

AUTOMATIC CITY APPROVAL OF CERTAIN HOUSING PROJECTS THAT COMPLY WITH LOCAL ZONING

The City requires developers of housing projects to obtain a permit before they may begin construction.

The City's Charter gives various City agencies authority to review permits. These agencies have discretion to grant or deny the permits.

The Planning Department or Planning Commission review all permits to determine if a project complies with the City's zoning laws. Zoning laws limit how a property may be used and the height, width, and placement of structures on the property. Projects must comply with the City's zoning laws or receive an exception from the Planning Commission or the Zoning Administrator. The Planning Commission may deny permits for projects that comply with zoning laws.

Some permits that the Planning Department or Planning Commission approve may be appealed to the Board of Appeals; other permits they approve may be appealed to the Board of Supervisors. The Arts Commission must approve the design of structures on public property.

Before the City may decide to issue a permit, a project must also comply with state laws requiring review of a project's environmental impacts.

The San Francisco Unified School District ("School District") operates the City's public school system, which has about 1,000 employees.

The San Francisco Community College District ("College District") operates City College of San Francisco, which has more than 2,000 employees.

This measure is a Charter amendment that would change the City's approval process for two types of development projects where at least two-thirds of the project is for residential uses:

- projects where all of the dwelling units are affordable to low or moderate income households; and
- projects on land owned or controlled by the School District or College District where each dwelling unit is initially occupied by at least one School District or College District employee.

This measure would generally require the City to approve these two types of projects if they comply with the City's zoning laws. Those projects would not be subject to review by the Planning Commission, Board of Appeals, Board of Supervisors or Arts Commission, and would also not require review for environmental impacts.

This measure would not apply to projects on property zoned for single-family dwellings or that would remove more than one dwelling unit. This measure would also not apply to projects that would affect historic landmarks or are within the Recreation and Parks Department's jurisdiction.

The Board of Supervisors could adopt legislation modifying the approval process for the two types of projects if the amendment is consistent with the measure's purposes, so long as at least four-fifths of the Planning Commission and seven-elevenths of the Board of Supervisors approve the amendment.

The Board of Supervisors could also adopt legislation designating other permits, in addition to permits for these two types of projects, that would not be reviewed by the Planning Commission, Board of Appeals, Zoning Administrator or Arts Commission.

THE AFFORDABLE AND TEACHER HOUSING NOW INITIATIVE

Note: Additions are single-underline italics Times New Roman.
Deletions are ~~strikethrough italics Times New Roman~~.
Unchanged and uncoded text is plain Times New Roman.

SECTION 1. TITLE.

This measure shall be known and may be cited as the “Affordable and Teacher Housing Now Initiative” (referred to hereinafter as the “Initiative”).

SECTION 2. CHARTER AMENDMENTS.

The Charter of the City and County of San Francisco shall be amended by adding Section 16.126 and by amending Sections 4.105, 4.106 and 5.103, to read as follows:

SEC. 16.126. STREAMLINED REVIEW OF 100% AFFORDABLE AND TEACHER HOUSING PROJECTS.

(a) On the effective date of this Charter Amendment, this Charter Section 16.126(a) shall be deemed enacted into ordinance, and the City Attorney is directed and authorized to codify the following Section 16.126(a) as a new section 343 of the Planning Code titled “Streamlined Review of 100% Affordable and Teacher Housing Projects.” The Planning Code amendments mandated by this Subsection 16.126(a) may be amended by the Board of Supervisors if (a) the amendment serves the purposes of this Section; (b) the Planning Commission approves the proposed amendment by at least a four-fifths vote of all its members; (c) the proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors; and (d) the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

SEC. 343. STREAMLINED REVIEW OF 100% AFFORDABLE HOUSING AND TEACHER HOUSING PROJECTS.

(a) Purpose and Findings.

(1) San Francisco is in a severe housing crisis. The shortage of affordable housing has forced lower income and middle-class families out of the City. There is a need to make it easier to build affordable and middle-income housing to keep our city diverse, and provide homes for lower and middle income workers, including teachers. In the midst of this severe housing shortage and affordability crisis, San Francisco must immediately remove every barrier to building housing for low and middle income residents and working families, including for our teachers.

