

File No. 150918

Committee Item No. \_\_\_\_\_

Board Item No. 10

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_  
Board of Supervisors Meeting

Date: \_\_\_\_\_  
Date: September 22, 2015

#### Cmte Board

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|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

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|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Copy of Ordinance in BOS File No. 150622</u>          |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Copy of Legislative Digest in BOS File No. 150622</u> |
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Completed by: John Carroll  
Completed by: \_\_\_\_\_

Date: September 17, 2015  
Date: \_\_\_\_\_

1 [Approval of a 30-Day Extension for Planning Commission Review of an Ordinance  
2 Clarifying/Creating Preferences for Affordable Housing Units (File No. 150622)]

3 **Resolution extending by 30 days the prescribed time within which the Planning**  
4 **Commission may render its decision on a Ordinance (File No. 150622) amending the**  
5 **Administrative Code to clarify existing preferences in allocating City affordable**  
6 **housing units first to Certificate of Preference holders and second to tenants evicted**  
7 **under the Ellis Act, create a third preference for residents in the neighborhood where**  
8 **the affordable housing is located, create additional categories of eligible displaced**  
9 **tenants, and make conforming amendments to provisions of the Administrative and**  
10 **Planning Codes; to affirm the Planning Department's determination under the**  
11 **California Environmental Quality Act; and to make findings of consistency with the**  
12 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

13  
14 WHEREAS, On June 09, 2015, Mayor Lee introduced legislation amending the  
15 Planning Code to require conditional use authorization for all residential mergers and to  
16 require compliance with landscaping and permeable surfaces requirements for building  
17 additions and residential mergers, and affirming the Planning Department's California  
18 Environmental Quality Act determination; and making Planning Code, Section 302, findings,  
19 and making findings of consistency with the General Plan, and the eight priority policies of  
20 Planning Code, Section 101.1; and

21 WHEREAS, On or about June 30, 2015, the Clerk of the Board of Supervisors referred  
22 the proposed ordinance to the Planning Commission; and

23 WHEREAS, The Planning Commission shall, in accordance with Planning Code,  
24 Section 306.4(d), render a decision on the proposed Ordinance within 90 days from the date  
25 of referral of the proposed amendment or modification by the Board to the Commission; and

1           WHEREAS, Failure of the Commission to act within 90 days shall be deemed to  
2 constitute disapproval; and

3           WHEREAS, The Board, in accordance with Planning Code, Section 306.4(d) may, by  
4 Resolution, extend the prescribed time within which the Planning Commission is to render its  
5 decision on proposed amendments to the Planning Code that the Board of Supervisors  
6 initiates; and

7           WHEREAS, The Mayor's Office has requested additional time for the Planning  
8 Commission to review the proposed Ordinance; and

9           WHEREAS, The Board deems it appropriate in this instance to grant to the Planning  
10 Commission additional time to review the proposed Ordinance and render its decision; now,  
11 therefore, be it

12           RESOLVED, That by this Resolution, the Board hereby extends the prescribed time  
13 within which the Planning Commission may render its decision on the proposed Ordinance for  
14 approximately 30 additional days, until October 28, 2015.



**City and County of San Francisco**  
**Master Report**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 150918      **File Type:** Resolution      **Status:** For Immediate Adoption

**Enacted:**      **Effective:**

**Version:** 1      **In Control:** Board of Supervisors

**File Name:** Approval of a 30-Day Extension for Planning Commission Review of Clarifying/Creating Preferences for Affordable Housing Units (File No. 150622)      **Date Introduced:** 09/15/2015

**Requester:**      **Cost:**      **Final Action:**

**Comment:**      **Title:** Resolution extending by 30 days the prescribed time within which the Planning Commission may render its decision on a Ordinance (File No. 150622) amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

**Companion 150622 Files:**      **Sponsor:** Mayor

**History of Legislative File 150918**

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	09/15/2015	REFERRED FOR ADOPTION WITHOUT COMMITTEE REFERENCE AGENDA AT THE NEXT BOARD MEETING	Board of Supervisors		

1 [Administrative, Planning Codes - Preferences in Affordable Housing Programs]

2  
 3 **Ordinance amending the Administrative Code to clarify existing preferences in**  
 4 **allocating City affordable housing units first to Certificate of Preference holders and**  
 5 **second to tenants evicted under the Ellis Act, create a third preference for residents in**  
 6 **the neighborhood where the affordable housing is located, create additional categories**  
 7 **of eligible displaced tenants, and make conforming amendments to provisions of the**  
 8 **Administrative and Planning Codes; to affirm the Planning Department's determination**  
 9 **under the California Environmental Quality Act; and to make findings of consistency**  
 10 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

19 Section 1. Findings.

20 (a) The Planning Department has determined that the actions contemplated in this  
 21 ordinance comply with the California Environmental Quality Act (California Public Resources  
 22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
 23 Supervisors in File No. \_\_\_ and is incorporated herein by reference. The Board affirms this  
 24 determination.

25 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
 adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
3 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.  
4

5 Section 2. The Administrative Code is hereby amended by deleting Section 24.8, as  
6 follows:

7 ~~**SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS FOR**~~  
8 ~~**CERTIFICATE OF PREFERENCE HOLDERS AND DISPLACED TENANTS.**~~

9 ~~*This Section shall apply to all programs related to the provision of affordable housing, unless*~~  
10 ~~*specified otherwise. To the extent permitted by law, the Mayor's Office of Housing and Community*~~  
11 ~~*Development ("MOHCD") or its successor shall give or require project sponsors or their successors in*~~  
12 ~~*interest funded through MOHCD to give, preference in occupying units or receiving assistance under*~~  
13 ~~*all City affordable housing programs, including all former San Francisco Redevelopment Agency*~~  
14 ~~*affordable housing programs administered or funded by the City, first to Residential Certificate of*~~  
15 ~~*Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant*~~  
16 ~~*Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with*~~  
17 ~~*the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or assistance;*~~  
18 ~~*and second to any Displaced Tenant, as defined herein, who meets all of the qualifications for the unit*~~  
19 ~~*or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:*~~  
20 ~~*(i) a Displaced Tenant may apply the preference to existing, currently occupied developments only for*~~  
21 ~~*three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration*~~  
22 ~~*Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to*~~  
23 ~~*the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the*~~  
24 ~~*San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code*~~  
25 ~~*Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments*~~

1 going through the initial occupancy process only for six years from the date the landlord filed with the  
2 Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis  
3 Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new  
4 residential development going through the initial occupancy process, the Displaced Tenant preference  
5 shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's  
6 preference shall still apply even if such Displaced Tenant declines a unit offered through application of  
7 the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced  
8 Tenant's preference terminates.

