

**BOARD of SUPERVISORS**



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**MEMORANDUM**

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Date: May 26, 2026  
To: Planning Department/Planning Commission  
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 260538  
Planning, Administrative, Building Codes - Inclusionary Housing Program Updates and Reductions; Development Impact Fee Reductions

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- ☒ California Environmental Quality Act (CEQA) Determination  
(*California Public Resources Code, Sections 21000 et seq.*)
  - ☒ Ordinance / Resolution
  - ☐ Ballot Measure
- ☒ Amendment to the Planning Code, including the following Findings:  
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
  - ☒ General Plan    ☒ Planning Code, Section 101.1    ☒ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning  
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments  
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)  
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
  - ☐ Landmark (*Planning Code, Section 1004.3*)
  - ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
  - ☐ Mills Act Contract (*Government Code, Section 50280*)
  - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at [john.carroll@sfgov.org](mailto:john.carroll@sfgov.org).

[Planning, Administrative, Building Codes - Inclusionary Housing Program Updates and Reductions; Development Impact Fee Reductions]

**Ordinance amending the Planning Code to: 1) reduce Inclusionary Affordable Housing Program requirements for projects of 25 units or more; 2) delete Inclusionary Affordable Housing Program requirements for projects under 25 units; 3) allow all projects to dedicate land to the City as an alternative to payment of the Inclusionary Affordable Housing Program fee; 4) adopt a process for projects to request a modification to conditions of approval related to Inclusionary Affordable Housing Program requirements; 5) delete certain Article 4 affordable housing and development impact fees; and 6) adopt conforming amendments to various sections of the Planning Code; amending the Building Code to reduce Planning Code Article 4 development impact fees and allow deferral of payment of such fees; amending the Administrative Code to adopt conforming amendments to the requirements of the Citywide Affordable Housing Fund; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

Section 1. Land Use and Environmental Findings.

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

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

11 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
12 amendments will serve the public necessity, convenience, and welfare for the reasons set  
13 forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board adopts such reasons  
14 as its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in  
15 File No. \_\_\_\_\_ and is incorporated herein by reference.

16  
17 Section 2. Additional Findings.

18 (a) San Francisco's Inclusionary Affordable Housing Program is intended to help  
19 address the demonstrated need for affordable housing in San Francisco. As rents and sales  
20 prices for housing outpace what is affordable to the typical San Francisco family, the City  
21 faces a continuing shortage of affordable housing for all but households with the highest  
22 incomes. The California Association of Realtor's "California Housing Affordability Update," for  
23 the fourth quarter of 2025, reported that the median home price in San Francisco was  
24 \$1,800,000, requiring a minimum qualifying income of \$441,200 to purchase such a home.  
25 San Francisco's median home prices are over twice the State of California's median of

1 \$650,000, and over four times the national median home price of \$414,900. The majority of  
2 market-rate homes for sale in San Francisco are priced out of the reach of low- and moderate-  
3 income households.

4 (b) San Francisco is facing a shortage of all types of housing. To meet San  
5 Francisco's share of the regional need for housing between 2023-2031, the City must  
6 accommodate over 82,000 units, including 46,598 units for extremely low-, very low-, low- and  
7 moderate-income households. The Inclusionary Housing Program is an important part of the  
8 City's overall strategy for providing affordable housing to very low-, low-, moderate-, and  
9 middle-income households, and as of 2025, has created more than 3,600 units since its  
10 inception. But the success of the Inclusionary Housing Program is contingent on the overall  
11 feasibility of residential development. For that reason, Planning Code Section 415.10 requires  
12 periodic review of the program's requirements.

13 (c) From December 2025 through April 2026, consistent with Planning Code Section  
14 415.10, the Controller and the Affordable Housing Technical Advisory Committee (TAC) met  
15 to conduct and review the feasibility of the City's inclusionary affordable housing obligations.  
16 The Controller and the TAC studied five condominium prototypes and five rental apartment  
17 prototypes, and considered key economic parameters, such as: interest rates, capitalization  
18 rates, land prices, construction costs, use of the State Density Bonus law, rents, and sale  
19 prices.