(2) San Francisco’s teachers and school district and community college district workers suffer acutely from the City’s severe housing shortage, with hundreds of teachers leaving the

school district every year, many due to frustration with high housing costs and the escalating cost of living. When it comes to providing quality public education for our students, it is far preferable for teachers to live in the City and district in which they teach.

(3) San Francisco's current planning and appeals process unnecessarily delays the development of new affordable housing, even in locations that have already undergone extensive environmental and neighborhood review. This measure remedies that cumbersome planning and appeal process by allowing 100% affordable and teacher housing projects to move forward without delay.

(4) The purpose of the Streamlined Review of 100% Affordable Housing and Teacher Housing Program is to facilitate the development and construction of 100% affordable and teacher housing in San Francisco.

(5) Affordable housing is an especially paramount concern in San Francisco. San Francisco has one of the highest housing costs in the nation, but San Francisco's economy and culture rely on a diverse workforce at all income levels. It is the policy of the City to enable these workers to afford housing in San Francisco and ensure that they pay a reasonably proportionate share of their incomes to live in adequate housing and to not have to commute ever-increasing distances to their jobs. The Association of Bay Area Governments determined that San Francisco's share of the Regional Housing Need for January 2015 to June 2022 was the provision of 28,870 new housing units, with 6,234 (or 21.6%) as very low, 4,639 (or 16.1%) as low, and 5,460 (or 18.9%) as moderate income units.

(6) The Board of Supervisors, and the voters in San Francisco, have long recognized the need for the production of affordable housing. The voters, in some cases, and the Board in others, have adopted measures to address this need, such as mandatory Inclusionary Affordable Housing Ordinance in Planning Code Section 415; the San Francisco Housing Trust Fund, adopted in 2012, which established a fund to create, support and rehabilitate affordable housing, and set aside \$20 million in its first year, with increasing allocations to reach \$50 million a year for affordable housing; the adoption of Proposition K in November 2014, which established as City policy that the City, by 2020, will help construct or rehabilitate at least 30,000 homes, with more than 50% of the housing affordable for middle-income households, and at least 33% as affordable for low- and moderate income households; and the multiple programs that rely on Federal, State and local funding sources as identified in the Mayor's Office of Housing and Community Development Comprehensive Plan. These programs enable the City to work towards the voter-mandated affordable housing goals.

(7) In 2016, the California legislature enacted the Teacher Housing Act of 2016 to facilitate the acquisition, construction, rehabilitation, and preservation of affordable rental housing for teachers and school district employees to allow teachers and school district employees to access and maintain housing stability. This program facilitates the speedy approval for such housing for teachers and employees of the San Francisco Unified School District and the San Francisco Community College District.

(8) Streamlined review enables cities to expedite development of 100% affordable housing and teacher housing projects by reducing the time and expense associated with long project review periods and multiple appeal proceedings.

(9) San Francisco has enacted many zoning and construction requirements with which 100% affordable housing and teacher housing projects must comply to reduce potential environmental impacts without the need for lengthy individualized discretionary reviews, including mandatory requirements to reduce noise, air quality, wind, shadow, transportation, and greenhouse gas impacts, and remediate hazardous building materials and soils. These mandatory requirements also reduce the need for lengthy and expensive environmental impact reviews for 100% affordable housing and teacher housing projects.

(b) Definitions.

(1) 100% Affordable Housing Project. A project for the development of residential units, all of which are affordable housing units, as defined by Section 401 that are affordable to low or moderate income households.

(2) Teacher Housing Project. A project for the development of residential units, on land owned by or otherwise controlled by San Francisco Unified School District or San Francisco Community College District, all of which units are restricted to initial occupancy by at least one employee of the School District or Community College District, as authorized by the Teacher Housing Act of 2016, California Health and Safety Code Sections 53570-53574, and as verified by the Planning Department or Mayor's Office of Housing and Community Development or its successor.

