

1 [Citywide Affordable Housing Preference for Certificate of Preference Holders.]

2 **Ordinance providing that all City affordable housing programs give preference in those**  
3 **programs to Certificate of Preference Holders under the San Francisco Redevelopment**  
4 **Agency's Property Owner and Occupant Preference Program by adding Administrative**  
5 **Code Section 24.8 to provide that all City affordable housing programs administered by**  
6 **the Mayor's Office of Housing or other City Department give preference in those**  
7 **programs to Certificate of Preference holders; and amending Administrative Code**  
8 **Sections 43.3.4 to provide for preference in the affordable housing and home**  
9 **ownership bond program; Section 10.100-110 to provide for preference in the**  
10 **expenditure of funds from the Mayor's Housing Affordability Fund; 10-100-370 to**  
11 **provide for preference in the use of HOPE SF funds; and amending Planning Code**  
12 **Sections 313.12, 315.4, 315.5, and 315.6 to provide for preference in the Citywide**  
13 **Affordable Housing funds generated by the Jobs-Housing Linkage Program and the**  
14 **Residential Inclusionary Affordable Housing program and in the allocation of all on-**  
15 **and off-site inclusionary housing units in those programs.**

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17 Note: Additions are *single-underline italics Times New Roman*;  
18 deletions are *strikethrough italics Times New Roman*.  
19 Board amendment additions are double underlined.  
20 Board amendment deletions are ~~strikethrough normal~~.

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

22 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco  
23 hereby finds and determines that:

24 (a) Under Planning Code Section 302, the Board of Supervisors finds that this  
25 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
Planning Commission Resolution No. ~~47440~~17652 recommending the approval of this ~~Zoning~~

1 ~~Map Amendment~~ordinance, and incorporates such reasons by this reference thereto. A copy  
2 of said resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

3 (b) Under Planning Code Section 101.1, the Board of Supervisors finds that this  
4 ordinance is consistent with the Priority Policies of Planning Code Section 101.1(b) of the  
5 Planning Code and with the General Plan ~~as proposed to be amended in companion~~  
6 ~~legislation~~ and hereby adopts the findings of the Planning Commission, as set forth in  
7 Planning Commission Resolution No. ~~47440~~17652, and incorporates said findings by this  
8 reference thereto.

9 (c) In accordance with the actions contemplated herein, this Board adopted ~~s~~ Motion  
10 the findings set forth in Planning Commission Resolution No. ~~47407~~17652, concerning findings  
11 pursuant to that this ordinance is categorically exempt from environmental review under the  
12 California Environmental Quality Act (California Public Resources Code sections ~~24000 et~~  
13 ~~seq.~~) 15060(c)(2). A copy of said ~~Motion~~ Resolution is on file with the Clerk of the Board of  
14 Supervisors in File No. \_\_\_\_\_ and is incorporated by reference herein.

15 Section 2. The San Francisco Administrative Code is hereby amended by adding  
16 Section 24.8 and amending Sections 43.3.1, -10-100-370 as follows:

17 **SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS**  
18 **FOR CERTIFICATE OF PREFERENCE HOLDERS**

19 *This Section shall apply to all programs related to the provision of affordable housing, unless*  
20 *specified otherwise. To the extent permitted by law, the Mayor's Office of Housing or its successor*  
21 *shall give or require project sponsors or their successors in interest funded through MOH to give,*  
22 *preference in occupying units or receiving assistance under all City affordable housing programs first*  
23 *to Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner*  
24 *and Occupant Preference Program who meet all of the qualifications for the unit or assistance. The*  
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1 Mayor's Office of Housing shall develop procedures and amend its regulations within 90 days of the  
2 effective date of this legislation to implement the requirements of this Section. Said procedures and  
3 regulations shall be subject to approval by Resolution of the Board of Supervisors.

4 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

5 Following payment of costs of issuance, 85 percent of the bond proceeds will be used  
6 for the development of affordable rental housing through the development account described  
7 in the regulations, and 15 percent of the bond proceeds will be used for downpayment  
8 assistance for low and moderate income first-time homebuyers through the downpayment  
9 assistance loan account described in the program regulations; including all legally permissible  
10 administrative costs related to the program. The Mayor's Office of Housing shall develop  
11 procedures and amend its regulations such that, for all projects funded by this affordable housing and  
12 home ownership bond program, including multifamily rental projects and downpayment assistance to  
13 individual households, it requires the project sponsor or its successor in interest to give preference in  
14 occupying units or receiving assistance first to Certificate of Preference Holders under the San  
15 Francisco Redevelopment Agency's Property Owner and Occupant Preference Program who meet all  
16 of the qualifications for the unit or assistance. The Mayor's Office of Housing shall develop procedures  
17 and amend its regulations within 90 days of the effective date of this legislation to implement the  
18 requirements of this Section.- Said procedures and regulations shall be subject to approval by  
19 Resolution of the Board of Supervisors.