9 MOHCD shall implement the Certificate of Preference Holder requirements of this Section by  
10 developing procedures and amending its applicable regulations within 90 days of the effective date of  
11 Ordinance No. 232 08, and MOHCD shall implement the Displaced Tenant preference requirements of  
12 this Section by developing procedures and amending its applicable regulations within 90 days of the  
13 effective date of the ordinance creating the Displaced Tenant preference. Said procedures and  
14 regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of  
15 this paragraph are directory rather than mandatory.

16 For purposes of this Section, "Displaced Tenant" shall mean any tenant residing in San  
17 Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to  
18 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the  
19 corresponding provisions of the Rent Ordinance, cited above, and, who, as of the date of receipt of the  
20 notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least  
21 ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life  
22 threatening illness as certified by his or her primary care physician or that he or she is disabled, as  
23 defined in Administrative Code Section 37.9(i). MOHCD shall establish a process for a tenant to verify  
24 his or her status as a "Displaced Tenant," which, at a minimum, shall require a tenant to show: (i) the  
25 landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental

1 market; (ii) the tenant meets the ten or five year residency requirement stated above; and (iii) the  
2 tenant either: (A) is listed on the notice of withdrawal; (B) is listed on the lease for the unit in question;  
3 or (C) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she has  
4 lived in the unit for the required five or ten year period as applicable. If the Rent Board grants a  
5 landlord's request to rescind the Notice of Intent to Withdraw Rental Units under the Ellis Act before a  
6 tenant moves out of his or her unit, such tenant shall no longer qualify as a "Displaced Tenant."  
7 Additionally, if a person disputes a MOHCD determination that he or she does not qualify as a  
8 "Displaced Tenant" under this Section, such person shall have the right to a hearing conducted by a  
9 Rent Board Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with  
10 MOHCD as the responding party.

11 ~~The Board of Supervisors shall hold a hearing on the status of this Section within 2 years of the~~  
12 ~~effective date of Ordinance 232-08 to assess its impact, or at such time as the MOHCD certifies to the~~  
13 ~~Board of Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference~~  
14 ~~holders obtaining an affordable housing unit by taking advantage of the applicable preferences in this~~  
15 ~~Section in all of the City's affordable housing programs combined exceeds 50% of the total number of~~  
16 ~~units made available through the City's affordable housing programs in that year.~~

17 ~~The Board of Supervisors shall hold an initial hearing to assess the impact of the Displaced~~  
18 ~~Tenant preference within one year of the effective date of the ordinance creating the Displaced Tenant~~  
19 ~~preference. The Board of Supervisors shall hold a subsequent hearing within three years of the effective~~  
20 ~~date, at which MOHCD and the Rent Board shall submit a report on the demographics and income~~  
21 ~~levels of beneficiaries of the Displaced Tenant preference system.~~

22  
23 Section 3. The Administrative Code is hereby amended by adding Chapter 47,  
24 consisting of Sections 47.1, 47.2, 47.3, 47.4, and 47.5 to read as follows:

25 **CHAPTER 47: PREFERENCE IN CITY AFFORDABLE HOUSING PROGRAMS**



1           SEC. 47.1 FINDINGS AND PURPOSE.

2           (a) In 2008, the City enacted Ordinance 232-08, to establish a preference in occupying units  
3 or receiving assistance under all City affordable housing programs to Residential Certificate of  
4 Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant  
5 Preference Program. In 2013, the City enacted Ordinance 277-13, to establish a second preference in  
6 occupying units or receiving assistance under all City affordable housing programs to certain San  
7 Francisco residents displaced by an eviction under the Ellis Act, California Government Code Section  
8 7060 et seq.

9           (b) From 2010 to 2014, eviction notices filed with the Rent Board for all causes (not just  
10 evictions under the Ellis Act) increased 45% Citywide. Within specific neighborhoods, including the  
11 Mission, the Sunset/Parkside, the Outer Richmond, the Tenderloin, and the Castro, the percentage of  
12 eviction notices recorded was significantly higher than the Citywide average.

13           (c) During that same period, average residential rents increased 54% Citywide. Moreover,  
14 rents in those neighborhoods with the highest number of eviction notices filed have risen by a greater  
15 percentage over the same time period, including the Castro (145%), the Outer Richmond (137%), the  
16 Sunset/Parkside (121%), and the Mission (by 108%).

17           (d) While current market rate rents in San Francisco are unaffordable to more than 60% of  
18 all rental households in the City, current market rate rents are unaffordable to 100% of all low- and  
19 moderate-income San Francisco households earning less than 120% Area Median Income.

20           (e) San Francisco tenants are being displaced through evictions, and current market rate  
21 rents are unaffordable to the majority of San Francisco renters. Thus, when displacement now occurs,  
22 remaining in San Francisco and paying market rate rent is not a viable option for most San Francisco  
23 residents, especially low and moderate income households.

1           (f) Affordable housing in San Francisco is a scarce resource with limited availability. In  
2 addition, production of affordable housing in San Francisco has not kept pace with population growth,  
3 nor have the Regional Housing Needs Allocation goals for affordable housing been met.