(c) Eligibility. To be eligible for streamlining under this section, projects must meet the following requirements:

(1) Project must be a 100% Affordable Housing Project or Teacher Housing Project as defined in Section (b).

(2) The project must be located on a site that is not both zoned P (Public) and is under the jurisdiction of the Recreation and Park Department, is not located in a zoning district that prohibits residential uses, is not located in an RH-I zoning district, does not cause any alteration, removal or demolition of an individual local, state or national landmark structure, including landmarks designated pursuant to Planning Code Article 10 and Significant Buildings designated pursuant to Planning Code Article 11, and does not demolish, remove or convert more than one legal residential dwelling unit.

(3) The project is a development consisting of residential uses or is a mixed use development consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(d) Controls.

(1) Ministerial Approval. Notwithstanding the provisions of other provisions of the Municipal Code, including Business and Tax Regulation Code Section 26 and Sections 311 and 312 of this Code, a 100% Affordable Project or a Teacher Housing Project that complies with the Zoning Maps, Height and Bulk Maps and objective standards of the Planning Code, other than residential density limits, including any conditional use pursuant to this Code, shall be deemed ministerial actions, as defined by California Code of Regulations, Title 14, Section 15369. Similarly, other exceptions and modifications to modify such objective standards as described below in (2), shall also be deemed ministerial actions, as defined by California Code of Regulations, Title 14, Section 15369. All such projects shall not require an Article 3 authorization by the Planning Commission that otherwise may be required by this Code or review by the Arts Commission. No requests for discretionary review shall be accepted by the Planning Department or heard by the Planning Commission for 100% Affordable Housing Projects and Teacher Housing Projects. It is the intent of this section to exempt 100% Affordable Housing Projects and Teacher Housing Projects from any requirements for review by the Planning Commission, Arts Commission, Board of Supervisors, and Board of Appeals and to regulate the density of such projects through form based zoning standards, rather than by lot area.

(2) Modifications. 100% Affordable Housing Projects and Teacher Housing Projects shall, at the project sponsor's request, receive any or all of the zoning modifications and development bonuses set forth in Section 206.3(d)(1), (3) and (4), may receive up to a 100% reduction in the residential and commercial parking requirements, may receive an up to 2 foot reduction in minimum ground floor ceiling height requirements, and, at the project sponsor's request, may substitute a minimum lot coverage percentage of 80 percent at all residential levels except on levels in which all residential units face onto a public right-of-way in lieu of the rear yard requirements of Section 134 and may satisfy unit exposure requirements for any unit facing a rear yard equal to at least 20% of the lot depth. The Zoning Administrator shall not be required to issue a variance or Section 307 modification for a modification authorized by this subsection. The Board of Supervisors or electorate by ordinance may expand this list of exceptions and modifications allowed through ministerial approval.

(3) Design Review. The Planning Department shall conduct a review of the aesthetic elements of 100% Affordable Housing Projects and Teacher Housing Projects within 60 days of the submission of an application from the sponsor of a 100% Affordable Housing Project or a Teacher Housing Project. Design review shall be limited to the aesthetic aspects and design of the 100% Affordable Housing Project or Teacher Housing Project and not to the uses, density, height, zoning modifications, lot coverage substitution or any other matter which, if made applicable to the project approval process, would result in the governmental action becoming discretionary. 100% Affordable Housing Projects and Teacher Housing Projects shall not be subject to design review by the Arts Commission.

(e) Approval. Building permits for 100% Affordable Housing Projects and Teacher Housing Projects that comply with the controls set forth in subsections (c) and (d) shall be approved by the Department of Building Inspection ministerially and shall not be subject to San Francisco Business and Tax Regulation Code section 26 or an appeal to the San Francisco Board of Appeals. Notwithstanding any contrary provision in the San Francisco Planning Code,

the San Francisco Municipal Code or the San Francisco Charter, such projects shall not require a Planning Code Article 3 authorization, discretionary review hearing, any other Planning Commission hearing that otherwise may be required by the Planning Code. It is the intent of this Section to exempt 100% Affordable Housing Projects and Teacher Housing Projects from any requirements for review by the Planning Commission, Arts Commission, Board of Supervisors, or Board of Appeals as may otherwise be required by the Planning Code.