20 **SEC. 10.100-110. MAYOR'S HOUSING AFFORDABILITY FUND.**

21 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a  
22 category two fund to receive any prior legally binding obligations any grants, gifts, bequests  
23 from private sources for the purposes sited in section (b), any monies repaid to the City as a  
24 result of loans made by City to developers to assist in the development of affordable housing,  
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1 any repayments of monies to City where the City is beneficiary under a promissory note which  
2 was acquired as a result of City's housing affordability assistance, any repayments of loans  
3 made from this fund and any monies otherwise appropriated to the fund.

4 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing  
5 financial assistance to for-profit and nonprofit housing developers, where the contribution of  
6 monies from the fund will allow units in a project to be affordable to persons and families of  
7 low and moderate income. City departments may recover any costs of administering any  
8 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of  
9 Housing shall develop procedures and amend its regulations such that, for all projects funded by this  
10 fund, it requires the project sponsor or its successor in interest to give preference in occupying units or  
11 receiving assistance first to Certificate of Preference Holders under the San Francisco Redevelopment  
12 Agency's Property Owner and Occupant Preference Program who meet all of the qualifications for the  
13 unit or assistance. The Mayor's Office of Housing shall develop procedures and amend its regulations  
14 within 90 days of the effective date of this legislation to implement the requirements of this Section.  
15 Said procedures and regulations shall be subject to approval by Resolution of the Board of  
16 Supervisors.

17 **SEC. 10-100-370. SAN FRANCISCO HOPE SF FUND.**

18 (a) Establishment of Fund. The HOPE SF Fund is hereby established as a category  
19 four fund for the purpose of assisting in the replacement and/or rehabilitation of  
20 distressed public housing projects in the City and County of San Francisco.

21 (b) Deposits to Fund.

22 1. Base Deposit. The City shall appropriate \$5,000,000.00 from the General  
23 Fund into the HOPE SF Fund for fiscal year 2007-2008. In subsequent years, it  
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1 shall be City policy to appropriate the same base amount to the HOPE SF Fund,  
2 as well as the additional deposits described in subsection (b)(2), below.

3 2. Additional Deposits. It shall be City policy to increase the base deposit  
4 described in subsection (b)(1), above, each fiscal year in an amount equal to the  
5 tax revenues generated during the prior fiscal year through construction and  
6 development activities on projects funded in whole or in part by the HOPE SF  
7 Fund. The Controller's calculation of the amount of such revenues with  
8 reference to any particular project shall include the following:

9 A. The portion of property and possessory interest tax revenues  
10 allocated to the City's General Fund under State law;

11 B. Property transfer tax revenues derived from the City's Real Property  
12 Transfer Tax Ordinance (Article 12-C of the City Business and Tax  
13 Regulations Code);

14 C. Sales and use tax revenues derived from the Bradley-Burns Uniform  
15 Local Sales and Use Tax Law (the one percent levy authorized under  
16 California Revenue and Taxation Code Section 7203.1); and

17 D. Payroll tax revenues derived from the City's Payroll Expense Tax  
18 Ordinance (Article 12-A of the City Business and Tax Regulations Code);  
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21 (c) Use of Fund.

22 1. The fund shall be used exclusively for the purpose of providing financial  
23 assistance to the San Francisco Housing Authority and housing developers,  
24 where the contribution of monies from the fund to a specific eligible HOPE SF  
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1 Project described in clause (2) below will be accompanied by an agreement as  
2 to the affordability of some or all units in such HOPE SF Project for persons and  
3 families of very-low, low and moderate income as defined by the United States  
4 Department of Housing and Urban Development. Such affordability shall be  
5 maintained for a period of not less than the greater of 50 years or the useful life  
6 of the project.

7 2. There are two eligible types of HOPE SF Projects: public housing  
8 developments in need of substantial rehabilitation; and public housing  
9 developments in need of demolition and new construction of public housing in  
10 conjunction with affordable housing and market-rate housing. Funds may be  
11 used to pay for the following:

12 A. Capital expenses typically associated with the development and/or  
13 rehabilitation of public housing or affordable housing, including but not  
14 limited to infrastructure costs, construction costs, design costs, permit  
15 fees, financing fees, capitalized reserves, and developer fees;

16 B. Administrative costs required to oversee the program;

17 C. Payment of debt service on any bond or lease financing issued by the  
18 City for HOPE SF Fund-eligible purposes; and

19 D. Other activities associated with the development of any HOPE SF  
20 Project, subject to the adopted rules and regulations described in  
21 paragraph (d) below.  
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1 3. Grants, Bequests, and Other Sources. The Controller shall also cause the  
2 following to be deposited in the HOPE SF Fund; any and all grants, gifts, or  
3 bequests from private sources for the purposes cited above; any monies repaid  
4 to the City as a result of loans made by City to developers from monies in the  
5 HOPE SF Fund to assist in the development of replacement public housing  
6 and/or affordable housing associated with the replacement of public housing;  
7 any repayments of monies to City where the City is beneficiary under a  
8 promissory note which was acquired as a result of the City's housing  
9 affordability assistance from monies in the HOPE SF Fund; and any monies  
10 otherwise allocated to the fund, all to the extent such monies are not required to  
11 be deposited in other funds or applied to other purposes.

