



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Planning Code and Administrative Code Text Amendment Initiation

HEARING DATE: JANUARY 16, 2020

*Project Name:* Standard Environmental Conditions of Approval  
*Case Number:* 2020-000052PCA [Board File No. TBD]  
*Staff Contact:* Veronica Flores, Legislative Affairs  
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*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Initiate and Schedule for Adoption on or After February 27, 2020**

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The action before this Commission is initiation of the code amendments described below. Initiation does not involve a decision on the substance of the amendments; it merely begins the required 20-day notice period, after which the Commission may hold a hearing and take action on the proposed Code amendments.

### PLANNING CODE AND ADMINISTRATIVE CODE AMENDMENT

The proposed Ordinance would amend the Administrative and Planning Codes to authorize the Planning Commission to standardize policies and conditions that avoid or lessen common environmental impacts of development projects and create a program to apply those policies and conditions to development projects, as applicable, as standard environmental conditions of approval. The proposed Ordinance would protect public health, safety, welfare and the environment while expediting environmental review for housing and other development projects.

#### The Way It Is Now:

The Environmental Planning division of the Planning Department reviews development projects for potential environmental impacts. This environmental review is conducted pursuant to the California Environmental Quality Act (CEQA), the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, which provides procedural direction on implementation of CEQA by the City (hereinafter referred to collectively as "CEQA," unless otherwise specified).

The CEQA process identifies any potential adverse environmental effects of proposed actions, assesses the significance of these adverse environmental effects, and proposes mitigation measures to eliminate or lessen significant impacts. Most development projects, including most housing projects, are subject to environmental review.

For projects that would not result in the potential to result in a significant environmental impact and that qualify for a Categorical Exemption under CEQA, the Planning Department prepares a Categorical Exemption. For projects that are determined to have a potential environmental impact that can be avoided or lessened to a less-than-significant level through the application of mitigation measures, pursuant to CEQA, the Department prepares a Mitigated Negative Declaration (MND). For projects that would have a potential unavoidable significant environmental impact, even with application of specific mitigation measures, the Planning Department prepares an Environmental Impact Report (EIR). The preparation of a Categorical Exemption typically takes up to 9 months. The preparation of an MND typically takes up to 12 months. The preparation of an EIR typically takes 18 to 22 months. Environmental review must be completed before a project can be considered and approved by the Planning Commission or any other decision-maker. All CEQA determinations are appealable to the Board of Supervisors.

Projects not subject to CEQA are not evaluated by the Planning Department to determine if significant environmental impacts would occur and, thus, mitigation measures may not be applied to such projects. These include ministerial approval projects, such as some affordable housing developments and smaller scale development projects that may be approved as-of-right.

#### **The Way It Would Be:**

The Environmental Planning division would continue to conduct environmental review pursuant to CEQA for all development projects that are subject to environmental review, and all CEQA determinations would continue to be appealable to the Board of Supervisors. The Standard Environmental Conditions of Approval measures would be applied consistently to all applicable projects, including some as-of-right and ministerial approval projects not subject to CEQA, that are not currently subject to these measures, through the Planning Department's permit review and approval process.

The proposed Ordinance would add a new Chapter 31A of the Administrative Code and amend Section 174 of the Planning Code to establish the Standard Environmental Conditions of Approval (hereinafter "Standard Environmental Conditions") program. The program would allow for the Planning Commission to adopt Standard Environmental Conditions that the Planning Department would impose on applicable development projects through the existing permit review and approval process, rather than the environmental review process. This would be similar to the way in which Planning Code requirements are generally applied to development projects as conditions of approval.

The Standard Environmental Conditions would be designed to achieve the same, or higher, level of environmental protection currently achieved through the environmental review process, by mandating that best practices in environmental protection be applied to projects as a requirement, thereby avoiding potential impacts. Projects subject to the Standard Environmental Conditions would undergo environmental review, taking into account the applicable Standard Environmental Conditions that would lessen and, in some cases, altogether avoid specific significant impacts. The Planning Department would prepare the appropriate type of CEQA document as provided for under current CEQA provisions. In cases where the Standard Environmental Conditions would reduce or avoid significant impacts, some projects that would otherwise require preparation of an MND would qualify for a Categorical Exemption. The

Planning Department would continue to prepare EIRs for projects that would result in significant unavoidable impacts, even if applicable Standard Environmental Conditions would lessen or avoid some environmental impacts. Environmental review must be completed before a project can be considered and approved by the Planning Commission or any other decision-maker. All CEQA determinations would continue to be appealable to the Board of Supervisors.