4           (g) A preference in qualifying for affordable housing for residents who have been, or are  
5 about to be, displaced is necessary to achieve the important public purpose of increasing opportunities  
6 for those residents to continue to live in San Francisco even as market rate rents rise.

7           (h) 2010 data show that overcrowding is an issue faced by San Franciscans Citywide, and  
8 that there are specific neighborhoods, including the Mission, Chinatown, and the Tenderloin, in which  
9 the percentage of overcrowded households is close to double that of the Citywide average.

10           (i) Compounding the problem of overcrowding, nearly half of all San Franciscans are  
11 currently rent burdened, paying more than 30% of household income toward rent. Approximately 22%  
12 of San Francisco renters are severely rent burdened, meaning they pay more than 50% of their  
13 household income toward rent.

14           (j) The high cost of housing is a significant factor in causing low- and very-low income  
15 households to leave the City: 63% of people who moved out of San Francisco between 2011-2013 were  
16 members of low- or very-low income households.

17           (k) It is a necessary and important public purpose to provide relief for these economic and  
18 social ills arising from the housing challenges facing most San Franciscans. But because of the trends  
19 in current San Francisco market rate rents, moving low- and very-low income households into market  
20 rate housing in San Francisco is not a viable option.

21           (l) A limited preference for existing neighborhood residents that can be applied to a portion  
22 of new affordable housing developments in San Francisco will provide an opportunity to current low-  
23 and very-low income residents that are living in overcrowded housing configurations to move into  
24 appropriately sized units without leaving the community. This preference will also help provide relief  
25

1 for rent burdened low- and very-low income households while allowing them to benefit from  
2 new affordable housing development within their communities.

3 (m) In addition, it is in the City's interest to assist residents in preserving their existing  
4 community-based safety nets, such as access to schools, after school programs, stores, community  
5 centers, places of worship, and health care providers. A neighborhood preference will help to preserve  
6 community webs that serve as efficient safety nets and enhance the quality of life for neighborhood  
7 residents.

8 (n) Developers, community advocates, and residents have a long history of collaboration on  
9 housing development in San Francisco. A neighborhood preference for current low income residents  
10 for a portion of new affordable housing opportunities acknowledges this collaboration and will help  
11 increase participation in this process, which will in turn help generate additional support for, and  
12 contribute to, the successful approval of more affordable housing development in San Francisco.

13 **SEC. 47.2 DEFINITIONS.**

14 "City Affordable Housing Programs" shall mean, unless specified otherwise, all programs  
15 related to the provision of affordable housing administered or funded by MOHCD, including but not  
16 limited to Tax Exempt Bond Developments. "City Affordable Housing Programs" does not include  
17 programs or affordable housing units exclusively supported by the Department of Housing and Urban  
18 Development, the San Francisco Human Services Agency, the San Francisco Department of Public  
19 Health, or the San Francisco Housing Authority.

20 "Displaced Tenant" shall mean any person who applies to MOHCD and who MOHCD  
21 determines qualifies for any one of the categories enumerated below. If a person disputes MOHCD's  
22 determination that he or she does not qualify as a "Displaced Tenant" under this Section 47.2, such  
23 person shall have the right to a hearing conducted by a Rent Board Administrative Law Judge (as  
24 defined in Administrative Code Section 37.2(f)), with MOHCD as the responding party:

1           Category 1: A tenant residing in San Francisco who on or after January 1, 2010  
2 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant to the  
3 Ellis Act, Government Code Section 7060 et seq., and corresponding provisions of the Rent Ordinance.  
4 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced Tenant" under  
5 Category 1 that, at a minimum, shall require a tenant to show: (a) the landlord filed with the Rent  
6 Board a Notice of Intent to Withdraw; and (b) the tenant either: (1) is listed on the Notice of Intent to  
7 Withdraw; (2) is listed on the lease for the unit in question; or (3) has other evidence sufficient to  
8 establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time the Notice of  
9 Intent to Withdraw was filed. If the Rent Board grants a landlord's request to rescind the Notice of  
10 Intent to Withdraw before a tenant moves out of his or her unit, such tenant shall no longer qualify as a  
11 "Displaced Tenant."

12           Category 2: A tenant residing in San Francisco who on or after January 1, 2010  
13 receives a notice that his or her landlord plans to recover possession of the unit for any one of the "no  
14 fault" eviction provisions under Sections 37.9(a)(8) through (16) of the Rent Ordinance. MOHCD shall  
15 establish a process for a tenant to verify his or her status as a "Displaced Tenant" under Category 2  
16 that, at a minimum, shall require a tenant to show: (a) the landlord filed with the Rent Board the notice  
17 to vacate, as required under Rent Ordinance Section 37.9(c); and (b) the tenant either: (1) is listed on  
18 the notice to vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence  
19 sufficient to establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time  
20 the notice to vacate was filed.

21           Category 3: A tenant residing in San Francisco who on or after January 1, 2010 is  
22 ordered to vacate his or her unit by a public safety official due to fire or other disaster, and who can  
23 provide sufficient evidence to MOHCD that demonstrates that he or she cannot return to the unit within  
24 a reasonable period of time (as determined by MOHCD) thereafter. MOHCD shall establish a process  
25 for a tenant to verify his or her status as a "Displaced Tenant" under Category 3 that, at a minimum,

1 shall require a tenant to show: (a) a public safety official provided an order to vacate the unit; and (b)  
2 the tenant either: (1) is listed on the order to vacate; (2) is listed on the lease for the unit in question;  
3 or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she  
4 resided in the unit at the time the order was provided.

