

[Planning Code – Affordable Housing Bonus Program]

Ordinance amending the Planning Code to create the Affordable Housing Bonus Programs, consisting of the Local Affordable Housing Bonus add the HOME-SF Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus Program, and the Individually Requested State Density Bonus Program, to Planning Code Section 206 and to rename the 100% Affordable Housing Program in Planning Code Section 206 as the Affordable Housing Bonus Programs, to provide for development bonuses and zoning modifications for increased affordable housing, in compliance with, and above those required by the State Density Bonus Law, Government Code, Section 65915, et seq.; to establish the procedures in which the Local Affordable Housing Bonus HOME SF Program and the 100 Percent Affordable Housing Bonus Program shall be reviewed and approved; adding a fee for applications under the Programs; and amending the Planning Code to exempt projects from the height limits specified in the Planning Code and the Zoning Maps; and affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

1 Section 1.

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

7 (b) On _____, the Planning Commission, in Resolution No. _____,
8 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
9 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
10 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
11 the Board of Supervisors in File No. _____, and is incorporated herein by reference.
12

13 Section 2. The Planning Code is hereby amended by revising Section 206, to read as
14 follows:
15

16 SEC. 206. ~~THE 100 PERCENT~~ AFFORDABLE HOUSING BONUS PROGRAMS.

17 ~~This Section 206 and Sections 206.1 through 206.4 shall be known as the 100 Percent~~
18 ~~Affordable Housing Bonus Program. References to "Section 206" shall include Sections 206.1 through~~
19 ~~206.4. This section shall be known as the Affordable Housing Bonus Programs, which include the~~
20 ~~Local Affordable Housing Bonus~~ HOME-SF Program, the 100 Percent Affordable Housing Bonus
21 Program, the Analyzed State Density Bonus Program and the Individually Requested State Density
22 Bonus Program.

23 SEC. 206.1. PURPOSE AND FINDINGS.

24 (a) The purpose of the ~~100 Percent~~ Affordable Housing Bonus Programs is to facilitate
25 the development and construction of affordable housing in San Francisco. Affordable housing

1 is of paramount statewide concern, and the Legislature has declared that local and state
2 governments have a responsibility to use the powers vested in them to facilitate the
3 improvement and development of housing to make adequate provision for the housing needs
4 of all economic segments of the community, especially families. The Legislature has found
5 that local governments must encourage the development of a variety of types of housing for
6 all income levels, including multifamily rental housing and assist in the development of
7 adequate housing to meet the needs of low-and moderate-income households.

8 (b) Affordable housing is an especially paramount concern in San Francisco. San
9 Francisco has one of the highest housing costs in the nation, but San Francisco's economy
10 and culture rely on a diverse workforce at all income levels. It is the policy of the City to
11 enable these workers to afford housing in San Francisco and ensure that they pay a
12 reasonably proportionate share of their incomes to live in adequate housing and to not have to
13 commute ever-increasing distances to their jobs. The Association of Bay Area Governments
14 determined that San Francisco's share of the Regional Housing Need for January 2015 to
15 June 2022 was the provision of 28,870 new housing units, with 6,234 (or 21.6%) as very low,
16 4,639 (or 16.1%) as low, and 5,460 (or 18.9%) as moderate income units.

17 (c) The Board of Supervisors, and the voters in San Francisco, have long recognized
18 the need for the production of affordable housing. The voters, in some cases, and the Board
19 in others, have adopted measures to address this need, such as mandatory Inclusionary
20 Affordable Housing Ordinance in Planning Code Section 415; the San Francisco Housing
21 Trust Fund, adopted in 2012, which established a fund to create, support and rehabilitate
22 affordable housing, and set aside \$20 million in its first year, with increasing allocations to
23 reach \$50 million a year for affordable housing; the adoption of Proposition K in November
24 2014, which established as City policy that the City, by 2020, will help construct or rehabilitate
25 at least 30,000 homes, with more than 50% of the housing affordable for middle-income

1 households, and at least 33% as affordable for low-and moderate income households; and
2 the multiple programs that rely on Federal, State and local funding sources as identified in the
3 Mayor's Office of Housing and Community Development Comprehensive Plan. These
4 programs enable the City to work towards the voter-mandated affordable housing goals.

5 *(d) Historically, in the United States and San Francisco, affordable housing requires high*
6 *levels of public subsidy, including public investment and reliance on public dollars. Costs to subsidize*
7 *an affordable housing unit vary greatly depending on a number of factors, such as household income of*
8 *the residents, the type of housing, and the cost to acquire land acquisition. Currently, MOHCD*
9 *estimates that the level of subsidy for an affordable housing units is approximately \$250,350,000 per*
10 *unit. Given this high cost per unit, San Francisco can only meet its affordable housing goals through a*
11 *combination of increased public dollars dedicated to affordable housing and other tools that do not*
12 *rely on public money.*

13 *(e) Development ~~bonuses~~ incentives are a long standing zoning tool that enable cities to*
14 *encourage private development projects to provide public benefits including affordable housing. By*
15 *offering increased development potential, a project sponsor can offset the expenses necessary to*
16 *provide additional public benefits. In 1979, the State of California adopted the Density Bonus Law,*
17 *Government Code section 65915 et seq, which requires that density bonuses and other concessions and*
18 *incentives be offered to projects that provide a minimum amount of on-site affordable housing.*

19 *(f) In recognition of the City's affordable housing goals, including the need to produce*
20 *more affordable housing without the need for public subsidies,* the Planning Department contracted
21 with David Baker Architects and Seifel Consulting to determine a menu of zoning
22 modifications and development bonuses that could offset a private developer's costs of
23 providing various levels of additional on-site affordable housing. These experts analyzed various
24 parcels in San Francisco, to determine the conditions in which a zoning accommodation
25 would be necessary to achieve additional density. The analysis modeled various zoning

1 districts and lot size configurations, consistent with current market conditions and the City's
2 stated policy goals, including to achieve a mix of unit types, including larger units that can
3 accommodate larger households. These reports are on file in Board of Supervisors File No.
4 160687.

5 (eg) Based on these reports, the Planning Department developed ~~a~~ four programs to
6 provide ~~an~~ options by which developers ~~of 100% affordable housing projects~~ can include
7 additional affordable units on-site ~~in~~ through increased density and other zoning or design
8 modifications. These programs are the Local Affordable Housing Bonus-HOME- SF Program, the
9 100 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus Program and the
10 Individually Requested Bonus Program. This program is the 100 Percent Affordable Housing Bonus
11 Program, which provides additional incentives for developers of 100% affordable housing projects,
12 thereby reducing the overall cost of such developments on a per unit basis.

13 (h) The goal of the Local Affordable Housing-HOME SF Program is to increase affordable
14 housing production, especially housing affordable to Middle Income households. Housing for Middle
15 Income Households-middle income households in San Francisco is necessary to stabilize San
16 Francisco's households and families, ensure income and household diversity in the long term
17 population of San Francisco, and reduce transportation impacts of middle income households working
18 in San Francisco. Middle income Middle Income households do not traditionally benefit from public
19 subsidies.

20 (i) The 100 Percent Affordable Housing Bonus Program provides additional incentives for
21 developers of 100% affordable housing projects, thereby reducing the overall cost of such
22 developments on a per unit basis.

23 (j) The Affordable Housing Bonus Program also establishes a clear local process for all
24 projects seeking the density bonuses guaranteed through the State Density Bonus Law. The State
25 Analyzed Program provides an expedited process for projects that comply with a pre-determined menu

1 of incentives, concessions and waivers of development standards that the Department has
2 determined, in consultation with David Baker Architects and Seifel Consulting can appropriately
3 respond to neighborhood context without causing adverse impacts on public health and safety, and
4 provide affordable units through the City's already-established Inclusionary Housing Program.
5 Projects requesting density or concessions, incentives and waivers outside of the City's preferred menu
6 may seek a density bonus consistent with State law in the Individually Requested Density Bonus
7 Program.

8 (k) San Francisco's small business community is an integral part of San Francisco's
9 neighborhood commercial corridors, local economy, and rich culture. San Francisco is
10 committed to maintaining small businesses in its neighborhoods. For this reason, the
11 Affordable Housing Bonus HOME SF Program acknowledges the need for general assistance
12 and support for any business that might be impacted. Developments using the Affordable
13 Housing Bonus Program will generally produce additional commercial spaces which may
14 enhance existing commercial corridors. The Office of Economic and Workforce Development
15 (OEWD), in coordination with the Office of Small Business, currently coordinate on referrals to
16 and deployment of a range of services to small businesses including but not limited to; small
17 business consulting, lease negotiation assistance, small business loans, ADA Certified
18 Access Specialists (CASp) inspection services, legacy business registry, façade improvement
19 assistance, commercial corridor management, grants and assessments, relocation and broker
20 services for production, distribution and repair (PDR) businesses, business permit assistance,
21 and coordination with city agencies.

22 (l) In fiscal year 2016 - 2017 the Mayor's Office of Economic and Workforce
23 Development, OEWD and the Office of Small Business will initiate and coordinate the
24 implementation of a citywide small business retention and relocation program. This program
25 will provide additional small business consulting and case management, real estate readiness

1 assessment, relocation assistance, broker services, real estate acquisition assistance,
2 succession planning, legacy business grants and technical assistance, and restaurant sector
3 permit coordination and assistance.

4 SEC. 206.2. DEFINITIONS.

5 The definitions of Section 102 and the definitions in Section 401 for "Area Median
6 Income" or "AMI," "First Construction Document," "Housing Project," "Life of the Project," and
7 "MOHCD," "On-site Unit," "Off-site Unit," "Principal Project," and "Procedures Manual" shall
8 generally apply to Section 206. The following definitions shall also apply, and shall prevail if
9 there is a conflict with other sections of the Planning Code.

10 "100 Percent Affordable Housing Project" shall be a project where all of the dwelling
11 units with the exception of the manager's unit are "Affordable Units" as that term is defined in
12 Section 406(b).

13 "Affordable to a Household of Lower, Very Low, or Moderate Income shall mean, at a
14 minimum (1) a maximum purchase price that is affordable to a Household of Lower, Very Low, or
15 Moderate Income, adjusted for the household size, assuming an annual payment for all housing costs of
16 33 percent of the combined household annual gross income, a down payment recommended by the
17 Mayor's Office of Housing and Community Development and set forth in the Procedures Manual, and
18 available financing; and (2) an affordable rent as defined in Section 50053 of the Health and Safety
19 Code sufficient to ensure continued affordability of all very low and low-income rental units that
20 qualified the applicant for the award of the density bonus for 55 years or a longer period of time if
21 required by the construction or mortgage financing assistance program, mortgage insurance program,
22 or rental subsidy program.

23 ~~"Affordable to a Household of Middle Income" shall mean, at a minimum, (1) a~~
24 ~~maximum purchase price that is affordable to a Household of Middle Income at 140% of Area~~
25 ~~Median Income, adjusted for the household size, assuming an annual payment for all housing~~

1 costs of 33 percent of the combined household annual gross income, a down payment
2 recommended by the Mayor's Office of Housing and Community Development and set forth in
3 the Procedures Manual, and available financing; and (2) the maximum annual rent for an
4 affordable housing unit shall be no more than 30% of the annual gross income for a
5 Household of Middle Income at an Area Median Income of 120%, as adjusted for the
6 household size, as of the first date of the tenancy.

7 "Base Density" is lot area divided by the maximum lot area per unit permitted under existing
8 density regulations (e.g 1 unit per 200, 400, 600, 800, or 1000 square feet of lot area). Calculations
9 that result in a decimal point of 0.5 and above are rounded to the next whole number. In the Fillmore
10 Neighborhood Commercial Transit District and the Divisadero Neighborhood Commercial Transit
11 District, "Base Density" shall mean 1 unit per 600 square feet of lot area.