(b) On the effective date of this Charter Amendment, this Charter Section 16.126(b) shall be deemed enacted into ordinance, and the City Attorney is directed and authorized to codify the following amendments to Section 101.1 of the Planning Code.

SEC. 101.1. GENERAL PLAN CONSISTENCY AND IMPLEMENTATION.

(a) The General Plan shall be an integrated, internally consistent and compatible statement of policies for San Francisco. To fulfill this requirement, after extensive public participation and hearings, the Planning Commission shall in one action amend the General Plan by January 1, 1988.

(b) The following Priority Policies are hereby established. They shall be included in the preamble to the General Plan and shall be the basis upon which inconsistencies in the General Plan are resolved:

(1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

(2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

(3) That the City's supply of affordable housing be preserved and enhanced;

(4) That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;

(5) That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

(6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

(7) That landmarks and historic buildings be preserved; ~~and,~~

(8) That our parks and open space and their access to sunlight and vistas be protected from development; and,

(9) That new housing for households of all income levels be produced to meet existing and future housing demand.

(c) The City may not adopt any zoning ordinance or development agreement authorized pursuant to Government Code Section 65865 after November 4, 1986, unless prior to that adoption it has specifically found that the ordinance or development agreement is consistent with the Priority Policies established above.

(d) The City may not adopt any zoning ordinance or development agreement authorized pursuant to Government Code Section 65865 after January 1, 1988, unless prior to that adoption it has specifically found that the ordinance or development agreement is consistent with the General Plan.

(e) Prior to issuing a permit for any project or adopting any legislation which requires an initial study under the California Environmental Quality Act, and prior to issuing a permit for any demolition, conversion or change of use, and prior to taking any action which requires a finding of consistency with the General Plan, the City shall find that the proposed project or legislation is consistent with the Priority Policies established above. For any such permit issued or legislation adopted after January 1, 1988 the City shall also find that the project is consistent with the General Plan.

(c) On the effective date of this Charter Amendment, this Charter Section 16.126(c) shall be deemed enacted into ordinance, and the City Attorney is directed and authorized to codify the following amendments to Section 26 of the Business and Tax Regulation Code. Section 26 of the Business and Tax Regulation Code may be further amended the Board of Supervisors from time to time.

SEC. 26. FACTS TO BE CONSIDERED BY DEPARTMENTS.

(a) Subject to Subsection (b) below, in the granting or denying of any permit, or the revoking or the refusing to revoke any permit, except for permits associated with a 100% Affordable Housing Project or Teacher Housing Project, as defined in Section 343 of the Planning Code, the granting or revoking power may take into consideration the effect of the proposed business or calling upon surrounding property and upon its residents, and inhabitants thereof; and in granting or denying said permit, or revoking or refusing to revoke a permit, may exercise its sound discretion as to whether said permit should be granted, transferred, denied or revoked.

(b) In the granting or denying of any permit, or the revoking or the refusing to revoke any permit with respect to a "dwelling" in which "protected class members" are likely to reside (each as defined in Administrative Code Chapter 87), the granting or revoking power shall comply with the requirements of San Francisco Administrative Code Chapter 87 which requires, among other things, that the granting or revoking power not base any decision regarding the development of "dwellings" in which "protected class" members are likely to reside on

information which may be discriminatory to any member of a "protected class" (As all such terms are defined in San Francisco Administrative Code Chapter 87).

(c) A department authorized to issue or transfer permits shall not issue or transfer a permit to any person who does not have a current business tax registration certificate when such person is required to obtain a business tax registration certificate pursuant to Section 1003 of Part III of the San Francisco Municipal Code.

