



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: March 21ST, 2013

Project Name: **Inclusionary Affordable Housing Program, Reduction of On-Site Requirements, Updates, and Clarifications**

Case Number: 2012.1381U [Board File No. 12-1162, Version Two]
Initiated by: Mayor Edwin Lee / Introduced December 6, 2012
Staff Contact: Kimia Haddadan, Legislative Affairs
Kimia.haddadan@sfgov.org, 415-557-9068

Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
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Recommendation: **Recommend Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code by amending Section 401, and provisions of the Inclusionary Affordable Housing Ordinance, Sections 415 et seq., to update and clarify provisions of the Inclusionary Affordable Housing Program ("Program") by 1) reducing certain on-site requirements under Charter Section 16.110; (2) providing a cap on rent increases; 3) clarifying the timing of off-site developments; 4) requiring rental units that convert to ownership to sell at less than the price for ownership units under certain circumstance; 5) establishing pricing for affordable Single Room Occupancy units; 6) changing the status of projects using California Debt Limit Allocation Committee tax exempt bonds so that such projects are subject to the Program, but that units may qualify as on- or off-site units under certain circumstances; 7) allowing income levels of qualifying households to exceed those specified in certain situations; 8) clarifying that the threshold application of the Program to projects of 10 units or more applies to the South of Market Youth and Family Special Use District and all other areas of the City; and 9) making technical clarifications and corrections; and 10) making environmental findings and findings of consistency with the General Plan.

Note: The Planning Commission has approved an earlier version of this Ordinance that contained items number two (2) through seven (7) as listed above in Resolution No. 18771 on December 13, 2012. The Ordinance is returning to the Commission to consider the two new components, items number one (1) and eight (8) as listed above.

The Way It Is Now:

In November 2012, San Francisco voters amended the Charter by adopting Proposition C "The Affordable Housing Trust Fund and Housing Production Incentives" which is, in part, codified as Charter Section 16.110 ("Proposition C"). Proposition C would dedicate an annual contribution of the General Fund to provide affordable housing. This Charter Amendment also reduced the on-site Inclusionary affordable

housing requirement of the Planning Code by 20%. While this 20% reduction is now in effect, the Planning Code text does not reflect the reductions yet.

In addition, to the Housing Trust Fund Ordinance, a separate ordinance informally known as “The Companion Ordinance” [BF 120464, Ord. No. 219-12] was approved and became effective on January 15, 2013. This Companion Ordinance amended the Planning Code to change the threshold of inclusionary housing from projects with five dwelling units or more to projects with ten units or more. While this ordinance modified the inclusionary housing threshold across the Planning Code in all different districts, the threshold in the SOMA Youth and Family Special Use District mistakenly remained unchanged.

The Way It Would Be:

First, as noted above the majority of this Ordinance makes changes related to the update of the Inclusionary Affordable Housing Program Procedures Manual (hereinafter “Procedures Manual”). On December 13, 2012, the Planning Commission considered the changes related to the update of the Procedures Manual and recommended approval in Resolution Number 18771.

Therefore, this report will focus only on the two changes of substance that have not previously been considered by this Commission.

The proposed Ordinance would make two such new changes of substance: 1) reduce the numerical values of the Inclusionary Affordable by 20%, consistent with the approved Charter Amendment throughout the Planning Code and 2) ensure that the threshold for providing Inclusionary Housing begins uniformly with buildings of at least 10 units, consistent with the Planning Commission recommendation for the Companion Ordinance.

Regarding the first item, the Planning Code would be amended to reflect the 20% reduction of the on-site inclusionary housing requirements in all pertinent code sections, specifically as follows:

Zoning District	Previous On-site Inclusionary requirements	Proposed On-site Inclusionary requirement
UMU Eastern Neighborhoods, Tier A	18%	14.4%
UMU Eastern Neighborhoods, Tier B	20%	16%
UMU Eastern Neighborhoods, Tier C	22%	17.6%
All other Zoning Districts	15%	12%

Regarding the second item, the proposed Ordinance would modify the threshold for inclusionary housing requirements in the only remaining area where this threshold was mistakenly not amended: the SoMa Youth and Family Special Use District (SUD). This proposed Ordinance would amend the threshold in this SUD from five units to ten units, consistent with the Companion Ordinance as adopted in 2012.

BACKGROUND

On December 13, 2013, the Planning Commission approved the majority of the components of this proposal that relate to the Update of the Inclusionary Housing Procedures Manual¹. Since the Commission's consideration of the Ordinance two additional changes have been identified that relate the Inclusionary Affordable Housing Program. A revised Ordinance which includes the two new substantive changes described in this report will be added to the draft ordinance previously considered by the Commission. This new, amended Ordinance will be formally introduced at the Board of Supervisors on March 18th, 2013 and is attached here in draft form.

ISSUES AND CONSIDERATION

The Companion Ordinance and lowering the threshold for Inclusionary Housing requirement. The Companion Ordinance [BF 120464, Ord. No. 219-12] approved on November 22, 2012, effective on January 15, 2013 changed the unit threshold of the Inclusionary Housing requirement from 5 units or more to 10 units or more. The intention of this Ordinance was to modify the threshold across all zoning districts. However, the SoMa Youth and Family SUD threshold for inclusionary housing was inadvertently overlooked.

The Charter Amendment and lowering the percentage requirement for on-site inclusionary housing. Beginning January 1, 2013 when the Housing Trust Fund became effective, a 20% reduction in all on-site inclusionary housing requirements went into effect. The 20% reduction cannot make the on-site inclusionary requirement lower than 12%. This means that if the existing requirement in the Planning Code is 12%, the 20% reduction would not apply. While such reductions have already become effective, the Planning Code text does not reflect the reduced percentages. The proposed Ordinance would amend the Planning Code to reflect such reductions.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The two additional components of the proposed Ordinance that have been added since the Commission last considered this Ordinance would amend the Planning Code to reflect the changes that have either

¹ Resolution No. 18771.

already been approved with the adoption of the Charter Amendment for the Housing Trust Fund or that were intended to be included in the Companion Ordinance to the Housing Trust Fund. These amendments would include the following:

- *20% reduction of the on-site inclusionary housing:* The lower rates of the on-site requirements are already in effect starting January 1, 2013. The proposed Ordinance makes amendments to the text of the Planning Code to reflect the lowered percentage rates that are already being practiced.
- *Reduction of the unit threshold for Inclusionary Housing program in SOMA Youth and Family Special Use District:* Changing this threshold from five units or more to ten units or more is consistent with the Ordinance No. 0291-12 approved on November 22, 2012, which changed the threshold in all zoning districts but mistakenly neglected to change the threshold in this SOMA SUD.

ENVIRONMENTAL REVIEW

The CEQA review for this Ordinance is pending review and will be available at the Planning Commission hearing on March 21, 2013.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received public comment on this item. The Mayor's Office of Housing received one letter in support of updating the Procedures Manual.

RECOMMENDATION:	Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
Exhibit B: Draft Proposed Ordinance [Board File No. 12-1162, Version Two]



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No.

HEARING DATE: MARCH 21ST , 2013

Project Name: **Inclusionary Affordable Housing Program, Reduction of On-Site Requirements, Updates, and Clarifications**

Case Number: 2012.1381U [Board File No. 121162]
Initiated by: Mayor Edwin Lee / Introduced December 6, 2012
Staff Contact: Kimia Haddadan, Legislative Affairs
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RECOMMENDING THAT THE BOARD OF SUPERVISORS PASS AN ORDINANCE WITH AMENDMENTS TO THE SAN FRANCISCO PLANNING CODE BY AMENDING SECTION 401, AND PROVISIONS OF THE INCLUSIONARY AFFORDABLE HOUSING ORDINANCE, SECTIONS 415 ET SEQ., TO UPDATE AND CLARIFY PROVISIONS OF THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM ("PROGRAM") BY 1) REDUCING CERTAIN ON-SITE REQUIREMENTS UNDER CHARTER SECTION 16.110; (2) PROVIDING A CAP ON RENT INCREASES; 3) CLARIFYING THE TIMING OF OFF-SITE DEVELOPMENTS; 4) REQUIRING RENTAL UNITS THAT CONVERT TO OWNERSHIP TO SELL AT LESS THAN THE PRICE FOR OWNERSHIP UNITS UNDER CERTAIN CIRCUMSTANCE; 5) ESTABLISHING PRICING FOR AFFORDABLE SINGLE ROOM OCCUPANCY UNITS; 6) CHANGING THE STATUS OF PROJECTS USING CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE TAX EXEMPT BONDS SO THAT SUCH PROJECTS ARE SUBJECT TO THE PROGRAM, BUT THAT UNITS MAY QUALIFY AS ON- OR OFF-SITE UNITS UNDER CERTAIN CIRCUMSTANCES; 7) ALLOWING INCOME LEVELS OF QUALIFYING HOUSEHOLDS TO EXCEED THOSE SPECIFIED IN CERTAIN SITUATIONS; 8) CLARIFYING THAT THE THRESHOLD APPLICATION OF THE PROGRAM TO PROJECTS OF 10 UNITS OR MORE APPLIES TO THE SOUTH OF MARKET YOUTH AND FAMILY SPECIAL USE DISTRICT AND ALL OTHER AREAS OF THE CITY; AND 9) MAKING TECHNICAL CLARIFICATIONS AND CORRECTIONS; AND 10) MAKING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH GENERAL PLAN. PRELIMINARY RECOMMENDATION: APPROVAL.