## **BACKGROUND**

In September 2017, Mayor Edwin M. Lee issued Executive Directive 17-02: Keeping up the Pace of Housing Production, which called on City agencies to work together to deliver at least 5,000 units of new or rehabilitated housing every year for the foreseeable future, established target approval timeframes for housing projects, and directed agencies to develop Process Improvements Plans to reach those goals. In December 2017, the Planning Department issued its Process Improvements Plan, which included a measure to Codify Effective Mitigation Measures in applicable environmental review topic areas, specifically including but not limited to the areas of archeology, transportation, noise, and air quality. The proposed ordinance would implement this process improvement measure by establishing the Standard Environmental Conditions of Approval program.

## **Issues and Considerations**

### **Improved Consistency, Streamlining, Transparency, and Continued Environmental Protection in Environmental Review**

The program allows for the Planning Commission to adopt Standard Environmental Conditions that the Planning Department would impose on applicable development projects through the existing permit review and approval process. The Standard Environmental Conditions would be organized by environmental topic area (Air Quality, Archeological Resources, etc.) and must be regularly reviewed and presented to the Planning Commission to keep pace with current conditions, technology, and best practices in environmental protection.

Standard Environmental Conditions would apply consistently to development projects that meet specific applicability criteria directly through the permit review process, rather than as mitigation measures developed through the CEQA process. Environmental review would continue to apply to projects subject to CEQA; however, the review would consider the applicable Standard Environmental Conditions as part of the project analyzed under CEQA, allowing some eligible projects to qualify for a Categorical Exemption that exists under CEQA today.

The Program would offer multiple advantages:

- **Consistent standards:** Standard Environmental Conditions would build on the extensive body of knowledge available from existing CEQA mitigation measures and other environmental improvement measures that have proven effective over time. Under the program, these measures would be applied consistently to all applicable projects, including some as-of-right and ministerial approval projects that are not currently subject to these measures. Standard

Environmental Conditions would be designed to apply appropriately to projects based on pre-established criteria such as use(s), size, location, and environmental setting, rather than on a project-by-project basis.

- **Streamlined review:** Standard Environmental Conditions would allow environmental review under CEQA to be conducted roughly three months faster on average for projects that would have otherwise required an MND by applying pre-determined conditions to qualifying projects without the need to conduct longer and more intensive environmental evaluation. Under current practice, projects that require an MND in order to apply mitigation measures can typically take a year to prepare. In recent years, the Planning Department has prepared roughly 10 MNDs annually, generally for mid-to large-scale projects, including housing projects. As Standard Environmental Conditions are adopted in various environmental topic areas, projects would be subject to those Conditions. This approach may also reduce development costs in some cases by allowing the protection measures to be included in the project proposal early on.
- **Transparent requirements:** Standard Environmental Conditions would be publicly available and knowable to project applicants, neighbors, community advocates, and interested members of the public in advance of project plan submittals and permit review, similar to the way programmatic mitigation measures are identified in area plan EIRs, such as the Central SoMa Plan EIR. Standard Environmental Conditions would be adopted and amended by the Planning Commission by topic area, allowing these measures to be readily available for public review and revised as needed based on current science and best practices in environmental protection.
- **Continued environmental protection:** Standard Environmental Conditions would achieve the same, or higher, level of environmental protection currently achieved through the environmental review process, by mandating that best practices in environmental protection be applied to projects as a requirement, thereby avoiding potential impacts. Additionally, the program would allow for the same or greater environmental protection than under current processes because the Standard Environmental Conditions would be applied to certain ministerial approval projects, including many affordable housing developments and many smaller scale development projects, that may be approved as-of-right and that are not subject to CEQA.