12 (d) Administration of Fund. The fund shall be administered by the Mayor's  
13 Office of Housing. The Director of the Mayor's Office of Housing shall  
14 promulgate such rules and regulations as he or she may deem appropriate to  
15 carry out the provisions of the fund. Such rules and regulations shall be  
16 developed in consultation with any appropriate agencies or organizations with  
17 which the Director, or his or her designee, may choose to consult. The rules and  
18 regulations shall be subject to a public hearing and approved by resolution of the  
19 Board of Supervisors. The Mayor's Office of Housing shall develop procedures such  
20 that, for all projects funded by the HOPE SF Fund, the Mayor's Office of Housing  
21 requires the project sponsor or its successor in interest to give preference in occupying  
22 units first to any current occupants of a housing development receiving Funds, and  
23 second to Certificate of Preference Holders under the San Francisco Redevelopment  
24 Agency's Property Owner and Occupant Preference Program who meet all of the  
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1 qualifications for the unit. The Mayor's Office of Housing shall develop procedures and  
2 amend its regulations within 90 days of the effective date of this legislation to implement  
3 the preference described in this Section. Said procedures and regulations shall be  
4 subject to approval by Resolution of the Board of Supervisors.

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6 Section 2. The San Francisco Planning Code is hereby amended by amending  
7 Sections 313.12, 315.4, 315.5, and 315.6 to read as follows:

8 **SEC. 313.12. CITYWIDE AFFORDABLE HOUSING FUND.**

9 All monies contributed pursuant to Sections 313.6 or 313.7 or assessed pursuant to  
10 Section 313.9 shall be deposited in the special fund maintained by the Controller called the  
11 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated  
12 in accordance with law to be used solely to increase the supply of housing affordable to  
13 qualifying households subject to the conditions of this Section. MOH shall develop procedures  
14 such that, for all projects funded by the Citywide Affordable Housing Fund, MOH requires the project  
15 sponsor or its successor in interest to give preference in occupying units first to Certificate of  
16 Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant  
17 Preference Program who meet all of the qualifications for the unit. The Mayor's Office of Housing shall  
18 develop procedures and amend its regulations within 90 days of the effective date of this legislation to  
19 implement the requirements of this Section.- Said procedures and regulations shall be subject to  
20 approval by Resolution of the Board of Supervisors.

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22 The Fund shall be administered and expended by the Director of the Mayor's Office of  
23 Housing, who shall have the authority to pre-scribe rules and regulations governing the Fund  
24 which are consistent with this ordinance. No portion of the Fund may be used, by way of loan  
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1 or otherwise, to pay any administrative, general overhead, or similar expense of any entity,  
2 except that \$10,000 from the Fund shall be allocated by the Director within six months  
3 following the effective date of this ordinance to pay consultants for conducting research  
4 necessary to support the "Jobs Housing Nexus Analysis," prepared by Keyser Marston  
5 Associates, Inc., and dated June 1997.

6 **SEC. 315.4. ON-SITE HOUSING REQUIREMENT AND BENEFITS.**

7 Except as provided in Section 315.4(e), all housing projects subject to this Program  
8 through the application of Section 315.3 shall be required to construct on-site units subject to  
9 the following requirements:

10 (a) Number of Units:

11 (1)

12 (A) For any housing development of any height that is located in an area with a specific  
13 inclusionary housing requirement, the more specific inclusionary housing requirement shall  
14 apply.

15 (B) Buildings 120 feet in height and under or buildings of over 120 feet in height that do not  
16 meet the criteria in subsection (C) below: Except as provided in Subsection (C) below, the  
17 Planning Department shall require for housing projects covered by Section 315.3(a)(1), as a  
18 condition of Planning Department approval of a project's building permit, and by Section  
19 315.3(a)(2), (3) and (4), as a Condition of Approval of a conditional use or planned unit  
20 development permit or as a condition of Planning Department approval of a live/work project,  
21 that 15 percent of all units constructed on the project site shall be affordable to qualifying  
22 households so that a project applicant must construct .15 times the total number of units  
23 produced in the principal project beginning with the construction of the fifth unit. If the total  
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1 number of units is not a whole number, the project applicant shall round up to the nearest  
2 whole number for any portion of .5 or above.

3 The Planning Department shall provide written notice by mail to the project applicant of the  
4 number of affordable units which shall be required within 30 days of approval by the Planning  
5 Department or Planning Commission.