PREAMBLE

Whereas, on December 6, 2012 Mayor Edwin Lee introduced an Ordinance under Board File Number 12-1162 that would amend Planning Code by making amendments to the San Francisco Planning Code to update and to clarify provisions of the Inclusionary Affordable Housing Program ; and

Whereas, the Planning Commission approved the Ordinance on December 13, 2012 under the Resolution number 18771; and

Whereas, on March 18th, 2013 Mayor Edwin Lee introduced a revised version of this Ordinance to make additional amendments to the Planning Code to implement the Housing Trust Fund; and

Whereas, the San Francisco Housing Trust Fund Charter amendments became effective on January 1st, 2013; and

Whereas, a companion legislation to the Housing Trust Fund to change the threshold of project units for the Inclusionary Housing program became effective on January 15, 2013; and

Whereas, since the introduction of the proposed Ordinance, the Planning Department recommended approval of the proposed Ordinance; and

Whereas, on March 21, 2013 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and the proposed modification; 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 by Department staff, and other interested parties; and

Whereas, the 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 the Commission hereby recommends that the Board of Supervisors recommend *approval* of the proposed Ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Ordinance No. 0291-12 approved on November 22, 2012, effective on January 15, 2013 changed the unit threshold of the Inclusionary Housing requirement from 5 units or more to 10 units or more. The intention of this Ordinance was to modify the threshold across all zoning districts. However, the SoMa Youth and Family SUD threshold for inclusionary housing was inadvertently overlooked.
2. Beginning January 1, 2013 when the Housing Trust Fund became effective, a 20% reduction in all on-site inclusionary housing requirements went into effect. The 20% reduction cannot make the on-site inclusionary requirement lower than 12%. This means that if the existing requirement in the Planning Code is 12%, the 20% reduction would not apply. While such reductions have already become effective, the Planning Code text does not reflect the reduced percentages.
3. The proposed Ordinance would amend the Planning Code only to reflect the changes that have already been approved through the Housing Trust Fund and its companion legislation.
4. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

OBJECTIVE 7

Secure funding and resources for permanently affordable housing, including innovative programs that are not solely reliant on traditional mechanisms or capital.

POLICY 7.1

Expand the financial resources available for permanently affordable housing, especially permanent sources.

The proposed Ordinance would advance this Objective and Policy by implementing the Housing Trust Fund as an innovative source of funding for affordable housing.

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.
6. **Planning Code Section 101 Findings.** The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:
 - A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will have no adverse impact on the neighborhood-serving retail uses.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will have no adverse effect on existing housing and neighborhood character.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will implement the Housing Trust Fund, which would significantly enhance affordable housing finance in the City. Over 30 years, the Housing Trust Fund is estimated to provide approximately \$1.2 billion for affordable housing production.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance will not result in displacement of industrial or service sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed Ordinance would not affect the preparedness against injury and loss of life in an earthquake.

- G) That landmark and historic buildings will be preserved:

The proposed Ordinance would not adversely affect landmark and historic buildings.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed Ordinance would not adversely affect parks and open spaces in terms their access to sunlight and vistas.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on August 16th, 2012.

Jonas Ionin
Acting Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

1 [Planning Code – Inclusionary Affordable Housing Program, Updates and Clarifications]

2

3 **Ordinance amending the San Francisco Planning Code by amending Section 401, and**
 4 **provisions of the Inclusionary Affordable Housing Ordinance, Sections 415 et seq., to**
 5 **update and clarify provisions of the Inclusionary Affordable Housing Program**
 6 **(“Program”) by 1) reducing certain on-site requirements under Charter Section 16.110;**
 7 **(2) providing a cap on rent increases; 3) clarifying the timing of off-site developments;**
 8 **4) requiring rental units that convert to ownership to sell at less than the price for**
 9 **ownership units under certain circumstance; 5) establishing pricing for affordable**
 10 **Single Room Occupancy units; 6) changing the status of projects using California Debt**
 11 **Limit Allocation Committee tax exempt bonds so that such projects are subject to the**
 12 **Program, but that units may qualify as on- or off-site units under certain**
 13 **circumstances; 7) allowing income levels of qualifying households to exceed those**
 14 **specified in certain situations; 8) clarifying that the threshold application of the**
 15 **Program to projects of 10 units or more applies to the South of Market Youth and**
 16 **Family Special Use District and all other areas of the City; and 9) making technical**
 17 **clarifications and corrections; and 10) making environmental findings and findings of**
 18 **consistency with general plan.**

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

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

24

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1 Section 1. The Planning Department has determined that the actions contemplated in
2 this ordinance comply with the California Environmental Quality Act (California Public
3 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
4 Board of Supervisors in File No. _____ and is incorporated herein by reference.

5 (b) On _____, 2012, the Planning Commission, in Resolution No.
6 _____ approved and recommended for adoption by the Board this legislation
7 and adopted findings that it is consistent, on balance, with the City's General Plan and eight
8 priority policies of Planning Code Section 101.1. On _____, 2012, the Planning
9 Commission, in Resolution No. _____ approved and recommended for adoption
10 by the Board amendments to this legislation and adopted findings that it is consistent, on
11 balance, with the City's General Plan and eight priority policies of Planning Code Section
12 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with
13 the Clerk of the Board of Supervisors in File No. _____, and is incorporated by
14 reference herein.

15 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds
16 that this legislation will serve the public necessity, convenience, and welfare for the reasons
17 set forth in Planning Commission Resolutions Nos. _____ and
18 _____, and incorporates such reasons by reference herein.

19 Section 2. The San Francisco Planning Code is hereby amended by amending
20 selected definitions in Section 401, to read as follows:

21 **SEC. 401. DEFINITIONS.**

22 In addition to the specific definitions set forth elsewhere in this Article, the following
23 definitions shall govern interpretation of this Article:

24 . . .

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procedures manual 3 12 13 companion ordinance - substitute leg - no redline (2).doc
revised on: 3/14/2013 - i:\board of supervisors\legislation\121162 inclusionary housing procedures update
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1 "Affordable to qualifying households."

2 (A) With respect to owned units, the average purchase price on the initial sale of all
3 affordable owned units in a housing project shall not exceed the allowable average purchase
4 price. Each unit shall be sold:

5 (i) Only to first-time homebuyer households, as defined in this Section;

6 (ii) Only to households with an annual gross income equal to or less than the qualifying
7 income limits for a household of moderate income, adjusted for household size, except for the
8 exceptions set forth in Section 415.8 (4) (C), (D) and (E);

9 (iii) Only to households that meet the household size requirements, as defined in the
10 Procedures Manual;

11 (iv) On the initial sale, at or below the maximum purchase price, as defined in this
12 Section;

13 (v) On subsequent sales at or below the prices to be determined according to the
14 formula specified in the Procedures Manual in place at the time of the affordable unit owner's
15 purchase, as amended from time to time, such that the units remain affordable to qualifying
16 households. The formula in the Procedures Manual shall permit the seller to include certain
17 allowable capital improvements in the new maximum purchase price. The formula shall
18 include a per unit cap on capital improvements of 10% of the resale price in order to maintain
19 affordability. Special Assessments shall be added to the resale price at an uncapped rate.
20 Capital improvement requests shall be evaluated by the Mayor's Office of Housing according
21 to the formula specified in the Procedures Manual.

22 (B) With respect to rental units in an affordable housing project, the average annual
23 rent shall not exceed the allowable average annual rent. Each unit shall be rented:

24
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1 (i) Only to households with an annual gross income equal to or less than qualifying
2 limits for a household of lower income adjusted for household size, as defined in this Section,
3 except for the exceptions set forth in Section 415.8 (4) (A) and (B);

4 (ii) Only households that meet the household size requirements, as defined in the
5 Procedures Manual;

6 (iii) At or less than the maximum annual rent.

7 "Allowable average purchase price." A price for all affordable owned units of the size
8 indicated below that are affordable to a household of median income as defined in this
9 Section, adjusted for the household size indicated below as of the date of the close of escrow,
10 except for Single Room Occupancy units (as defined in Section 890.88), which shall be 75% of the
11 maximum purchase price level for studio units, and, where applicable, adjusted to reflect the
12 Department's policy on unbundled parking for affordable housing units as specified in the
13 Procedures Manual and amended from time to time:

14 Number of Bedrooms (or, for 15 live/work units square foot 16 equivalency)	Number of Persons in Household
17 0 (Less than 600 square feet)	1
18 1 (601 to 850 square feet)	2
19 2 (851 to 1,100 square feet)	3
20 3 (1,101 to 1,300 square feet)	4
21 4 (More than 1,300 square feet)	5

"Allowable average annual rent." Annual rent for an affordable rental unit of the size indicated below that is 30 percent of the annual gross income of a household of low income as defined in this Section, adjusted for the household size indicated below except for Single Room Occupancy units (as defined in Section 890.88), which shall be 75% of the maximum rent level for studio units, and, where applicable, adjusted to reflect the Department's policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

At no time can a rent increase, or can multiple rent increases within one year, exceed the percentage change in Maximum Monthly Rent levels as published by MOH from the previous calendar year to the current calendar year.

...

"Maximum annual rent." The maximum rent that a housing developer may charge any tenant occupying an affordable unit for the calendar year. The maximum annual rent for an affordable housing unit of the size indicated below shall be no more than 30 percent of the annual gross income for a household of low income as defined in this Section, as adjusted for

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1 the household size indicated below, except in the case of Single Room Occupancy units (as defined
 2 in Section 890.88), which shall be 75% of the maximum rent level for studio units, as of the first date
 3 of the tenancy:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

13 At no time can a rent increase, or can multiple rent increases within one year, exceed the
 14 percentage change in Maximum Monthly Rent levels as published by MOH from the previous calendar
 15 year to the current calendar year.

16 "Maximum purchase price." The maximum purchase price for an affordable owned unit
 17 of the size indicated below except in the case of Single Room Occupancy units (as defined in Section
 18 890.88), which shall be 75% of the maximum purchase price level for studio units, that is affordable
 19 to a household of moderate income, adjusted for the household size indicated below,
 20 assuming an annual payment for all housing costs of 33 percent of the combined household
 21 annual gross income, a down payment recommended by MOH and set forth in the
 22 Procedures Manual, and available financing:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
--	--------------------------------

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0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

...

Section 3. The San Francisco Planning Code is hereby amended by amending selected portions of Section 415.3, to read as follows:

SEC. 415.3. APPLICATION.

(a) Notwithstanding any other provision to the contrary in this Code, Section 415.1 *et seq.* shall apply to any housing project that consists of ten or more units where an individual project or a phased project is to be undertaken and where the total undertaking comprises a project with ten or more units, even if the development is on separate but adjacent lots; and

(1) Does not require Commission approval as a Conditional Use Authorization or Planned Unit Development;

(2) Requires Commission approval as a Conditional Use Authorization or Planned Unit Development;

(3) Consists of live/work units as defined by Section 102.13 of this Code; or

(4) Requires Commission approval of replacement housing destroyed by earthquake, fire or natural disaster only where the destroyed housing included units restricted under the Inclusionary Affordable Housing Program or the City's predecessor inclusionary housing policy, condominium conversion requirements, or other affordable housing program.

