Regulations Code.

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17 Section 3. The Planning Code is hereby amended by adding Section 344, to read as
18 follows:

19 **SEC. 344. HUB HOUSING SUSTAINABILITY DISTRICT.**

20 (a) Purpose. This Section 344 establishes a Housing Sustainability District within the
21 easternmost portion of the Market and Octavia Area Plan (“Hub Housing Sustainability District” or
22 “Hub HSD”) under California Government Code Sections 66200 et seq. The purpose of the Hub
23 Housing Sustainability District is to encourage the provision of on-site affordable housing in new
24 residential and mixed-use projects in the Van Ness & Market Residential Special Use District by
25 providing a streamlined, ministerial approval process for such projects. This Section 344 sets forth

1 eligibility criteria, design review standards, and entitlement and approval procedures for projects
2 seeking approval pursuant to the requirements of the Hub Housing Sustainability District.

3 (b) **Geography.** The Hub Housing Sustainability District shall include all parcels within the
4 Van Ness & Market Residential Special Use District, which is defined in Section 249.33. The entirety of
5 the Van Ness & Market Residential Special Use District is an “eligible location,” as that term is
6 defined in California Government Code Section 66200(e).

7 (c) **Relationship to Other Planning Code Provisions.** Except as otherwise provided in this
8 Section 344, all provisions of the Planning Code, including Section 249.33, that would be applicable to
9 projects approved pursuant to this Section 344 shall apply to such projects. In the event of a conflict
10 between other provisions of the Planning Code and this Section 344, this Section shall control.

11 (d) **Eligibility.** Projects seeking approval pursuant to this Section 344 shall meet all of the
12 following requirements:

13 (1) The project is located in a zoning district that principally permits residential uses.

14 (2) The project proposes no less than 100 dwelling units per acre, and no more than
15 750 dwelling units per acre.

16 (3) At least half of the project’s gross square footage is designated for residential uses.
17 All non-residential uses must be principally permitted in the underlying zoning district and any
18 applicable special use district(s), and may not include greater than 24,999 gross square feet of office
19 space that would be subject to the annual limit on office development set forth in Sections 321 et seq.

20 (4) The project does not exceed a height of 120 feet, except that any project whose
21 principal use is housing, where all such housing is restricted for a minimum of 55 years as affordable
22 for “persons and families of low or moderate income,” as defined in California Health & Safety Code
23 Section 50093, shall be deemed to satisfy this subsection (c)(4) regardless of height.

1 (5) If the project sponsor seeks a density bonus pursuant to California Government
2 Code Section 65915 et seq., the project sponsor demonstrates to the satisfaction of the Planning
3 Department that the project would not result in a significant shadow impact.

4 (6) The project is not located on a lot containing a structure listed as a designated
5 landmark pursuant to Article 10 of the Planning Code or a contributory or significant structure
6 pursuant to Article 11 of the Planning Code.

7 (7) The project complies with the following affordability requirements, as applicable:

8 (A) Projects subject to Section 415 of this Code shall comply with Section 415
9 by choosing the On-Site Affordable Housing Alternative under Section 415.5(g)(1)(A), and shall
10 provide no less than 10% of dwelling units as units affordable to very low or low income households;

11 (B) Projects not subject to Section 415 shall provide no less than 10% of
12 dwelling units as units affordable to very low or low income households, by entering into a regulatory
13 agreement with the City that contains the terms specified in Section 206.6(f).

14 (8) The project does not demolish, remove, or convert to another use any existing
15 dwelling unit(s).

16 (9) The project complies with all applicable zoning and any adopted design review
17 standards. Projects seeking approval pursuant to this Section 344 may not seek any exceptions to
18 height and bulk limits pursuant to Section 309(a)(17).

19 (10) The project sponsor complies with all mitigation measures in the Hub Plan, 30 Van
20 Ness Avenue Project, 98 Franklin Street Project, and Hub Housing Sustainability District
21 Environmental Impact Report (Hub EIR) that the Planning Department determines are applicable to
22 the project.

23 (11) The project sponsor certifies that the project will comply with all applicable
24 requirements of California Government Code Section 66201(f)(4).

25 (12) The project shall comply with Government Code Section 66201(f)(5).

1 (13) A project is not deemed to be for residential use if it is infeasible for actual use as
2 a single or multifamily residence.