6 (C) Buildings of over 120 feet in height. Except as provided in subsection (A) above, the  
7 requirements of this Subsection shall apply to any project that is over 120 feet in height and  
8 does not require a Zoning Map amendment or Planning Code text amendment related to its  
9 project approvals which (i) results in a net increase in the number of permissible residential  
10 units, or (ii) results in a material increase in the net permissible residential square footage as  
11 defined in Section 315.3(b)(2) or has not received or will not receive a zoning map  
12 amendment or Planning Code text amendment as part of an Area Plan adopted after January  
13 1, 2006 which (i) results in a net increase in the number of permissible residential units, or (ii)  
14 results in a material increase in the net permissible residential square footage as defined in  
15 Section 315.3(b)(2). The Planning Department shall require for housing projects covered by  
16 this Subsection and Section 315.3(a)(1), as a condition of Planning Department approval of a  
17 project's building permit, or by this Subsection and by Section 315.3(a)(2), (3) and (4), as a  
18 Condition of Approval of a conditional use or planned unit development permit or as a  
19 condition of Planning Department approval of a live/work project, that 12 percent of all units  
20 constructed on the project site shall be affordable to qualifying households so that a project  
21 applicant must construct .12 times the total number of units produced in the principal project  
22 beginning with the construction of the fifth unit. If the total number of units is not a whole  
23 number, the project applicant shall round up to the nearest whole number for any portion of .5  
24 or above. Consistent with the conclusions of the Mayor's Office of Housing study authorized in  
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1 Section 315.8(e), the Mayor's Office of Housing shall recommend and the Board of  
2 Supervisors shall consider whether the requirements of this Subsection for buildings of over  
3 120 feet in height shall continue or expire after approximately five years.

4 The Planning Department shall provide written notice by mail to the project applicant of the  
5 number of affordable units which shall be required within 30 days of approval by the Planning  
6 Department or Planning Commission. This notice shall also be sent to project applicants who  
7 elect to pay an in-lieu fee.

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

15 (b) Timing of Construction: On-site inclusionary housing required by this Section 315.4 must  
16 be constructed, completed, and ready for occupancy no later than the market rate units in the  
17 principal project.

18 (c) Type of Housing: The type of affordable housing needed in San Francisco is documented  
19 in the City's Consolidated Plan and the Residence Element of the General Plan. In general,  
20 affordable units constructed under this Section 315.4 shall be comparable in number of  
21 bedrooms, exterior appearance and overall quality of construction to market rate units in the  
22 principal project. The Notice of Special Restrictions or Conditions of Approval shall include a  
23 specific number of units at specified unit sizes for affordable units. The square footage of  
24 affordable units and interior features in affordable units do not need to be same as or  
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1 equivalent to those in market rate units in the principal project, so long as they are of good  
2 quality and are consistent with then-current standards for new housing. Where applicable,  
3 parking shall be offered to the affordable units subject to the terms and conditions of the  
4 Department's policy on unbundled parking for affordable housing units as specified in the  
5 Procedures Manual and amended from time to time. Unless provided otherwise by the  
6 Mayor's Office of Housing in writing, if the units in the market rate portion of the development  
7 are ownership units, then the affordable units shall be ownership units and if the market rate  
8 units are rental units, then the affordable units shall be rental units.

9 (d) Marketing the Units: The Mayor's Office of Housing shall be responsible for overseeing  
10 and monitoring the marketing of affordable units under this Section. In general, the marketing  
11 requirements and procedures shall be contained in the Procedures Manual as amended from  
12 time to time and shall apply to the affordable units in the project. The Mayor's Office of  
13 Housing may develop occupancy standards for units of different bedroom sizes in the  
14 Procedures Manual in order to promote an efficient allocation of affordable units. The Mayor's  
15 Office of Housing may require in the Procedures Manual that prospective purchasers  
16 complete homebuyer education training or fulfill other requirements. The Mayor's Office of  
17 Housing shall develop a list of minimum qualifications for marketing firms that market  
18 affordable units under this ordinance, referred to the Procedures Manual as Below Market  
19 Rate (BMR units). Within 3 months from the effective date of this legislation, the Mayor's  
20 Office of Housing shall recommend to the Planning Commission that these minimum  
21 qualifications be published in the Procedures Manual such that, upon approval of the  
22 qualifications by the Planning Commission, no developer marketing units under the  
23 Inclusionary Housing Program shall be able to market BMR units except through a firm  
24 meeting all of the minimum qualifications. For purposes of this ordinance, any developer that  
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1 has not yet submitted a marketing plan to the Mayor's Office of Housing by the date of  
2 Planning Commission approval of the qualifications shall be required to comply with this  
3 section. The Notice of Special Restrictions or Conditions of Approval shall specify that the  
4 marketing requirements and procedures contained in the Procedures Manual as amended  
5 from time to time, shall apply to the affordable units in the project.

6 (1) Lottery: At the initial offering of affordable units in a housing project, the Mayor's Office of  
7 Housing must require the use of a public lottery approved by the Mayor's Office of Housing to  
8 select purchasers or tenants. The Mayor's Office of Housing shall also hold a general public  
9 lottery and maintain and utilize a list generated from this lottery or utilize a list generated from  
10 a recent lottery at another similar housing project to fill spaces in units that become available  
11 for re-sale or occupancy in any housing project subject to this ordinance after the initial  
12 offering. The list shall be updated from time to time but in no event less than annually to  
13 ensure that it remains current.