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(b) The effective date of these requirements shall be either April 5, 2002, which is the date that the requirements originally became effective, or the date a subsequent modification, if any, became operative. The following table is designed to summarize the most significant subsequent modifications to this Program and the dates those modifications went into effect. The Planning Department and the Mayor's Office of Housing shall maintain a record for the public summarizing various amendments to this Program and their effective or operative dates. To the extent there is a conflict between the following table or any summary produced by the Department or MOH and the provisions of the original implementing ordinances, the implementing ordinances shall prevail.

Table 415.3

Program Modification	Effective or Operative Date
All projects with 5 or more units must participate in the Inclusionary Housing Program Section 415 (changed from a threshold of 10 units).	All projects that submitted a first application on or after July 18, 2006
Threshold changed back to 10 units or more such that the Section 415 <i>et seq.</i> no longer applies to buildings of 5-9 units.	Any 5-9 unit project, regardless of when it submitted a first application, that has not received a first construction document as of January 15, 2013.
Affordable Housing Percentages: 20% Fee	All projects that submitted a first application on or after July 18, 2006

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<p>1 1512% on-site*</p> <p>2 20% off-site*</p> <p>3 *Of total number of units</p> <p>4 <i>(Percentages may vary in specific Area</i></p> <p>5 <i>Plans or Special Use Districts. Please</i></p> <p>6 <i>refer to those applicable Code Sections.)</i></p>	<p><i>(For off-site and fee: except buildings of</i></p> <p><i>over 120 feet in height that meet the</i></p> <p><i>requirements of Section 415.6(a)(1)(C) or</i></p> <p><i>415.7(a)(1)(C)-projects which require a</i></p> <p><i>rezoning to increase buildable residential</i></p> <p><i>units or square footage)</i></p>
<p>7 On-Site units must be priced and sold</p> <p>8 at 90% of AMI and rented at 55% of</p> <p>9 AMI</p>	<p>All projects that receive a first site or</p> <p>building permit on or after September</p> <p>9, 2006</p>
<p>10 Project sponsor must select Program</p> <p>11 compliance option upon project</p> <p>12 approval and cannot alter their</p> <p>13 compliance option</p>	<p>All projects that received Planning</p> <p>Commission or Planning Department</p> <p>approval on or after September 9,</p> <p>2006</p>
<p>14 All off-site units must be located within</p> <p>15 1 mile of the principal project and Off-</p> <p>16 site units must be priced and sold at</p> <p>17 70% of AMI</p>	<p>All Projects that receive Planning</p> <p>Commission or Planning Department</p> <p>approval after September 9, 2006</p>
<p>18 Lottery preference for applicants living</p> <p>19 or working in San Francisco</p>	<p>All projects that are marketed on or</p> <p>after June 4, 2007</p>
<p>20 Lottery preference for applicants</p> <p>21 holding a Certificate of Preference</p> <p>22 from the Redevelopment Agency</p>	<p>All projects that are marketed on or</p> <p>after December 30, 2008</p>

1 2 3 4 5 6	Lottery required for all new and resale units	All projects that are marketed on or after September 9, 2006
7 8 9	Must provide on-site units as owner-occupied only unless specifically exempted pursuant to Section 415	All projects beginning February 11, 2010
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	All off-site units must follow standards set out in Procedures Manual	Projects that receive Planning Commission or Planning Department approval on or after June 4, 2007

(c) Section 415.1 *et seq.*, the Inclusionary Housing Program, shall not apply to:

(1) That portion of a housing project located on property owned by the United States or any of its agencies or leased by the United States or any of its agencies for a period in excess of 50 years, with the exception of such property not used exclusively for a governmental purpose;

(2) That portion of a housing project located on property owned by the State of California or any of its agencies, with the exception of such property not used exclusively for a governmental or educational purpose; or

(3) That portion of a housing project located on property under the jurisdiction of the San Francisco Redevelopment Agency or the Port of San Francisco where the application of Section 415.1 *et seq.* is prohibited by California or local law.

(4) ~~Selected projects that are otherwise providing affordable units comparable to or exceeding the requirements of this program as follows:~~

~~(A) Qualifying Projects. Projects that meet either of the requirements of subsection (i) or (ii) below for as long as they meet all of the requirements and conditions of this subsection.~~

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1 (i) ~~A project using California Debt Limit Allocation Committee (CDLAC) tax exempt bond~~
2 ~~financing as long as the project provides 20 percent of the units as affordable at 50 percent of area~~
3 ~~median income for on-site housing or 25 percent of the units as affordable at 50 percent of area median~~
4 ~~income for off-site housing.~~

5 (ii) A 100% affordable housing project in which rents are controlled or regulated by any
6 government unit, agency or authority, excepting those unsubsidized and/or unassisted units
7 which are insured by the United States Department of Housing and Urban Development. The
8 Mayor's Office of Housing must represent to the Planning Commission or Planning
9 Department that the project meets this requirement.

10 (AB) **Restrictions.** If a project sponsor takes advantage of this subsection, all of the
11 rules and regulations of the programs or recorded documents guaranteeing the affordability of
12 the units shall govern the units and the requirements of this Program shall not apply.

13 (BC) **Conditions.** In order to qualify for this provision, the project sponsor must record
14 an NSR against the property that provides that, in the event of foreclosure or for any other
15 reason, the project no longer qualifies as a project meeting the requirements of subsection
16 (4)(A)(i) ~~or (ii)~~ the project will either:

17 (i) pay the Affordable Housing Fee plus interest from the date the project received its
18 first construction document for the project if no affordable units were ever provided or, if
19 affordable units were provided and occupied, then the Affordable Housing Fee with no interest
20 is due on the date the units were no longer occupied by qualifying households; or

21 (ii) provide the required number of on-site affordable units required at time of original
22 project approval and that those units shall be subject to all of the requirements of this
23 Program.

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1 (D) In the event that there is a foreclosure or other event triggering the requirements of
2 subsection (B) above, the project sponsor shall record a new NSR specifying the manner it
3 which it complies with this Program, including but not limited to any specific units restricted as
4 affordable under (B)(ii). The new NSR shall provide that the units must comply with all of the
5 requirements of this Program.

6 . . .

7 (e) In November, 2012 the voters amended the Charter by adopting Proposition C “The
8 Affordable Housing Trust Fund and Housing Production Incentives” which is, in part, codified as
9 Charter Section 16.110 (“Proposition C”). To the extent that there is any inconsistency between the
10 provisions of Proposition C and Sections 415 or any other Planning Code provisions, the provisions of
11 Proposition C shall control.

12
13 Section 4: The San Francisco Planning Code is hereby amended by amending
14 selected portions of Section 415.5, to read as follows:

15 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

16 Except as provided in Section 415.5(g), all development projects subject to this
17 Program shall be required to pay an Affordable Housing Fee subject to the following
18 requirements:

19 (a) **Payment of a Fee.** Payment of a fee to the Development Collection Unit at DBI for
20 deposit into the Citywide Affordable Housing Fund for the purposes of that Fund.

21 (b) **Amount of Fee.** The amount of the fee which may be paid by the project sponsor
22 subject to this Program shall be determined by MOH utilizing the following factors:

23 (1) The number of units equivalent to the applicable off-site percentage of the number
24 of units in the principal project. The applicable percentage shall be 20 percent or the

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1 percentage that applied to the project if the project is subject to the requirements of an earlier
2 version of this Program due to the date it submitted its application or that percentage required in
3 certain Area Plans. For the purposes of this Section, the City shall calculate the fee using the
4 direct fractional result of the total number of units multiplied by the applicable percentage,
5 rather than rounding up the resulting figure as required by Section 415.6(a).

6 (2) The affordability gap using data on the cost of construction of residential housing
7 and the Maximum Purchase Price for the equivalent unit size. Until December 31, 2012, MOH shall
8 use construction cost data from the "San Francisco Sensitivity Analysis Summary Report:
9 Inclusionary Housing Program" prepared by Keyser Marston Associates, Inc. in August 2006
10 for the Maximum Annual Rent or Maximum Purchase Price for the equivalent unit sizes. As of January
11 1, 2012, MOH shall use construction cost data from the "San Francisco Inclusionary Housing
12 Program Financial Analysis 2012" prepared by Seifel Consulting. The Department and MOH shall
13 update the technical report from time to time as they deem appropriate in order to ensure that
14 the affordability gap remains current.

15 (3) ~~Commencing on January 1, 2012, no~~ No later than January 1 of each year, MOH shall
16 adjust the fee. No later than ~~November~~December 1 of each year, MOH shall provide the
17 Planning Department, DBI, and the Controller with information on the adjustment to the fee so
18 that it can be included in the Planning Department's and DBI's website notice of the fee
19 adjustments and the Controller's Annual Citywide Development Fee and Development Impact
20 Requirements Report described in Section 409(b). MOH is authorized to develop an
21 appropriate methodology for indexing the fee, based on adjustments in the costs of
22 constructing housing and the Maximum Purchase Price for the equivalent unit size ~~in the price of~~
23 ~~housing in San Francisco~~. The method of indexing shall be published in the Procedures Manual.

24 . . .

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1 (e) If a housing project is located in an Area Plan with an additional or specific
2 affordable housing requirements such as those set forth in section 416, ~~and~~ 417, and 419 or
3 elsewhere in this code, the more specific provisions shall apply in lieu of or in addition to those
4 provided in this Program, as applicable.

5 . . .

6 (g) **Alternatives to Payment of Affordable Housing Fee.**

7 (1) **Eligibility:** A project sponsor must pay the Affordable Housing Fee unless it
8 qualifies for and chooses to meet the requirements of the Program through an Alternative
9 provided in this Subsection. The project sponsor may choose one of the following
10 Alternatives:

11 (A) **Alternative #1: On-Site Units.** Project sponsors may elect to construct units
12 affordable to qualifying households on-site of the principal project pursuant to the
13 requirements of Section 415.6.

14 (B) **Alternative #2: Off-Site Units.** Project sponsors may elect to construct units
15 affordable to qualifying households at an alternative site within the City and County of San
16 Francisco pursuant to the requirements of Section 415.7.

17 (C) **Alternative #3: Combination.** Project sponsors may elect any combination of
18 payment of the Affordable Housing Fee as provided in Section 415.5, construction of on-site
19 units as provided in Section 415.6, or construction of off-site units as provided in Section
20 415.7, provided that the project applicant constructs or pays the fee at the appropriate
21 percentage or fee level required for that option.