(d) Notwithstanding Subsection (a) of this Section, the provisions of Article 15.1 (Entertainment Regulations Permit and License Provisions) and Article 15.2 (Entertainment Regulations for Extended-Hours Premises) of the Police Code shall govern actions taken on the granting, denial, amendment, suspension and revocation of permits regulated under those Articles, not the standards set forth in Subsection (a).

SEC. 4.105. PLANNING COMMISSION.

GENERAL. The Planning Commission shall consist of seven members nominated and appointed pursuant to this section. Four of the members shall be nominated by the Mayor, and three of the members shall be nominated by the President of the Board of Supervisors. Charter Section 4.101 shall apply to these appointments, with particular emphasis on the geographic diversity of City neighborhoods. Vacancies shall be filled by the appointing officer.

Each nomination of the Mayor and the President of the Board of Supervisors is subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days. If the Board fails to act on the nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the nomination or after 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors.

Members may be removed by the appointing officer only pursuant to Section 15.105.

In order to stagger the terms, three members shall initially serve two-year terms, and four members shall initially service four-year terms. The initial two and four-year terms of office shall be instituted as follows:

1. The respective terms of office of members of the Planning Commission who hold office on the first day of July, 2002, shall expire at 12 o'clock noon on that date, and the four members appointed by the Mayor and the three members appointed by the President of the Board of Supervisors shall succeed to said offices at that time.

2. The Clerk of the Board of Supervisors shall determine by lot which two of the four Mayoral appointees shall serve an initial two-year term, and which one of the three appointees of the President of the Board of Supervisors shall serve an initial two-year term. The remaining appointees shall serve four-year terms. All subsequent terms shall be four years.

The Commission shall provide the Mayor with at least three qualified candidates for Director of Planning, selected on the basis of administrative and technical qualifications, with special regard for experience, training and knowledge in the field of City planning.

The Commission may contract with consultants for such services as it may require subject to the fiscal provisions of this Charter.

GENERAL PLAN. The Commission shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan. If the Board of Supervisors fails to act within 90 days of receipt, the proposed General Plan or amendments shall be deemed approved. The General Plan which will initially consist of the Master Plan in effect immediately prior to the effective date of this Charter shall consist of goals, policies and programs for the future physical development of the City and County that take into consideration social, economic and environmental factors. In developing their recommendations, the Commission shall consult with commissions and elected officials, and shall hold public hearings as part of a comprehensive planning process. The Planning Department, in consultation with other departments and the City Administrator, shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan, and periodically prepare implementation programs and schedules which link the General Plan to the allocation of local, state and federal resources. The Planning Department may make such other reports and recommendations to the Mayor, Board of Supervisors and other offices and governmental units as it may deem necessary to secure understanding and a systematic effectuation of the General Plan.

In preparing any plans, the Planning Department may include plans for systems and areas within the Bay Region which have a planning relationship with the City and County.

REFERRAL OF CERTAIN MATTERS. The following matters shall, prior to passage by the Board of Supervisors, be submitted for written report by the Planning Department regarding conformity with the General Plan:

1. Proposed ordinances and resolutions concerning the acquisition or vacation of property by, or a change in the use or title of property owned by, the City and County;
2. Subdivisions of land within the City and County;
3. Projects for the construction or improvement of public buildings or structures within the City and County;
4. Project plans for public housing, or publicly assisted private housing in the City and County;
5. Redevelopment project plans within the City and County; and
6. Such other matters as may be prescribed by ordinance.

The Commission shall disapprove any proposed action referred to it upon a finding that such action does not conform to the General Plan. Such a finding may be reversed by a vote of two-thirds of the Board of Supervisors.

All such reports and recommendations shall be issued in a manner and within a time period to be determined by ordinance.

PERMITS AND LICENSES. All permits and licenses dependent on, or affected by, the City Planning Code administered by the Planning Department shall be approved by the Commission prior to issuance except for permits and licenses for which the Board of Supervisors or electorate by ordinance has determined do not require approval by the Commission or Planning Department prior to issuance. The Commission may delegate this approval function to the Planning Department. Notwithstanding the foregoing, certificates of appropriateness for work to designated landmarks and historic districts and applications for alterations to significant or contributory buildings or properties in designated conservation districts that have been approved, disapproved, or modified by the Historic Preservation Commission shall not require approval by the Commission prior to issuance.