14 (2) Preferences: The Mayor's Office of Housing shall create a lottery system that gives  
15 preference first to Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
16 Property Owner and Occupant Preference Program who meet the qualifications of the Program, and  
17 second to people who live or work in San Francisco who meet the qualifications of the Program.  
18 MOH shall propose policies and procedures for implementing ~~this preference~~ these preferences  
19 to the Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy  
20 of the Board of Supervisors to treat all households equally in allocating affordable units under  
21 this Program.

22 (e) Alternatives: The project sponsor may elect to satisfy the requirements of Section 315.4  
23 by one of the alternatives specified in this Section. The project sponsor has the choice  
24 between the alternatives and the Planning Commission may not require a specific alternative.

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1 The project sponsor must elect an alternative before it receives project approvals from the  
2 Planning Commission or Planning Department and that alternative will be a condition of  
3 project approval. Notwithstanding the foregoing, if a project sponsor elects an alternative other  
4 than the on-site alternative, the project sponsor still has the option to choose the on-site  
5 alternative up to the issuance of the first site or building permit. If a project sponsor fails to  
6 elect an alternative before project approval by the Planning Commission or Planning  
7 Department, the provisions of Section 315.4 shall apply. The alternatives are as follows:  
8 (1) Constructing units affordable to qualifying households at an alternative site within the City  
9 and County of San Francisco pursuant to the requirements of Section 315.5.  
10 (2) Paying an in lieu fee to the Mayor's Office of Housing pursuant to the requirements of  
11 Section 315.6.  
12 (3) Any combination of construction of on-site units as provided in Section 315.4, off-site  
13 units as provided in Section 315.5, or payment of an in lieu fee as provided in Section 315.6,  
14 provided that the project applicant constructs or pays the fee at the appropriate percentage or  
15 fee level required for that option.  
16 (4) Using California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds under the  
17 requirements of Section 315.5(g).  
18 (f) Benefits: If the project applicant elects to satisfy the inclusionary housing requirements  
19 through the production of on-site inclusionary housing in this Section 315.4, the project  
20 applicant shall at his or her option, be eligible to receive a refund of the following fees: a  
21 conditional use or other fee required by Planning Code Section 352, if applicable; an  
22 environmental review fee required by Administrative Code Section 31.46B, if applicable; a  
23 building permit fee required by the Building Code and by Planning Code Section 355 for the  
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1 portion of the housing project that is affordable. The project applicant shall pay the building  
2 fee for the portion of the project that is market-rate.

3 The Controller shall refund fees from any appropriated funds to the project applicant on  
4 application by the project applicant. The application must include a copy of the certificate of  
5 occupancy for all units affordable to a qualifying household required by the Inclusionary  
6 Affordable Housing Program. It is the policy of the Board of Supervisors to appropriate money  
7 for this purpose from the General Fund.

8 **SEC. 315.5. COMPLIANCE THROUGH OFF-SITE HOUSING DEVELOPMENT.**

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10 If the project applicant elects, pursuant to Section 315.4(e), that the project applicant  
11 will build off-site units to satisfy the requirements of this Program, the project applicant shall  
12 meet the following requirements:

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

15 (1)  
16 (A) For any housing development of any height that is located in  
17 an area with a specific inclusionary housing requirement, the more  
18 specific off-site inclusionary housing requirement shall apply.

19 (B) Buildings of 120 feet and under in height or buildings of over  
20 120 feet in height that do not meet the criteria in subsection (C)  
21 below: Except as provided in Subsection (A), the for projects  
22 described in Section 315.3(a)(1), (2), (3), and (4) 20 percent so  
23 that a project applicant must construct .20 times the total number  
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1 of units produced in the principal project beginning with the  
2 construction of the fifth unit. If the total number of units is not a  
3 whole number, the project applicant shall round up to the nearest  
4 whole number for any portion of .5 or above. The Planning  
5 Department shall provide written notice by mail to the project  
6 applicant of the number of affordable units which shall be required  
7 within 30 days of approval by the Planning Department or Planning  
8 Commission. This notice shall also be sent to project applicants  
9 who elect to pay an in-lieu fee.

10 (C) Buildings of over 120 feet in height. Except as provided in  
11 subsection (A) above, the requirements of this Subsection shall  
12 apply to any project that is over 120 feet in height and does not  
13 require a Zoning Map amendment or Planning Code text  
14 amendment related to its project approvals which (i) results in a  
15 net increase in the number of permissible residential units, or (ii)  
16 results in a material increase in the net permissible residential  
17 square footage as defined in Section 315.3(b)(2); or has not  
18 received or will not receive a zoning map amendment or Planning  
19 Code text amendment as part of an Area Plan adopted after  
20 January 1, 2006 which (i) results in a net increase in the number of  
21 permissible residential units, or (ii) results in a material increase in  
22 the net permissible residential square footage as defined in  
23 Section 315.3(b)(2). The Planning Department shall require for  
24 housing projects covered by this Subsection and Section  
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1 315.3(a)(1), as a condition of Planning Department approval of a  
2 project's building permit, or by this Subsection and by Section  
3 315.3(a)(2), (3) and (4), as a Condition of Approval of a conditional  
4 use or planned unit development permit or as a condition of  
5 Planning Department approval of a live/work project, that 17  
6 percent of all units constructed on the project site shall be  
7 affordable to qualifying households so that a project applicant must  
8 construct .17 times the total number of units produced in the  
9 principal project beginning with the construction of the fifth unit. If  
10 the total number of units is not a whole number, the project  
11 applicant shall round up to the nearest whole number for any  
12 portion of .5 or above. Consistent with the conclusions of the  
13 Mayor's Office of Housing study authorized in Section 315.8(e),  
14 the Mayor's Office of Housing shall recommend and the Board of  
15 Supervisors shall consider whether the requirements of this  
16 Subsection for buildings of over 120 feet in height shall continue or  
17 expire after approximately five years. The Planning Department  
18 shall provide written notice by mail to the project applicant of the  
19 number of affordable units which shall be required within 30 days  
20 of approval by the Planning Department or Planning Commission.  
21 This notice shall also be sent to project applicants who elect to pay  
22 an in-lieu fee.  
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1 (b) Timing of Construction: The project applicant shall insure that the off-site  
2 units are constructed, completed, and ready for occupancy no later than the  
3 market rate units in the principal project.