22 (2) **Qualifications:** If a project sponsor wishes to comply with the Program through one
23 of the Alternatives described in (1) rather than pay the Affordable Housing Fee, they must
24

1 demonstrate that they qualify for the Alternative to the satisfaction of the Department and
2 MOH. A project sponsor may qualify for an Alternative by the following methods:

3 (i) **Method #1 - Ownership Units.** All affordable units provided under this Program
4 shall be sold as ownership units and will remain ownership units for the life of the project.
5 Project sponsors must submit the 'Affidavit *of Compliance with the Inclusionary Affordable*
6 *Housing Program to Establish Eligibility for an Alternative to Affordable Housing Fee*' to the
7 Planning Department prior to project approval by the Department or the Commission; or

8 (ii) **Method #2 - Government Financial Contribution.** Submit to the Department a
9 contract demonstrating that the project's on- or off-site units are not subject to the Costa
10 Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under Section
11 1954.52(b), it has entered into an agreement with a public entity in consideration for a direct
12 financial contribution or any other form of assistance specified in California Government Code
13 Sections 65915 et seq. and it submits an Affidavit of such to the Department. All such
14 contracts entered into with the City and County of San Francisco must be reviewed and
15 approved by the Mayor's Office Housing and the City Attorney's Office. All contracts that
16 involve 100% affordable housing projects in the residential portion may be executed by the
17 Mayor or the Director of the Mayor's Office of Housing. Any contract that involves less than
18 100% affordable housing in the residential portion, may be executed by either the Mayor, the
19 Director of the Mayor's Office of Housing or, after review and comment by the Mayor's Office
20 of Housing, the Planning Director; ~~or~~. *A Development Agreement under California Government*
21 *Code Section 65864 et seq. and Chapter 56 of the San Francisco Administrative Code entered into*
22 *between a project sponsor and the City and County of San Francisco may, but does not necessarily,*
23 *qualify as such a contract.*

24
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1 (iii) ~~Method #3 – Development Agreement. A project sponsor may apply to enter into a~~
2 ~~Development Agreement with the City and County of San Francisco under California Government~~
3 ~~Code Section 65864 et seq. and Chapter 56 of the San Francisco Administrative Code, permitting the~~
4 ~~project to be eligible for on-site units as an alternative to payment of the Affordable Housing Fee to~~
5 ~~satisfy the requirements of the Program and obligating the project sponsor to provide the affordable~~
6 ~~units on-site.~~

7 (3) The Planning Commission or the Department may not require a project sponsor to
8 select a specific Alternative. If a project sponsor elects to meet the Program requirements
9 through one of the Alternatives described in (1), they must choose it and demonstrate that
10 they qualify prior to any project approvals from the Planning Commission or Department. The
11 Alternative will be a condition of project approval and recorded against the property in an
12 NSR. Notwithstanding the foregoing, if a project sponsor qualifies for an Alternative described
13 in (1) and elects to construct the affordable units on- or off-site, they must submit the 'Affidavit
14 ~~of Compliance With The Inclusionary Housing Program~~' ~~to Establish Eligibility for an Alternative to~~
15 ~~Affordable Housing Fee~~' based on the fact that the units will be sold as ownership units. A ~~The~~
16 project sponsor who has elected to construct affordable ownership units on- or off-site may
17 only elect to pay the Affordable Housing Fee up to the issuance of the first construction
18 document if the project sponsor submits a new Affidavit establishing that the units will not be
19 sold as ownership units. If a project sponsor fails to choose an Alternative before project
20 approval by the Planning Commission or Planning Department or if a project becomes
21 ineligible for an Alternative, the provisions of Section 415.5 shall apply.

22 (4) If at any time, the project sponsor eliminates the on-site or off-site affordable
23 ownership-only units, then the project sponsor must immediately inform the Department and
24 MOH and pay the applicable Affordable Housing Fee plus interest and any applicable

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1 penalties provided for under this Code. If a project sponsor requests a modification to its
2 conditions of approval for the sole purpose of complying with this Section, the Planning
3 Commission shall be limited to considering issues related to Section 415 et seq. in
4 considering the request for modification.

5
6 Section 5: The San Francisco Planning Code is hereby amended by amending
7 selected portions of Section 415.6, to read as follows:

8 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE**

9 If a project sponsor is eligible and selects to provide on-site units pursuant to Section
10 415.5(g), the development project shall meet the following requirements:

11 (a) **Number of Units:** The number of units constructed on-site shall be as follows:

12 (1) The number of units constructed on-site *shall generally be 12% of all units constructed*
13 *on the project site. is determined by which of the following categories a project is in as follows: The*
14 *Department shall require for housing projects covered by Section 415.3(a)(1), as a condition of*
15 *Department approval of a project's building permit, or by Section 415.3(a)(2), (3) and (4), as a*
16 *condition of approval of a Conditional Use Authorization or Planned Unit Development or as a*
17 *condition of Department approval of a live/work project, that 12 percent of all units constructed on the*
18 *project site shall be affordable to qualifying households so that a project sponsor must construct .12*
19 *times the total number of units produced in the principal project. If the total number of units is not a*
20 *whole number, the project sponsor shall round up to the nearest whole number for any portion of .5 or*
21 *above.*

22 (2A) **Specific Geographic Areas.** For any housing development *of any height* that is
23 located in an area with a specific affordable housing requirement set forth in *a Special Use*

1 District or in any other section of the Code such as Section 416, ~~and 417, or 419~~, the more specific
2 housing requirement shall apply as long as it is consistent with Charter Section 16.110; or

3 ~~(B) Buildings 120 feet in height and under or buildings of over 120 feet in height that do not~~
4 ~~meet the criteria in subsection (C) below. Except as provided in Subsection (C) below, the Department~~
5 ~~shall require for housing projects covered by Section 415.3(a)(1), as a condition of Department~~
6 ~~approval of a project's building permit, and by Section 415.3(a)(2), (3) and (4), as a condition of~~
7 ~~approval of a Conditional Use Authorization or Planned Unit Development or as a condition of~~
8 ~~Department approval of a live/work project, that 15 percent of all units constructed on the project site~~
9 ~~shall be affordable to qualifying households so that a project sponsor must construct .15 times the total~~
10 ~~number of units produced in the principal project. If the total number of units is not a whole number,~~
11 ~~the project sponsor shall round up to the nearest whole number for any portion of .5 or above.~~

12 ~~(C) Buildings of over 120 feet in height. Except as provided in subsection (A) above, the~~
13 ~~requirements of this Subsection shall apply to any project that is over 120 feet in height and does not~~
14 ~~require a Zoning Map amendment or Planning Code text amendment related to its project approvals~~
15 ~~which (i) results in a net increase in the number of permissible residential units, or (ii) results in a~~
16 ~~material increase in the net permissible residential square footage as defined in Section 415.3(b)(2) or~~
17 ~~has not received or will not receive a Zoning Map amendment or Planning Code text amendment as~~
18 ~~part of an Area Plan adopted after January 1, 2006 which (i) results in a net increase in the number of~~
19 ~~permissible residential units, or (ii) results in a material increase in the net permissible residential~~
20 ~~square footage as defined in Section 415.3(b)(2). The Department shall require for housing projects~~
21 ~~covered by this Subsection and Section 415.3(a)(1), as a condition of Department approval of a~~
22 ~~project's building permit, or by this Subsection and by Section 415.3(a)(2), (3) and (4), as a condition~~
23 ~~of approval of a Conditional Use Authorization or Planned Unit Development or as a condition of~~
24 ~~Department approval of a live/work project, that 12 percent of all units constructed on the project site~~

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1 shall be affordable to qualifying households so that a project sponsor must construct .12 times the total
2 number of units produced in the principal project. If the total number of units is not a whole number,
3 the project sponsor shall round up to the nearest whole number for any portion of .5 or above.
4 Consistent with the conclusions of the MOH study authorized in Section 415.9(e), MOH shall
5 recommend and the Board of Supervisors shall consider whether the requirements of this Subsection
6 for buildings of over 120 feet in height shall continue or expire after approximately five years from
7 April 24, 2007.

8 (23) If the principal project has resulted in demolition, conversion, or removal of
9 affordable housing units renting or selling to households at income levels and/or for a rental
10 rate or sales price below corresponding income thresholds for units affordable to qualifying
11 households, the Commission or the Department shall require that the project sponsor replace
12 the number of affordable units removed with units of a comparable number of bedrooms or
13 provide that ~~15~~ 12 percent of all units constructed as part of the new project shall be affordable
14 to qualifying households, whichever is greater.

15 (4) **Already Approved Projects.** *Some projects that have been approved but that have not*
16 *received their first construction document as defined in Section 107A.13.1 of the San Francisco Building*
17 *Code by January 1, 2013 may, under certain circumstances, apply for a modification of their existing*
18 *conditions of approval to reduce any on-site below market rate inclusionary requirement by 20%*
19 *consistent with Charter Section 16.110(g)(2), or change their election so that they will provide on-site*
20 *rather than off-site below market rate units or Affordable Housing Fee payments. The procedures for*
21 *obstaining such a reduction are set forth in Charter Section 16.110(g)(3).*

22 . . .

23 (c) **Type of Housing:** All on-site units constructed under this Section must be provided
24 as ownership units unless the project sponsor meets the eligibility requirement of Section

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1 415.5(g). All on-site units must be Affordable to Qualifying Households. In general, affordable
2 units constructed under this Section 415.6 shall be comparable in number of bedrooms,
3 exterior appearance and overall quality of construction to market rate units in the principal
4 project. A Notice of Special Restrictions shall be recorded prior to issuance of the first
5 construction document and shall specify the number, location and sizes for all affordable units
6 required under this Subsection. The interior features in affordable units should be generally
7 the same as those of the market rate units in the principal project, but need not be the same
8 make, model or type of such item as long as they are of good and new quality and are
9 consistent with then-current standards for new housing. The square footage of affordable
10 units do not need to be same as or equivalent to those in market rate units in the principal
11 project, so long as it is consistent with then-current standards for new housing. Where
12 applicable, parking shall be offered to the affordable units subject to the terms and conditions
13 of the Department's policy on unbundled parking for affordable housing units as specified in
14 the Procedures Manual and amended from time to time. On-site affordable units shall be
15 ownership units unless the project applicant meets the eligibility requirement of Section
16 415.5(g).