5 Category 4: A tenant residing in San Francisco on or after January 1, 2010 in a unit  
6 that is subject to affordability restrictions in a Tax Exempt Bond Development, or a similar type of  
7 development with expiring affordability restrictions that the Director of MOHCD determines are  
8 unable to be extended, where such restrictions will expire within one year of the tenant's application to  
9 MOHCD for status as a Displaced Tenant, or have already expired. MOHCD shall establish a process  
10 for a tenant to verify his or her status as a "Displaced Tenant" under Category 4 that, at a minimum,  
11 shall require a tenant to show: (a) the landlord provided notice to the tenant that the affordability  
12 restrictions applicable to that unit have expired or will be expiring; and (b) the tenant either: (1) is  
13 listed on the notice regarding expiration of affordability restrictions; (2) is listed on the lease for the  
14 unit in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion,  
15 that he or she resided in the unit at the time the notice was provided to the tenant.

16 Category 5: A tenant residing in San Francisco on or after January 1, 2010 in a Below  
17 Market Rate unit restricted under the San Francisco Inclusionary Affordable Housing Program,  
18 Planning Code Section 415 et seq., where the Below Market Rate unit is transitioning from a rental unit  
19 to an ownership unit, and the tenant provides sufficient evidence to MOHCD that demonstrates that he  
20 or she is not able to purchase the unit due to financial reasons. MOHCD shall establish a process for a  
21 tenant to verify his or her status as a "Displaced Tenant" under Category 5 that, at a minimum, shall  
22 require a tenant to show: (a) the landlord provided notice to the tenant of the intent to convert the unit  
23 to an ownership unit; and (b) the tenant either: (1) is listed on the notice; (2) is listed on the lease for  
24 the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable  
25 discretion, that he or she resided in the unit at the time the notice was provided to the tenant.

1           Category 6: A tenant residing in San Francisco on or after January 1, 2010 who can  
2 document that he or she was, or will be, displaced due to the loss of a legal residential unit through a  
3 residential demolition or residential merger (as both terms are defined in Planning Code Section 317)  
4 authorized by any City permit, or the loss of an illegal unit resulting from a merger or demolition  
5 authorized by any City permit. MOHCD shall establish a process for a tenant to verify his or her status  
6 as a "Displaced Tenant" under Category 6 that, at a minimum, shall require a tenant to show: (a) the  
7 Planning Commission or Planning Department approved the residential demolition or residential  
8 merger; and (b) the tenant either: (1) is listed on a Notice required by the Rent Board; (2) is listed on  
9 the lease for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's  
10 reasonable discretion, that he or she resided in the unit at the time the approval was granted.

11           "MOHCD" shall mean the Mayor's Office of Housing and Community Development or its  
12 successor.

13           "Neighborhood" shall mean any one of the 11 Supervisorial Districts as defined and  
14 established in the San Francisco Charter, Appendix E.

15           "Neighborhood Resident" shall mean any person who has a primary residence in a certain  
16 Neighborhood at the time he or she applies for a unit or assistance. MOHCD shall establish a process  
17 for a person to verify status as a "Neighborhood Resident" for a particular Neighborhood, which, at a  
18 minimum, shall require a person to show: (a) that he or she is listed on the lease for a unit in that  
19 Neighborhood; or (b) other evidence sufficient to establish, in MOHCD's reasonable discretion, that  
20 the person resides in a unit in that Neighborhood. If a person disputes a MOHCD determination that he  
21 or she does not qualify as a "Neighborhood Resident" under this Section 47.2, such person shall have  
22 the right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in  
23 Administrative Code Section 37.2(f)), with MOHCD as the responding party.

24           "Rent Board" shall mean the Residential Rent Stabilization and Arbitration Board.  
25

1 "Rent Ordinance" shall mean the San Francisco Rent Stabilization and Arbitration Ordinance,  
2 Administrative Code Chapter 37.

3 "Residential Certificate of Preference Holders" shall mean a person who holds a Residential  
4 Certificate of Preference under the San Francisco Redevelopment Agency's Property Owner and  
5 Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on  
6 file with the Clerk of the Board in File No. 080521.

7 "Tax Exempt Bond Development" shall mean any housing development financed through a tax-  
8 exempt bond issuance that imposes rent and occupancy restrictions as a condition of the financing.

9 **SEC. 47.3 APPLICATION OF PREFERENCE.**

10 To the extent permitted by law, MOHCD shall give, or require project sponsors or their  
11 successors in interest funded through MOHCD to give, preference in occupying units or receiving  
12 assistance under all City Affordable Housing Programs. Each preference enumerated below shall be  
13 applied as of the effective date of the legislation establishing each preference. The City established  
14 preference for holders of Certificates of Preference in Ordinance 232-08, Displaced Tenants, Category  
15 1 in Ordinance 277-13, and Displaced Tenants, Categories 2 through 6 and Neighborhood Residents in  
16 legislation adding this Chapter 47. The preference requirements are intended to have prospective  
17 effect only, and shall not be interpreted to impair the obligations of any pre-existing contract entered  
18 into by the City. Notwithstanding the prior sentence, the preference requirements shall apply to  
19 contracts entered into by the City on or after the effective date of the legislation establishing each  
20 preference, including contracts materially amended on or after the effective date. Preference shall be  
21 given:

22 (a) First, to Residential Certificate of Preference Holders, who meet all of the qualifications  
23 for the unit or assistance. Preference under this subsection (a) shall be given in 100% of the units in  
24 all initial sales, re-sales, initial leases, and subsequent leases.