### **Program Applicability**

The program may be applied to any development project that requires Planning Department approval. Standard Environmental Conditions would be applied to those projects that trigger the specific applicability criteria in each Standard Environmental Condition. Projects to which the Standard Conditions would not apply (for example, because of their size or type) would continue to be reviewed under the current environmental review process under CEQA.

Standard Environmental Conditions would generally apply to projects that would have potential environmental impacts that can be avoided or lessened through the application of specific requirements.

The program would allow for the same or greater environmental protection than under current processes because the Standard Environmental Conditions would also be applied to certain ministerial approval projects, including many affordable housing developments, and many smaller scale development projects that may be approved as-of-right and that are not subject to CEQA.

### **Standard Environmental Conditions - Process for Adoption and Amendments**

Standard Environmental Conditions for various environmental topics would be adopted and amended by the Planning Commission. The Planning Department would be required to report at least every five years to the Planning Commission and Board of Supervisors on the effectiveness of the Program and to recommend appropriate updates, modifications, and new conditions based on current science, technology, and best practices.

For projects that meet the applicability criteria, the Standard Environmental Conditions would be applied as a condition of approval for the project, similar to how Planning Code and other requirements are routinely applied to development projects. Limited exceptions to the Standard Environmental Conditions would be available where the Environmental Review Officer determines that sufficient evidence is present to demonstrate either that the project would not cause the potential environmental impact that the Condition is designed to address, or that an alternative means of achieving the same level of environmental protection is available.

Conditions may not be modified or adjusted by the Planning Commission or Planning Department as part of the project approval process. CEQA determinations for projects subject to Standard Environmental Conditions would continue to be appealable to the Board of Supervisors.

### **Examples of Standard Environmental Conditions of Approval: Air Quality, and Archeology and Tribal Cultural Resources**

#### **Air Quality Standard Conditions**

The Air Quality Standard Environmental Conditions would address common air quality impacts resulting from development projects and other projects in the city, in order to continue to protect public health and welfare throughout the city, especially in areas that experience high levels of air pollution. Application of the air quality standard environmental conditions would avoid significant air quality impacts from most development projects. Development projects produce air pollutants primarily through combustion emissions generated by vehicles (on-road and off-road vehicles) and equipment (diesel back-up generators), heating, use of consumer products, paving and application of architectural coatings. Construction activities can be a significant source of diesel exhaust emissions. When such emissions are not controlled, they can become a nuisance and public health risk.

A Construction Emissions Minimization standard environmental condition would require that projects within areas of elevated air pollution (also known as the Air Pollution Exposure Zone, as defined in Health Code Article 38) use construction equipment that meets the most stringent emissions standards available and submit an emissions minimization plan. A Diesel Generator Emissions Minimization standard environmental condition would require that diesel generators similarly meet the most stringent emission

standards available. Application of these conditions would result in approximately a 90 percent reduction of harmful diesel exhaust from uncontrolled sources.

### **Archeological and Tribal Cultural Resources**

The Archeological and Tribal Cultural Resources Standard Environmental Conditions would address common cultural resource impacts that may result from development, to continue to protect resources that are vital to the history and culture of the city. Starting more than 7,000 years ago, San Francisco's residents have left behind a rich and important record of their culture, as archaeological deposits and features in the soils beneath the city. Archaeological deposits provide significant historical information and, if these resources are not appropriately treated, those stories are lost forever. Application of the archeological and tribal cultural resources standard conditions would ensure that significant cultural resource impacts from soil-disturbing projects are avoided, such that the significant knowledge about the past represented by the resources is preserved.

The Archeological and Tribal Cultural Resources Standard Environmental Conditions would require that projects with soil disturbance implement measures to avoid or lessen potential impacts to cultural resources. An Accidental Discovery during Construction Standard Environmental Condition would require all soil-disturbing projects to include a requirement for project sponsors to report archaeological discoveries during construction. Under an Archeological Monitoring/Archeological Testing/Archeological Data Recovery Standard Environmental Condition, soil-disturbing projects in archaeologically sensitive areas would be subject to archaeological and tribal cultural resource review, to determine whether additional protections such as archaeological monitoring, testing or data recovery or tribal cultural resource consultation and interpretation should be included in the project for the protection of known or suspected resources. Following standard cultural resource practices currently in place in San Francisco, these standard environmental conditions would require development and implementation of an archaeological treatment plan by a qualified archaeological consultant under the direction of Planning Department's archaeological staff and generally would include identification, excavation and data recovery, analysis, reporting, curation, and public interpretation of significant cultural resources.