4 (c) Location of off-site housing: The project applicant must insure that off-site  
5 units are located within one mile of the principal project.

6 (d) Type of Housing: The type of affordable housing needed in San Francisco  
7 is documented in the City's Consolidated Plan and the Residence Element of  
8 the General Plan. New affordable rental housing and ownership housing  
9 affordable to households earning less than the median income is greatly needed  
10 in San Francisco. The Planning Department shall develop Quality Standards for  
11 Off-Site Affordable Housing Units and recommend such standards to the  
12 Planning Commission for adoption as part of the Procedures Manual. All off-site  
13 units constructed under this Section must be provided as rental housing for the  
14 life of the project or, if they are ownership units, must be affordable to  
15 households earning no more than 80 percent of the median income for the City  
16 and County of San Francisco. Nothing in this section shall limit a developer from  
17 meeting the requirements of this Section through the construction of units in a  
18 limited equity or land trust form of ownership if such units otherwise meet all of  
19 the requirements for off-site housing. In general, affordable units constructed  
20 under this Section 315.5 shall be comparable in number of bedrooms, exterior  
21 appearance and overall quality of construction to market rate units in the  
22 principal project. The total square footage of the off-site affordable units  
23 constructed under this Section 315.5 shall be no less than the calculation of the  
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1 total square footage of the on-site market-rate units in the principal project  
 2 multiplied by the relevant on-site percentage requirement for the project  
 3 specified in Section 315.4. The Notice of Special Restrictions or Conditions of  
 4 Approval shall include a specific number of units at specified unit sizes -  
 5 including number of bedrooms and minimum square footage - for affordable  
 6 units. The interior features in affordable units need not be the same as or  
 7 equivalent to those in market rate units in the principal project, so long as they  
 8 are consistent with the Planning Department's Quality Standards for Off-Site  
 9 Affordable Housing Units found in the Procedures Manual. Where applicable,  
 10 parking shall be offered to the affordable units subject to the terms and  
 11 conditions of the Department's policy on unbundled parking for affordable  
 12 housing units as specified in the Procedures Manual and amended from time to  
 13 time. If the residential units in the principal project are live/work units which do  
 14 not contain bedrooms or are other types of units which do not contain bedrooms  
 15 separated from the living space, the off-site units shall be comparable in size  
 16 according to the following equivalency calculation between live/work and units  
 17 with bedrooms:

18 TABLE INSET:  
 19

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1

25

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

(e) Marketing the Units: They Mayor's Office of Housing shall be responsible for overseeing and monitoring the marketing of affordable units under this Section. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the affordable units in the project. The Mayor's Office of Housing may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of affordable units. The Mayor's Office of Housing may require in the Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other requirements. The Mayor's Office of Housing shall develop a list of minimum qualifications for marketing firms that market affordable units under this ordinance, referred to the Procedures Manual as Below Market Rate (BMR units). Within three months from the effective date of this legislation, the Mayor's Office of Housing shall recommend to the Planning Commission that these minimum qualifications be published in the Procedures Manual such that, upon approval of the qualifications by the Planning Commission, no developer marketing units under the Inclusionary Housing Program shall be able to market BMR units except through a firm meeting all of the minimum qualifications. For purposes of this ordinance, any developer that has not yet submitted a

1 marketing plan to the Mayor's Office of Housing by the date of Planning  
2 Commission approval of the qualifications shall be required to comply with this  
3 section. The Notice of Special Restrictions or Conditions of Approval shall  
4 specify that the marketing requirements and procedures contained in the  
5 Procedures Manual as amended from time to time, shall apply to the affordable  
6 units in the project.

7 (1) Lottery: At the initial offering of affordable units in a housing project,  
8 the Mayor's Office of Housing must require the use of a public lottery  
9 approved by MOH to select purchasers or tenants. The Mayor's Office of  
10 Housing shall also hold a general public lottery and maintain and utilize a  
11 list generated from this lottery or utilize a list generated from a recent  
12 lottery at another similar housing project to fill spaces in units that  
13 become available for re-sale or occupancy in any housing project subject  
14 to this Ordinance after the initial offering. The list shall be updated from  
15 time to time but in no event less than annually to insure that it remains  
16 current.