1           **(b) Second, to any Displaced Tenant who meets all of the qualifications for the unit or**  
2 **assistance. Preference under this subsection (b) shall expire six years from the date of the earliest of**  
3 **any of the following circumstances: (i) the landlord filed with the Rent Board a Notice of Intent to**  
4 **Withdraw; (ii) the landlord filed with the Rent Board the notice to vacate pursuant to the Rent**  
5 **Ordinance Section 37.9(c); (iii) a public safety official provided the order to vacate to the tenant; (iv)**  
6 **the landlord provided notice to the tenant that the affordability restrictions applicable to that unit will**  
7 **be expiring; (v) the landlord provided notice to the tenant that the unit is transitioning from a rental**  
8 **unit to an ownership unit; or (vi) the residential demolition or residential merger of the tenant's unit,**  
9 **as defined in Planning Code Section 317, was approved by the Planning Commission or Planning**  
10 **Department. Preference under this subsection (b) shall be applicable to:**

11           **(1) 20% of the units in any new residential development going through the initial**  
12 **occupancy or sale process; and**

13           **(2) 100% of the units in all re-sales and subsequent leases.**

14           **The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a**  
15 **unit offered through application of the preference, but upon accepting and occupying a unit obtained**  
16 **using the preference, such Displaced Tenant's preference terminates.**

17           **(c) Third, to a Neighborhood Resident, who meets all of the qualifications for the unit or**  
18 **assistance. Preference under this subsection (c) shall be given:**

19           **(1) for units located in the same Neighborhood as the person resides;**

20           **(2) only for any new residential development in that Neighborhood going through the**  
21 **initial occupancy or sale process, and only to 25% of the units in such development.**

#### 22           **SEC. 47.4. IMPLEMENTATION AND MONITORING.**

23           **(a) Certificate of Preference. The Board of Supervisors shall hold a hearing on the status of**  
24 **the legislation creating the Certificate of Preference preference, Ordinance 232-08, within two years of**  
25 **its effective date to assess its impact, or at such time as the MOHCD certifies to the Board of**



1 Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference holders  
2 obtaining an affordable housing unit by taking advantage of the Certificate of Preference preference in  
3 all of the City's affordable housing programs combined exceeds 50% of the total number of units made  
4 available through the City's affordable housing programs in that year.

5 (b) Displaced Tenant and Neighborhood Preferences. MOHCD shall implement the  
6 Displaced Tenant and Neighborhood preference requirements of this Chapter 47 by developing  
7 procedures and amending its applicable regulations within 90 days of the effective date of this Chapter  
8 47. Said procedures and regulations shall be subject to approval by Resolution of the Board of  
9 Supervisors. The requirements of this paragraph are directory rather than mandatory.

10 The Board of Supervisors or a committee thereof shall hold an initial hearing to assess the  
11 impact of the Displaced Tenant and Neighborhood preferences within one year of the effective date of  
12 this Chapter 47. The Board of Supervisors or a committee thereof shall hold a subsequent hearing  
13 within three years of the effective date of this Chapter 47, at which MOHCD and the Rent Board shall  
14 submit a report on the demographics and income levels of beneficiaries of the Displaced Tenant and  
15 Neighborhood preference system.

16 **SEC. 47.5. SEVERABILITY.**

17 If any section, subsection, sentence, clause, phrase, or word of this Chapter 47, or any  
18 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
19 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining  
20 portions or applications of the Chapter. The Board of Supervisors hereby declares that it would have  
21 passed the ordinances establishing this Chapter and each and every section, subsection, sentence,  
22 clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other  
23 portion of this Chapter or application thereof would be subsequently declared invalid or  
24 unconstitutional.

1 Section 4. The Administrative Code is hereby amended by revising Sections 37.6,  
2 43.3.4, 10.100-110, and 10.100-370, to read as follows:

3 **SEC. 37.6. POWERS AND DUTIES.**

4 In addition to other powers and duties set forth in this Chapter, and in addition to  
5 powers under the Charter and under other City Codes, including powers and duties under  
6 Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Board shall have  
7 the power to:

8 \* \* \* \*

9 (o) As provided by Administrative Code ~~Section~~ Chapter 24.847, utilize Administrative  
10 Law Judges to hear and decide petitions from persons who dispute the Mayor's Office of  
11 Housing and Community Development's determination that such person does not qualify as a  
12 "Displaced Tenant" *or a "Neighborhood Resident"* (each as defined in Administrative Code  
13 ~~Section~~ Chapter 24.847).

14  
15 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

16 Following payment of costs of issuance, 85 percent of the bond proceeds will be used  
17 for the development of affordable rental housing through the development account described  
18 in the regulations, and 15 percent of the bond proceeds will be used for downpayment  
19 assistance for low and moderate income first-time homebuyers through the downpayment  
20 assistance loan account described in the program regulations; including all legally permissible  
21 administrative costs related to the program. The Mayor's Office of Housing and Community  
22 Development ("MOHCD") shall develop procedures and amend its regulations such that, for  
23 all projects funded by this affordable housing and home ownership bond program, including  
24 multifamily rental projects and down payment assistance to individual households, it requires  
25 the project sponsor or its successor in interest to give preference in occupying units or

1 receiving assistance as provided for in Administrative Code Chapter 47. first to Residential  
2 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner  
3 and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and  
4 on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or  
5 assistance; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who  
6 meets all of the qualifications for the unit or assistance, provided that the following limitations shall  
7 apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,  
8 currently occupied developments only for three years from the date the landlord filed with the  
9 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
10 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
11 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration  
12 Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced  
13 Tenant may apply the preference to new developments going through the initial occupancy process only  
14 for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the  
15 tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding  
16 provisions of the Rent Ordinance; and (iii) for any new residential development going through the  
17 initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of  
18 the units in such development. The Displaced Tenant's preference shall still apply even if such  
19 Displaced Tenant declines a unit offered through application of the preference, but upon accepting and  
20 occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.

21 —MOHCD shall implement the Certificate of Preference Holder requirements of this Section by  
22 developing procedures and amending its applicable regulations within 90 days of the effective date of  
23 Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of  
24 this Section by developing procedures and amending its applicable regulations within 90 days of the  
25 effective date of the ordinance creating the Displaced Tenant preference. Said procedures and

1 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
2 ~~this paragraph are directory rather than mandatory.~~

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

4 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a  
5 category two fund to receive any prior legally binding obligations any grants, gifts, bequests  
6 from private sources for the purposes cited in subsection (b), any monies repaid to the City as  
7 a result of loans made by the City to developers to assist in the development of affordable  
8 housing, any repayments of monies to the City where the City is beneficiary under a  
9 promissory note which was acquired as a result of the City's housing affordability assistance,  
10 any repayments of loans made from this fund and any monies otherwise appropriated to the  
11 fund.