20 (d) The Controller and TAC found that none of the development prototypes studied  
21 were financially feasible at the current inclusionary housing rates in the Planning Code. Most  
22 prototypes studied had significant negative land value, indicating that the prototype would not  
23 be financially feasible, even setting aside the cost of land. The prototypes, which were studied  
24 because they represent the types of residential development that are common in San  
25 Francisco, account for a majority of the housing production in San Francisco. The finding that

1 these 10 prototypes are not feasible suggests that residential development is, broadly  
2 speaking, not financially feasible under current economic conditions at current inclusionary  
3 housing rates.

4 (e) Economic conditions that render residential development infeasible threaten  
5 several important policy priorities of the City, including the expansion of the City's housing  
6 supply, the production of inclusionary affordable housing units, as well as the creation of jobs  
7 and growth in tax revenue.

8 (f) On April 30, 2026 the Controller submitted a report to the Board of Supervisors that  
9 summarizes the residential development feasibility analysis and the recommendations  
10 developed by the Controller, with TAC agreement, between December 2025 and April 2026.  
11 The report recommended that the City's inclusionary housing on-site rates be reduced from  
12 the current interim rates of 12% - 15% to 5%, and for the fee and off-site rate be reduced from  
13 the current interim rates of 20% - 20.5% to 10%, provided that the City concurrently  
14 establishes a long-term source of stable funding for the production of affordable housing.

15 (g) The City's inclusionary housing requirements are an important policy lever, that, if  
16 optimized, can facilitate robust and ongoing production of both market rate housing and  
17 inclusionary housing. The Controller and the TAC found that the current interim citywide rates  
18 directly contribute to the economic infeasibility of residential development. By reducing the  
19 rates in line with the Controller and TAC's recommendation, the City will stimulate residential  
20 development, increase production of inclusionary affordable housing, create jobs, and grow  
21 tax revenue.

22 (h) By reducing the inclusionary housing obligation and development impact fee costs  
23 of new projects, as well as projects with complete development applications, the City will  
24 incentivize projects to advance into the construction phase, and swiftly provide much needed  
25 market rate and below market rate housing.

1 (i) To further the financial feasibility of residential development, this ordinance deletes  
2 certain Planning Code requirements for area-specific inclusionary housing fees: Market and  
3 Octavia Area Plan and Upper Market Neighborhood Commercial District Affordable Housing  
4 Fee (Planning Code Section 416 et seq.); Eastern Neighborhoods Area Plan Affordable  
5 Housing Requirement (Section 417 et seq.); Housing Requirements for Residential  
6 Development Projects in the UMU Zoning Districts of the Eastern Neighborhoods (Section  
7 419 et seq.); Van Ness & Market Affordable Housing Fee (Section 424 et seq.); and  
8 Divisadero Street NCT Affordable Housing Fee and Requirements (Section 428 et seq.), while  
9 maintaining a higher inclusionary percentage in some locations. However, as the need for  
10 affordable housing generated by new development is still unmet, the City finds there is a  
11 continued need to expend area-specific inclusionary housing fees that the City previously  
12 collected, as further described in the City's FY 2026-35 Capital Expenditure Plan, a copy of  
13 which is on file with the Clerk of the Board of Supervisors in File No. 250233. Though the  
14 Inclusionary Affordable Housing Program is not subject to the requirements of the Mitigation  
15 Fee Act, California Government Code Sections 66000 et seq., nothing in this ordinance alters  
16 the Board's previous findings regarding the purpose, need, and reasonable relationship  
17 between the use of the fee and need for affordable housing, and the construction of new  
18 market rate housing, including but not limited to the findings in Ordinance Nos. 76-16 (File No.  
19 160255), 298-08 (File No. 081153); and 72-08 (File No. 071157). No funds were collected  
20 under the Divisadero Street NCT Affordable Housing Fee and Requirements (Section 428 et  
21 seq.).