17 . . .

18 (e) Individual affordable units constructed under Section 415.6 ~~415.5~~ as part of an on-
19 site project shall not have received development subsidies from any Federal, State or local
20 program established for the purpose of providing affordable housing, and shall not be counted
21 to satisfy any affordable housing requirement. Other units in the same on-site project may
22 have received such subsidies. In addition, subsidies may be used, only with the express written
23 permission by MOH, to deepen the affordability of an affordable unit beyond the level of
24 affordability required by this Program.

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1 (f) Notwithstanding the provisions of Section 415.6(e) above, a project may use California Debt
2 Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% tax credits under the Tax
3 Credit Allocation Committee (TCAC) to help fund its obligations under this ordinance as long as the
4 project provides 20 percent of the units as affordable to households at 50 percent of Area Median
5 Income for on-site housing. The income table to be used for such projects when the units are priced at
6 50 percent of Area Median Income is the income table used by MOH for the Inclusionary Affordable
7 Housing Program, not that used by TCAC or CDLAC. Except as provided in this subsection, all units
8 provided under this Section must meet all of the requirements of this ordinance and the Procedures
9 Manual for on-site housing.

10 (gf) **Benefits:** If the project sponsor is eligible for and elects to satisfy the affordable
11 housing requirements through the production of on-site affordable housing in this Section
12 415.6, the project sponsor shall be eligible to receive a refund for only that portion of the
13 housing project which is affordable for the following fees: a Conditional Use Authorization or
14 other fee required by Section 352 of this Code, if applicable; an environmental review fee
15 required by Administrative Code Section 31.46B, if applicable; a building permit fee required
16 by the Building Code and by Section 355 of this Code for the portion of the housing project
17 that is affordable. The project sponsor shall pay the building fee for the portion of the project
18 that is market-rate.

19 The Controller shall refund fees from any appropriated funds to the project sponsor on
20 application by the project sponsor. The application must include a copy of the Certificate of
21 Occupancy for all units affordable to a qualifying household required by the Inclusionary
22 Housing Program. It is the policy of the Board of Supervisors to appropriate money for this
23 purpose from the General Fund.

24
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1 Section 6: The San Francisco Planning Code is hereby amended by amending
2 selected portions of Section 415.7, to read as follows:

3 **SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.**

4 If the project sponsor is eligible and selects pursuant to Section 415.5(gf) to provide off-
5 site units to satisfy the requirements of Section 415.1 et seq., the project sponsor shall notify the
6 Planning Department and MOH of its intent as early as possible. The Planning Department and MOH
7 shall provide an evaluation of the project's compliance with this Section prior to approval by the
8 Planning Commission or Planning Department. The development project shall meet the following
9 requirements:

10 (a) **Number of Units:** The number of units constructed off-site shall be as follows:

11 (1) (A) For any housing development of any height that is located in an area with a
12 specific affordable housing requirement, set forth in Sections ~~416, 417, 419,~~ or elsewhere in this
13 Code, the more specific off-site housing requirement shall apply.

14 (B) Buildings of 120 feet and under in height or buildings of over 120 feet in height that
15 do not meet the criteria in Subsection (C) below: Except as provided in Subsection (A), the
16 Department shall require for housing projects described in Section 415.3(a)(1), (2), (3), and
17 (4) 20 percent so that a project applicant must construct .20 times the total number of units
18 produced in the principal project. If the total number of units is not a whole number, the project
19 applicant shall round up to the nearest whole number for any portion of .5 or above.

20 (C) Buildings of over 120 feet in height. Except as provided in subsection (A) above,
21 the requirements of this Subsection shall apply to any project that is over 120 feet in height
22 and does not require a Zoning Map amendment or Planning Code text amendment related to
23 its project approvals which (i) results in a net increase in the number of permissible residential
24 units, or (ii) results in a material increase in the net permissible residential square footage as

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1 defined in Section 415.3(b)(2); or has not received or will not receive a Zoning Map
2 amendment or Planning Code text amendment as part of an Area Plan adopted after January
3 1, 2006 which (i) results in a net increase in the number of permissible residential units, or (ii)
4 results in a material increase in the net permissible residential square footage as defined in
5 Section 415.3(b)(2). The Department shall require for housing projects covered by this
6 Subsection and Section 415.3(a)(1), as a condition of Planning Department approval of a
7 project's building permit, or by this Subsection and by Section 415.3(a)(2), (3) and (4), as a
8 condition of approval of a Conditional Use Authorization or Planned Unit Development or as a
9 condition of Department approval of a live/work project, that 17 percent of all units constructed
10 on the project site shall be affordable to qualifying households so that a project sponsor must
11 construct .17 times the total number of units produced in the principal project. If the total
12 number of units is not a whole number, the project sponsor shall round up to the nearest
13 whole number for any portion of .5 or above. Consistent with the conclusions of the MOH
14 study authorized in Section 415.9(e), MOH shall recommend and the Board of Supervisors
15 shall consider whether the requirements of this Subsection for buildings of over 120 feet in
16 height shall continue or expire after approximately five years from April 24, 2007.

17 (b) **Timing of Construction:** The project sponsor shall insure that the off-site units are
18 constructed, completed, ready for occupancy, and marketed no later than the market rate
19 units in the principal project. In no case shall the Principal Project receive its first certificate of
20 occupancy until the off-site project has received its first certificate of occupancy.

21 (c) **Location of off-site housing:** The project sponsor must insure that off-site units
22 are located within one mile of the principal project.

23 (d) **Type of Housing:** All off-site units constructed under this Section must be provided
24 as ownership housing for the life of the project unless the project applicant meets the eligibility

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1 requirement of Section 415.5(g). ~~and~~, If offered for ownership, all off-site units-must be affordable
2 to households earning no more than 70 percent of the AMI, or if offered for rent, Affordable to
3 Qualifying Households at the rental level. Nothing in this Section shall limit a project sponsor
4 from meeting the requirements of this Section through the construction of units in a limited
5 equity or land trust form of ownership if such units otherwise meet all of the requirements for
6 off-site housing. In general, affordable units constructed under Section 415.7 shall be
7 comparable in number of bedrooms, exterior appearance and overall quality of construction to
8 market rate units in the principal project. The total square footage of the off-site affordable
9 units constructed under Section 415.7 shall be no less than the calculation of the total square
10 footage of the on-site market-rate units in the principal project multiplied by the relevant on-
11 site percentage requirement for the project specified in Section 415.7. The Notice of Special
12 Restrictions or conditions of approval shall include a specific number of units at specified unit
13 sizes - including number of bedrooms and minimum square footage - for affordable units. The
14 interior features in affordable units should generally be the same as those of the market rate
15 units in the principal project but need not be the same make model or type of such item as
16 long as they are of new and good quality and are consistent with then-current standards for
17 new housing and so long as they are consistent with the "Quality Standards for Off-Site
18 Affordable Housing Units" found in the Procedures Manual. Where applicable, parking shall
19 be offered to the affordable units subject to the terms and conditions of the Department's
20 policy on unbundled parking for affordable housing units as specified in the Procedures
21 Manual and amended from time to time. If the residential units in the principal project are
22 live/work units which do not contain bedrooms or are other types of units which do not contain
23 bedrooms separated from the living space, the off-site units shall be comparable in size
24 according to the following equivalency calculation between live/work and units with bedrooms:

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Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

...

(f) Individual affordable units constructed as part of a larger off-site project under Section 415.7 shall not receive development subsidies from any Federal, State or local program established for the purpose of providing affordable housing, and shall not be counted to satisfy any affordable housing requirement for the off-site development. Other units in the same off-site project may receive such subsidies. In addition, subsidies may be used, only with the express written permission by MOH, to deepen the affordability of an affordable unit beyond the level of affordability required by this Program.

(g) Notwithstanding the provisions of Section 415.7(f) above, a project may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations under this ordinance as long as the project provides 25 percent of the units as affordable at 50 percent of area median income for off-site housing. The income table to be used for such projects when the units are priced at 50 percent of area median income is the income table used by MOH for the Inclusionary Housing Program, not that used by

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1 TCAC or CDLAC. Except as provided in this subsection, all units provided under this Section must
2 meet all of the requirements of this ordinance and the Procedures Manual for off-site housing.

3
4 Section 7: The San Francisco Planning Code is hereby amended by amending
5 selected portions of Section 415.8, to read as follows:

6 **SEC. 415.8. DURATION AND MONITORING OF AFFORDABILITY.**

7 (a) For any units permitted under the Program:

8 (1) All units constructed pursuant to Sections 415.6 (on-site alternative) and 415.7 (off-
9 site alternative) must be owner-occupied, as defined in the Procedures Manual, in the case of
10 ownership units or occupied by qualified households in the case of rental units.

11 (2) Units shall not remain vacant for a period exceeding 60 days without the written
12 consent of MOH.

13 (3) All units constructed pursuant to Sections 415.6 and 415.7 must remain affordable
14 to qualifying households for the life of the project.

15 (4) The income levels specified in the Notice of Special Restrictions and/or conditions
16 of approval for the project shall be the required income percentages for the life of the project.

17 Notwithstanding the foregoing, if approved by MOH and as provided in the Procedures Manual, an
18 exception to the required income percentage may be made in the following cases:

19 (A) a rental unit that converts to an ownership unit, up to a maximum of 120% of AMI;

20 (B) where there is an existing tenant, the household income may increase by up to 200% of the
21 levels specified in the Notice of Special Restrictions or conditions of approval;

22 (C) new ownership units where the project sponsor has used good faith efforts to secure a
23 contract with a qualified buyer but is unable to secure such a contract in a timely manner from the
24 initiation of marketing;

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1 (D) resale ownership units where the owner has used good faith efforts to secure a contract
2 with a qualified buyer but is unable to secure a buyer contract at a maximum resale price specified by
3 MOH in a timely manner; or

4 (E) the qualifying income level for new ownership units may be set at 10% above the income
5 level stated in the Notice of Special Restrictions or conditions of approval.