### **Monitoring and Enforcement of Standard Conditions**

Currently, the Planning Department and other City agencies such as Department of Building Inspection (DBI) and San Francisco Municipal Transportation Agency (SFMTA) enforce and monitor mitigation measures. Standard Environmental Conditions would be monitored through a similar process, including required documentation from project sponsors, plan review, inspection, and periodic reporting when needed. As with mitigation measures, City agencies would track implementation during their review of subsequent permit submittals and would retain the ability to take enforcement action (for example, suspending permits) if the Conditions are not being met.

## **RECOMMENDATION**

The Department recommends that the Commission recommend approval of the resolution to initiate the Planning Code amendments for consideration on or after February 27, 2020.

## **BASIS FOR RECOMMENDATION**

The Standard Environmental Conditions of Approval program would implement an important improvement measure included in the Department's 2017 Process Improvements Plan. The program is designed to achieve the same, or higher, level of environmental protection currently achieved through the environmental review process under the CEQA through a consistent, streamlined, and transparent approach that expedites the review of housing and other development projects while continuing to protect public health and safety and the environment.

## **REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may initiate the proposed Ordinance and schedule a time for the ordinance to be heard for adoption.

## **ENVIRONMENTAL REVIEW**

The proposal to amend the Planning Code and Administrative Code is anticipated to result in no physical impact on the environment. Evaluation under CEQA will be complete prior to the adoption hearing.

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

|                                                                                            |
|--------------------------------------------------------------------------------------------|
| <b>RECOMMENDATION:</b> <b>Initiate and Consider Adoption on or after February 27, 2020</b> |
|--------------------------------------------------------------------------------------------|

### **Attachments:**

- Exhibit A:      Draft Planning Commission Resolution
- Exhibit B:      Proposed Ordinance



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Resolution

HEARING DATE JANUARY 16, 2020

*Project Name:* Standard Environmental Conditions of Approval  
*Case Number:* 2020-000052PCA [Board File No. TBD]  
*Initiated by:* Planning Commission  
*Staff Contact:* Veronica Flores, Legislative Affairs  
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**ORDINANCE AMENDING THE ADMINISTRATIVE AND PLANNING CODES TO AUTHORIZE THE PLANNING COMMISSION TO STANDARDIZE POLICIES AND CONDITIONS THAT AVOID OR LESSEN COMMON ENVIRONMENTAL IMPACTS OF DEVELOPMENT PROJECTS, AND CREATE A PROGRAM TO APPLY THOSE POLICIES AND CONDITIONS TO DEVELOPMENT PROJECTS, AS APPLICABLE, AS STANDARD ENVIRONMENTAL CONDITIONS OF APPROVAL, IN ORDER TO PROTECT PUBLIC HEALTH, SAFETY, WELFARE AND THE ENVIRONMENT WHILE EXPEDITING ENVIRONMENTAL REVIEW FOR HOUSING AND OTHER DEVELOPMENT PROJECTS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA); AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE AND WELFARE FINDINGS UNDER PLANNING CODE, SECTION 302.**

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider initiation of the proposed Ordinance on January 16, 2020; and

WHEREAS, the proposed amendments would amend the Planning Code to authorize the Planning Commission to standardize policies and conditions that avoid or lessen common environmental impacts of development projects, and create a program to apply those policies and conditions to development projects, as applicable, as standard environmental conditions of approval, in order to protect public health, safety, welfare and the environment while expediting environmental review for housing and other development projects; and



WHEREAS, the Environmental Review will be completed prior to the Commission taking action on this Ordinance; and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

MOVED, that pursuant to Planning Code Section 302(b), the Commission adopts a Resolution to initiate amendments to the Planning Code;

AND BE IT FURTHER RESOLVED, that pursuant to Planning Code Section 306.3, the Commission authorizes the Department to provide appropriate notice for a public hearing to consider the above referenced Planning Code amendments contained in the draft ordinance, approved as to form by the City Attorney in Exhibit A, to be considered at a publicly noticed hearing on or after **February 27, 2020**.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 16, 2020.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