3 (e) Approving Authority. The Planning Department is the approving authority designated to
4 review permit applications for compliance with this Section 344.

5 (f) Application.

6 (1) Prior to submittal of an application for required approvals from the Planning
7 Department, a project sponsor seeking to apply pursuant to this Section 344 shall submit an
8 application for a preliminary project assessment (PPA), pursuant to Planning Department procedures.

9 (2) In addition to any requirements under other provisions of this Code for submittal of
10 application materials, an application under this Section 344 shall be submitted to the Department on a
11 form prescribed by the Department and shall include at minimum the following materials:

12 (A) A full plan set, including site plan, elevations, sections, and floor plans,
13 showing total number of units, and number of and location of units affordable to very low or low
14 income households;

15 (B) All documentation required by the Department in its response to the project
16 sponsor's previously-submitted PPA application;

17 (C) Documentation sufficient to support determinations that:

18 (i) the project meets all applicable zoning and any adopted design
19 review standards;

20 (ii) the project sponsor will implement any and all mitigation measures
21 in the Hub EIR that the Planning Department determines are applicable to the project, including but
22 not limited to the following:

23 a. An agreement to implement any and all mitigation measures in
24 the Hub EIR that the Planning Department determines are applicable to the project; and

25 b. Scope(s) of work for any studies required as part of any and all

1 mitigation measures in the Hub EIR that the Planning Department determines are applicable to the
2 project. An application pursuant to this Section 344 shall not be deemed complete until such studies are
3 completed to the satisfaction of the Environmental Review Officer.

4 (iii) the project sponsor will comply with subsections (d)(10) and (d)(11)
5 of this Section 344.

6 (g) **Decision and Hearing.** The Department shall exercise ministerial approval of projects that
7 meet all the requirements in this Section 344.

8 (1) **Hearing.** The Planning Department shall conduct an informational public hearing
9 for all projects that are subject to this Section 344 within 100 days of receipt of a complete application,
10 as set forth in subsection (f).

11 (2) **Decision.** Within 120 days of receipt of a complete application, as set forth in
12 subsection (f), the Planning Director or the Director's designee shall issue a written decision
13 approving, disapproving, or approving subject to conditions, the project. The applicant and the
14 Department may mutually agree to extend this 120-day period. If no written decision is issued within
15 120 days of the Department's receipt of a complete application, or within the period mutually agreed
16 upon by the Department and applicant, the project shall be deemed approved. The Planning Director
17 or the Director's designee shall include any certifications required by California Government Code
18 Section 66205(e) in a copy of the written decision.

19 (3) **Grounds for Permit Denial.** The Department may deny a Hub HSD project
20 application only for one or more of the following reasons:

21 (A) The proposed project does not fully comply with this Section 344, including
22 but not limited to meeting all adopted design review standards and demonstrating compliance with all
23 applicable mitigation measures in the Hub EIR that the Department determines are applicable to the
24 project.

1 (B) The project sponsor has not submitted all of the information or paid any
2 application fee required by this Section 344 and necessary for an adequate and timely design review or
3 assessment of potential impacts on neighboring properties.

4 (C) The Department determines, based upon substantial evidence in light of the
5 whole record of the public hearing on the project, that a physical condition on the site of development
6 that was not known and could not have been discovered with reasonable investigation at the time the
7 application was submitted would have a specific adverse impact upon the public health or safety and
8 that there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. As used
9 in this subsection (g)(3)(C), “specific adverse impact” means a significant, quantifiable, direct, and
10 unavoidable impact based on identified objective written public health or safety standards, policies, or
11 conditions, in existence at the time the application was deemed complete.

12 (4) **Appeal.** The procedures for appeal to the Board of Appeals of a decision by the
13 Department under this Section 344 shall be as set forth in Section 8 of the Business and Tax
14 Regulations Code.

15 (5) **Discretionary Review.** No requests for discretionary review shall be accepted by the
16 Planning Department for projects subject to this Section 344. As long as the Planning Commission has
17 delegated its authority to the Planning Department to review applications for projects subject to this
18 Section 344, the Planning Commission shall not hold a public hearing for discretionary review of
19 projects subject to this Section 344.