12 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing  
13 financial assistance to for-profit and nonprofit housing developers, where the contribution of  
14 monies from the fund will allow units in a project to be affordable to persons and families of  
15 low and moderate income. City departments may recover any costs of administering any  
16 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of  
17 Housing and Community Development ("MOHCD") shall develop procedures and amend its  
18 regulations such that, for all projects funded by this fund, it requires the project sponsor or its  
19 successor in interest to give preference in occupying units or receiving assistance as provided  
20 for in Administrative Code Chapter 47. first to Residential Certificate of Preference Holders under the  
21 San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as  
22 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in  
23 File No. 080521, who meet all of the qualifications for the unit or assistance; and second to any  
24 Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications  
25 for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant

1 ~~preference: (i) a Displaced Tenant may apply the preference to existing, currently occupied~~  
2 ~~developments only for three years from the date the landlord filed with the Residential Rent~~  
3 ~~Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from~~  
4 ~~the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the~~  
5 ~~corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent~~  
6 ~~Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply~~  
7 ~~the preference to new developments going through the initial occupancy process only for six years from~~  
8 ~~the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the~~  
9 ~~rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent~~  
10 ~~Ordinance; and (iii) for any new residential development going through the initial occupancy process,~~  
11 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~  
12 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~  
13 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~  
14 ~~obtained using the preference, such Displaced Tenant's preference terminates.~~

15 ~~—MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
16 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
17 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
18 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
19 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
20 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
21 ~~this paragraph are directory rather than mandatory.~~

22 **SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.**

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

1 \* \* \* \*

2 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of  
3 Housing and Community Development ("MOHCD"). The Director of MOHCD shall  
4 promulgate such rules and regulations as he or she may deem appropriate to carry out the  
5 provisions of the fund. Such rules and regulations shall be developed in consultation with any  
6 appropriate agencies or organizations with which the Director, or his or her designee, may  
7 choose to consult. The rules and regulations shall be subject to a public hearing and  
8 approved by resolution of the Board of Supervisors. MOHCD shall develop procedures such  
9 that, for all projects funded by the HOPE SF Fund, MOHCD requires the project sponsor or its  
10 successor in interest to give preference in occupying units as provided for in Administrative Code  
11 Chapter 47, first to any current occupants of a housing development receiving Funds, second to  
12 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
13 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
14 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the  
15 qualifications for the unit; and third to any Displaced Tenant, as defined in Administrative Code  
16 Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following  
17 limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the  
18 preference to existing, currently occupied developments only for three years from the date the landlord  
19 filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to  
20 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government  
21 Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization  
22 and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;  
23 (ii) a Displaced Tenant may apply the preference to new developments going through the initial  
24 occupancy process only for six years from the date the landlord filed with the Rent Board a notice of  
25 intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and

1 ~~the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development~~  
2 ~~going through the initial occupancy process, the Displaced Tenant preference shall apply only to~~  
3 ~~twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still~~  
4 ~~apply even if such Displaced Tenant declines a unit offered through application of the preference, but~~  
5 ~~upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's~~  
6 ~~preference terminates.~~

7 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
8 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
9 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
10 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
11 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
12 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
13 ~~this paragraph are directory rather than mandatory.~~

14  
15 Section 5. The Planning Code is hereby amended by revising Sections 413.10, 415.5,  
16 415.6 and 415.7, to read as follows:

17 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

18 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to  
19 Section 413.9 shall be deposited in the special fund maintained by the Controller called the  
20 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated  
21 in accordance with law to be used solely to increase the supply of housing affordable to  
22 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing  
23 and Community Development ("MOHCD") shall develop procedures such that, for all projects  
24 funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its  
25 successor in interest to give preference in occupying units as provided for in Administrative Code

1 ~~Chapter 47, first to Residential Certificate of Preference Holders under the San Francisco~~  
2 ~~Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September~~  
3 ~~11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who~~  
4 ~~meet all of the qualifications for the unit; and second to any Displaced Tenant, as defined in~~  
5 ~~Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance,~~  
6 ~~provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced~~  
7 ~~Tenant may apply the preference to existing, currently occupied developments only for three years from~~  
8 ~~the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board")~~  
9 ~~a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act,~~  
10 ~~California Government Code Section 7060 et seq. and the corresponding provisions of the San~~  
11 ~~Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~  
12 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~  
13 ~~going through the initial occupancy process only for six years from the date the landlord filed with the~~  
14 ~~Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis~~  
15 ~~Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new~~  
16 ~~residential development going through the initial occupancy process, the Displaced Tenant preference~~  
17 ~~shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's~~  
18 ~~preference shall still apply even if such Displaced Tenant declines a unit offered through application~~  
19 ~~of the preference, but upon accepting and occupying a unit obtained using the preference, such~~  
20 ~~Displaced Tenant's preference terminates.~~

21 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
22 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
23 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
24 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
25 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~



1 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements~~  
2 ~~of this paragraph are directory rather than mandatory.~~

3 The Fund shall be administered and expended by the Director of MOHCD, who shall  
4 have the authority to prescribe rules and regulations governing the Fund which are consistent  
5 with Section 413.1et seq. No portion of the Fund may be used, by way of loan or otherwise, to  
6 pay any administrative, general overhead, or similar expense of any entity.

7 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

8 \* \* \* \*

9 (f) Use of Fees. All monies contributed pursuant to this Section shall be deposited in  
10 the special fund maintained by the Controller called the Citywide Affordable Housing Fund.  
11 The Mayor's Office of Housing and Community Development ("MOHCD") shall use the funds  
12 in the following manner:

13 (1) Except as provided in subsection (2) below, the receipts in the Fund are  
14 hereby appropriated in accordance with law to be used to:

15 (A) increase the supply of housing affordable to qualifying households  
16 subject to the conditions of this Section; and

17 (B) provide assistance to low and moderate income homebuyers; and

18 (C) pay the expenses of MOHCD in connection with monitoring and  
19 administering compliance with the requirements of the Program. MOHCD is authorized to use  
20 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under  
21 Section 415.9(e) and to update the affordable housing fee amounts as described above in  
22 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated  
23 through the annual budget process or supplemental appropriation for MOHCD. The fund shall  
24 be administered and expended by MOHCD, which shall have the authority to prescribe rules  
25 and regulations governing the Fund which are consistent with this Section.