22 (j) To further the financial feasibility of residential development, this ordinance also  
23 deletes some area-specific fees for the provision of infrastructure and community facilities:  
24 Van Ness & Market Neighborhood Infrastructure Fee (Section 424.5.) and the Van Ness &  
25 Market Community Facilities Fee and Fund (Section 425 et seq.). However, the City finds that

1 the need for neighborhood infrastructure and community facilities generated by new  
2 development in these areas is still unmet. Because the City has not collected sufficient funds  
3 to develop these facilities and infrastructure, as further described in the City's FY 2026-35  
4 Capital Expenditure Plan, a copy of which is on file with the Clerk of the Board of Supervisors  
5 in File No. 250233, there is a continued need to expend funds previously collected for these  
6 purposes. Nothing in this ordinance alters the Board's previous findings regarding the  
7 purpose, need, and reasonable relationship between the use of these fees for infrastructure  
8 and facilities and new development, including but not limited to the findings in Ordinance Nos.  
9 50-15 (File No. 150149), and 193-23 (File No. 230764). No funds were collected under Van  
10 Ness & Market Community Facilities Fee and Fund (Section 425 et seq.).

11 (k) This ordinance does not establish, increase, or impose a fee within the meaning on  
12 Government Code Section 66001(a).

13 (l) On \_\_\_\_\_, the Building Inspection Commission considered this  
14 ordinance at a duly noticed public hearing pursuant to Charter Section 4.121 and Building  
15 Code Section 104A.2.11.2. A copy of a letter from the Secretary of the Building Inspection  
16 Commission regarding the Commission's recommendation is on file with the Clerk of the  
17 Board of Supervisors in File No. \_\_\_\_\_.

18 (m) No local findings are required under California Health and Safety Code Section  
19 17958.7 for the amendments to the Building Code found in Section 8 because those  
20 amendments do not regulate materials or manner of construction or repair, and instead relate  
21 in their entirety to administrative procedures for implementing the code, which are expressly  
22 excluded from the definition of a "building standard" by California Health and Safety Code  
23 Section 18909(c).

1           Section 3. Articles 1 and 4 of the Planning Code are hereby amended by revising  
2 Sections 102 and 401 to read as follows:

3           **SEC. 102. DEFINITIONS.**

4           \*   \*   \*   \*

5           **D**

6           \*   \*   \*   \*

7           **Development Application.** Any application for a land use authorization or entitlement,  
8 whether discretionary or ministerial, including but not limited to a Project Authorization,  
9 Conditional Use, Variance, Large Project Authorization, HOME-SF Project Authorization,  
10 authorization pursuant to Article 3 of the Planning Code, or for any other authorization of a  
11 development project required to be approved by the Planning Department, Zoning  
12 Administrator, Historic Preservation Commission, or Planning Commission, that has been  
13 deemed complete by the Planning Department and includes any information necessary to  
14 conduct environmental review, determine Planning Code compliance, and conformity with the  
15 General Plan. Unless otherwise set forth in a valid development agreement, for projects approved  
16 pursuant to Administrative Code Chapter 56, Development Application shall mean an individual  
17 building's design review application, or if no design review application is required, then the first site or  
18 building permit application for an individual building.

19          \*   \*   \*   \*

20          **F**

21          \*   \*   \*   \*

22          **Family.** Family shall mean Household, as defined in this Section 102.

23          **Final Approval.** Final Approval or Finally Approved shall mean (1) approval by the  
24 Department's issuance of a Planning Approval Letter; (2) approval of a project's first Development  
25 Application by the Commission, unless such approval is appealed; (3) if a project only requires a

*building permit, Planning approval of the first site or building permit, unless such permit is appealed; or (4) if the Commission approval or first site or building permit is appealed, then the final decision upholding the Development Application, or first site or building permit, on the appeal by the relevant City Board or Commission. For development projects with multiple buildings, including projects approved pursuant to Administrative Code Chapter 56, Final Approval shall mean the Department's approval of a first site or building permit application for each building. Final Approval, or Finally Approved, shall not include any modification of an approval pursuant to Section 415.10(e).*

**"First Certificate of Occupancy."** *Either a temporary Certificate of Occupancy or a Certificate of Final Completion and Occupancy under Building Code Section 109A, whichever is issued first.*

**Fleet Charging.** Automotive Use, Non-Retail that provides electricity to electric motor vehicles through one or more Electric Vehicle Charging Stations that are dedicated or reserved for private parties pursuant to contract or other agreement and are not available to the general public. Fleet Charging is not allowed as an accessory use to any other principal use. Parcel Delivery Service activity, including unloading, sorting, and/or reloading merchandise for deliveries, is prohibited as part of a Fleet Charging use.