12 "Density Bonus" means a density increase over the Maximum Allowable Gross Residential
13 Density granted pursuant to Government Code Section 65915 and Section 206 et seq.

14 "Density Bonus Units" means those market rate dwelling units granted pursuant to the
15 provisions of this Section 206.3, 206.5 and 206.6 that exceed the otherwise Maximum Allowable Gross
16 Residential Density for the development site.

17 "Development Standard" shall mean a site or construction condition, including, but not
18 limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open space
19 requirement, or an accessory parking ratio that applies to a residential development pursuant
20 to any ordinance, general plan element, specific plan, charter, or other local condition, law,
21 policy, resolution or regulation.

22 "HOME-SF Unit" shall mean a residential unit affordable to a Household of HOME-SF
23 Incomes.

24 "Household of HOME-SF Incomes" shall mean a household whose combined annual
25 gross income for all members is (1) is between 90 and 150% AMI, with an average of 120% of

1 AMI per project, to qualify for ownership housing; or (2) is between 60% and 105% of AMI,
2 with an average of 85% of AMI per project, to qualify for rental housing.

3 "Household of Middle Income" shall mean a household whose combined annual gross
4 income for all members does not exceed 140% of AMI to qualify for ownership housing and
5 120% of AMI to qualify for rental housing.

6 "Inclusionary Units" shall mean on-site income-restricted residential units provided within a
7 development that meet the requirements of the Inclusionary Affordable Housing Program, Planning
8 Code Section 415 et seq.

9 "Lower, ~~or~~ Very Low, or Moderate Income" means annual income of a household that
10 does not exceed the maximum income limits for the income category, as adjusted for
11 household size, applicable to San Francisco, as published and periodically updated by the
12 State Department of Housing and Community Development pursuant to Sections 50079.5, ~~or~~
13 50105 or 50093 of the California Health and Safety Code. Very Low Income is currently
14 defined in California Health and Safety Code Section 50105 as 50% of area median income.
15 Lower Income is currently defined in California Health and Safety Code Section 50079.5 as
16 80% of area median income. Moderate Income is currently defined in California Health and Safety
17 Code Section 50093 as 120% of area median income. If the State law definitions of these terms
18 change, the definitions under Section 206 shall mirror the State law changes.

19 "Maximum Allowable Gross Residential Density" means the maximum number of dwelling
20 units per square foot of lot area in zoning districts that have such a measurement, or, in zoning
21 districts without such a density measurement, the maximum number of dwelling units that could be
22 developed on a property while also meting all other applicable Planning Code requirements and
23 design guidelines, ~~and without obtaining an exception, modification, variance, or waiver from~~
24 ~~the Zoning Administrator or Planning Commission for any Planning Code requirement.~~
25

1 ~~"Middle Income Unit"~~ shall mean a residential unit affordable to a Household of Middle
2 Income.

3 "Qualifying Resident" means senior citizens or other persons eligible to reside in a Senior
4 Citizen Housing Development.

5 "Regulatory Agreement" means a recorded and legally binding agreement between an applicant
6 and the City to ensure that the requirements of this Chapter are satisfied. The Regulatory Agreement,
7 among other things, shall establish: the number of Restricted Affordable Units, their size, location,
8 terms and conditions of affordability, and production schedule.

9 "Restricted Affordable Unit" means a dwelling unit within a Housing Project which will be
10 Affordable to Very Low, Lower or Moderate Income Households, as defined in this Section 206.2 for a
11 minimum of 55 years. Restricted Affordable Units shall meet all of the requirements of Government
12 Code 65915, except that Restricted Affordable Units that are ownership units shall not be restricted
13 using an equity sharing agreement."

14 "Senior Citizen Housing Development" has the meaning in California Civil Code section 51.3.

15 **SEC. 206.3. Housing Opportunities Mean Equity – San Francisco LOCAL**
16 **AFFORDABLE HOUSING BONUS PROGRAM.**

17 (a) **Purpose.** This Section sets forth the HOME-SF Local Affordable Housing Bonus
18 Program. The Local Affordable Housing Bonus HOME-SF Program or "HOME-SF" "Local
19 Program" provides benefits to project sponsors of housing projects that set aside a total of 30% of
20 residential units onsite at below market rate rent or sales price, including a percentage of units
21 affordable to low and moderate income households consistent with Section 415, the Inclusionary
22 Housing Program, and the remaining percentage affordable to a Household of HOME-SF Incomes.
23 Middle Income. The purpose of the Local Affordable Housing Bonus Program HOME-SF is to
24 expand the number of Inclusionary Units produced in San Francisco and provide housing opportunities
25 to a wider range of incomes than traditional affordable housing programs, which typically provide

1 housing only for very low, low or moderate income households. ~~The Local Program HOME-SF~~
2 allows market-rate projects to match the City's shared Proposition K housing goals that 50% of new
3 housing constructed or rehabilitated in the City by 2020 be within the reach of working middle class
4 San Franciscans, and at least 33% affordable for low and moderate income households.

5 (b) **Applicability.** A ~~Local Affordable Housing Bonus HOME-SF Project~~ or "Local
6 Project" under this Section 206.3 shall be a project that:

7 (1) contains three or more residential units, as defined in Section 102, not including any
8 Group Housing as defined in Section 102, efficiency dwelling units with reduced square footage defined
9 in Section 318, and Density Bonus Units permitted through this Section 206.3, or any other density
10 bonus;

11 (2) is located in any zoning district that: (A) is not designated as an RH-1 or RH-2
12 Zoning Districts; and (B) establishes a maximum dwelling unit density through a ratio of number of
13 units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named Neighborhood
14 Commercial, Chinatown Mixed Use Districts, and SoMa Mixed Use Districts; but only if the SoMa
15 Mixed Use District has a density measured by a maximum number of dwelling units per square foot of
16 lot area; (C) is in the Fillmore Neighborhood Commercial Transit District and Divisadero
17 Neighborhood Commercial Transit District; and (D) is not in the North of Market Residential Special
18 Use District, Planning Code Section 249.5 until the Affordable Housing Incentive Study is completed at
19 which time the Board will review whether the North of Market Residential Special Use District should
20 continue to be excluded from this Program. The Study will explore opportunities to support and
21 encourage the provision of housing at the low, moderate, and middle income range in neighborhoods
22 where density controls have been eliminated. The goal of this analysis is to incentivize increased
23 affordable housing production levels at deeper and wider ranges of AMI and larger unit sizes in these
24 areas through 100% affordable housing development as well as below market rate units within market
25 rate developments; and,

1 (3) is not seeking and receiving a density or development bonus under the provisions of
2 California Government Code Section 65915 et seq, Planning Code Section 207, Section 124(f), Section
3 202.2(f), 304, or any other State or local program that provides development bonuses;

4 (4) includes at least 135% of the Base Density as calculated under Planning Code
5 Section 206.5;

6 (5) in Neighborhood Commercial Districts is not a project that involves merging lots
7 that result in more than 125 feet in lot frontage for projects located; and

8 (6) consists ~~only~~ of new construction, and excluding any project that includes an
9 addition to an existing structure;

10 (7) is not located within the boundaries of the Northeastern Waterfront Area
11 Plan south of the centerline of Broadway.

12 (c) ~~Local Affordable Housing Bonus~~ HOME-SF Project Eligibility Requirements. To
13 receive the development bonuses granted under this Section, a ~~Local~~ HOME-SF Project must meet all
14 of the following requirements:

15 (1) Comply with the Inclusionary Affordable Housing Program, Section 415 of this
16 Code, by providing the applicable number of units on-site under Section 415.6. For projects not subject
17 to the Inclusionary Affordable Housing Program, the applicable number of on-site units under this
18 section shall be zero. If the Dial Alternative currently proposed in an ordinance in Board of
19 Supervisors File No. 150911 is adopted and permits a project sponsor to provide more Inclusionary
20 Units at higher AMIs than currently required (referred to as “dialing up”), a project sponsor may dial
21 up and meet the requirements of this subsection (D). If the Dial Alternative of the Inclusionary
22 Affordable Housing Program is ever amended to allow a project sponsor to provide fewer Inclusionary
23 Units at lower AMIs than currently required (referred to as “dialing down”), then a Project cannot
24 qualify for this Section 206.5 if it elects to dial down;
25

1 (2) Provide an additional percentage of affordable units in the ~~Local~~ HOME-SF
2 Project as ~~Middle Income~~ HOME-SF Units, as defined herein, such that the total percentage of
3 Inclusionary Units and ~~Middle Income~~ HOME-SF Units equals 30%. The ~~Middle Income~~ HOME-
4 SF Units shall be restricted for the Life of the Project and shall comply with all of the requirements of
5 the Procedures Manual authorized in Section 415. As provided for in subsection (e), the Planning
6 Department and MOHCD shall amend the Procedures Manual to provide policies and procedures for
7 the implementation, including monitoring and enforcement, of the ~~Middle Income units~~ HOME-SF
8 Units;

9 (3) Demonstrate to the satisfaction of the Environmental Review Officer that the Local
10 Project does not:

11 (A) cause a substantial adverse change in the significance of an historic
12 resource as defined by California Code of Regulations, Title 14, Section 15064.5,

13 (B) create new shadow in a manner that substantially affects outdoor recreation
14 facilities or other public areas; and

15 (C) alter wind in a manner that substantially affects public areas;

16 (4) Inclusive of Inclusionary Units and ~~Middle Income Units~~HOME-SF Units,
17 provides either (A) a minimum unit mix of at least 40% of all units as two bedroom units or larger; or
18 (B) any unit mix which includes some three bedroom or larger units such that 50% of all
19 bedrooms within the ~~Local~~ HOME-SF Project are provided in units with more than one bedroom.
20 Larger units should be distributed on all floors, and prioritized in spaces adjacent to open
21 spaces or play yards. Project that include three bedroom units are encouraged to incorporate
22 family friendly amenities. Family friendly amenities shall include, but are not limited to,
23 bathtubs, dedicated cargo bicycle parking, dedicated stroller storage, open space and yards
24 designed for use by children. ~~Local~~ HOME-SF Projects are not eligible to modify this requirement
25 under Planning Code Section 303(t), 328, or any other provision of this Code; and,

1 (5) ~~Provides replacement units for any units demolished or removed that are~~
2 ~~subject to the San Francisco Rent Stabilization and Arbitration Ordinance, San Francisco~~
3 ~~Administrative Code Section 37, or are units qualifying for replacement as units being~~
4 ~~occupied by households of Low or Very Low Income, consistent with the requirements of~~
5 ~~Government Code section 65915(c)(3).~~

6 (5) Does not demolish, remove or convert any residential units.

7 (6) Includes at the ground floor level active uses, as defined in Section 145.1, at
8 the same square footages as any neighborhood commercial uses demolished or removed,
9 unless the Planning Commission has granted an exception under Section 303(st)(2)(G).

10 (d) **Development Bonuses.** Any Local Project shall, at the project sponsor's request, receive
11 any or all of the following:

12 (1) **Form based density.** Notwithstanding any zoning designation to the contrary,
13 density of a ~~Local~~ HOME-SF Project shall not be limited by lot area but rather by the applicable
14 requirements and limitations set forth elsewhere in this Code. Such requirements and limitations
15 include, but are not limited to, height, including any additional height allowed by subsection (d)(2),
16 Bulk, Setbacks, Required Open Space, Exposure and unit mix as well as applicable design guidelines,
17 elements and area plans of the General Plan and design review, including consistency with the
18 Affordable Housing Bonus Program Design Guidelines, referenced in Section 328, as determined by
19 the Planning Department.