1 (2) "Small Sites Funds."

2 (A) Designation of Funds. MOHCD shall designate and separately  
3 account for 10% percent of all fees that it receives under Section 415.1et seq., excluding fees  
4 that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to  
5 support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall  
6 continue to divert 10 percent of all fees for this purpose until the Small Sites Funds reach a  
7 total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At  
8 such time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD  
9 shall start designating funds again for this purpose, such that at no time the Small Sites Funds  
10 shall exceed \$15 million. When the total amount of fees paid to the City under Section  
11 415.1et seq. totals less than \$10 million over the preceding 12 month period, MOHCD is  
12 authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD  
13 must keep track of the diverted funds, however, such that when the amount of fees paid to the  
14 City under Section 415.1et seq. meets or exceeds \$10 million over the preceding 12 month  
15 period, MOHCD shall commit all of the previously diverted funds and 10 percent of any new  
16 funds, subject to the cap above, to the Small Sites Fund.

17 (B) Use of Small Sites Funds. The funds shall be used exclusively to  
18 acquire or rehabilitate "Small Sites" defined as properties consisting of less than 25 units.  
19 Units supported by monies from the fund shall be designated as housing affordable to  
20 qualifying households as defined in Section 415.1 for no less than 55 years. Properties  
21 supported by the Small Sites Funds must be either:  
22 (i) rental properties that will be maintained as rental properties;  
23 (ii) vacant properties that were formerly rental properties as long  
24 as those properties have been vacant for a minimum of two years prior to the effective date of  
25 this legislation;

1 (iii) properties that have been the subject of foreclosure; or

2 (iv) a Limited Equity Housing Cooperative as defined in

3 Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity  
4 modeled as a Community Land Trust.

5 (C) Initial Funds. If, within 18 months from April 23, 2009 ~~the date of adoption of~~  
6 ~~this ordinance~~, MOHCD dedicates an initial one-time contribution of other eligible funds to be  
7 used initially as Small Sites Funds, MOHCD may use the equivalent amount of Small Sites  
8 Funds received from fees for other purposes permitted by the Citywide Affordable Housing  
9 Fund until the amount of the initial one-time contribution is reached.

10 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a  
11 report to the Board of Supervisors regarding the amount of Small Sites Funds received from  
12 fees under this legislation, and a report of how those funds were used.

13 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the  
14 Board of Supervisors does not intend to preclude MOHCD from expending other eligible  
15 sources of funding on Small Sites as described in this Section, or from allocating or expending  
16 more than \$15 million of other eligible funds on Small Sites.

17 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD  
18 requires the project sponsor or its successor in interest to give preference as provided for in  
19 Administrative Code Chapter 47. in occupying units first to Residential Certificate of Preference  
20  Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference  
21  Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of  
22  the Board in File No. 080521, who otherwise meet all of the requirements for a unit; and second to any  
23  Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications  
24  for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant  
25  preference: (i) a Displaced Tenant may apply the preference to existing, currently occupied

1 ~~developments only for three years from the date the landlord filed with the Residential Rent~~  
2 ~~Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from~~  
3 ~~the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the~~  
4 ~~corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent~~  
5 ~~Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply~~  
6 ~~the preference to new developments going through the initial occupancy process only for six years from~~  
7 ~~the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the~~  
8 ~~rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent~~  
9 ~~Ordinance; and (iii) for any new residential development going through the initial occupancy process,~~  
10 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~  
11 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~  
12 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~  
13 ~~obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it is the~~  
14 ~~policy of the City to treat all households equally in allocating affordable units under this Program.~~

15 \* \* \* \*

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

17 \* \* \* \*

18  
19  
20 (d) Marketing the Units. The Mayor's Office of Housing and Community Development  
21 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable  
22 units under this Section. In general, the marketing requirements and procedures shall be  
23 contained in the Procedures Manual as amended from time to time and shall apply to the  
24 affordable units in the project. MOHCD may develop occupancy standards for units of  
25 different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of

1 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers  
2 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a  
3 list of minimum qualifications for marketing firms that market affordable units under Section  
4 415.5 et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No  
5 developer marketing units under the Program shall be able to market affordable units except  
6 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or  
7 conditions of approval shall specify that the marketing requirements and procedures  
8 contained in the Procedures Manual as amended from time to time, shall apply to the  
9 affordable units in the project.

10 (1) Lottery. At the initial offering of affordable units in a housing project and  
11 when ownership units become available for re-sale in any housing project subject to this  
12 Program after the initial offering, MOHCD must require the use of a public lottery approved by  
13 MOHCD to select purchasers or tenants.

14 (2) Preferences. MOHCD shall create a lottery system that gives preference  
15 according to the provisions of Administrative Code Chapter 47. the following preferences (A) first to  
16 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
17 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
18 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications  
19 of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,  
20 who meets all of the qualifications for the unit or assistance, provided that the following limitations  
21 shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to  
22 existing, currently-occupied developments only for three years from the date the landlord filed with the  
23 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
24 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
25 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration

1 ~~Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced~~  
2 ~~Tenant may apply the preference to new developments going through the initial occupancy process only~~  
3 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~  
4 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~  
5 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
6 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
7 ~~the units in such development; and (C) third to people who live or work in San Francisco who meet the~~  
8 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~  
9 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
10 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

11 MOHCD shall propose policies and procedures for implementing these preferences to the  
12 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the  
13 City to treat all households equally in allocating affordable units under this Program.