17 (2) Preferences: The Mayor's Office of Housing shall create a lottery  
18 system that gives preference first to Certificate of Preference Holders under  
19 the San Francisco Redevelopment Agency's Property Owner and Occupant  
20 Preference Program who meet the qualifications of the Program, and second to  
21 people who live or work in San Francisco who meet the qualifications of the  
22 Program. MOH shall propose policies and procedures for implementing  
23 ~~this preference~~ these preferences to the Planning Commission for inclusion in  
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25

1 the Procedures Manual. Otherwise, it is the policy of the Board of  
2 Supervisors to treat all households equally in allocating affordable units  
3 under this Program.

4 (f) Affordable units constructed under Section 315.5 shall not have received  
5 development subsidies from any Federal, State or local program established for  
6 the purpose of providing affordable housing, and shall not be counted to satisfy  
7 any affordable housing requirement for the off-site development.

8 (g) Notwithstanding the provisions of Section 315.5(f) above, a developer may  
9 use California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to  
10 help fund its obligations under this ordinance as long as it provides 20 percent of  
11 the units as affordable at 50 percent of area median income for on-site housing  
12 or 25 percent of the units as affordable at 50 percent of area median income for  
13 off-site housing. Except as provided in this subsection, all units provided under  
14 this Section must meet all of the requirements of this ordinance and the  
15 Procedures Manual for either on- or off-site housing.  
16

17 **SEC. 315.6. COMPLIANCE THROUGH IN-LIEU FEE.**

18 If the project applicant elects, pursuant to Section 315.4(e)(2) that the project applicant  
19 will pay an in lieu fee to satisfy the requirements of this Program, the project applicant shall  
20 meet the following requirements:

21 (a) By paying an in-lieu fee to the Treasurer for use by the Mayor's Office of  
22 Housing for the purpose of constructing at an alternate site the type of housing  
23 required by Section 315.5 within the City and County of San Francisco.  
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1 (b) The amount of the fee which may be paid by the project applicant subject to  
2 this Ordinance in-lieu of developing and providing housing required by Section  
3 315.4 shall be determined by Mayor's Office of Housing ("MOH") utilizing the  
4 following factors:

5 (1) The number of units required by Section 315.5 if the project applicant  
6 were to elect to meet the requirements of this section by off-site housing  
7 development. For the purposes of this section, the City shall calculate the  
8 fee using the direct fractional result of the total number of units multiplied  
9 by the percentage of off-site housing required, rather than rounding up  
10 the resulting figure as required by Section 315.5(a).

11 (2) The affordability gap using data on the cost of construction of  
12 residential housing from the "San Francisco Sensitivity Analysis  
13 Summary Report: Inclusionary Housing Program" prepared by Keyser  
14 Marston Associates, Inc. in August 2006 for the Maximum Annual Rent or  
15 Maximum Purchase Price for the equivalent unit sizes. The Planning  
16 Department and MOH shall update the technical report from time to time  
17 as they deem appropriate in order to ensure that the affordability gap  
18 remains current.

19 (3) No later than July 1 of each year, the Mayor's Office of Housing shall  
20 adjust the in lieu fee payment option and provide a report on its  
21 adjustment to the Board of Supervisors. MOH shall provide notice of any  
22 fee adjustment on its website at least 30 days prior to the adjustment  
23 taking effect. The Mayor's Office of Housing is authorized to develop an  
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1 appropriate methodology for indexing the fee, based on adjustments in  
2 the costs of constructing housing and in the price of housing in San  
3 Francisco. The method of indexing shall be published in the Procedures  
4 Manual.

5 (c) Within 30 days of determining the amount of the fee to be paid by the  
6 applicant, MOH shall transmit the amount of the fee to the Treasurer. Prior to the  
7 issuance by DBI of the first site or building permit for the project applicant, the  
8 project applicant must notify the Planning Department and MOH in writing that it  
9 has paid in full the sum required to the Treasurer. If the project applicant fails by  
10 the applicable date to demonstrate to the Planning Department that the project  
11 applicant has paid the applicable sum in full to the Treasurer, DBI shall deny any  
12 and all site or building permits or certificates of occupancy for the development  
13 project until the Planning Department notifies DBI and MOH that such payment  
14 has been made.

15 (d) Upon payment of the fee in full to the Treasurer and upon request of the  
16 project applicant, the Treasurer shall issue a certification that the fee has been  
17 paid. The project applicant shall present such certification to the Planning  
18 Department, DBI and MOH prior to the issuance by DBI of the first site or  
19 building permit or certificate of occupancy for any development subject to this  
20 Section. Any failure of the Treasurer, DBI, or Planning Department to give any  
21 notice under this Section shall not relieve a project applicant from compliance  
22 with this Section. Where DBI inadvertently issues a site or building permit  
23 without payment of the fee, DBI shall not issue any certificate of occupancy for  
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1 the project without notification from the Treasurer that the fee required by this  
2 Section has been paid. The procedure set forth in this subsection is not intended  
3 to preclude enforcement of the provisions of this section pursuant to any other  
4 section of this Code, or other authority under the laws of the State of California.