20 (2) **Height.** Up to 20 additional feet above the height authorized for the ~~Local~~ HOME-
21 SF Project under the Height Map of the Zoning Map. This additional height may only be used to
22 provide up to two additional 10-foot stories to the project, or one additional story of no more than 10
23 feet in height. Building features exempted from height controls under Planning Code Section 260(b)
24 shall be measured from the roof level of the highest story provided under this section.

1 **(3) Ground Floor Ceiling Height.** In addition to the permitted height allowed under
2
3 **(d)(2), Local HOME-SF Projects with active uses on the ground floor as defined in Section**
4 **145.1(b)(2) shall receive up to a maximum of 5 additional feet in height above the height limit, in**
5 **addition to the additional 20 feet granted in subsection (2) above. However, the additional 5 feet may**
6 **only be applied at the ground floor to provide a 14-foot (floor to ceiling) ceiling height for**
7 **nonresidential uses, and to allow walk-up dwelling units to be consistent with the Ground Floor**
8 **Residential Design Guidelines. This additional 5 feet shall not be granted to projects that already**
9 **receive such a height increase under Planning Code Section 263.20.**

10 **(4) Zoning Modifications. HOME-SF Local Affordable Housing Bonus Projects**
11 **may select up to three of the following zoning modifications:**

12 **(A) Rear yard:** The required rear yard per Section 134 or any applicable
13 **special use district may be reduced to no less than 20 percent of the lot depth, or 15 feet, whichever is**
14 **greater. Corner properties may provide 20 percent of the lot area at the interior corner of the property**
15 **to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area**
16 **is a minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing**
17 **midblock open space, if any, formed by the rear yards of adjacent properties.**

18 **(B) Dwelling Unit Exposure:** The dwelling unit exposure requirements of
19 **Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that**
20 **is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in**
21 **every horizontal dimension at each subsequent floor.**

22 **(C) Off-Street Loading:** Off-street loading spaces per Section 152 shall not be
23 **required.**

24 **(D) Automobile Parking:** Up to a 75% reduction in the residential and
25 **commercial parking requirements in Section 151 or any applicable special use district.**

1 (E) **Open Space:** Up to a 5% reduction in common open space if provided
2 under Section 135 or any applicable special use district.

3 (F) **Additional Open Space:** Up to an additional 5% reduction in common open
4 space if provided under Section 135 or any applicable special use district, beyond the 5% provided in
5 subsection (E) above.

6 (G) **Inner Courts as Open Space:** In order for an inner court to qualify as
7 useable common open space, Section 135(g)(2) requires it to be at least 20 feet in every horizontal
8 dimension, and for the height of the walls and projections above the court on at least three sides (or 75
9 percent of the perimeter, whichever is greater) to be no higher than one foot for each foot that such
10 point is horizontally distant from the opposite side of the clear space in the court. ~~HOME-SF Local~~
11 ~~Affordable Housing Bonus~~ Projects may instead provide an inner court that is at least 25 feet in
12 every horizontal dimension, with no restriction on the heights of adjacent walls. All area within such an
13 inner court shall qualify as common open space under Section 135.

14 **(e) Implementation.**

15 (1) **Application.** The following procedures shall govern the processing of a request for
16 a project to qualify under the ~~HOME-SF Local~~ Program.

17 (A) An application to participate in the ~~HOME-SF Local~~ Program shall be
18 submitted with the first application for approval of a Housing Project and processed concurrently with
19 all other applications required for the Housing Project. The application shall be submitted on a form
20 prescribed by the City and shall include at least the following information:

21 (i) A full plan set, including a site plan, elevations, sections and floor
22 plans, showing total number of units, number of and location of Inclusionary Units, and ~~Middle~~
23 ~~Income~~ ~~HOME-SF~~ Units; and a draft Regulatory Agreement;

24 (ii) ~~The number of dwelling units which are on the property, or if~~
25 ~~the dwelling units have been vacated or demolished in the five year period preceding the~~

1 application, have been and which were subject to a recorded covenant, ordinance, or law that
2 restricts rents to levels affordable to persons and families of lower or very low income; subject
3 to any other form of rent or price control through the City or other public entity's valid exercise
4 of its police power; or occupied by lower or very low income households; and

5 (iii) If the property includes a parcel or parcels in which dwelling
6 units under subsection (ii) are located or were located in the five year period preceding the
7 application, the type and size of those units, and the incomes of the persons or families
8 occupying those units.

9 (iv) The requested development bonuses and/or zoning modifications
10 from those listed in subsection (d).

11 (iii) A list of all on-site family friendly amenities. Family friendly
12 amenities shall include, but are not limited to, dedicated cargo bicycle parking, dedicated
13 stroller storage, open space and yards designed for use by children.

14 (B) Documentation that the applicant has provided written notification to all
15 existing commercial or residential tenants that the applicant intends to develop the property pursuant
16 to this section. Any affected commercial tenants shall be given priority processing similar to the
17 Department's Community Business Priority Processing Program, as adopted by the San Francisco
18 Commission on February 12, 2015 under Resolution Number 19323, to support relocation of such
19 business in concert with access to relevant local business support programs.

20 (2) **Procedures Manual.** The Planning Department and MOHCD shall amend the
21 Procedures Manual, authorized in Section 415, to include policies and procedures for the
22 implementation, including monitoring and enforcement, of the HOME-SF Units. ~~Middle Income~~
23 ~~units.~~ As an amendment to the Procedures Manual, such policies and procedures are subject to review
24 and approval by the Planning Commission under Section 415. Amendments to the Procedures Manual
25 shall include a requirement that project sponsors in specified areas complete a market survey of the

1 ~~area before marketing Middle Income Units~~HOME-SF Units. All HOME-SF Units ~~affordable units~~
2 ~~that are affordable to households between 120 and 140% of AMI~~ must be marketed at a price
3 that is at least 20% less than the current market rate for that unit size and neighborhood, in addition to
4 any other applicable Program requirements.

5 (3) **Notice and Hearing.** Local Projects shall comply with Section 328 ~~306~~ for review
6 and approval.

7 (4) **Controls.** Local Projects shall be governed by the conditional use procedures
8 of Section 303. ~~comply with Section 328. Notwithstanding any other provision of this Code, no~~
9 ~~conditional use authorization shall be required for a Local Project unless such conditional use~~
10 ~~requirement was adopted by the voters.~~

11 (5) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession,
12 waiver, or modification shall enter into a Regulatory Agreement with the City, as follows.

13 (A) The terms of the agreement shall be acceptable in form and content to the
14 Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director shall have
15 the authority to execute such agreements.

16 (B) Following execution of the agreement by all parties, the completed Density
17 Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and
18 recorded on the Housing Project.

19 (C) The approval and recordation of the Regulatory Agreement shall take place
20 prior to the issuance of the First Construction Document. The Regulatory Agreement shall be binding
21 to all future owners and successors in interest.

22 (D) The Regulatory Agreement shall be consistent with the guidelines of the
23 City's Inclusionary Housing Program and shall include at a minimum the following:
24
25

1 (i) The total number of dwelling units approved for the Housing Project,
2 including the number of Restricted Affordable Units, Inclusionary Units, HOME-SF Units ~~Middle~~
3 ~~Income Units~~ or other restricted units;

4 (ii) A description of the household income group to be accommodated by
5 the Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent
6 or Affordable Sales Price. The project sponsor must commit to completing a market survey of the
7 area before marketing ~~Middle Income~~ HOME-SF Units. All affordable units that are affordable to
8 households between 120 and 140% of AMI ~~HOME-SF Units~~ must be marketed at a price that is
9 at least 20% less than the current market rate for that unit size and neighborhood, in addition to any
10 other applicable Program requirements;

11 (iii) The location, dwelling unit sizes (in square feet), and number of
12 bedrooms of the Restricted Affordable Units;

13 (iv) Term of use restrictions for Restricted Affordable Units of at least 55
14 years for Moderate Income units and at least 55 years for Low and Very Low units;

15 (v) A schedule for completion and occupancy of Restricted Affordable
16 Units;

17 (vi) A description of any Concession, Incentive, waiver, or modification,
18 if any, being provided by the City;

19 (vii) A description of remedies for breach of the agreement (the City may
20 identify tenants or qualified purchasers as third party beneficiaries under the agreement); and

21 (viii) Other provisions to ensure implementation and compliance with
22 this Section.

23
24 **SEC. ~~206.3~~206.4. THE 100 PERCENT AFFORDABLE HOUSING BONUS**
25 **PROGRAM.**

1 *** *** ***

2 **206.5. STATE RESIDENTIAL DENSITY BONUS PROGRAM: ANALYZED**

3 **(a) Purpose:** Sections 206.5, 206.6, and 206.7 shall be referred to as the San Francisco State
4 Residential Density Bonus Program or the State Density Bonus Program. First, the Analyzed State
5 Density Bonus Program in Section 206.5 offers an expedited process for projects that seek a density
6 bonus that is consistent with the pre-vetted menu of incentives, concessions and waivers that the
7 Planning Department and its consultants have already determined are feasible, result in actual cost
8 reductions, and do not have specific adverse impacts upon public health and safety of the physical
9 environment. Second the Individually Requested State Density Bonus Program in Section 206.6 details
10 the review, analysis and approval process for any project seeking a density bonus that is consistent
11 with State Law, but is not consistent with the requirements for the Analyzed State Density Bonus
12 Program established in Section 206.5. Third, Sections 206.7, describes density bonuses available
13 under the State code for the provision of childcare facilities.

14 This Section 206.5 implements the Analyzed State Density Bonus Program or “Analyzed State
15 Program.” The Analyzed State Program offers an expedited process for projects that seek a density
16 bonus that is consistent with, among other requirements set forth below, the pre-vetted menu of
17 incentives, waiver and concessions.

18 **(b) Applicability:**

19 (1) A Housing Project that meets all of the requirements of this subsection (b)(1) or is a
20 Senior Housing Project meeting the criteria of (b)(2) shall be an Analyzed State Density Bonus Project
21 or an “Analyzed Project” for purposes of Section 206 et seq. A Housing Project that does not meet all
22 of the requirements of this subsection (b), but seeks a density bonus under State law may apply for a
23 density bonus under Section 206.6 as an Individually Requested State Density Bonus Project. To
24 qualify for the Analyzed State Density Bonus Program a Housing Project must meet all of the
25 following:

1 (A) contain five or more residential units, as defined in Section 102, not
2 including any Group Housing as defined in Section 102, efficiency dwelling units with reduced square
3 footage defined in Section 318, and Density Bonus Units permitted through this Section 206.5 or other
4 density program;

5 (B) is not seeking and receiving a density or development bonus under Section
6 207; the ~~HOME-SF~~ Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent
7 Affordable Housing Bonus Program, Section 206.4; or any other local or State density bonus program
8 that provides development bonuses;

9 (C) for projects located in Neighborhood Commercial Districts is not seeking to
10 merge lots that result in more than 125 in lot frontage on any one street;

11 (D) is located in any zoning district that: (i) is not designated as an RH-1 or
12 RH-2 Zoning District; (ii) establishes a maximum dwelling unit density through a ratio of number of
13 units to lot area, including but not limited to, RH-3, RM, RC, C-2, Neighborhood Commercial, Named
14 Neighborhood Commercial, Chinatown Mixed Use Districts, and SoMa Mixed Use Districts, but only if
15 the SoMa Mixed Use District has a density measured by a maximum number of dwelling units per
16 square foot of lot area; (iii) is in the Fillmore Neighborhood Commercial Transit District and
17 Divisadero Neighborhood Commercial Transit District; and (D) is not in the North of Market
18 Residential Special Use District, Planning Code Section 249.5 until the Affordable Housing Incentive
19 Study is completed at which time the Board will review whether the North of Market Residential
20 Special Use District should continue to be excluded from this Program. The Study will explore
21 opportunities to support and encourage the provision of housing at the low, moderate, and middle
22 income range in neighborhoods where density controls have been eliminated. The goal of this analysis
23 is to incentivize increased affordable housing production levels at deeper and wider ranges of AMI and
24 larger unit sizes in these areas through 100% affordable housing development as well as below market
25

1 rate units within market rate developments; and (E) is not located within the boundaries of the
2 Northeastern Waterfront Area Plan south of the centerline of Broadway.

