

1 [Preference in Inclusionary Housing for Certificate of Preference Holders.]

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3 **Ordinance amending Planning Code Sections 315.4 and 315.5 to provide that**  
4 **individuals who hold certificates of preference from the San Francisco Redevelopment**  
5 **Agency shall receive preference for thirty percent (30%) of the on- and off-site units**  
6 **generated by the Residential Inclusionary Affordable Housing Program; and making**  
7 **findings including findings under the California Environmental Quality Act.**

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

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

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

14 (a) Under Planning Code Section 302, the Board of Supervisors finds that this  
15 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
16 Planning Commission Resolution No. 17410 recommending the approval of this Zoning Map  
17 Amendment, and incorporates such reasons by this reference thereto. A copy of said  
18 resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

19 (b) Under Planning Code Section 101.1, the Board of Supervisors finds that this  
20 ordinance is consistent with the Priority Policies of Planning Code Section 101.1(b) of the  
21 Planning Code and with the General Plan as proposed to be amended in companion  
22 legislation and hereby adopts the findings of the Planning Commission, as set forth in  
23 Planning Commission Resolution No.17410, and incorporates said findings by this reference  
24 thereto.

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1 (c) In accordance with the actions contemplated herein, this Board adopted Motion  
2 No.17407, concerning findings pursuant to the California Environmental Quality Act (California  
3 Public Resources Code sections 21000 et seq.). A copy of said Motion is on file with the  
4 Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated by reference  
5 herein. :

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

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

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

12 (a) Number of Units:

13 (1)

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

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

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.

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

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1 or above. Consistent with the conclusions of the Mayor's Office of Housing study authorized in  
2 Section 315.8(e), the Mayor's Office of Housing shall recommend and the Board of  
3 Supervisors shall consider whether the requirements of this Subsection for buildings of over  
4 120 feet in height shall continue or expire after approximately five years.

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

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

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

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

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

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

15 (2) Preferences: The Mayor's Office of Housing shall create a lottery system that gives  
16 preference for thirty percent (30 %) of the units to Certificate of Preference Holders under the San  
17 Francisco Redevelopment Agency's Property Owner and Occupant Preference Program who also meet  
18 all of the qualifications for households under this Program. For all other units, the Mayor's Office of  
19 Housing shall give preference to people who live or work in San Francisco who also meet all of the  
20 qualifications for households under this Program. MOH shall propose policies and procedures for  
21 implementing ~~this preference~~ these preferences to the Planning Commission for inclusion in the  
22 Procedures Manual. Otherwise, it is the policy of the Board of Supervisors to treat all  
23 households equally in allocating affordable units under this Program.

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1 (e) Alternatives: The project sponsor may elect to satisfy the requirements of Section 315.4  
2 by one of the alternatives specified in this Section. The project sponsor has the choice  
3 between the alternatives and the Planning Commission may not require a specific alternative.  
4 The project sponsor must elect an alternative before it receives project approvals from the  
5 Planning Commission or Planning Department and that alternative will be a condition of  
6 project approval. Notwithstanding the foregoing, if a project sponsor elects an alternative other  
7 than the on-site alternative, the project sponsor still has the option to choose the on-site  
8 alternative up to the issuance of the first site or building permit. If a project sponsor fails to  
9 elect an alternative before project approval by the Planning Commission or Planning  
10 Department, the provisions of Section 315.4 shall apply. The alternatives are as follows:  
11 (1) Constructing units affordable to qualifying households at an alternative site within the City  
12 and County of San Francisco pursuant to the requirements of Section 315.5.  
13 (2) Paying an in lieu fee to the Mayor's Office of Housing pursuant to the requirements of  
14 Section 315.6.  
15 (3) Any combination of construction of on-site units as provided in Section 315.4, off-site  
16 units as provided in Section 315.5, or payment of an in lieu fee as provided in Section 315.6,  
17 provided that the project applicant constructs or pays the fee at the appropriate percentage or  
18 fee level required for that option.  
19 (4) Using California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds under the  
20 requirements of Section 315.5(g).  
21 (f) Benefits: If the project applicant elects to satisfy the inclusionary housing requirements  
22 through the production of on-site inclusionary housing in this Section 315.4, the project  
23 applicant shall at his or her option, be eligible to receive a refund of the following fees: a  
24 conditional use or other fee required by Planning Code Section 352, if applicable; an  
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1 environmental review fee required by Administrative Code Section 31.46B, if applicable; a  
2 building permit fee required by the Building Code and by Planning Code Section 355 for the  
3 portion of the housing project that is affordable. The project applicant shall pay the building  
4 fee for the portion of the project that is market-rate.

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

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

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

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

17 (1)

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

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

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

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

(d) Type of Housing: The type of affordable housing needed in San Francisco is documented in the City's Consolidated Plan and the Residence Element of the General Plan. New affordable rental housing and ownership housing affordable to households earning less than the median income is greatly needed in San Francisco. The Planning Department shall develop Quality Standards for Off-Site Affordable Housing Units and recommend such standards to the Planning Commission for adoption as part of the Procedures Manual. All off-site units constructed under this Section must be provided as rental housing for the life of the project or, if they are ownership units, must be affordable to households earning no more than 80 percent of the median income for the City and County of San Francisco. Nothing in this section shall limit a developer from meeting the requirements of this Section through the construction of units in a limited equity or land trust form of ownership if such units otherwise meet all of the requirements for off-site housing. In general, affordable units constructed under this Section 315.5 shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to market rate units in the principal project. The total square footage of the off-site affordable units constructed under this Section 315.5 shall be no less than the calculation of the

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

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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 for thirty percent (30 %) of the units to  
19 Certificate of Preference Holders under the San Francisco Redevelopment  
20 Agency's Property Owner and Occupant Preference Program who also meet all  
21 of the qualifications for households under this Program. For all other units, the  
22 Mayor's Office of Housing shall give preference to people who live or work in  
23 San Francisco who also meet all of the qualifications for households under this  
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1                    Program. MOH shall propose policies and procedures for implementing  
2                    ~~this preference~~ these preferences to the Planning Commission for inclusion in  
3                    the Procedures Manual. Otherwise, it is the policy of the Board of  
4                    Supervisors to treat all households equally in allocating affordable units  
5                    under this Program.

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

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

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

21 By: \_\_\_\_\_  
22 Susan Cleveland-Knowles  
23 Deputy City Attorney  
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