1 [Administrative, Planning Codes - Standard Environmental Conditions of Approval]

2

3 **Ordinance amending the Administrative and Planning Codes to authorize the Planning**  
 4 **Commission to standardize policies and conditions that avoid or lessen common**  
 5 **environmental impacts of development projects, and create a program to apply those**  
 6 **policies and conditions to development projects, as applicable, as standard**  
 7 **environmental conditions of approval, in order to protect public health, safety, welfare**  
 8 **and the environment while expediting environmental review for housing and other**  
 9 **development projects; affirming the Planning Department’s determination under the**  
 10 **California Environmental Quality Act (CEQA); and making findings of consistency with**  
 11 **the General Plan and the eight priority policies of Planning Code Section 101.1, and**  
 12 **findings of public necessity, convenience and welfare findings under Planning Code,**  
 13 **Section 302.**

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

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

22 Section 1. Findings.

23 (a) The Planning Department has determined that the actions contemplated in this  
 24 ordinance comply with the California Environmental Quality Act (California Public Resources  
 25 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this  
2 determination.

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

8 (c) Pursuant to Planning Code, Section 302, the Board of Supervisors finds that the  
9 actions contemplated in this ordinance will serve the public necessity, convenience, and  
10 welfare for the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_,  
11 recommending approval of the proposed designation. A copy of said Resolution is on file with  
12 the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by  
13 reference.

14  
15 Section 2. The Administrative Code is hereby amended by adding Chapter 31A, to  
16 read as follows:

17  
18 **SEC. 31A.1. STANDARD ENVIRONMENTAL CONDITIONS OF APPROVAL**  
19 **PROGRAM.**

20 *Sections 31A.1 through 31A.6 (hereafter referred to collectively as “Chapter 31A”) set forth the*  
21 *process for the creation of the Standard Environmental Conditions of Approval Program.*

22  
23 **SEC. 31A.2. FINDINGS.**

24 (a) *San Francisco is experiencing a widely recognized housing affordability and supply*  
25

1 crisis. Since the Great Recession of 2007, the average rent for a two-bedroom apartment in San  
2 Francisco has increased by 80 percent, from \$2,573 in 2011 to \$4,650 in 2018. The average home sale  
3 price for a two-bedroom house over the same period more than tripled, from \$510,000 to \$1,573,000.  
4 As of 2017, 40 percent of San Francisco households were housing-cost burdened, meaning the  
5 household is paying more than 30 percent of gross annual income in housing costs. At the same time,  
6 the growth in housing supply has lagged far behind the growth in demand. Since 2010 San Francisco's  
7 population has grown by nearly 80,000 people and nearly 170,000 new jobs have been added, while  
8 fewer than 24,000 new housing units were completed over this same period.

9 (b) In 2014, San Francisco voters passed Proposition K to commit the City to construct  
10 or rehabilitate 30,000 housing units by 2020, with 33 percent affordable to low-and moderate-income  
11 households.

12 (c) In September 2017, Mayor Edwin M. Lee issued Executive Directive 17-02:  
13 Keeping up the Pace of Housing Production, which called on City agencies to work together to deliver  
14 at least 5,000 units of new or rehabilitated housing every year for the foreseeable future to address this  
15 housing supply shortage, and directed agencies to develop Process Improvements Plans to reach those  
16 goals.

17 (d) In December 2017, the Planning Department issued its Process Improvements  
18 Plan, which included a measure to Codify Effective Mitigation Measures in applicable environmental  
19 review topic areas, specifically including but not limited to the areas of archeology, transportation,  
20 noise, and air quality.

21 (e) Recent actions by the California legislature have further emphasized  
22 that housing production is a matter of urgent statewide concern, including the need for streamlined  
23 permit review and environmental review procedures. In 2017, Senate Bill 35 established ministerial  
24 review for projects that would provide housing units at certain income levels due to the lack of  
25 production of such units, and Assembly Bill 73 established ministerial review for projects located

1 within Housing Sustainability Districts created by a local jurisdiction. In 2018, Assembly Bill 2162  
2 provided for ministerial approval of supportive housing projects and made supportive housing a  
3 permitted use by right in multifamily zoning districts statewide. In 2019, Assembly Bill 101 made “Low  
4 Barrier Navigation Centers” permitted by right and subject to ministerial approval statewide, and  
5 Senate Bill 330 declared a five-year statewide housing crisis and established a number of new  
6 requirements for local jurisdictions to speed permit review for housing projects and prevent zoning  
7 actions that would limit housing production.