3 (E) is providing all Inclusionary Units as On-site Units under Section 415.6. If
4 the Dial Alternative currently proposed in an ordinance in Board of Supervisors File No. 150911 is
5 adopted and permits a project sponsor to provide more Inclusionary Units at higher AMIs than
6 currently required (referred to as “dialing up”), a project sponsor may dial up and meet the
7 requirements of this subsection (D). If the Dial Alternative of the Inclusionary Affordable Housing
8 Program is ever amended to allow a project sponsor to provide fewer Inclusionary Units at lower AMIs
9 than currently required (referred to as “dialing down”), then a Project cannot qualify for this Section
10 206.5 if it elects to dial down;

11 (F) includes a minimum of nine foot ceilings on all residential floors;

12 (G) is seeking only Concessions or Incentives set forth in subsection (c)(4);

13 (H) is seeking height increases only in the form of a waiver as described in
14 subsection (c)(5); and,

15 (I) Does not demolish, remove, or convert any residential units. ~~provides~~
16 replacement units for any units demolished or removed that are subject to the San Francisco
17 Residential Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code
18 Section 37, or are units qualifying for replacement as units being occupied by households of
19 low or very low income, consistent with the requirements of Government Code section
20 65915(c)(3).

21 (2) A Senior Housing Project, as defined in Section 102, may qualify as an Analyzed
22 State Density Bonus Project if it follows all of the procedures and conditions set forth in Planning Code
23 Section 202.2(f).

24 (c) **Development Bonuses.** All Analyzed State Law Density Bonus Projects shall receive, at the
25 project sponsor’s written request, any or all of the following:

(1) **Priority Processing.** Analyzed Projects that provide 30% or more of Units as On-site Inclusionary Housing Units or Restricted Affordable Units that meet all of the requirements of for an Inclusionary Housing Unit shall receive Priority Processing.

(2) **Density Bonus.** Analyzed Projects that provide On-site Inclusionary Housing Units or Restricted Affordable Units that meet all of the requirements of for an Inclusionary Housing Unit shall receive a density bonus as described in Table 206.5 A as follows:

Table 206.5A

Density Bonus Summary – Analyzed

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Restricted Affordable Units or Category</u>	<u>Minimum Percentage of Restricted Affordable Units</u>	<u>Percentage of Density Bonus Granted</u>	<u>Additional Bonus for Each 1% Increase In Restricted Affordable Units</u>	<u>Percentage of Restricted Units Required for Maximum 35% Density Bonus</u>
<u>Very Low Income</u>	<u>5%</u>	<u>20%</u>	<u>2.50%</u>	<u>11%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>1.50%</u>	<u>20%</u>
<u>Moderate Income</u>	<u>10%</u>	<u>5%</u>	<u>1%</u>	<u>40%</u>
<u>Senior Citizen Housing, as defined in § 102, and meeting the requirements of § 202.2(f).</u>	<u>100%</u>	<u>50%</u>	<u>-----</u>	<u>-----</u>

Note: A density bonus may be selected from more than one category, up to a maximum of 35% of the Maximum Allowable GROSS Residential Density.

In calculating density bonuses under this subsection 206.5(c)(2) the following shall apply:

(A) When calculating the number of permitted Density Bonus Units or Restricted Affordable Units, any fractions of units shall be rounded to the next highest number. Analyzed Density Bonus Program projects must include the minimum percentage of Restricted Affordable Units

1 identified in Column B of Table 206.5A for at least one income category, but may combine density
2 bonuses from more than one income category, up to a maximum of 35% of the Maximum Allowable
3 GROSS Residential Density.

4 (B) An applicant may elect to receive a Density Bonus that is less than the
5 amount permitted by this Section; however, the City shall not be required to similarly reduce the
6 number of Restricted Affordable Units required to be dedicated pursuant to this Section and
7 Government Code Section 65915(b).

8 (C) In no case shall a Housing Project be entitled to a Density Bonus of more
9 than 35%, unless it is a Senior Housing Project meeting the requirements of Section 202.2(f).

10 (D) The Density Bonus Units shall not be included when determining the
11 number of Restricted Affordable Units required to qualify for a Density Bonus. Density bonuses shall
12 be calculated as a percentage of the Maximum Allowable GROSS Residential Density.

13 (E) Any Restricted Affordable Unit provided pursuant to the on-site
14 requirements of the Inclusionary Affordable Housing Program, Section 415 et seq., shall be included
15 when determining the number of Restricted Affordable Units required to qualify for a Development
16 Bonus under this Section 206.5. The payment of the Affordable Housing Fee shall not qualify for a
17 Development Bonus under this Section. The provision of Off-site Units shall not qualify the Principal
18 Project for a Density Bonus under this Section; however an Off-site Unit may qualify as a Restricted
19 Affordable Unit to obtain a density bonus for the Off-site Project.

20 (F) In accordance with state law, neither the granting of a Concession,
21 Incentive, waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in and of
22 itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

23 (3) Concessions and Incentives. Analyzed Projects shall receive concessions or
24 incentives, in the amounts specified in Table 206.5B :
25

Table 206.5B

Concessions and Incentives Summary – Analyzed Projects

<u>Target Group</u>	<u>Restricted Affordable Units</u>		
<u>Very Low Income</u>	<u>5%</u>	<u>10%</u>	<u>15%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Moderate Income (Common Interest Development)</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Maximum Incentive(s)/Concession(s)</u>	<u>1</u>	<u>2</u>	<u>3</u>

Notes: 1. Concessions or Incentives may be selected from only one category (very low, lower, or moderate) 2. Common Interest Development is defined in California Civil Code Section 4100.

(4) **Menu of Concessions and Incentives:** In submitting a request for Concessions or Incentives, an applicant for an Analyzed State Density Bonus Project may request the specific Concessions and Incentives set forth below. The Planning Department, based on Department research and a Residential Density Bonus Study prepared by David Baker Architects, Seifel Consulting, and the San Francisco Planning Department dated August 2015, on file with the Clerk of the Board of Supervisors in File No. _____, has determined that the following Concessions and Incentives are generally consistent with Government Code Section 65915(d) because, in general, they: are required in order to provide for affordable housing costs; will not be deemed by the Department to have a specific adverse impact as defined in Government Code Section 65915(d); and are not contrary to State or Federal law.

(A) **Rear yard:** the required rear yard per Section 134 or any applicable special use district may be reduced to no less than 20% of the lot depth, or 15 feet, whichever is greater. Corner properties may provide 20% of the lot area at the interior corner of the property to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area is a minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing midblock open space, if any, formed by the rear yards of adjacent properties.

1 **(B) Dwelling Unit Exposure:** *the dwelling unit exposure requirements of*
2 *Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that*
3 *is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in*
4 *every horizontal dimension at each subsequent floor.*

5 **(C) Off-Street Loading:** *off-street loading spaces under Section 152 shall not*
6 *be required.*

7 **(D) Parking:** *up to a 50% reduction in the residential and commercial parking*
8 *requirement, per Section 151 or any applicable special use district.*

9 **(E) Open Space:** *up to a 5% reduction in required common open space per*
10 *Section 135, or any applicable special use district.*

11 **(F) Additional Open Space:** *up to an additional 5% reduction in required*
12 *common open space per Section 135 or any applicable special use district, beyond the 5% provided in*
13 *subsection (E) above.*

14 **(5) Waiver or Modification of Height Limits.** *Analyzed Projects may request a waiver*
15 *of the applicable height restrictions if the applicable height limitation will have the effect of physically*
16 *precluding the construction of a Housing Project at the densities or with the Concessions or Incentives*
17 *permitted by this subsection (c)(4). Analyzed Projects may receive a height bonus as of right of up to*
18 *twenty feet or two stories, excluding exceptions permitted per Section 260(b), if the applicant*
19 *demonstrates that it qualifies for a height waiver through the following formula:*

20 **Step one: Calculate Base Density and Bonus Density Limits**

21 **Calculate Base Density (BD), as defined in Section 206.2.**

22 **Bonus Density Limit (BD):** *ED multiplied by 1.XX where XX is the density bonus*
23 *requested per Section 206.5 of this Code (e.g. 7%, 23%, 35%), not to exceed 1.35, the maximum density*
24 *bonus available by this Section.*

1 **Step two: Calculate Permitted Envelope (PE).** Buildable envelope available under
2 existing height and bulk controls.

3 PE equals lot area multiplied by permitted lot coverage, where lot coverage equals .75,
4 or .8 if the developer elects to request a rear yard modification under Section 206.5(c)(4)(A), multiplied
5 by existing height limit (measured in number of stories), minus one story for projects in districts where
6 non-residential uses are required on the ground floor, and minus any square footage subject to bulk
7 limitations (for parcels that do not have an X bulk designation).

8 **Step three: Calculate Bonus Envelope (BE)** Residential envelope necessary to
9 accommodate additional density (“Bonus envelope” or “BE”)

10 BE equals Bonus Density multiplied by 1,000 gross square feet

11 **Step four: Calculate Additional Residential Floors.** Determine the number of stories
12 required to accommodate bonus:

13 (A) If BE is less than or equal to PE, the project is not awarded height under
14 this subsection (c)(5).

15 (B) If BE is greater than PE, the project is awarded height, as follows:

16 (i) If BE minus PE is less than the lot area multiplied by 0.75, project is
17 allowed 1 extra story; total gross square footage of building not to exceed BE;

18 (ii) If BE minus PE is greater than the lot area multiplied by 0.75 (i.e. if
19 the difference is greater than one story), project is allowed two extra stories; total gross square footage
20 of building not to exceed BE.