ENFORCEMENT. The Planning Department shall administer and enforce the City Planning Code.

ZONING AMENDMENTS. The Commission may propose for consideration by the Board of Supervisors ordinances regulating or controlling the height, area, bulk, set-back, location, use or related aspects of any building, structure or land. An ordinance proposed by the Board of Supervisors concerning zoning shall be reviewed by the Commission. Applications for the reclassification of property may be made by interested parties and must be reviewed by the Commission. Notwithstanding the foregoing, designation of a landmark, a significant or contributory building, an historic district, or a conservation district shall be reviewed by the Commission only as provided in Section 4.135.

Notwithstanding the Commission's disapproval of a proposal from the Board of Supervisors or the application of interested parties, the Board of Supervisors may adopt the proposed ordinance; however, in the case of any proposal made by the application of interested parties, any such adoption shall be by a vote of not less than two-thirds of the Board of Supervisors.

No application of interested parties proposing the same or substantially the same ordinance as that disapproved by the Commission or by the Board of Supervisors shall be resubmitted to or reconsidered by the Commission within a period of one year from the effective date of final action upon the earlier application.

ZONING ADMINISTRATOR. The Director of Planning shall appoint a Zoning Administrator from a list of qualified applicants provided pursuant to the Civil Service provisions of the Charter. The Zoning Administrator shall be responsible for the determination of all zoning variances, except for zoning variances for which the Board of Supervisors or

electorate by ordinance has determined do not require determination by the Zoning Administrator. The administrator shall have the power to grant only those variances that are consistent with the general purpose and the intent of the zoning ordinance, and in accordance with the general and specific rules of the zoning ordinance, subject to such conditions and safeguards as the Zoning Administrator may impose. The power to grant variances shall be applied only when the plain and literal interpretation and enforcement of the zoning ordinance would result in practical difficulties, unnecessary hardships or where the results would be inconsistent with the general purpose of the zoning ordinance. Decisions of the Zoning Administrator regarding zoning variances may be appealed to the Board of Appeals, except for variance determinations for which the Board of Supervisors or electorate by ordinance has determined are not subject to appeal to the Board of Appeals.

Before any such variance may be granted, there shall appear, and the Zoning Administrator shall specify in his or her findings, the facts in each case which shall establish:

- (a) That there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same district or zone;
- (b) That owing to such exceptional or extraordinary circumstances the literal enforcement of the zoning ordinance would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
- (c) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, possessed by other property in the same zone and vicinity;
- (d) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located; and
- (e) That the granting of such variance will be in harmony with the general purpose and intent of the zoning ordinance and will not adversely affect the general plan.

The determination of the Zoning Administrator shall be final except that appeals therefrom may be taken, as hereinafter provided, to the Board of Appeals by any person aggrieved or by any office, agency, or department of the City and County, except for Zoning Administrator determinations for which the Board of Supervisors or electorate by ordinance has determined are not subject to appeal to the Board of Appeals. An appeal from a determination of the Zoning Administrator shall be filed with the Board of Appeals within ten days from the date of such determination. Upon making a ruling or determination upon any matter under his or her jurisdiction, the Zoning Administrator shall thereupon furnish a copy thereof to the applicant and to the Director of Planning. No variance granted by the Zoning Administrator shall become effective until ten days thereafter. An appeal shall stay all proceedings in furtherance of the action appealed from.

CONDITIONAL USE. The Commission shall have the power to hear and decide conditional use applications. An appeal may be taken to the Board of Supervisors from a decision of the Commission to grant or deny a conditional use application. The Board of Supervisors may disapprove the decision of the Commission by a vote of not less than two-thirds of the members of the Board.

SEC. 4.106. BOARD OF APPEALS.