14 \* \* \* \*

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

16 \* \* \* \*

17 (e) Marketing the Units. MOHCD shall be responsible for overseeing and monitoring  
18 the marketing of affordable units under this Section. In general, the marketing requirements  
19 and procedures shall be contained in the Procedures Manual as amended from time to time  
20 and shall apply to the affordable units in the project. MOHCD may develop occupancy  
21 standards for units of different bedroom sizes in the Procedures Manual in order to promote  
22 an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that  
23 prospective purchasers complete homebuyer education training or fulfill other requirements.  
24 MOHCD shall develop a list of minimum qualifications for marketing firms that market  
25 affordable units under Section 415.1et seq., referred to the Procedures Manual as Below

1 Market Rate (BMR units). No project sponsor marketing units under the Program shall be  
2 able to market BMR units except through a firm meeting all of the minimum qualifications.  
3 The Notice of Special Restrictions or conditions of approval shall specify that the marketing  
4 requirements and procedures contained in the Procedures Manual as amended from time to  
5 time, shall apply to the affordable units in the project.

6 (1) Lottery. At the initial offering of affordable units in a housing project and  
7 when ownership units become available for resale in any housing project subject to this  
8 Program after the initial offering, MOHCD must require the use of a public lottery approved by  
9 MOHCD to select purchasers or tenants.

10 (2) Preferences. MOHCD shall create a lottery system that gives preference  
11 according to the provisions of Administrative Code Chapter 47. the following preferences: (A) first to  
12 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
13 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
14 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications  
15 of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,  
16 who meets all of the qualifications for the unit for assistance, provided that the following limitations  
17 shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to  
18 existing, currently occupied developments only for three years from the date the landlord filed with the  
19 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
20 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
21 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration  
22 Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced  
23 Tenant may apply the preference to new developments going through the initial occupancy process only  
24 for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the  
25 tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding

1 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
2 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
3 ~~the units in such development; and (C) third to people who live or work in San Francisco who meet the~~  
4 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~  
5 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
6 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

7 MOHCD shall propose policies and procedures for implementing these preferences to the  
8 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the  
9 City to treat all households equally in allocating affordable units under this Program.

10 \* \* \* \*

11  
12 Section 6. Effective Date. This ordinance shall become effective 30 days after  
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
15 of Supervisors overrides the Mayor's veto of the ordinance.

16  
17 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
21 additions, and Board amendment deletions in accordance with the "Note" that appears under  
22 the official title of the ordinance.



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

2  
3 By: SUSAN CLEVELAND-KNOWLES  
4 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Administrative, Planning Codes - Preferences in Affordable Housing Programs]

**Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Existing Law

Currently, two tenant selection preferences apply to all affordable housing programs that the Mayor's Office of Housing and Community Development ("MOHCD") administers or funds ("City Affordable Housing Programs"). Current law provides preference to holders of Certificates of Preference (COPs) issued under a former Redevelopment Agency program to tenants displaced from certain redevelopment areas. The COP preference applies to 100% of all available affordable housing, both at initial sale or lease and upon re-sale or re-lease.

Second, current law provides preference in all City Affordable Housing Programs to certain "Displaced Tenants," defined as tenants evicted under the State Ellis Act, California Government Code 7060 and following, who have lived in their unit continuously for at least ten years, or five years if they have a life-threatening illness or are disabled. The preference applies to 20% of all new affordable housing units during initial sale or lease up, and 100% of all existing affordable housing units upon re-sale or re-lease. A person can use the preference on an existing unit for up to three years after displacement, and on a new unit for up to six years after displacement.

A holder of any preference applying for a unit must still meet all eligibility requirements applicable for that unit under the applicable affordable housing program.

Amendments to Current Law

The proposed ordinance: (1) expands eligibility for the "Displaced Tenant" preference; and (2) adds a new, third "Neighborhood Preference" for current residents. The proposed ordinance makes no changes to the COP preference.

First, the proposed ordinance would add five new eligibility categories for the Displaced Tenants preference:

1. Tenants evicted under any of the "no-fault" evictions as defined in Sections 37.9(a)(8) through 37.9(a)(16) of the San Francisco Rent Ordinance.

2. Tenants ordered by a public safety official to vacate their units due to fire or other disaster who can sufficiently demonstrate that they cannot return to the unit within a reasonable period of time;
3. Tenants who have lost their unit through a residential demolition or residential merger approved through a City permit;
4. Tenants residing in units that are subject to rent restrictions imposed by the development's financing, where the rent restrictions are set to expire within the year or have already expired; and
5. Tenants in Below Market Rate rental units that are converting to ownership and being offered for sale where the tenant cannot afford to purchase the unit.

For all categories of "Displaced Tenant", a person must have been displaced on or after January 1, 2010 and will no longer be required to show continuous occupancy for any length of time. A person will be able to use the preference for up to six years from the date of displacement, regardless of whether the affordable unit at issue is existing or new.

Second, the proposed ordinance adds a third "Neighborhood Preference." "Neighborhood" is defined as any one of San Francisco's 11 supervisorial districts. "Neighborhood Resident" means a person who has a primary residence in a certain Neighborhood at the time they apply for an affordable housing unit. The preference applies only to 25% of the units in newly constructed affordable housing during initial sale or lease, and only after the COP and Displaced Tenant preferences.

In all cases, a holder of any preference applying for a unit must still meet all eligibility requirements applicable for that unit under the applicable affordable housing program. The proposed ordinance also makes conforming changes to other parts of the Planning and Administrative Codes.

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OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE  
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *for* Mayor Edwin M. Lee *ML*  
RE: Approval of a 30-Day Extension for Planning Commission Review of  
Clarifying/Creating Preferences for Affordable Housing Units (File No.  
150622)  
DATE: September 15, 2015

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Attached for introduction to the Board of Supervisors is a resolution extending by 30 days the prescribed time within which the Planning Commission may render its decision on Ordinance (File No. 150622) amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

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