21 (d) **Application.** An application for an Analyzed State Density Bonus Project under this
22 Section 206.5 shall be submitted with the first application for approval of a Housing Project and shall
23 be processed concurrently with all other applications required for the Housing Project. The
24 application shall be on a form prescribed by the City and, in addition to any information required for
25 other applications, shall include the following information:

1 (1) A description of the proposed Housing Project, including the total number of
2 dwelling units, Restricted Affordable Units, and Density Bonus Units proposed;

3 (2) Any zoning district designation, Base Density, assessor's parcel number(s) of the
4 project site, and a description of any Density Bonus, Concession or Incentive, or waiver requested;

5 (3) A list of the requested Concessions and Incentives from Section 206.5(c)(4);

6 (4) If a waiver or modification of height is requested under Section 206.5(c)(5), a
7 calculation demonstrating how the project qualifies for such waiver under the formula;

8 (5) A full plan set including site plan, elevations, sections, and floor plans, number of
9 market-rate units, Restricted Affordable Units, and Density Bonus units within the proposed Housing
10 Project. The location of all units must be approved by the Planning Department before the issuance of
11 the building permit;

12 (6) Level of affordability of the Restricted Affordable Units and a draft Regulatory
13 Agreement;

14 ~~(7) The number of rental dwelling units which are on the property, or if the~~
15 ~~dwelling units have been vacated or demolished in the five year period preceding the~~
16 ~~application, have been and which were subject to a recorded covenant, ordinance, or law that~~
17 ~~restricts rents to levels affordable to persons and families of lower or very low income; subject~~
18 ~~to any other form of rent or price control through the City or other public entity's valid exercise~~
19 ~~of its police power; or occupied by lower or very low income households; and~~

20 ~~—— (8) If the property includes a parcel or parcels in which dwelling units under~~
21 ~~subsection (7) are located or were located in the five year period preceding the application,~~
22 ~~the type and size of those units, and the incomes of the persons or families occupying those~~
23 ~~units.~~

24 ~~(97) Documentation that the applicant has provided written notification to all existing~~
25 ~~commercial or residential tenants that the applicant intends to develop the property pursuant to this~~

1 section. Any affected commercial tenants shall be given priority processing similar to the
2 Department's Community Business Priority Processing Program, as adopted by the San Francisco
3 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
4 business in concert with access to relevant local business support programs. In no case may a
5 project receive a site permit or any demolition permit prior to 18 months from the date of
6 written notification required by this Section 206.5(d)(7).

7 (e) **Review Procedures.** An application for an Analyzed State Density Bonus Project, shall be
8 acted upon concurrently with the application for other permits related to the Housing Project.

9 (1) Before approving an application for an Analyzed Project, the Planning Department
10 or Commission shall make written findings that the Housing Project is qualified as an Analyzed State
11 Density Bonus Project.

12 (2) The review procedures for an Analyzed Project, including notice, hearings, and
13 appeal, shall be the procedures applicable to the Housing Project regardless of whether it is applying
14 for a State Density Bonus under this Section 206.5. However, any notice shall specify that the Housing
15 Project is seeking a Development Bonus and shall provide a description of the Development Bonuses
16 requested. Analyzed Projects shall also be reviewed for consistency with the Affordable Housing Bonus
17 Program Design Guidelines.

18 (f) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession, waiver, or
19 modification shall enter into a Regulatory Agreement with the City, as follows.

20 (1) The terms of the agreement shall be acceptable in form and content to the
21 Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director shall have
22 the authority to execute such agreements.

23 (2) Following execution of the agreement by all parties, the completed Density
24 Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and
25 recorded on the Housing Project.

1 (3) The approval and recordation of the Regulatory Agreement shall take place
2 prior to the issuance of the First Construction Document. The Regulatory Agreement shall be binding
3 to all future owners and successors in interest.

4 (4) The Regulatory Agreement shall be consistent with the guidelines of the
5 City's Inclusionary Housing Program and shall include at a minimum the following: (4) The
6 Regulatory Agreement shall be consistent with the guidelines of the City's Inclusionary Housing
7 Program and shall include at a minimum the following:

8 (A) The total number of dwelling units approved for the Housing Project,
9 including the number of Restricted Affordable Units, Inclusionary Units, ~~HOME-SF Units~~ ~~Middle~~
10 ~~Income Units~~ or other restricted units;

11 (B) A description of the household income group to be accommodated by
12 the Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent
13 or Affordable Sales Price;

14 (C) The location, dwelling unit sizes (in square feet), and number of
15 bedrooms of the Restricted Affordable Units;

16 (D) Term of use restrictions for Restricted Affordable Units of at least 55
17 years for Moderate Income units and at least 55 years for Low and Very Low units;

18 (E) A schedule for completion and occupancy of Restricted Affordable
19 Units;

20 (F) A description of any Concession, Incentive, waiver, or modification,
21 if any, being provided by the City;

22 (G) A description of remedies for breach of the agreement (the City may
23 identify tenants or qualified purchasers as third party beneficiaries under the agreement); and

24 (H) Other provisions to ensure implementation and compliance with this
25 Section.

1
2
3 **SEC. 206.6. STATE DENSITY BONUS PROGRAM: INDIVIDUALLY REQUESTED**

4 *(a) Purpose and Findings: This Section 206.6 details the review, analysis and approval*
5 *process for any project seeking a density bonus that is consistent with State Law, Government Code*
6 *section 65915 et seq., but is not consistent with the pre-vetted menu of concessions, incentives or*
7 *waivers, or other requirements established in Section 206.5 as analyzed by the Planning Department in*
8 *coordination with David Baker and Seifel Consulting, and shall be known as the Individually Requested*
9 *State Density Bonus Program*

10 *California State Density Bonus Law allows a housing developer to request parking ratios not to*
11 *exceed the ratios set forth in Government Code section 65915(p)(1), which may further be reduced as*
12 *an incentive or concession. Because in most cases San Francisco regulates parking by dwelling unit as*
13 *described in Article 1.5 of this Code, the minimum parking ratios set forth in the Government Code are*
14 *greater than those allowed in San Francisco. Given that San Francisco's parking ratios are already*
15 *less than the State ratios, the City finds that the State's minimum parking ratio requirement does not*
16 *apply.*

17 *(b) Applicability. A Housing Project that does not meet any one or more of the criteria of*
18 *Section 206.5(b) under the Analyzed State Density Bonus Program, but meets the following*
19 *requirements, may apply for a Development Bonus under this Section 206.6 as an "Individually*
20 *Requested State Density Bonus Project" or "Individually Requested Project" if it meets all of the*
21 *following criteria:*

22 *(1) contains five or more residential units, as defined in Section 102;*

23 *(2) is not seeking and receiving a density or development bonus under Section 207; the*
24 *HOME-SF Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent Affordable*
25 *Housing Bonus Program, Section 206.4; Section 304, or any other local or state bonus program that*
provides development bonuses.

(3) provides Restricted Affordable Housing Units, including but not limited to Inclusionary Housing Units, at minimum levels as provided in Table 206.6A; and,

(4) provides replacement units for any units demolished or removed that are subject to the San Francisco Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code Section 37, or are units qualifying for replacement as units being occupied by households of low or very low income, consistent with the requirements of Government Code section 65915(c)(3).

(5) Is in any zoning district except for RH-1 or RH-2, unless the Code permits the development of a project of 5 units or more on a site or sites.

(c) **Development Bonuses.** Any Individually Requested Density Bonus Project shall, at the project sponsor's request, receive any or all of the following:

(1) **Density Bonus.** Individually Requested Projects that provide On-site Inclusionary Housing Units or Restricted Affordable Units shall receive a density bonus as described in Table 206.6A as follows:

Table 206.6 A

Density Bonus Summary – Individually Requested Project

<u>Restricted Affordable Units or Category</u>	<u>Minimum Percentage of Restricted Affordable Units</u>	<u>Percentage of Density Bonus Granted</u>	<u>Additional Bonus for Each 1% Increase In Restricted Affordable Units</u>	<u>Percentage of Restricted Units Required for Maximum 35% Density Bonus</u>
<u>Very Low Income</u>	<u>5%</u>	<u>20%</u>	<u>2.50%</u>	<u>11%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>1.50%</u>	<u>20%</u>
<u>Moderate Income</u>	<u>10%</u>	<u>5%</u>	<u>1%</u>	<u>40%</u>
<u>Senior Citizen Housing</u>	<u>100%</u>	<u>20%</u>	<u>-----</u>	<u>-----</u>

Note: A density bonus may be selected from only one category up to a maximum of 35% of the Maximum Allowable GROSS Residential Density.

1 In calculating density bonuses under this subsection 206.6(c)(1) the following shall
2 apply:

3 (A) When calculating the number of permitted Density Bonus Units or Restricted
4 Affordable Units, any fractions of units shall be rounded to the next highest number.

5 (B) An applicant may elect to receive a Density Bonus that is less than the
6 amount permitted by this Section; however, the City shall not be required to similarly reduce the
7 number of Restricted Affordable Units required to be dedicated pursuant to this Section and
8 Government Code Section 65915(b).

9 (C) Each Housing Project is entitled to only one Density Bonus, which shall be
10 selected by the applicant based on the percentage of Very Low Income Restricted Affordable Units,
11 Lower Income Restricted Affordable Units, or Moderate Income Restricted Affordable Units, or the
12 Housing Project's status as a Senior Citizen Housing Development. Density bonuses from more than
13 one category may not be combined. In no case shall a Housing Project be entitled to a Density Bonus
14 of more than thirty-five percent (35%), unless it is a Senior Housing Project meeting the requirements
15 of Section 202.2(f).

16 (D) The Density Bonus Units shall not be included when determining the
17 number of Restricted Affordable Units required to qualify for a Density Bonus. Density bonuses shall
18 be calculated as a percentage of the Maximum Allowable GROSS Residential Density.

19 (E) Any Restricted Affordable Unit provided pursuant to the on-site
20 requirements of the Inclusionary Affordable Housing Program, Section 415 et seq., shall be included
21 when determining the number of Restricted Affordable Units required to qualify for a Development
22 Bonus under this Section 206.6. The payment of the Affordable Housing Fee shall not qualify for a
23 Development Bonus under this Section. The provision of Off-site Units shall not qualify the Principal
24 Project for a Density Bonus under this Section; however an Off-site Unit may qualify as a Restricted
25 Affordable Unit to obtain a density bonus for the Off-site Project.

1 (F) In accordance with state law, neither the granting of a Concession,
2 Incentive, waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in and of
3 itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

4 (G) No additional Density Bonus shall be authorized for a Senior Citizen
5 Development beyond the Density Bonus authorized by subsection (1) of this Section.

6 (H) Certain other types of development activities are specifically eligible for a
7 development bonuses pursuant to State law, including land donation under Government Code Section
8 65915(g), condominium conversions under Government Code section 65915.5 and qualifying mobile
9 home parks under Government Code section 65915(b)(1)(C). Such projects shall be considered
10 Individually Requested State Density Bonus Projects.

11 (2) **Concessions and Incentives.** This Section includes provisions for providing
12 Concessions or Incentives pursuant to Government Code Section 65915 et seq, as set forth in Table
13 206.6B. For purposes of this Section 206.6, Concessions and Incentives as used interchangeably shall
14 mean such regulatory concessions as specified in Government Code Section 65915(k) to include:

15 (A) A reduction of site Development Standards or architectural design
16 requirements which exceed the minimum applicable building standards approved by the State
17 Building Standards Commission pursuant to Part 2.5 (commencing with Section 18901) of Division 13
18 of the Health and Safety Code, including, but not limited to, a reduction in setback, coverage, and/or
19 parking requirements which result in identifiable, financially sufficient and actual cost reductions;

20 (B) Allowing mixed use development in conjunction with the proposed
21 residential development, if nonresidential land uses will reduce the cost of the residential project and
22 the nonresidential land uses are compatible with the residential project and existing or planned
23 development in the area where the Housing Project will be located; and

24 (C) Other regulatory incentives or concessions proposed by the developer or the
25 City that result in identifiable, financially sufficient, and actual cost reductions.

Table 206.6B

Concessions and Incentives Summary – Individually Requested Project

<u>Target Group</u>	<u>Restricted Affordable Units</u>		
<u>Very Low Income</u>	<u>5%</u>	<u>10%</u>	<u>15%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Moderate Income (Common Interest Development)</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Maximum Incentive(s)/Concession(s)</u>	<u>1</u>	<u>2</u>	<u>3</u>

Notes: 1. Concessions or Incentives may be selected from only one category (very low, lower, or moderate). 2. Common Interest Development is defined in California Civil Code Section 4100.