8 (f) The Office of Environmental Review of the Planning Department was created under Chapter  
9 31 of the Administrative Code in order to provide decision makers and the public with meaningful  
10 information regarding the environmental consequences of proposed activities in the City. Chapter 31  
11 also states that the Office of Environmental Review is responsible for assuring that the City is carrying  
12 out its responsibilities set forth in the California Environmental Quality Act (CEQA) and providing  
13 procedural direction on the implementation of CEQA by the City. Further, Chapter 31 specifies that the  
14 Environmental Review Officer may adopt necessary forms, checklists and procedural guidelines to  
15 implement CEQA and Chapter 31.

16 (g) The City, pursuant to its police power, has already adopted several local laws that provide  
17 a high level of environmental protection to its residents, workers and visitors, such as the Clean  
18 Construction Ordinance (Environment Code, Chapter 25), which protects public health by requiring  
19 contractors on City projects to reduce diesel and other particulate matter emissions generated by  
20 construction activities; the Stormwater Management Ordinance (Public Works Code, Section 147),  
21 which minimizes increases in pollution caused by stormwater runoff from development that would  
22 otherwise degrade local water quality through stormwater controls; the Maher Ordinance (Health  
23 Code, Article 22A), which requires Department of Public Health oversight for the characterization and  
24 mitigation of hazardous substances in soil and groundwater on development sites where contamination  
25 is suspected; and the Dust Control Ordinance (Public Works Code, Article 22B), which reduces dust

1 and pollutants that are constituents of dust, from any site preparation or construction activities by  
2 requiring dust control measures for all construction projects and site-specific dust control plans for  
3 projects on sites that are over one-half acre.

4 (h) The Office of Environmental Review has identified several requirements that are frequently  
5 applied to development projects with certain characteristics, to avoid or lessen certain environmental  
6 impacts. For example, the City generally requires projects located in areas with elevated air pollution  
7 that use heavy-duty diesel construction equipment to implement CEQA mitigation measures that use the  
8 cleanest construction equipment, so as to not increase the pollutant burden.

9 (i) CEQA, the regulations that implement it, and case law support lead agencies' use of  
10 environmental standards to assess and avoid environmental impacts resulting from projects. Indeed  
11 the CEQA Guidelines were amended in 2018 to "expressly clarify that agencies may rely on standards  
12 adopted for environmental protection" as thresholds of significance, to determine whether or not a  
13 project will result in significant impacts. As stated in the Guidelines, using environmental standards  
14 this way "promotes consistency in significance determinations and integrates environmental review  
15 with other environmental program planning and regulation." Examples of such policies are the  
16 ordinances listed above in (g), and building code requirements.

17 (j) In the context of the ongoing housing crisis, and consistent with recent local and State policy  
18 efforts to support expedited review for development projects, the Board finds that it is in the interest of  
19 the City to establish environmental standards, policies, or conditions that may be uniformly applied  
20 where appropriate and that, by design, would avoid or lessen common environmental impacts that  
21 often result from development projects in the City, all while protecting of public health, safety and  
22 welfare. These policies, referred to in this Ordinance as "Standard Environmental Conditions of  
23 Approval" would greatly facilitate the City's ongoing efforts to expedite review of housing and other  
24 development projects while at the same time achieving high levels of environmental protection for its  
25 residents, workers, visitors, and the environment at large.

1            (k) The Board therefore by this Ordinance authorizes the Planning Commission to establish the  
2 Standard Environmental Conditions of Approval Program, and create processes by which the program  
3 can be periodically revised, amended, and updated.

4  
5            **SEC. 31A.3. DEFINITIONS.**

6            For purpose of this Chapter 31A, the following definitions shall apply.

7            Approval. Any required approval or determination on a Development Application that the  
8 Planning Commission, Planning Department, or Zoning Administrator issues.