6 (5) The Commission or the Department shall require all housing projects subject to
7 Section 415.1 et seq. to record a Notice of Special Restrictions with the Recorder of the City
8 and County of San Francisco. The Notice of Special Restrictions must incorporate the
9 affordability restrictions. All projects described in Section 415.3(a)(1) and 415.3(a)(3) must
10 incorporate all of the requirements of this Section 415.8 into the Notice for Special
11 Restrictions, including any provisions required to be in the conditions of approval for housing
12 projects described in Section 415.3(a)(2). These Section 415.3(a)(2) projects which are
13 housing projects which go through the conditional use or planned unit development process
14 shall have conditions of approval. The conditions of approval shall specify that project
15 applicants shall adhere to the marketing, monitoring, and enforcement procedures outlined in
16 the Procedures Manual, as amended from time to time, in effect at the time of project
17 approval. The Commission shall file the Procedures Manual in the case file for each project
18 requiring inclusionary housing pursuant to this Program. The Procedures Manual will be
19 referenced in the Notice of Special Restrictions for each project.

20 (b) For any units permitted to be ownership units under the Program, the Mayor's
21 Office of Housing shall:

22 (1) establish and implement a process for reselling an affordable unit in the Procedures
23 Manual;

24
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1 (2) provide that owners may not change title on the unit without review and approval by
2 MOH and according to guidelines published in the Procedures Manual.

3 (3) provide that owners must comply with refinancing procedures and limitations as
4 published in the Procedures Manual.

5 (4) provide that, in order to retain all units restricted as affordable under this Program
6 within the City's affordable housing stock, the specific procedures for passing an affordable
7 unit through inheritance are contained in the Procedures Manual. All transfers through
8 inheritance must be reviewed and approved by MOH and, in all cases, the heir must
9 acknowledge and agree to the provisions of the Program. The following households may
10 inherit the ability to occupy a unit restricted under this Program: (1) a spouse or registered
11 domestic partner, regardless of income; or (2) a child of the owner if the child is a qualifying
12 household for the unit. If the heir qualifies under one of these categories, the heir must occupy
13 the unit or the heir must market and sell the unit at the restricted price through a public lottery
14 process and retain the proceeds from the sale. If the heir does not qualify to occupy the unit,
15 the heir must market and sell the unit at the restricted price to a qualified buyer through a
16 public lottery process. The heir would retain the proceeds of such sale.

17 (5) Require that~~Any~~ affordable rental units permitted by the Commission to be converted
18 to ownership units must satisfy the requirements of the Procedures Manual, as amended from
19 time to time, including that the units shall be sold at restricted sales prices to households
20 meeting the income qualifications specified in the Notice of Special Restrictions or conditions
21 of approval, with a right of first refusal for the occupant(s) of such units at the time of
22 conversion. If the current tenant qualifies for and purchases the unit, the unit shall be sold at a sales
23 price corresponding to the affordability level required for rental units or to the affordability level for
24 the specific tenant household, whichever is higher, with a maximum allowable qualifying income level

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1 up to 120% of AMI. If the unit is sold to anyone else, the sales price shall correspond to the
2 affordability level required for ownership units. Upon conversion to ownership, the units are
3 subject to the resale and other restrictions of this Program for the life of the project, as defined
4 in the Notice of Special Restrictions or conditions of approval for the Project.

5 (6) For ownership units approved pursuant to Sections 415.6 or 415.7, the Notice of
6 Special Restrictions or conditions of approval will include provisions restricting resale prices
7 and purchaser income levels according to the formula specified in the Procedures Manual, as
8 amended from time to time. In the case that subordination of the Affordability Conditions
9 contained in a recorded Notice of Special Restrictions may be necessary to ensure the Project
10 Applicant's receipt of adequate construction and/or permanent financing for the project, or to
11 enable first time home buyers to qualify for mortgages, the project applicant may follow the
12 procedures for subordination of affordability restrictions as described in the principal project's
13 conditions of approval or in the Procedures Manual. A release following foreclosure or other
14 transfer in lieu of foreclosure may be authorized if required as a condition to financing
15 pursuant to the procedures set forth in the Procedures Manual.

16 (7) Purchasers of affordable units shall secure the obligations contained in the Notice
17 of Special Restrictions or conditions of approval by executing and delivering to the City a
18 promissory note secured by a deed of trust encumbering the applicable affordable unit as
19 described in the Procedures Manual or by an alternative means if so provided for in the
20 Procedures Manual, as amended from time to time.

21 (8) **Procedures For Units Unable To Resell.** The Board of Supervisors finds that
22 certain requirements of this Program and the Procedures Manual may create hardship for
23 owners of affordable units restricted under this Program. However, the Board also recognizes
24 that the requirements of this Program are important to preserve the long-term affordability of

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1 units restricted under the Program. In order to allow some relief for owners of affordable units
2 during a time of economic downturn, but to provide the maximum protection for the long-term
3 affordability of the units, the Board directs MOH to analyze the following ~~three~~ issues and, if it
4 deems appropriate, to propose amendments to the Procedures Manual to address the issues:

5 (1) Waiver of Re-Sale Requirements and Maximum Qualifying Income Level for New Buyers of
6 Resale BMR Units. The Board recognizes that the risk to low and moderate income
7 homeowners during times of economic downturn can increase the risk of default and
8 foreclosure of units restricted under this Program. The Board directs MOH to study ways to
9 reduce such risks in the below market rate unit context and, if it deems appropriate, to make
10 recommendations to the Planning Commission to amend the Procedures Manual to allow
11 MOH discretion, in certain limited circumstances, to waive requirements for owners of
12 affordable units who have used good faith efforts to secure a contract with a qualified buyer but are
13 unable to resell their unit in a timely manner. Such amendments to the Procedures Manual
14 may include, but are not limited to, authorizing MOH to make one or more allowances for
15 owners of affordable units unable to resell such as: (1) a one-time waiver of the first-time
16 homebuyer rule for the purchasing household; (2) a one-time waiver of qualifying household
17 size requirements for the purchasing household; (3) and a one-time waiver of owner
18 occupancy rules to allow a temporary rental; ~~and~~ (4) a one-time modification of the asset test
19 for the new buyer household and (5) allowing MOH discretion to increase the qualifying income
20 level for the unit by up to 20% above the maximum income limit currently allowed by the Use
21 Restrictions for the Unit but at no time higher than 120% of AMI. MOH and the Commission shall
22 set forth criteria for granting such allowances such as establishing a minimum time that the
23 units must have been advertised by MOH without selling; ~~or~~ establishing criteria related to
24 unusual economic or personal circumstances of the owner; providing a maximum percentage for

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1 the increase above the maximum income limit currently allowed; providing that the increase may only
2 be granted on a one-time basis; and requiring the owner to clearly establish that the BMR unit is being
3 resold at the original purchase price plus the current repricing mechanism under the Program which
4 calculates the percentage change in AMI from the time of purchase to resale plus the commission and
5 any eligible capital improvements or special assessments.

6 (2) Waiver of Maximum Qualifying Income Level For New Buyers of Initial Sale BMR Units:

7 The Board of Supervisors recognizes that the current Program provides that the income of a new buyer
8 of a below market rate household cannot exceed the maximum income stated in the Planning Approval
9 or Notice of Special Restrictions for the BMR Unit. Due to a less desirable developments or
10 geographic areas, a Project Sponsor is sometimes unable to find a buyer for a BMR Unit within the
11 maximum income stated in the Planning Approval or Notice of Special Restrictions for the Unit. This
12 situation makes it difficult, if not impossible, for certain current owners of below market rate units to
13 sell their units. In order to minimize this situation, the Board of Supervisors directs the Mayor's Office
14 of Housing to study ways to address this issue and, if it deems appropriate, to make recommendations
15 to the Planning Commission to amend the Procedures Manual to allow MOH to assist Project Sponsors
16 who have used good faith efforts to secure a contract with a qualified buyer but who are unable to
17 secure such a contract in a timely manner from the initiation of marketing. Such amendments may
18 include allowing MOH discretion to increase the qualifying income level for the unit by up to 20%
19 above the maximum income limit currently allowed by the Use Restrictions for the Unit but at no time
20 higher than 120% of AMI. MOH and the Planning Commission shall establish limits to this or a
21 similar proposal such as: providing a maximum percentage for the increase above the maximum
22 income limit currently allowed; requiring that a certain period without securing a buyer would pass
23 before such an allowance would be made; providing that the increase may only be granted on a one-
24 time basis.

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1 (c) For any units permitted to be rental units under the Program, ~~the~~ MOH shall
2 establish:

3 (1) restrictions on lease changes and propose such restrictions to the Commission for
4 inclusion in the Procedures Manual.

5 (2) additional eligibility criteria for subleasing and propose such restrictions to the
6 Commission for inclusion in the Procedures Manual.

7 (3) criteria for continued eligibility for occupied rental units and propose such
8 restrictions to the Commission for inclusion in the Procedures Manual.

9 (4) criteria for homeownership status and propose such restrictions to the Commission
10 for inclusion in the Procedures Manual.

11 (5) criteria for granting affordable rental households the right of first refusal in
12 purchasing an affordable unit that is converted from rental to ownership and propose such
13 restrictions to the Commission for inclusion in the Procedures Manual.

14 (6) that at no time shall an annual increase exceed the actual allowable increase for that year.
15 In cases where the rent has decreased, the tenant's rent must be decreased. In cases where the annual
16 adjustments have not been applied year to year, the Project Owner may not take advantage of any
17 increases that were not applied until the Unit is vacant and re-rented.

18
19 Section 8: The San Francisco Planning Code is hereby amended by amending
20 selected portions of Section 415.9, to read as follows:

21 **SEC. 415.9. ENFORCEMENT PROVISIONS AND MONITORING OF PROGRAM.**

22 . . .

23 ~~(f) MOH shall evaluate its monitoring system for affordable units created under this Section and~~
24 ~~shall compare its system with that of the San Francisco Redevelopment Agency with the goal of~~

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1 ~~establishing, to the extent feasible, a single monitoring system for all inclusionary affordable housing~~
2 ~~units located in the City and County of San Francisco. MOH shall make any changes to its monitoring~~
3 ~~system necessary to bring its monitoring system into conformity with the system of the Redevelopment~~
4 ~~Agency, or, if necessary, MOH shall make recommendations to the Board of Supervisors to amend~~
5 ~~Section 415.1 et seq. in order to implement improvements to the monitoring system. If it is necessary to~~
6 ~~amend the Procedures Manual to change its monitoring system to comply with this Section, MOH may~~
7 ~~make any changes necessary to the Procedures Manual to comply with this Section 415.9(f). For~~
8 ~~purposes of this Section 415.9(f) only and on a one-time basis, MOH may amend the Procedures~~
9 ~~Manual without obtaining approval from the Commission. If MOH determines that some or all of the~~
10 ~~aspects of its system are more effective than the Redevelopment Agency's system, it shall inform the~~
11 ~~Board of Supervisors and recommend that the Board urge the Redevelopment Agency to conform its~~
12 ~~procedures to the City's.~~

13 . . .