(3) Request for Concessions and Incentives. In submitting a request for Concessions or Incentives that are not specified in Section 206.5(c)(4), an applicant for an Individually Requested Density Bonus Project must provide documentation described in subsection (d) below in its application. The Planning Commission shall hold a hearing and shall approve the Concession or Incentive requested unless it makes written findings, based on substantial evidence that:

(A) The Concession or Incentive does not result in identifiable and actual cost reductions, consistent with Government Code section 65915(k) is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the California Health and Safety Code, or for rents for the Restricted Affordable Units to be as specified in this Section 206.6; or

(B) The Concession or Incentive would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2) upon public health and safety or the physical environment or any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Project unaffordable to low- and moderate-income households.

(C) The Concession or Incentive would be contrary to state or federal law.

1 **(4) Waiver or Modification.** An applicant may apply for a waiver or modification of
2 Development Standards that will have the effect of physically precluding the construction of a Housing
3 Project at the densities or with the Concessions or Incentives permitted by this Section 206.6. The
4 Planning Commission will not grant a waiver or modification under this Section unless it is necessary
5 to achieve the additional density or the Concessions or Incentives permitted by this Section 206.6. The
6 developer must submit sufficient information as determined by the Planning Department demonstrating
7 that Development Standards that are requested to be waived or modified will have the effect of
8 physically precluding the construction of a Housing Project meeting the criteria of this Section 206.6 at
9 the densities or with the Concessions or Incentives permitted. The Planning Commission shall hold a
10 hearing to determine if the project sponsor has demonstrated that the waiver is necessary. The
11 Planning Commission may deny a waiver if it finds on the basis of substantial evidence that:

12 (A) It is not required to permit the construction of a Housing Project meeting the
13 density permitted or with the Concessions and Incentives permitted under this Section 206.6;

14 (B) The Waiver is not required in order to provide for affordable housing
15 costs, as defined in Section 50052.5 of the California Health and Safety Code, or for rents for
16 the Restricted Affordable Units to be as specified in this Section 206.6;

17 (~~B~~C) The Waiver would have a specific adverse impact, as defined in
18 Government Code Section 65589.5(d)(2) upon public health and safety or the physical environment or
19 any real property that is listed in the California Register of Historical Resources and for which there is
20 no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the
21 Housing Project unaffordable to low- and moderate-income households; or,

22 (~~C~~D) The Waiver would be contrary to state or federal law.

23 (5) Nothing in this Section shall be construed to require the provision of direct financial
24 incentives for the Project, including the provision of publicly owned land by the City or the waiver of
25 fees or dedication requirements.

1 (d) **Application.** An application for a Density Bonus, Incentive, Concession, or waiver under
2 this Section 206.6 shall be submitted with the first application for approval of a Housing Project and
3 shall be processed concurrently with all other applications required for the Housing Project. The
4 application shall be on a form prescribed by the City and, in addition to any information required for
5 other applications, shall include the following information:

6 (1) A description of the proposed Project, and a full plan set, including a site plan,
7 elevations, section and floor plans, with the total number and location of dwelling units, Restricted
8 Affordable Units, and Density Bonus Units proposed;

9 (2) A plan set sufficient for the Planning Department to determine the project site's
10 Maximum Allowable GROSS Residential Density. The project sponsor shall submit plans for a base
11 project that demonstrates a Code complying project on the Housing Project site without ~~use of a~~
12 ~~modification, Conditional Use Authorization, Variance, Planned Unit Development, or other~~
13 ~~exception from of the Planning Code.~~ Such plans shall include similar detail to the proposed Housing
14 Project. The project sponsor shall demonstrate that site constraints do not limit the Maximum
15 Allowable GROSS Residential Density for the base project in practice. If the project sponsor cannot
16 make such a showing, the Zoning Administrator shall determine whether the Maximum Allowable
17 GROSS Residential Density shall be adjusted for purposes of this Section.

18 (3) The zoning district designations, Maximum Allowable GROSS Residential Density,
19 assessor's parcel number(s) of the project site, and a description of any Density Bonus, Concession or
20 Incentive, or waiver requested;

21 (4) If a Concession or Incentive is requested that is not included within the menu of
22 Incentives/Concessions set forth in subsection 206.5(c), a submittal including financial information or
23 other information providing evidence that the requested Concessions and Incentives result in
24 identifiable, ~~financially sufficient,~~ and actual cost reductions required in order to provide for
25 affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the

1 Restricted Affordable Units to be provided as required under this Program. The cost of reviewing any
2 required financial information, including, but not limited to, the cost to the City of hiring a consultant
3 to review the financial data, shall be borne by the applicant. ~~The financial information shall include~~
4 ~~all of the following items:~~

5 (A) ~~The actual cost reduction achieved through the Concession or~~
6 ~~Incentive and;~~

7 (B) ~~Evidence that the cost reduction allows the applicant to provide~~
8 ~~affordable rents or affordable sales prices; and~~

9 (C) ~~Any other information requested by the Planning Director. The~~
10 ~~Planning Director may require any financial information including information regarding capital~~
11 ~~costs, equity investment, debt service, projected revenues, operating expenses, and such~~
12 ~~other information as is required to evaluate the financial information;~~

13 (5) If a waiver or modification is requested, information sufficient to demonstrate
14 why a Development Standard would physically preclude the construction of the Development
15 with the Density Bonus, Incentives, and Concessions requested. a submittal containing the
16 following information. The cost of reviewing any required information supporting the request for a
17 waiver, including, but not limited to, the cost to the City of hiring a consultant to review the
18 architectural information, shall be borne by the applicant.

19 (A) ~~Why the Development Standard would physically preclude the~~
20 ~~construction of the Development with the Density Bonus, Incentives, and Concessions~~
21 ~~requested.~~

22 _____ (B) ~~Any other information requested by the Planning Director as is~~
23 ~~required to evaluate the request;~~

24 (6) Level of affordability of the Restricted Affordable Units and a draft Regulatory
25 Agreement;

1 (7) The number of residential units which are on the property, or if the residential units
2 have been vacated or demolished in the five year period preceding the application, have been and
3 which were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to
4 persons and families of lower or very low income; subject to any other form of rent or price control
5 through the City or other public entity's valid exercise of its police power; or occupied by lower or very
6 low income households;

7 (8) If the property includes a parcel or parcels in which dwelling units under (6) are
8 located or were located in the five year period preceding the application, the type and size of those
9 units, the incomes of the persons or families occupying those units.

10 (9) Documentation that the applicant has provided written notification to all existing
11 commercial or residential tenants that the applicant intends to develop the property pursuant to this
12 section. Any affected commercial tenants shall be given priority processing similar to the
13 Department's Community Business Priority Processing Program, as adopted by the San Francisco
14 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
15 business in concert with access to relevant local business support programs.

16 (10) If a Density Bonus or Concession is requested for a land donation under
17 Government Code Section 65915(g), the application shall show the location of the land to be dedicated,
18 provide proof of site control, and provide evidence that all of the requirements and each of the findings
19 included in Government Code Section 65915(g) can be made;

20 (11) If a density bonus or Concession is requested for a Child Care Facility under
21 Section 206.7, the application shall show the location and square footage of the child care facilities
22 and provide evidence that all of the requirements and each of the findings included in Government
23 Code Section 65915(h) can be made;
24

1 (12) If a Density Bonus or Concession is requested for a condominium conversion, the
2 applicant shall provide evidence that all of the requirements found in Government Code Section
3 65915.5 can be met.

4 (e) **Review Procedures.** An application for a Density Bonus, Incentive, Concession, or waiver
5 shall be acted upon concurrently with the application other permits related to the Housing Project.

6 (1) Before approving an application for a Density Bonus, Incentive, Concession, or
7 waiver, for any Individually Requested Density Bonus Project, the Planning Commission shall make the
8 following findings as applicable.

9 (A) The Housing Project is eligible for the Individually Requested Density
10 Bonus Program ~~Affordable Housing Bonus Program.~~

11 (B) The Housing Project has demonstrated that any Concessions or Incentives
12 are required in order to provide for affordable reduce actual housing costs, as defined in Section
13 50052.5 of the California Health and Safety Code, or for rents for the targeted units, based upon the
14 financial analysis and documentation provided.

15 (C) If a waiver or modification is requested, a finding that the Development
16 Standards for which the waiver is requested would have the effect of physically precluding the
17 construction of the Housing Project with the Density Bonus or Concessions and Incentives permitted.

18 (D) If the Density Bonus is based all or in part on donation of land, a finding
19 that all the requirements included in Government Code Section 65915(g) have been met.

20 (E) If the Density Bonus, Concession or Incentive is based all or in part on the
21 inclusion of a Child Care Facility, a finding that all the requirements included in Government Code
22 Section 65915(h) have been met.

23 (F) If the Concession or Incentive includes mixed-use development, a finding
24 that all the requirements included in Government Code Section 65915(k)(2) have been met.
25

1 (2) If the findings required by subsection (a) of this Section cannot be made, the
2 Planning Commission may deny an application for a Concession, Incentive, waiver or modification
3 only if it makes one of the following written findings, supported by substantial evidence:

4 (A) The Concession, Incentive, waiver or modification is not required to provide
5 for the affordability levels required for Restricted Affordable Units;

6 (B) The Concession, Incentive, waiver or modification would have a specific,
7 adverse impact upon public health or safety or the physical environment or on real property listed in
8 the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate
9 or avoid the specific adverse impact without rendering the Housing Project unaffordable to Low and
10 Moderate Income households. For the purpose of this subsection, "specific adverse impact" means a
11 significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public
12 health or safety standards, policies, or conditions as they existed on the date that the application for the
13 Housing Project was deemed complete; or

14 (C) The Concession, Incentive, waiver or modification is contrary to state or
15 federal law.

16 (3) The review procedures for an Individually Requested Density Bonus Project,
17 including notice, hearings, and appeal, shall be the procedures applicable to the Housing Project
18 regardless of whether it is applying for a State Density Bonus under this Section 206.6. However, any
19 notice shall specify that the Housing Project is seeking a Development Bonus and shall provide a
20 description of the development bonuses requested. Individually Requested Projects shall also be
21 reviewed for consistency with the Affordable Housing Bonus Program Design Guidelines.

22 (4) In accordance with state law, neither the granting of a Concession, Incentive,
23 waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in and of itself, to
24 require a general plan amendment, zoning change, variance, or other discretionary approval.
25

1 (f) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession, waiver, or
2 modification shall enter into a Regulatory Agreement with the City, as follows.

3 (1) The terms of the agreement shall be acceptable in form and content to the Planning
4 Director, the Director of MOHCD, and the City Attorney. The Planning Director shall have the
5 authority to execute such agreements.

6 (2) Following execution of the agreement by all parties, the completed Density Bonus
7 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and
8 recorded on the Housing Project.

9 (3) The approval and recordation of the Regulatory Agreement shall take place prior to
10 the issuance of the First Construction Document. The Regulatory Agreement shall be binding to all
11 future owners and successors in interest.

12 (4) The Regulatory Agreement shall be consistent with the guidelines of the City's
13 Inclusionary Housing Program and shall include at a minimum the following:

14 (A) The total number of dwelling units approved for the Housing Project,
15 including the number of Restricted Affordable Units, Inclusionary Units, ~~Middle Income~~ HOME-SF
16 Units or other restricted units;

17 (B) A description of the household income group to be accommodated by the
18 Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent or
19 Affordable Sales Price;

20 (C) The location, dwelling unit sizes (in square feet), and number of bedrooms
21 of the Restricted Affordable Units;

22 (D) Term of use restrictions for Restricted Affordable Units of at least 55 years
23 for Moderate Income units and at least 55 years for Low and Very Low units;

24 (E) A schedule for completion and occupancy of Restricted Affordable Units;
25

1 (F) A description of any Concession, Incentive, waiver, or modification, if any,
2 being provided by the City;

3 (G) A description of remedies for breach of the agreement (the City may identify
4 tenants or qualified purchasers as third party beneficiaries under the agreement); and

5 (H) Other provisions to ensure implementation and compliance with this
6 Section.