(a) The Board of Appeals shall consist of five members nominated and appointed pursuant to this section. Three of the members shall be nominated by the Mayor, and two of the members shall be appointed by the President of the Board of Supervisors. Charter Section 4.101 shall apply to these appointments. Vacancies shall be filled by the appointing officer.

Each nomination of the Mayor and the President of the Board of Supervisors is subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days. If the Board fails to act on the nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the nomination or after 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors.

Members may be removed by the appointing officer only pursuant to Section 15.105.

In order to stagger the terms, three members shall initially serve two-year terms, and two members shall initially service four-year terms. The initial two and four-year terms of office shall be instituted as follows:

1. The respective terms of office of members of the Board of Appeals who hold office on the first day of July, 2002, shall expire at 12 o'clock noon on that date, and the three members appointed by the Mayor and the two members appointed by the President of the Board of Supervisors shall succeed to said offices at that time.

2. The Clerk of the Board of Supervisors shall determine by lot which two of the three Mayoral appointees shall serve an initial two-year term, and which one of the two appointees of the President of the Board of Supervisors shall serve an initial two-year term. The remaining appointees shall serve four-year terms. All subsequent terms shall be four years.

The Board shall appoint and may remove an executive secretary, who shall serve as department head.

(b) The Board shall hear and determine appeals with respect to any person who has been denied a permit or license, or whose permit or license has been suspended, revoked or withdrawn, or who believes that his or her interest or the public interest will be adversely affected by the grant, denial, suspension or revocation of a license or permit, except for a permit or license under the jurisdiction of the Recreation and Park Commission or Department, or the

Port Commission, or a building or demolition permit for a project that has received a permit or license pursuant to a conditional use authorization, or a permit or license for which the Board of Supervisors or electorate by ordinance has determined is not subject to appeal to the Board.

(c) The Board of Appeals shall hear and determine appeals:

1. Where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the provisions of any ordinance adopted by the Board of Supervisors creating zoning districts or regulating the use of property in the City and County, except for orders, requirements, decisions and determinations by the Zoning Administrator for which the Board of Supervisors or electorate by ordinance has determined are not subject to appeal to the Board; or

2. From the rulings, decisions and determinations of the Zoning Administrator granting or denying applications for variances from any rule, regulation, restriction or requirement of the zoning or set-back ordinances, or any section thereof, except for variance determinations by the Zoning Administrator for which the Board of Supervisors or electorate by ordinance has determined are not subject to appeal to the Board. Upon the hearing of such appeals, the Board may affirm, change, or modify the ruling, decision or determination appealed from, or, in lieu thereof, make such other additional determinations as it shall deem proper in the premises, subject to the same limitations as are placed upon the Zoning Administrator by this Charter or by ordinance.

(d) After a hearing and any necessary investigation, the Board may concur in the action of the department involved, or by the affirmative vote of four members (or if a vacancy exists, by a vote of three members) overrule the action of the Department.

Where the Board exercises its authority to modify or overrule the action of a department, the Board shall state in summary its reasons in writing.

SEC. 5.103. ARTS COMMISSION.

The Arts Commission shall consist of fifteen members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Eleven members shall be practicing arts professionals including two architects, a landscape architect, and representatives of the performing, visual, literary and media arts; and four members shall be lay members. The President of the Planning Commission, or a member of the Commission designated by the President, shall serve ex officio. Members may be removed by the Mayor.

The Commission shall appoint and may remove a director of the department. The Commission shall encourage artistic awareness, participation and expression; education in the arts; assist independent local groups with the development of their own programs; promote the employment of artists and those skilled in crafts, in the public and private sectors; provide liaison with state and federal agencies to ensure increased funding for the arts from these agencies as well as represent arts issues and policy in the respective governmental bodies; promote the

continued availability of living and working space for artists within the City and County; and enlist the aid of all City and County governmental units in the task of ensuring the fullest expression of artistic potential by and among the residents of San Francisco.