9            Development Application. As defined in Section 401 of the Planning Code.

10           Development Project. Any change of use, alteration to an existing structure, or new  
11 construction.

12           Standard Environmental Conditions of Approval, or Standard Conditions. Policies, standards,  
13 or conditions that, by design, avoid or lessen one or more adverse environmental impacts that may  
14 result from Development Projects.

15  
16           **SEC. 31A.4. STANDARD ENVIRONMENTAL CONDITIONS OF APPROVAL**  
17 **PROGRAM.**

18           (a) Standard Environmental Conditions of Approval Program. The Planning Commission  
19 shall establish Standard Environmental Conditions of Approval Program (“Standard Environmental  
20 Conditions of Approval Program” or “Program”). The Program shall contain Standard Conditions  
21 that the Planning Department commonly applies to Development Projects in the City as part of the  
22 environmental review process. The Planning Commission shall have discretion to develop the  
23 Standard Environmental Conditions Program gradually, in phases, as more Standard Conditions are  
24 developed and identified.

1           **(b) Contents of the Standard Conditions of Approval Program.** *The Standard Environmental*  
2 *Conditions of Approval Program shall contain all the information necessary to implement the*  
3 *Program, and, at a minimum, it shall specify, for each Standard Condition, the following information:*

4                   *(1) Substantial evidence demonstrating that application of the condition will avoid or*  
5 *lessen one or more potential environmental impact;*

6                   *(2) Applicability criteria for Development Projects;*

7                   *(3) A clear description of the way or ways in which the condition shall be carried out by*  
8 *Development Projects; and*

9                   *(4) Appropriate monitoring and reporting requirements.*

10           **(c) Criteria for the Development of the Standard Conditions of Approval Program.** *When*  
11 *preparing, adopting, or updating the Standard Environmental Conditions of Approval Program, the*  
12 *Planning Commission shall consider the primary goals of this Chapter 31A, that is, to expedite review*  
13 *of housing and other development projects, while at the same time avoiding or lessening impacts to the*  
14 *environment. In addition, the Planning Commission shall consider the following principles:*

15                   **(1) Proportionality.** *Application of each Standard Condition shall be proportionate to*  
16 *the potential environmental impact Development Projects would produce, absent the Standard*  
17 *Condition, and shall take into account site-specific information.*

18                   **(2) Flexibility.** *The Standard Environmental Conditions of Approval Program shall*  
19 *provide for a mechanism for Development Projects to demonstrate, if they so wish, that despite falling*  
20 *within the applicability criteria of a particular Standard Condition, that Standard Condition should not*  
21 *apply to them, because (A) the Development Project will not cause the specific environmental impact*  
22 *that the Standard Condition is designed to avoid or lessen; or (B) the Development Project proposes an*  
23 *equal or more effective measure. For purposes of this section, an “equal or more effective measure”*  
24 *shall mean that the new measure will avoid or lessen the significant effect to at least the same degree*  
25 *as, or to a greater degree than, the original measure, and it will create no more adverse effect of its*



1 own than would have the original measure. If a Development Project demonstrates, to the satisfaction  
2 of the Environmental Review Officer (or their designee), that (A) is met, then that Development Project  
3 shall not be obligated to implement that particular Standard Condition. If a Development Project  
4 demonstrates, to the satisfaction of the Environmental Review Officer, that (B) is met, then the equal or  
5 more effective measure shall apply to that Development Project. All other applicable rules,  
6 regulations, processes and conditions shall continue to apply.

7 **(3) Further Evaluations.** Conversely, if evidence suggests that a Development  
8 Project's impacts may still be significant under CEQA, despite compliance with the Standard  
9 Conditions, that Development Project may be further evaluated and subject to additional conditions or  
10 mitigation measures.

11 **(d) Updates.** The Standard Environmental Conditions of Approval Program shall be updated  
12 from time to time, at the discretion of the Planning Commission, to include new Standard Conditions,  
13 as they are identified and developed, to amend existing Standard Conditions, and to reflect best  
14 practices in environmental protection. These updates shall include a public review process and be  
15 supported by substantial evidence. Non-substantive changes that do not create new conditions or  
16 requirements (for example to clarify existing conditions or procedures) may be updated  
17 administratively, without a public hearing.