7 **SEC. 206.7. CHILD CARE FACILITIES.**

8 (a) For purposes of this Section 206.7, "Child Care Facility" means a child day care facility
9 other than a family day care home, including, but not limited to, infant centers, preschools, extended
10 day care facilities, and school age child care centers

11 (b) When an applicant proposes to construct a Housing Project that is eligible for a Density
12 Bonus under Section 206.6 and includes a Child Care Facility that will be located on the premises of,
13 as part of, or adjacent to, the Housing Project, all of the provisions of this Section 206.7 shall apply
14 and all of the provisions of Section 206.6 shall apply, except as specifically provided in this Section
15 206.7.

16 (c) When an applicant proposes to construct a Housing Project that is eligible for a Density
17 Bonus under Section 206.6 and includes a Child Care Facility that will be located on the premises of,
18 as part of, or adjacent to, the Housing Project, the City shall grant either:

19 (1) An additional density bonus that is an amount of square feet of residential space
20 that is equal to or greater than the square footage of the Child Care Facility; or

21 (2) An additional Concession or Incentive that contributes significantly to the economic
22 feasibility of the construction of the Child Care Facility.

23 (d) The City shall require, as a condition of approving the Housing Project, that the following
24 occur:

1 (1) The Child Care Facility shall remain in operation for a period of time that is as long
2 as or longer than the period of time during which the Affordable Units are required to remain
3 affordable. In the event the childcare operations cease to exist, the Zoning Administrator may approve
4 in writing an alternative community service use for the child care facility.

5 (2) Of the children who attend the Child Care Facility, the children of Very Low, Lower
6 and Moderate Income households shall equal a percentage that is equal to or greater than the
7 percentage of Restricted Affordable Units in the Housing Project that are required for Very Low,
8 Lower and Moderate Income households pursuant to Section 206.6.

9 (e) Notwithstanding subsections (a) and (b) above, the City shall not be required to provide a
10 density bonus or a Concession or Incentive for a child care facility if it finds, based upon substantial
11 evidence, that the community has adequate child care facilities.

12
13 SEC. ~~206.4~~ 206.8. ~~100 PERCENT~~ AFFORDABLE HOUSING BONUS PROGRAM
14 EVALUATION.

15 (a) Within one year from the effective date of Section 206, the Planning Department
16 shall provide an informational presentation to the Planning Commission, and any other City
17 agency at their request, presenting an overview of all projects that request or receive
18 development bonuses under the HOME-SF Local Affordable Housing Bonus Program, the 100
19 Percent Affordable Housing Bonus Program and the Analyzed and Individually Requested State
20 Density Bonus Program ("the Bonus Programs").

21 (b) Annual Reporting. The Planning Department, in coordination with MOHCD, shall
22 include information on projects which request and receive development bonuses under the
23 Bonus Programs, in the Housing Inventory Report.

24 (c) Report Contents. The Housing Inventory shall include, but not be limited to,
25 information on the:

1 (1) number of projects utilizing the Bonus Programs;
2 (2) number of units approved and constructed under the Bonus Programs and
3 the AMI levels of such units;
4 (3) number of additional affordable units in excess of that otherwise required by Section
5 415;
6 (34) geographic distribution of projects, including the total number of units in
7 each project, utilizing the Bonus Programs;
8 (45) number of larger unit types, including the number of 3-bedroom units;
9 (56) square feet of units by bedroom count;
10 (67) number of projects with nine or fewer units that participate; and
11 (78) Number of appeals of projects in the Bonus Program and stated reason for
12 appeal.

13 (d) Program Evaluation and Update.

14 (1) Purpose and Contents. Every five years, beginning five years from the
15 effective date of Section 206, the Department shall prepare a Program Evaluation and
16 Update. The Program Evaluation and Update shall include an analysis of the Bonus
17 Programs's effectiveness as it relates to City policy goals including, but not limited to
18 Proposition K (November 2014) and the Housing Element. The Program Evaluation and
19 Update shall include a review of all of the following:

20 (A) Target income levels for the HOME-SF Local Affordable Housing Bonus
21 Program in relation to market values and assessed affordable housing needs.

22 (B) Feasibility of the Local Affordable Housing Bonus HOME-SF Program,
23 in relation to housing policy goals, program production, and current market conditions.

24 (AC) Requested and granted concessions and incentives, including
25 consideration of whether the menu of zoning modification or concessions and incentives set

1 forth in Section 206.3(c)(5), 206.4(c)(5) and 206.5(c)(4) respond to the needs of projects
2 seeking approvals under the Bonus Programs; consideration of whether the elected zoning
3 modifications or incentives and concessions result in a residential project that responds to the
4 surrounding neighborhood context; and review and recommendation for additions or
5 modifications to the list of zoning modifications or concessions and incentives in 206.3(c)(5),
6 206.4(c)(5) and 206.5(c)(4).

7 (BD) Geography and neighborhood specific considerations. Review and
8 analysis of where Bonus Program projects are proposed and approved, including an analysis
9 of land values, zoning, height controls, and neighborhood support.

10 (GE) Review of the process for considering projects under the Bonus
11 Program, including a review of Section 328, the appeal process, Section 303(t) and other
12 relevant process considerations.

13 ~~(F) Review and recommendations for additional provisions regarding the~~
14 ~~protection of neighborhood-serving small businesses, including feasibility of providing~~
15 ~~relocation assistance and requiring rights of first refusal to displaced tenants.~~

16 (2) Public Hearing. The Program Evaluation and Update shall be prepared no
17 less than every five years, beginning five years from the effective date of this Section 206, and
18 may be completed as a series of reports and in coordination with ongoing monitoring of
19 affordable housing policies, or feasibility analyses. The Planning Commission shall hold a
20 hearing on the Program Evaluation and Update and any recommendations for modification to
21 any of the Bonus Program.

22 (e) Program Expansion Report. The Board of Supervisors directs the Planning
23 Department and MOHCD to research, analyze and provide recommendations for further
24 density and development bonuses for 100% affordable or mixed-income developments. The
25

1 Program Expansion Report shall be published within one year of the effective date of Section
2 206.

3 ~~(f) By January 1, 2017, the Planning Department, in consultation with the Office of~~
4 ~~Economic and Workforce Development, the Office of Small Business, and the Mayor's Office~~
5 ~~of Housing and Community Development, non-profit housing developers, and the small~~
6 ~~business community, shall report on best practices around small business relocation,~~
7 ~~including but not limited to developing a small business relocation fee or program to provide~~
8 ~~relocation services and support for all projects entitled under the 100 Percent Affordable~~
9 ~~Housing Bonus Program.~~

10
11 Section 3. The Planning Code is hereby amended by adding revising Sections 328, to
12 read as follows:

13 SEC. 328. 100 PERCENT AFFORDABLE HOUSING BONUS PROJECT
14 AUTHORIZATION

15 (a) Purpose. The purpose of this Section 328 is to ensure that all 100 Percent
16 Affordable Housing Bonus projects under Section ~~206.3~~ 206.4 are reviewed in coordination
17 with priority processing available for certain projects with 100 Percent affordable housing.
18 While most projects in the 100 Percent Affordable Housing Program will likely be somewhat
19 larger than their surroundings in order to facilitate higher levels of affordable housing, the
20 Planning Commission and Department shall ensure that each project is consistent with the
21 Affordable Housing Bonus Design Guidelines and any other applicable design guidelines, as
22 adopted and periodically amended by the Planning Commission, so that projects respond to
23 their surrounding context, while still meeting the City's affordable housing goals.
24
25

1 (b) Applicability. This section 328 applies to all qualifying 100 Percent Affordable
2 Housing Bonus Projects that meet the requirements described in Planning Code Section ~~206.3~~
3 206.4.

4 (c) Planning Commission Design Review: The Planning Commission shall review and
5 evaluate all physical aspects of a 100 Percent Affordable Housing Bonus Project at a public
6 hearing. The Planning Commission recognizes that most qualifying projects will need to be
7 larger in height and mass than surrounding buildings in order to achieve the 100% Affordable
8 Housing Bonus Program's affordable housing goals. However, the Planning Commission
9 may, consistent with the ~~100%~~ Affordable Housing Bonus Program Design Guidelines, and
10 any other applicable design guidelines, and upon recommendation from the Planning Director,
11 make minor modifications to a project to reduce the impacts of such differences in scale. The
12 Planning Commission, upon recommendation of the Planning Director, may also apply the
13 standards of Section 261.1 to bonus floors for all projects on narrow streets and alleys in
14 order to ensure that these streets do not become overshadowed, including potential upper
15 story setbacks, and special consideration for the southern side of East-West streets, and Mid-
16 block passages, as long as such setbacks do not result in a smaller number of residential
17 units.

18 Additionally, as set forth in subsection (d) below, the Planning Commission may grant
19 minor exceptions to the provisions of this Code. However, such exceptions should only be
20 granted to allow building mass to appropriately shift to respond to surrounding context, and
21 only when such modifications do not substantially reduce or increase the overall building
22 envelope permitted by the Program under Section ~~206.3~~ 206.4. All modifications and
23 exceptions should be consistent with the ~~100%~~ Affordable Housing Bonus Program Design
24 Guidelines and any other applicable design guidelines. In case of a conflict with other
25

1 applicable design guidelines, the ~~100%~~ Affordable Housing Bonus Program Design Guidelines
2 shall prevail.

3 The Planning Commission may require these or other modifications or conditions, or
4 disapprove a project, in order to achieve the objectives and policies of the 100 Affordable
5 Housing Bonus Program or the purposes of this Code. This review shall be limited to design
6 issues including the following:

7 (1) whether the bulk and massing of the building is consistent with the ~~100%~~
8 Affordable Housing Bonus Design Guidelines.

9 (2) whether building design elements including, but not limited to architectural
10 treatments, façade design, and building materials, are consistent with the ~~100%~~ Affordable
11 Housing Bonus Program Design Guidelines and any other applicable design guidelines.

12 (3) whether the design of lower floors, including building setback areas,
13 commercial space, townhouses, entries, utilities, and parking and loading access is consistent
14 with the ~~100%~~ Affordable Housing Bonus Program Design Guidelines, and any other
15 applicable design guidelines.

16 (4) whether the required streetscape and other public improvements such as
17 tree planting, street furniture, and lighting are consistent with the Better Streets Plan, and any
18 other applicable design guidelines.

19 (d) Exceptions. As a component of the review process under this Section 328, the
20 Planning Commission may grant minor exceptions to the provisions of this Code as provided
21 for below, in addition to the development bonuses granted to the project in Section ~~206.3(e)~~
22 206.4(c). Such exceptions, however, should only be granted to allow building mass to
23 appropriately shift to respond to surrounding context, and only when the Planning
24 Commission finds that such modifications do not substantially reduce or increase the overall
25

1 building envelope permitted by the Program under Sections ~~206.3~~206.4 and also are consistent
2 with the ~~100%~~ Affordable Housing Bonus Design Guidelines. These exceptions may include:

3 (1) Exception from residential usable open space requirements per Section 135,
4 or any applicable special use district.

5 (2) Exception from satisfaction of loading requirements per Section 152.1, or
6 any applicable special use district.

7 (3) Exception for rear yards, pursuant to the requirements of Section 134, or
8 any applicable special use district.