20 (6) **Progress Requirement.** Approval of a project pursuant to this Section 344 shall
21 expire if the project sponsor has not procured a building permit or site permit for construction of the
22 project within 30 months of the date of the Department's issuance of a written decision pursuant to
23 subsection (g)(2) of this Section 344. If the Planning Director finds that the project sponsor has
24 demonstrated good faith in its efforts to obtain the first site or building permit for the project, the
25 Planning Director may extend the approval for the project for a maximum of six additional months.

1 Such deadline shall additionally be extended in the event of any appeal of such approval for the
2 duration of the appeal, and in the event of litigation seeking to invalidate the approval for the duration
3 of the litigation.

4 (h) **Design Review Standards.** Projects subject to this Section 344 shall be reviewed for
5 compliance with the design standards set forth in the San Francisco Urban Design Guidelines and the
6 Market and Octavia Area Plan, which are on file with the Planning Department, as approved by the
7 California Department of Housing and Community Development.

8 (i) **District Affordability Requirement.** At the request of the California Department of Housing
9 and Community Development, the Planning Department shall demonstrate that at least 20% of the
10 residential units constructed in the Hub Housing Sustainability District during the life of the District
11 and pursuant to this Section 344 will be affordable to very low, low-, and moderate-income households
12 and subject to a recorded affordability restriction for at least 55 years.

13 (j) **Monitoring and Enforcement.** The Planning Department shall include, as conditions of
14 approval of all projects approved pursuant to this Section 344, monitoring and enforcement provisions
15 to ensure that the project meets all labor and wage requirements and complies with all identified
16 applicable mitigation measures. Projects found to be in violation of any of these conditions shall be
17 subject to the Administrative Enforcement Procedures in Section 176.1 of this Code, including
18 initiation of abatement proceedings or referral to the City Attorney or District Attorney for prosecution,
19 if not corrected within 90 days of service of any notice of violation issued under Section 176.1(c).
20 Conditions of approval shall include, but are not limited to:

21 (1) A project sponsor shall submit weekly reports to the Office of Labor Standards
22 Enforcement, certifying that a project approved pursuant to this Section 344 is complying with
23 subsections (d)(11) and (d)(12), if applicable to the project. Projects found to be in violation of
24 subsections (d)(11) and (d)(12) shall be subject to penalties pursuant to Section 1741 of the Labor
25 Code, in addition to any penalties assessed pursuant to Section 176.1 of this Code. All penalties shall

1 be paid prior to issuance of the project's First Certificate of Occupancy, as defined in Section 401 of
2 this Code.

3 (2) The Planning Department shall monitor compliance with the Hub EIR mitigation
4 measures.

5 (3) The Planning Department shall monitor and report the construction of affordable
6 housing units under the Hub Housing Sustainability District in its annual Housing Inventory, which
7 shall include the following information:

8 (A) Number of projects approved pursuant to this Section 344.

9 (B) Number of projects under construction pursuant to approvals obtained under
10 this Section 344.

11 (C) Number of projects completed pursuant to approvals obtained under this
12 Section 344.

13 (D) Number of dwelling units within projects completed pursuant to approvals
14 obtained under this Section 344.

15 (E) Number of dwelling units affordable to very low, low, moderate, and middle
16 income households within projects completed pursuant to approvals obtained
17 under this Section 344.

18 **(k) Operative and Sunset Dates.**

19 (1) This Section 344 shall become operative upon confirmation of approval by the
20 California Department of Housing and Community Development under California Government Code
21 Section 66202(c) ("Operative Date").

22 (2) This Section 344 shall expire by operation of law ten years from the Operative Date,
23 unless this Section 344 is renewed by ordinance pursuant to Government Code Section 66201(g), in
24 which case this Section 344 shall expire on the date specified in that ordinance ("Sunset Date").

1 (3) Upon the expiration of this Section 344, the City Attorney shall cause this Section
2 344 to be removed from the Planning Code. Pursuant to Government Code Section 66205(b), this
3 Section 344 shall govern the processing and review of any complete application submitted pursuant to
4 this Section 344 prior to the Sunset Date.

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6 Section 4. Effective Date; Operative Date.

7 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
8 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
9 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
10 Mayor’s veto of the ordinance.

11 (b) Consistent with Section 344(k)(1) of the Planning Code, this ordinance in its
12 entirety shall become operative upon confirmation of approval by the California Department of
13 Housing and Community Development under California Government Code Section 66202(c).

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

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

23 By: /s/ Peter R. Miljanich
24 PETER R. MILJANICH
25 Deputy City Attorney

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