In furtherance of the foregoing the Arts Commission shall:

1. Approve the designs for all public structures, any private structure which extends over or upon any public property and any yards, courts, set-backs or usable open spaces which are an integral part of any such structures, except for public structures for which the Board of Supervisors or electorate by ordinance has determined are not subject to design approval by the Arts Commission;

2. Approve the design and location of all works of art before they are acquired, transferred or sold by the City and County, or are placed upon or removed from City and County property, or are altered in any way; maintain and keep an inventory of works of art owned by the City and County; and maintain the works of art owned by the City and County;

3. Promote a neighborhood arts program to encourage and support an active interest in the arts on a local and neighborhood level, assure that the City and County-owned community cultural centers remain open, accessible and vital contributors to the cultural life of the City and County, establish liaison between community groups and develop support for neighborhood artists and arts organizations; and

4. Supervise and control the expenditure of all appropriations made by the Board of Supervisors for the advancement of the visual, performing or literary arts.

Nothing in this section shall be construed to limit or abridge the powers or exclusive jurisdiction of the charitable trust departments or the California Academy of Sciences or the Library Commission over their activities; the land and buildings set aside for their use; or over the other assets entrusted to their care.

SECTION 3. FINDING OF CONSISTENCY.

The Charter amendments contained in this Initiative are consistent with the objectives and policies of the General Plan, and would affirmatively promote the objectives and policies of the City's General Plan. Without limiting the foregoing, this finding of consistency is because the Charter amendment is consistent with and implements the objectives and policies of the General Plan Housing Element in that it would expedite the production of additional affordable housing units, including in areas of the City that are well served by transit, services and shopping opportunities.

SECTION 4. CONFLICT WITH OTHER MEASURE.

This Initiative will be deemed to conflict with any other measure appearing on the same ballot if the other measure(s) address(es) any of the following subjects, whether it does so by specific application or as a more general enactment that could otherwise be applied in a manner that

addresses any of the following subjects: planning and zoning controls and project approval processes. In the event that this Initiative and any other initiative are approved by the voters at the same election, and this Initiative receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and the other measures shall be rendered void and without any legal effect. If this Initiative is approved by a majority of the voters but not does not receive a greater number of affirmative votes than any other conflicting initiative, this Initiative shall take effect to the extent permitted by law.

SECTION 5. INTERPRETATION.

This Initiative shall be interpreted so as to be consistent with all federal and state laws. It is the intent of the voters that the provisions of the Initiative be liberally construed and implemented in a manner that facilitates the purposes set forth in this Initiative.

SECTION 6. AMENDMENT.

The provisions of this Initiative amending the San Francisco Charter may only be amended by the voters of the City and County of San Francisco. Any other provisions of this Initiative, including Planning Code amendments and Business and Tax Regulation Code amendments, may be amended by the Board of Supervisors by ordinance as provided in Section 2 of this Initiative or if there are federal, state or regional legal requirements that make amendments necessary in order to achieve the purposes and intent of this Initiative.

SECTION 7. STATUTE OF LIMITATIONS.

Unless a shorter statute is enacted by the State Legislature, all provisions of this Initiative shall be deemed subject to Government Code Section 65009(c), and no action or proceeding challenging all or any part of this Initiative shall be maintained unless commenced and service made within 90 days of the date of the legislative body's decision. It is the intent of the voters that the date of the legislative body's decision to be date of the election at which the voters adopt this Initiative. If such date cannot lawfully be deemed the date of the legislative body's decision, then it is the intent of the voters that the date of the legislative body's decision to be the earliest possible lawful date.

SECTION 8. SEVERABILITY.

If any provision of this Initiative or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect any provision or application of this Initiative that can be given effect without the invalid provision or application. To this end, the provisions of this Initiative are severable.

SECTION 9. LEGAL CHALLENGES.

Notwithstanding any other provision of law, if the City or any of its officials fails to defend the validity of this Initiative following its approval by the voters, any citizen of the City shall have the authority to intervene in any court action for the purpose of defending the validity of the

Initiative, whether such action is in a trial court, on appeal, or on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States. The fees and costs of defending the action shall be a charge on City funds, which shall be satisfied promptly.