9 (4) Exception from dwelling unit exposure requirements of Section 140, or any
10 applicable special use district.

11 (5) Exception from satisfaction of accessory parking requirements per Section
12 152.1, or any applicable special use district.

13 (6) Where not specified elsewhere in this subsection (d), modification of other
14 Code requirements that could otherwise be modified as a Planned Unit Development (as set
15 forth in Section 304), irrespective of the zoning district in which the property is located.

16 (e) Required Findings. In its review of any project pursuant to this Section 328, the
17 Planning Commission shall make the following findings:

18 (1) the use as proposed will comply with the applicable provisions of this Code
19 and is consistent with the General Plan;

20 (2) the use as proposed will provide development that is in conformity with the
21 stated purposes of the applicable Use District; and,

22 (3) the use as proposed will contribute to the City's affordable housing goals as
23 stated in the General Plan.

24 (f) If a 100 Percent Affordable Housing Bonus Project otherwise requires a conditional
25 use authorization due only to 1) a specific land use, 2) use size limit, or 3) requirement

1 adopted by the voters, then the Planning Commission shall make all findings and consider all
2 criteria required by this Code for such use or use size as part of this 100 Percent Affordable
3 Housing Bonus Project Authorization.

4 (g) Hearing and Decision.

5 (1) Hearing. The Planning Commission shall hold a public hearing for all
6 projects that are subject to this Section 328.

7 (2) Notice of Hearing. Notice of such hearing shall be provided pursuant to the
8 same requirements for Conditional Use requests, as set forth in Section 306.3 and 306.8.

9 (3) Director's Recommendations on Modifications and Exceptions. At the
10 hearing, the Planning Director shall review for the Commission key issues related to the
11 project based on the review of the project pursuant to subsection (c) and recommend to the
12 Commission modifications, if any, to the project and conditions for approval as necessary. The
13 Director shall also make recommendations to the Commission on any proposed exceptions
14 pursuant to subsection (d).

15 (4) Decision and Imposition of Conditions. The Commission, after public
16 hearing and, after making appropriate findings, may approve, disapprove or approve subject
17 to conditions, the project and any associated requests for exceptions. As part of its review and
18 decision, the Planning Commission may impose additional conditions, requirements,
19 modifications, and limitations on a proposed project in order to achieve the objectives,
20 policies, and intent of the General Plan or of this Code.

21 (5) Appeal. The decision of the Planning Commission may be appealed to the
22 Board of Supervisors by any person aggrieved within 30 days after the date of the decision by
23 filing a written notice of appeal with the Board of Supervisors, setting forth wherein it is alleged
24 that there was an error in the interpretation of the provisions of this Section or abuse of
25 discretion on the part of the Planning Commission. The procedures and requirements for

1 conditional use appeals in Section 308.1(b) and (c) shall apply to appeals to the Board of
2 Supervisors under this Section 328.

3 (6) Discretionary Review. No requests for discretionary review shall be
4 accepted by the Planning Department or heard by the Planning Commission for projects
5 subject to this Section.

6 (7) Change of Conditions. Once a project is approved, authorization of a
7 change in any condition previously imposed by the Planning Commission shall require
8 approval by the Planning Commission subject to the procedures set forth in this Section.
9

10 Section 4. The Planning Code is hereby amended by amending Section 303, to read as
11 follows:

12 SEC. 303. CONDITIONAL USES.

13 *** *** ***

14 (t) Local Affordable Housing Bonus Projects. The purpose of this Section is to ensure
15 that all Local Affordable Housing Bonus HOME-SF Projects under Section 206.3 are reviewed
16 in coordination with priority processing available for certain projects with greater levels of
17 affordable housing. While most projects in the Program will likely be somewhat larger than
18 their surroundings in order to facilitate higher levels of affordable housing, the Planning
19 Commission and Department shall ensure that each project is consistent with the Affordable
20 Housing Bonus Design Guidelines and any other applicable design guidelines, as adopted
21 and periodically amended by the Planning Commission, so that projects respond to their
22 surrounding context, while still meeting the City's affordable housing goals.

23 (1) Planning Commission Design Review: The Planning Commission shall
24 review and evaluate all physical aspects of a Local Affordable Housing Bonus HOME-SF
25 Project at a public hearing. The Planning Commission recognizes that most qualifying projects

1 will need to be larger in height and mass than surrounding buildings in order to achieve the
2 Affordable Housing Bonus Program's affordable housing goals. However, the Planning
3 Commission may, consistent with the Affordable Housing Bonus Program Design Guidelines,
4 and any other applicable design guidelines, and upon recommendation from the Planning
5 Director, make minor modifications to a project to reduce the impacts of such differences in
6 scale. Additionally, as set forth in subsection (2) below, the Planning Commission may grant
7 minor exceptions to the provisions of this Code. However, such exceptions should only be
8 granted to allow building mass to appropriately shift to respond to surrounding context, and
9 only when such modifications do not substantially reduce or increase the overall building
10 envelope permitted by the Program under Section 206.3. All modifications and exceptions
11 should be consistent with the Affordable Housing Bonus Program Design Guidelines and any
12 other applicable design guidelines. In case of a conflict with other applicable design
13 guidelines, the Affordable Housing Bonus Program Design Guidelines shall prevail. The
14 Planning Commission may require these or other modifications or conditions, or disapprove a
15 project, in order to achieve the objectives and policies of the Affordable Housing Bonus
16 Program or the purposes of this Code. This review shall be limited to design issues including
17 the following:

18 (A) whether the bulk and massing of the building is consistent with the
19 Affordable Housing Bonus Design Guidelines.

20 (B) whether building design elements including, but not limited to architectural
21 treatments, façade design, and building materials, are consistent with the Affordable Housing
22 Bonus Program Design Guidelines and any other applicable design guidelines.

23 (C) whether the design of lower floors, including building setback areas,
24 commercial space, townhouses, entries, utilities, and parking and loading access is consistent
25

1 with the Affordable Housing Bonus Program Design Guidelines, and any other applicable
2 design guidelines.

3 (D) whether the required streetscape and other public improvements such as
4 tree planting, street furniture, and lighting are consistent with the Better Streets Plan, and any
5 other applicable design guidelines.

6 (2) Exceptions. As a component of the review process under this Section 328303(t),
7 the Planning Commission may grant minor exceptions to the provisions of this Code as
8 provided for below, in addition to the development bonuses granted to the project in Section
9 206.3(d). Such exceptions, however, should only be granted to allow building mass to
10 appropriately shift to respond to surrounding context, and only when the Planning
11 Commission finds that such modifications: 1) do not substantially reduce or increase the
12 overall building envelope permitted by the Program under Sections 206.3; and 2) are
13 consistent with the Affordable Housing Bonus Design Guidelines. These exceptions may
14 include:

15 (A) Exception from residential usable open space requirements per Section
16 135, or any applicable special use district.

17 (B) Exception from satisfaction of loading requirements per Section 152.1, or
18 any applicable special use district.

19 (C) Exception for rear yards, pursuant to the requirements of Section 134, or
20 any applicable special use district.

21 (D) Exception from dwelling unit exposure requirements of Section 140, or any
22 applicable special use district.

23 (E) Exception from satisfaction of accessory parking requirements per Section
24 152.1, or any applicable special use district.

1 (F) Where not specified elsewhere in this Subsection (2), modification of other
2 Code requirements that could otherwise be modified as a Planned Unit Development (as set
3 forth in Section 304), irrespective of the zoning district in which the property is located.

4 (G) Exception from active ground floor use requirements under 145.1(c)(3).

5 (3) Additional Criteria. In addition to the criteria set forth in (c)(2), the Planning
6 Commission shall consider the extent to which the following criteria are met:

7 (A) whether the project would require the demolition of an existing building;

8 (B) whether the project would remove existing commercial or retail uses;

9 (C) If the project would remove existing commercial or retail uses, how recently
10 the commercial or retail uses were occupied by a tenant or tenants;

11 (D) whether the project includes commercial or retail uses;

12 (E) whether there is an adverse impact on the public health, safety, and general
13 welfare due to the loss of commercial or retail uses in the district where the project is located.

14 (34) In no case may a project receive a site permit or any demolition permit prior to
15 18 months from the date of written notification required by 206.3(e)(1)(B).

16
17 Section 5. This section is uncodified. —The Planning Code is hereby amended by
18 amending Section 352 to read as follows:

19
20 ~~SEC. 352. COMMISSION AND ZONING ADMINISTRATOR HEARING~~
21 ~~APPLICATIONS.~~

22 * * * *

23 Affordable Housing Bonus Program (Section 206 and following) fees shall be set as
24 follows. The initial fee amount is not to exceed 50% of the construction cost. A \$120
25

surcharge shall be added to the fees for a conditional use or planned unit development to compensate the City for the costs of appeals to the Board of Supervisors.

<u>Estimated Construction Cost</u>	<u>Initial Fee</u>
<u>No construction cost, excluding extension of hours</u>	<u>\$1,012.00</u>
<u>No construction cost, extension of hours</u>	<u>\$724.00</u>
<u>Wireless Telecommunications Services (WTS)</u>	<u>\$5,061.00</u>
<u>\$1.00 to \$9,999.00</u>	<u>\$724.00</u>
<u>\$10,000.00 to \$999,999.00</u>	<u>\$724.00 plus 0.328% of cost over \$10,000.00</u>
<u>\$1,000,000.00 to \$4,999,999.00</u>	<u>\$4,033.00 plus 0.391% of cost over \$1,000,000.00</u>
<u>\$5,000,000.00 to \$9,999,999.00</u>	<u>\$19,986.00 plus 0.328% of cost over \$5,000,000.00</u>
<u>\$10,000,000.00 to \$19,999,999.00</u>	<u>\$36,701.00 plus 0.171% of cost over \$10,000,000.00</u>
<u>\$20,000,000.00 or more</u>	<u>\$54,120.00</u>

~~(e) 100% Affordable Housing Bonus Program (Section 206 and following). The initial fee amount is not to exceed 50% of the construction cost. A \$120 surcharge shall be added to the fees for a conditional use or planned unit development to compensate the City for the costs of appeals to the Board of Supervisors.~~

<u>Estimated Construction Cost</u>	<u>Initial Fee</u>
<u>No construction cost, excluding extension of hours</u>	<u>\$1,012.00</u>
<u>No construction cost, extension of hours</u>	<u>\$724.00</u>
<u>Wireless Telecommunications Services (WTS)</u>	<u>\$5,061.00</u>
<u>\$1.00 to \$9,999.00</u>	<u>\$724.00</u>
<u>\$10,000.00 to \$999,999.00</u>	<u>\$724.00 plus 0.328% of cost over \$10,000.00</u>
<u>\$1,000,000.00 to \$4,999,999.00</u>	<u>\$4,033.00 plus 0.391% of cost over</u>

	\$1,000,000.00
\$5,000,000.00 to \$9,999,999.00	\$19,986.00 plus 0.328% of cost over \$5,000,000.00
\$10,000,000.00 to \$19,999,999.00	\$36,701.00 plus 0.171% of cost over \$10,000,000.00
\$20,000,000.00 or more	\$54,120.00

Section 6. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance. This ordinance applies to projects that the Planning Department or Planning Commission have not approved as of the effective date. For projects that have not yet submitted applications to the Planning Department or other City entity, all of the provisions of the ordinance apply. The Planning Department shall develop a policy to apply the provisions of this ordinance to projects that have already submitted applications, but have not obtained approvals, to permit such projects to amend their applications.

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

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

3 By: _____
4 AUDREY PEARSON
5 Deputy City Attorney

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