

1 [Development Agreements.]

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3 **Ordinance amending the San Francisco Administrative Code by amending Sections**  
4 **56.2 and 56.3 to allow a housing project to enter into a Development Agreement with**  
5 **the City if the project has a minimum of 1,000 units, includes two or more buildings,**  
6 **will be built on a site exceeding two and one-half acres, and provides public benefits**  
7 **beyond those achievable through existing ordinances and regulations; adopting**  
8 **findings under the California Environmental Quality Act.**

9 Note: Additions are *single-underline italics Times New Roman*;  
10 deletions are *strikethrough italics Times New Roman*.  
11 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. California Environmental Quality Act (CEQA) Finding. The Planning  
14 Department has determined this legislation to be exempt from environmental review under  
15 CEQA pursuant to the letter dated \_\_\_\_\_ contained in Board of Supervisors File  
16 No.\_\_\_\_\_.

17 Section 2. The San Francisco Administrative Code is hereby amended by amending  
18 Sections 56.2 and 56.3, to read as follows:

19 SEC. 56.2. PURPOSE AND APPLICABILITY.

20 (a) The purpose of this Chapter is to strengthen the public planning process by  
21 encouraging private participation in the achievement of comprehensive planning goals and  
22 reducing the economic costs of development. A development agreement reduces the risks  
23 associated with development, thereby enhancing the City's ability to obtain public benefits  
24 beyond those achievable through existing ordinances and regulations. To accomplish this  
25 purpose the procedures, requirements and other provisions of this Chapter are necessary to

1 promote orderly growth and development (such as, where applicable and appropriate,  
2 provision of housing, employment and small business opportunities to all segments of the  
3 community including low income persons, minorities and women), to ensure provision for  
4 adequate public services and facilities at the least economic cost to the public, and to ensure  
5 community participation in determining an equitable distribution of the benefits and costs  
6 associated with development.

7 (b) Such agreements shall only be used for (1) affordable housing developments, ~~or~~  
8 (2) large multi-phase and/or mixed-use developments involving public improvements,  
9 services, or facilities installations, requiring several years to complete, as defined below in  
10 Section 56.3, or a housing development with a minimum of 1,000 units, as defined below in Section  
11 56.3.

12 SEC. 56.3. DEFINITIONS.

13 The following definitions shall apply for purposes of this Chapter:

14 (a) "Affordable housing development" shall mean for purposes of Section 56.2(b)(1),  
15 any housing development which has a minimum of 30 percent of its units affordable to low  
16 income households, and a total of 60 percent of its units affordable to households, as defined  
17 by the U.S. Census, whose immediate household income does not exceed 120 percent of the  
18 median household income for the San Francisco Primary Metropolitan Statistical Area, with  
19 the remaining 40 percent of its units unrestricted as to affordability. For purposes of this  
20 definition of "affordable housing development," "low income" shall mean the income of  
21 households, as defined by the U.S. Census whose immediate household income does not  
22 exceed 80 percent of the median household income for the San Francisco Primary  
23 Metropolitan Statistical Area. "Median household income" for the San Francisco Primary  
24 Metropolitan Statistical Area shall be as determined by the U.S. Department of Housing and  
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1 Urban Development and adjusted according to the determination of that Department and  
2 published from time to time. In the event that such income determinations are no longer  
3 published by the Department of Housing and Urban Development, median household income  
4 shall mean the median gross yearly income of a household in the City and County of San  
5 Francisco, adjusted for household size, as published periodically by the California Department  
6 of Housing and Community Development. Such affordable housing development may include  
7 neighborhood commercial facilities which are physically and financially an integral part of the  
8 affordable housing project and which will provide services to local residents.

9 (b) "Applicant/Developer" shall mean a person or entity who has legal or equitable  
10 interest in the real property which is the subject of the proposed or executed development  
11 agreement for an "affordable housing development" or a "large multi-phase and/or mixed-use  
12 development," as those terms are defined herein, or such person's or entity's authorized agent  
13 or successor in interest; provided, however, that an entity which is subject to the requirements  
14 of City Planning Code Section 304.5 relating to institutional master plans does not qualify as  
15 an applicant for a development agreement.

16 (c) "Collateral agreement" shall mean a written contract entered into by the  
17 applicant/developer and/or governmental agencies with other entities (including, but not  
18 limited to, community coalitions) for the purpose of having said entities provide for and  
19 implement social, economic, or environmental benefits or programs; provided, however, that  
20 such term does not include agreements between the applicant/- developer or governmental  
21 agencies and (1) construction contractors and subcontractors, (2) construction managers, (3)  
22 material suppliers, and (4) architects, engineers, and lawyers for customary architectural,  
23 engineering or legal services.

24 (d) "Commission" shall mean the City Planning Commission.  
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1 (e) "Director" shall mean the Director of Planning.

2 (f) "Housing development with a minimum of 1,000 units" shall mean a proposed  
3 residential development project which: (1) is on a site which exceeds two and one-half acres in area,  
4 (2) includes two or more buildings to be constructed on the site, and (3) includes a proposal for  
5 constructing or participating in providing, either off-site or on-site, public improvements, facilities, or  
6 services beyond those achievable through existing ordinances and regulations.

7 (g) "Large multi-phase and/or mixed-use development" shall mean a proposed  
8 development project which: (1) is on a site which exceeds five acres in area, (2) includes two  
9 or more buildings to be constructed sequentially on the site, and (3) includes a proposal for  
10 constructing or participating in providing, either off-site or on-site, public improvements,  
11 facilities, or services beyond those achievable through existing ordinances and regulations.

12 (h) "Material modification" shall mean any proposed amendment or modification to  
13 either a proposed development agreement approved by the Commission, or a previously  
14 executed development agreement, which amendment or modification is otherwise required by  
15 the terms of the development agreement, which changes any provision thereof regarding the  
16 following: (1) duration of the agreement; (2) permitted uses of the subject property; (3) density  
17 or intensity of the permitted uses; (4) location, height or size of any structures, buildings, or  
18 major features; (5) reservation or dedication of land; (6) any conditions, terms, restrictions and  
19 requirements relating to subsequent discretionary actions as to design, improvements,  
20 construction standards and specifications; (7) any other condition or covenant relating to the  
21 financing or phasing of the development which substantially modifies the use of the property,  
22 the phasing of the development, or the consideration exchanged between the parties as  
23 recited in the proposed development agreement; (8) the type, number, affordability level,  
24 and/or tenure of any proposed affordable housing as well as any change as to performance of  
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1 such public benefits, including but not limited to timing, phasing, method of performance or  
2 parties involved; or (9) any other terms or conditions of the development agreement if the  
3 development agreement provides that amendment of said specified term or condition would  
4 be a material modification.

5 ~~(h)~~ (i) "Minor modification" shall mean any amendment or modification to the  
6 development agreement which relates to any provision not deemed to be a "material  
7 modification."

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

11 By: \_\_\_\_\_  
12 JUDITH A. BOYAJIAN  
13 Deputy City Attorney  
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