14 Section 9. The San Francisco Planning Code is hereby amended by amendng
15 selected portions of Section 419.3.

16 **SEC. 419.3. APPLICATION OF UMU AFFORDABLE HOUSING REQUIREMENTS.**

17 (a) Section 419.1 et seq. shall apply to any housing project located in the UMU Zoning
18 District of the Eastern Neighborhoods, that is subject to the requirements of Sections 415 et
19 seq.

20 (b) **Additional UMU Affordable Housing Requirements to the Section 415**
21 **Inclusionary Affordable Housing Program Requirements.** The requirements of Section
22 415 through 415.9 shall apply subject to the following exceptions:

23 (1) For all projects sites designated as Tier A, a minimum of ~~18~~ **14.4%** percent of the
24 total units constructed shall be affordable to and occupied by qualifying persons and families

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1 as defined elsewhere in this Code, so that a project sponsor must construct 0.14418 times the
2 total number of units produced in the principal project beginning with the construction of the
3 tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the
4 nearest whole number for any portion of .5 or above.

5 (A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g) to build
6 off-site units to satisfy the requirements of this program, the sponsor shall construct 23
7 percent so that a sponsor must construct .23 times the total number of units produced in the
8 principal project beginning with the construction of the tenth unit. If the total number of units is
9 not a whole number, the sponsor shall round up to the nearest whole number for any portion
10 of .5 or above.

11 (B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to satisfy the
12 requirements of this program, the sponsor shall meet the requirements of Section 415
13 according to the number of units required above if the project applicant were to elect to meet
14 the requirements of this Section by off-site housing development. For the purposes of this
15 Section, the City shall calculate the fee using the direct fractional result of the total number of
16 units multiplied by the percentage of off-site housing required, rather than rounding up the
17 resulting figure.

18 (2) For all project sites designated Tier B, a minimum of 1620 percent of the total units
19 constructed shall be affordable to and occupied by qualifying persons and families as defined
20 elsewhere in this Code, so that a project sponsor must construct 0.16-20 times the total
21 number of units produced in the principal project beginning with the construction of the tenth
22 unit. If the total number of units is not a whole number, the sponsor shall round up to the
23 nearest whole number for any portion of .5 or above.

24
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1 (A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g) to build
2 off-site units to satisfy the requirements of this program, the sponsor shall construct 25
3 percent so that a sponsor must construct .25 times the total number of units produced in the
4 principal project beginning with the construction of the tenth unit. If the total number of units is
5 not a whole number, the sponsor shall round up to the nearest whole number for any portion
6 of .5 or above.

7 (B) If the project sponsor elects pursuant to Section 415.5(g) to pay the fee to satisfy
8 the requirements of this program, the sponsor shall meet the requirements of Section 415
9 according to the number of units required above if the sponsor were to elect to meet the
10 requirements of this Section by off-site housing development. For the purposes of this
11 Section, the City shall calculate the fee using the direct fractional result of the total number of
12 units multiplied by the percentage of off-site housing required, rather than rounding up the
13 resulting figure.

14 (3) For all project sites designated Tier C, a minimum of 17.6 ~~22~~ percent of the total
15 units constructed shall be affordable to and occupied by qualifying persons and families as
16 defined elsewhere in this Code, so that a project sponsor must construct 0.176 ~~.22~~ times the
17 total number of units produced in the principal project beginning with the construction of the
18 tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the
19 nearest whole number for any portion of .5 or above.

20 (A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g) to build
21 off-site units to satisfy the requirements of this program, the sponsor shall construct 27
22 percent so that a sponsor must construct .27 times the total number of units produced in the
23 principal project beginning with the construction of the tenth unit. If the total number of units is
24

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1 not a whole number, the sponsor shall round up to the nearest whole number for any portion
 2 of .5 or above.

3 (B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to satisfy the
 4 requirements of this program, the sponsor shall meet the requirements of Section 415
 5 according to the number of units required above if the sponsor were to elect to meet the
 6 requirements of this Section by off-site housing development. For the purposes of this
 7 Section, the City shall calculate the fee using the direct fractional result of the total number of
 8 units multiplied by the percentage of off-site housing required, rather than rounding up the
 9 resulting figure.

10 . . .

11
 12 Section 10. The San Francisco Planning Code is hereby amended by amendng Table
 13 419.5 in Section 419.5.

14 **TABLE 419.5**

15 **HOUSING REQUIREMENTS FOR THE UMU DISTRICT**

Tier	On-Site Housing Requirement	Off-Site/In- Lieu Requirement	Middle Income Alternative*	Land Dedication Alternative for sites that have less than 30,000 square feet of developable area	Land Dedication Alternative for sites that have at least 30,000 square feet of developable area
A	18% 14.4%	23%	30%	35%	30%

1	B	20%	25%	35%	40%	35%
2		16%				
3	C	22%	27%	40%	45%	40%
4		17.6%				

*Requirement increases by 5% if dwelling unit mix required by Section 207.6 is waived.

Section 11. The San Francisco Planning Code is hereby amended by amending selected portions of Section 249.33 as follows:

SEC. 249.33 VAN NESS & MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT.

...

(b) Use Controls.

(1) Non-residential uses. For newly-constructed buildings or additions which exceed 20 percent or more of an existing structure's gross floor area, non-residential uses are not permitted above the 4th story, and at least two occupied square feet of residential use shall be provided for each occupied square foot of non-residential use. In order to accommodate local government office uses near City Hall, publicly-owned or leased buildings or lots are exempted from the requirements of this subsection.

(2) Residential Density. There shall be no density limit for residential uses by lot area, but by the applicable requirements and limitations elsewhere in this Code, including but not limited to height, bulk, setbacks, open space, and exposure, as well as by the Market & Octavia Area Plan Fundamental Principals for Design, other applicable design guidelines,

1 applicable elements and area plans of the General Plan, and design review by the Planning
2 Department. The limitations of Section 215 shall not apply.

3 (3) **Residential Affordable Housing Program.** All projects in this district shall be
4 subject to all the terms of Section 415 and following of the Inclusionary Affordable Housing
5 Program. Notwithstanding the foregoing, projects within the Van Ness and Market Downtown
6 Residential Special Use District shall at a minimum fulfill the requirements to the levels
7 specified in this section. Should Section 415 require greater contributions to the affordable
8 housing program, those requirements shall supercede this section. Proposed exceptions to
9 these requirements due to hardships associated with construction type, specifically heights
10 above 120 feet, are not applicable in this Special Use District because parcels are receiving
11 an up zoning through increased density and benefits through the general transformation of the
12 district to a transit oriented neighborhood with a mixed use character. Requirements and
13 administration of this program shall follow the conditions outlined in Section 415 of the
14 Planning Code unless otherwise specified in this section.

15 (A) **Payment of Affordable Housing Fee.** Except as provided in Section 415.5(g), all
16 development projects subject to Section 415 et seq. in the Van Ness Market Special Use
17 District shall be required to pay an Affordable Housing Fee under Section 415.5 equivalent to
18 20 percent of the number of units in the principal project.

19 (B) **Alternatives to Payment of Affordable Housing Fee.** If a project sponsor both
20 qualifies for and chooses to meet the requirements through an Alternative to the Program, the
21 project sponsor may choose one of the Alternatives in Section 415.5(g).

22 (i) **On Site Housing Requirements and Benefits.** For projects that qualify for and
23 choose to fulfill the requirements of Section 415 through the provision of onsite housing, the
24 Planning Department shall require that 12.5% of all units constructed on the project site shall

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1 be affordable to qualifying households so that a project applicant must construct .12 .15 times
2 the total number of units produced in the principal project. If the total number of units is not a
3 whole number, the project applicant shall round up to the nearest whole number for any
4 portion of .5 or above.

5 (ii) **Compliance Through Off-Site Housing Development.** For projects that qualify for
6 and choose to fulfill the requirements of Section 415 through the provision of off-site housing,
7 the Planning Department shall require that 20% of all units constructed on the project site
8 shall be affordable to qualifying households so that a project applicant must construct .20
9 times the total number of units produced in the principal project. If the total number of units is
10 not a whole number, the project applicant shall round up to the nearest whole number for any
11 portion of .5 or above.

12 (4) **Open Space Provider.** The off-site open space permitted by this Section may be
13 provided individually by the project sponsor or jointly by the project sponsor and other project
14 sponsors, provided that each square foot of jointly developed open space may count toward
15 only one sponsor's requirement. With the approval of the Planning Commission, a public or
16 private agency may develop and maintain the open space, provided that (i) the project
17 sponsor or sponsors pay for the cost of development of the number of square feet the project
18 sponsor is required to provide, (ii) provision satisfactory to the Commission is made for the
19 continued maintenance of the open space for the actual lifetime of the building giving rise to
20 the open space requirement, and (iii) the Commission finds that there is reasonable
21 assurance that the open space to be developed by such agency will be developed and open
22 for use by the time the building, the open space requirement of which is being met by the
23 payment, is ready for occupancy.

24
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1 (A) **Off-Site Provision of Required Open Space.** Up to 40 percent of usable open
2 space required by Sections 135 and 138 may be provided off-site if it is within the SUD or
3 within 900 feet of the project site and meets the standards described below for publicly
4 accessible open space described below.