5 (e) All monies contributed pursuant to this section shall be deposited in the  
6 special fund maintained by the Controller called the Citywide Affordable Housing  
7 Fund. The receipts in the Fund are hereby appropriated in accordance with law  
8 to be used to (1) increase the supply of housing affordable to qualifying  
9 households subject to the conditions of this Section, and (2) pay the expenses of  
10 MOH in connection with monitoring and administering compliance with the  
11 requirements of the Program. MOH is authorized to use funds in an amount not  
12 to exceed \$200,000 every 5 years to conduct follow-up studies under Section  
13 315.8(e) and to update the in lieu fee amounts as described above in Section  
14 315.6(b). All other monitoring and administrative expenses shall be appropriated  
15 through the annual budget process or supplemental appropriation for MOH. The  
16 fund shall be administered and expended by MOH, which shall have the  
17 authority to prescribe rules and regulations governing the Fund which are  
18 consistent with this Section. Within 90 days of the effective date of this legislation,  
19 MOH shall develop procedures such that, for all projects funded by the Citywide  
20 Affordable Housing Fund, MOH requires the project sponsor or its successor in interest  
21 to give preference in occupying units first to Certificate of Preference Holders under the  
22 San Francisco Redevelopment Agency's Property Owner and Occupant Preference  
23 Program who otherwise meet all of the requirements for a unit. Said procedures and  
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1 regulations shall be subject to approval by Resolution of the Board of  
2 Supervisors.

3 (f) Lien Proceedings.

4 (1) A project applicant's failure to comply with the requirements of this  
5 Section shall constitute cause for the City to record a lien against the  
6 development project in the sum of the in-lieu fee required under this  
7 Ordinance, as adjusted under this Section.

8 (2) If, for any reason, the fee imposed pursuant to this Ordinance  
9 remains unpaid following issuance of the permit, the Treasurer shall  
10 initiate proceedings to impose the lien in accordance with the procedures  
11 set forth in Chapter 10, Article XX of the San Francisco Administrative  
12 Code to make the entire unpaid balance of the fee, including interest, a  
13 lien against all parcels used for the development project. The Treasurer  
14 shall send all notices required by that Article to the owner of the property  
15 as well as the sponsor. The Treasurer shall also prepare a preliminary  
16 report notifying the sponsor of a hearing to confirm such report by the  
17 Board of Supervisors at least 10 days before the date of the hearing. The  
18 report to the sponsor shall contain the sponsor's name, a description of  
19 the sponsor's development project, a description of the parcels of real  
20 property to be encumbered as set forth in the Assessor's Map Books for  
21 the current year, a description of the alleged violation of this Ordinance,  
22 and shall fix a time date and place for hearing. The Treasurer shall cause  
23 this report to be mailed to the sponsor and each owner of record of the  
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1 parcels of real property subject to lien. Except for the release of lien  
2 recording fee authorized by Administrative Code Section 10.237, all sums  
3 collected by the Tax Collector pursuant to this Ordinance shall be held in  
4 trust by the Treasurer and deposited in the Citywide Affordable Housing  
5 Fund established in Section 313.12.

6 (3) Any notice required to be given to a sponsor or owner shall be  
7 sufficiently given or served upon the sponsor or owner or all purposes  
8 hereunder if personally served upon the sponsor or owner or if deposited,  
9 postage prepaid, in a post office letterbox addressed in the name of the  
10 sponsor or owner at the official address of the sponsor or owner  
11 maintained by the Tax Collector for the mailing of tax bills or, if no such  
12 address is available, to the sponsor at the address of the development  
13 project, and to the applicant for the site or building permit at the address  
14 on the permit application.

15 (g) In the event a building permit expires prior to completion of the work on and  
16 commencement of occupancy of a housing project so that it will be necessary to  
17 obtain a new permit to carry out any development, the obligation to comply with  
18 this Program shall be cancelled, and any in-lieu fee previously paid to the  
19 Treasurer shall be refunded. If and when the sponsor applies for a new permit,  
20 the procedures set forth in this Ordinance regarding construction of housing or  
21 payment of the in-lieu fee shall be followed.

22 (h) In the event that a development project for which an in-lieu fee imposed  
23 under this Section has been fully paid is demolished or converted to a use or  
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1 uses not subject to this ordinance prior to the expiration of its estimated useful  
2 life, the City shall refund to the sponsor a portion of the amount of an in-lieu fee  
3 paid. The portion of the fee refunded shall be determined on a pro rata basis  
4 according to the ratio of the remaining useful life of the project at the time of  
5 demolition or conversion in relation to its total useful life. For purposes of this  
6 Ordinance, the useful life of a development project shall be 50 years.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By: \_\_\_\_\_  
11 Susan Cleveland-Knowles  
12 Deputy City Attorney  
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