18 **(e) Reports to the Planning Commission and the Board of Supervisors.** Every five years, the  
19 Planning Department shall prepare a report to the Planning Commission and the Board of Supervisors  
20 describing the implementation of the Standard Environmental Conditions of Approval Program to date,  
21 including a description of any new or amended Standard Conditions; the number of Development  
22 Projects that have been subject to the Standard Environmental Conditions of Approval Program; and  
23 any other relevant issues. The Planning Department shall present such report to the Planning  
24 Commission and Board of Supervisors at public hearings.

1            (f) City's Authority. The Standard Environmental Conditions of Approval Program shall not  
2 limit the City's authority to impose additional conditions of approval, including to avoid or lessen  
3 environmental impacts, on any Development Project.

4  
5            **SEC. 31A.5. APPLICABILITY.**

6            **(a) Applicability Criteria.**

7            (1) The Standard Environmental Conditions of Approval Program as established by this  
8 Chapter 31A shall apply to any Development Project that has the potential to result in a direct physical  
9 change in the environment, or a reasonably foreseeable indirect physical change in the environment. In  
10 addition, specific Standard Conditions shall have their own applicability criteria, depending on the  
11 environmental impact they address.

12            (2) A Development Project shall be subject to the applicable Standard Conditions in  
13 effect at the time its first complete Development Application is filed. If the Planning Commission  
14 revises Standard Conditions subsequent to the date the Development Project's first complete  
15 Development Application was filed, then the property owner may elect to have the Development Project  
16 be subject to the later-approved Standard Conditions, but if so, must meet all requirements of such  
17 revised Standard Conditions.

18            **(b) Imposition of Conditions.**

19            (1) The Planning Department shall review each Development Project to determine the  
20 applicability of each identified Standard Condition.

21            (2) Applicable Standard Conditions shall be included as Conditions of Approval on  
22 Development Projects, at the time of the Development Project's Approval, and pursuant to the same  
23 process required for such Approval.

1                   (3) Except as provided in subsection 31A.4(c)(2), the Planning Commission, Planning  
2 Department, or Zoning Administrator shall not waive, reduce, or adjust Standard Conditions for a  
3 Development Project through any Approval.

4                   (c) Notice of Special Restrictions. The Zoning Administrator shall approve and order the  
5 recording of a Notice of Special Restrictions in the Official Records of the Recorder of the City and  
6 County of San Francisco containing any Standard Conditions applicable to the Development Project  
7 for the subject property prior to the issuance of a building or site permit.

8  
9                   **SEC. 31A.6. FEES.**

10                   The Planning Department shall charge Development Projects subject to the Standard  
11 Environmental Conditions of Approval Program fees to compensate the Department for the cost of  
12 performing the activities and providing the services described in Chapter 31A, pursuant to  
13 Administrative Code Section 31.22 and Planning Code 350.

14  
15                   Section 3. The Planning Code is hereby amended by revising Section 174, to read as  
16 follows:

17                   **SEC. 174. COMPLIANCE WITH CONDITIONS, STIPULATIONS AND SPECIAL**  
18 **RESTRICTIONS REQUIRED.**

19                   Every condition, stipulation, special restriction, and other limitation imposed by  
20 administrative actions pursuant to this Code, or to Chapter 31A of the Administrative Code,  
21 whether such actions are discretionary or ministerial, shall be complied within the  
22 development and use of land and structures. All such conditions, stipulations, special  
23 restrictions and other limitations shall become requirements of this Code, and failure to  
24 comply with any such condition, stipulation, special restriction or other limitation shall  
25

1 constitute a violation of the provisions of this Code. Such conditions, stipulations, special  
2 restrictions and other limitations shall include but not be limited to the following:

3 (\* \* \* \*)  
4

5 Section 4. Effective Date. This ordinance shall become effective 30 days after  
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
8 of Supervisors overrides the Mayor’s veto of the ordinance.  
9

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

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

19 By: \_\_\_\_\_  
20 ANDREA RUIZ-ESQUIDE  
21 Deputy City Attorney

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24  
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