5 (B) **Publicly-Accessible Open Space Standards.**

6 (C) Open space must be of one or more of the following types:

7 (i) An unenclosed park or garden at street grade or following the natural topography,
8 including improvements to hillsides or other unimproved public areas according to the Market
9 & Octavia Area Plan;

10 (ii) An unenclosed plaza at street grade, with seating areas and landscaping and no
11 more than 10 percent of the floor area devoted to food or beverage service;

12 (iii) An unenclosed pedestrian pathway that meets the minimum standards described in
13 Section 827(g)(3)(A) - (E);

14 (iv) A terrace or roof garden with landscaping;

15 (v) Streetscape improvements with landscaping and pedestrian amenities that result in
16 additional space beyond the pre-existing sidewalk width and conform to the Market & Octavia
17 Area Plan, such as sidewalk widening or building setbacks; and

18 (vi) Streetscape improvements with landscaping and pedestrian amenities on
19 alleyways from building face to building face, beyond basic street tree planting or street
20 lighting as otherwise required by this Code, in accordance with the Market & Octavia Area
21 Plan.

22 (D) **Open space must meet the following standards:**

23 (i) Be in such locations and provide such ingress and egress as will make the area
24 convenient, safe, secure and easily accessible to the general public;

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- 1 (ii) Be appropriately landscaped;
- 2 (iii) Be protected from uncomfortable winds;
- 3 (iv) Incorporate ample seating and, if appropriate, access to limited amounts of food
- 4 and beverage service, which will enhance public use of the area;
- 5 (v) Be well signed and accessible to the public during daylight hours;
- 6 (vi) Be well lighted if the area is of the type requiring artificial illumination;
- 7 (vii) Be designed to enhance user safety and security;
- 8 (viii) Be of sufficient size to be attractive and practical for its intended use; and
- 9 (ix) Have access to drinking water and toilets if feasible.

10 (E) **Maintenance.** Open spaces shall be maintained at no public expense, except as
11 might be provided for by any community facilities district that may be formed. The owner of
12 the property on which the open space is located shall maintain it by keeping the area clean
13 and free of litter and keeping in a healthy state any plant material that is provided. Conditions
14 intended to assure continued maintenance of the open space for the actual lifetime of the
15 building giving rise to the open space requirement may be imposed in accordance with the
16 provisions of Section 309.1.

17 (F) **Informational Plaque.** Prior to issuance of a permit of occupancy, a plaque of no
18 less than 24 inches by 36 inches in size shall be placed in a publicly conspicuous location
19 outside the building at street level, or at the site of any publicly-accessible open space,
20 identifying said open space feature and its location, stating the right of the public to use the
21 space and the hours of use, describing its principal required features (e.g., number of seats,
22 availability of food service) and stating the name and address of the owner or owner's agent
23 responsible for maintenance.

1 (G) The Zoning Administrator shall have authority to require a property owner to hold
2 harmless the City and County of San Francisco, its officers, agents and employees, from any
3 damage or injury caused by the design, construction or maintenance of open space, and to
4 require the owner or owners or subsequent owner or owners of the property to be solely liable
5 for any damage or loss occasioned by any act or neglect in respect to the design, construction
6 or maintenance of the open space.

7 (5) **Lot Coverage.** The rear yard requirements of Section 134 shall not apply. Lot
8 coverage is limited to 80 percent at all residential levels except on levels in which all
9 residential units face onto a public right-of-way. The unbuilt portion of the lot shall be open to
10 the sky except for those obstructions permitted in yards per Section 136(c). Exceptions to the
11 20 percent open area may be granted pursuant to the procedures of Section 309 for
12 conversions of existing non-residential structures where it is determined that provision of 20
13 percent open area would require partial demolition of the existing non-residential structure.

14 (6) **Floor Area Ratio.**

15 (A) The maximum FAR allowed, except as allowed in this Section, shall be that
16 described in Section 123(C), provided that it shall not be greater than 9:1. The definition of
17 Gross Floor Area shall be that in Section 102.9 as of the date of approval of this Ordinance,
18 and shall include all residential uses. The provisions of Section 124(g) shall not apply in this
19 special use district.

20 (B) **Floor Area Bonus Permitted for Public Improvements or In-lieu Contributions**
21 **to the Van Ness and Market Neighborhood Infrastructure Fund and In lieu**
22 **Contributions to the Citywide Affordable Housing Fund.**

23 (i) The gross floor area of a structure or structures on a lot may exceed the maximum
24 ratio described in Section 123(c) through participation in the Van Ness and Market Affordable

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1 Housing and Neighborhood Infrastructure Program, according to the procedures described
2 below in subsection (b)(7).

3 (ii) Notwithstanding the provisions of Sections 127 and 128 projects in this Special Use
4 District are not eligible to acquire Transferable Development Rights from a Transfer Lot or
5 Lots pursuant to the provisions of Sections 127- 128 for that increment of FAR above the base
6 FAR limit in Section 124 up to the maximum FAR described in Section 123(c). Instead, a
7 project may pay to the City's Citywide Affordable Housing Fund thirty dollars (\$30) per
8 additional gross square foot for that increment of FAR above the base FAR limit in Section
9 124 up to the maximum FAR described in Section 123(c). Any monies deposited into the
10 Citywide Affordable Housing Fund shall be administered as provided for in Section 415~~315~~ et
11 seq.

12
13 Section 12. The San Francisco Planning Code is hereby amended by amending
14 Section 249.40A, to read as follows:

15 **SEC. 249.40A. SOMA YOUTH AND FAMILY SPECIAL USE DISTRICT.**

16 (a) **Purpose.** The South of Market (SoMa) Youth and Family Special Use District is
17 intended to expand the provision of affordable housing in the area defined below. In addition,
18 this zoning is intended to protect and enhance the health and environment of youth and
19 families by adopting policies that focus on certain lower density areas of this District for the
20 expansion of affordable housing opportunities. The findings of Planning Code Section
21 419.1~~319.1~~ concerning the provision of affordable housing are incorporated herein by
22 reference.

23 (b) **Geography.** The general boundaries of the SoMa Youth and Family Special Use
24 District are Natoma Street on the north, Harrison Street on the south, 4th Street on the east,

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1 and 7th Street on the west. The Special Use District is more particularly identified in the
2 Zoning Map.

3 (c) **Controls.**

4 (1) For the entire Special Use District, all provisions of the Planning Code shall
5 continue to apply, except for the following:

6 (A) The following uses shall require a Conditional Use authorization, pursuant to
7 Section 303, unless the underlying zoning is more restrictive:

8 (i) Religious facilities, as defined in Sec. 890.50(d);

9 (ii) Bars, as defined in Sec. 790.22;

10 (iii) Liquor stores, as defined in Sec. 790.55;

11 (iv) Amusement arcades, as defined in Sec. 890.4;

12 (v) Restaurants, as defined in Sec. 790.91;

13 (vi) Adult entertainment, as defined in Sec. 890.36;

14 (vii) Other entertainment, as defined in Sec. 890.37;

15 (viii) Movie theatres, as defined in Sec. 890.64;

16 (ix) Parking lots, as defined in Sections 890.7, 890.9, and 890.11; and

17 (x) Parking garages, as defined in Sections 890.8, 890.10, and 890.12.

18 (B) The Land Dedication alternative is available for any project of 55 feet or more under
19 the same terms and conditions as provided for in Section ~~419 et seq 319.4(b)(2)(A)-(J)~~.

20 ~~(2C)~~ (2C) In addition to the controls above, the following provisions shall apply to all
21 properties that are not tangent to the following streets: Howard Street, Harrison Street.
22 Folsom Street, 4th, 5th, 6th and 7th Streets:
23
24

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1 (A) Any project ~~containing 5 or more dwelling units subject to Section 415 et seq.~~ or in excess
2 of 40 feet in height within this Special Use District shall be subject to the Tier C affordable
3 housing requirements of Sections ~~419 319~~ et seq.
4

5 Section 13. The San Francisco Planning Code is hereby amended by amending
6 selected portions of Section 827, to read as follows:

7 **SEC. 827. RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE DISTRICT (RH-**
8 **DTR).**

9 The Rincon Hill Downtown Residential Mixed Use District (RH-DTR), the boundaries of
10 which are shown in Section Map No. 1 of the Zoning Map, is established for the purposes set
11 forth below.

12 . . .

13 (b) **Uses.**

14 (1) **Housing Requirement for Residential Developments.** The requirements of
15 Sections 415 through 415.9 shall apply in the RH-DTR subject to the following exceptions:

16 (A) ~~If constructed on-site, a minimum of 12 percent of the total units constructed, and if~~
17 ~~constructed off-site, a minimum of 17 percent of the total units constructed, shall be affordable to and~~
18 ~~occupied by qualifying persons and families as defined elsewhere in this Code.~~

19 (B) Below-market-rate units as required by Sections 415 through 415.9 that are built
20 off-site must be built within the area bounded by Market Street, the Embarcadero, King Street,
21 Division Street, and South Van Ness Avenue.

22 (C) No less than fifty percent (50%) of the fees that are paid due to development in
23 the Rincon Hill Area Plan under Section 415 et seq. (formerly Section 315.4(e)(2) and 315.6)
24 shall be paid into the Citywide Affordable Housing Fund, but the funds shall be separately

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1 accounted for and designated exclusively to increase the supply of affordable housing in the
2 SOMA area.

3 (DC) The Mayor's Office of Housing must submit a resolution to the Board of
4 Supervisors with a plan for the use of all Affordable Housing Fee payments generated from
5 the Rincon Hill Area Plan prior to any expenditure of the Funds.

6
7 **Section 14. Code Corrections Related to Inclusionary Housing Ordinance.**

8 The Planning Code currently includes outdated references to the Inclusionary
9 Affordable Housing Program formerly found in Planning Code Sections 315 et seq. and
10 currently located in Planning Code Sections 415 et seq. These outdated references to
11 Planning Code Sections 315 et seq. are found in: Planning Code Sections 102.6.1, 121.7,
12 167, 175.9, 207.6, 305, 317, and 803.9, and possibly elsewhere in the Municipal Code. The
13 City Attorney shall direct the publisher of the San Francisco Municipal Code to correct all
14 outdated references to the Inclusionary Affordable Housing Program to reflect the current
15 location of the Program in Planning Code Sections 415 et seq.

16 Section 15. Effective Date. This ordinance shall become effective 30 days from the
17 date of passage.

18 Section 16. This section is uncodified. In enacting this Ordinance, the Board intends
19 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
20 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
21 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
22 Board amendment deletions in accordance with the "Note" that appears under the official title
23 of the legislation.

24
25 **MAYOR'S OFFICE
BOARD OF SUPERVISORS**

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

3 By: _____
4 Susan Cleveland-Knowles
5 Deputy City Attorney
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