\* \* \* \*

**P**

\* \* \* \*

**Plan Dimensions.** The linear horizontal dimensions of a building or structure, at a given level, between the outside surfaces of its exterior walls. The "length" of a building or structure is the greatest plan dimension parallel to an exterior wall or walls and is equivalent to the horizontal dimension of the corresponding elevation of the building or structure at that level. The "diagonal dimension" of a building or structure is the plan dimension between the two most separated points on the exterior walls.

1 **Planning Approval Letter.** Written documentation from the Planning Department verifying the  
2 Department's determination that a project with a complete Development Application may apply for a  
3 site or building permit.

4 **Planning Commission (Commission).** The San Francisco Planning Commission.

5 \* \* \* \*

6  
7 **SEC. 401. DEFINITIONS.**

8 In addition to the specific definitions set forth in Section 102 and elsewhere in this  
9 Article 4, the following definitions shall govern interpretation of this Article:

10 **A**

11 \* \* \* \*

12 "Affordable to a household." ~~shall mean a~~ A purchase price that a household can afford  
13 to pay based on an annual payment for all housing costs, as defined in the Procedures Manual  
14 ~~in California Code of Regulations ("CCR") Title 25, Section 6920~~, as amended from time to time,  
15 of 33% percent of the combined household annual gross income, assuming a down payment  
16 recommended by ~~the Mayor's Office of Housing~~ MOHCD in the Procedures Manual, and  
17 available financing, or a rent that does not exceed 30% percent of a household's combined  
18 annual gross income. Where applicable, the purchase price or rent may be adjusted to reflect  
19 the absence or existence of a parking space(s), subject to the Department's policy on  
20 ~~unbundled~~ parking for affordable housing units as specified in the Procedures Manual and  
21 amended from time to time.

22 "Affordable to Qualifying Households."

23 (A) With respect to Owned Units, the ~~average~~ purchase price on the initial sale  
24 of all Owned Units in a housing project shall not exceed the allowable ~~average~~ purchase price.  
25 Each unit shall be sold:

- (i) Only to first-time homebuyer households, as defined in this Section;
- (ii) Only to households with an annual gross income equal to or less than the qualifying income limits ~~for a household of moderate income~~, adjusted for household size, except for the exceptions set forth in Section 415.8(a)(4)(C), (D), and (E);
- (iii) Only to households that meet the household size requirements, as defined in the Procedures Manual;
- (iv) On the initial sale, at or below the maximum purchase price, as defined in this Section;
- (v) On subsequent sales at or below the prices to be determined according to the formula specified in the Procedures Manual in place at the time of the purchase of the Owned Unit, as amended from time to time, such that the units remain affordable for the life of the project. The formula in the Procedures Manual shall permit the seller to include certain allowable capital improvements in the new maximum purchase price. ~~The formula shall include a per unit cap on capital improvements of 10% of the resale price in order to maintain affordability. Special Assessments shall be added to the resale price at an uncapped rate.~~ Capital improvement requests shall be evaluated by ~~the Mayor's Office of Housing~~ MOHCD according to the ~~formula policies~~ specified in the Procedures Manual.
- (B) With respect to Rental Units, the ~~average~~ annual rent shall not exceed the allowable ~~average~~ annual rent. Each unit shall be rented:
- (i) Only to households with an annual gross income equal to or less than qualifying limits ~~for a household of lower income~~ adjusted for household size, as defined in this Section, except for the exceptions set forth in Section 415.8(a)(4)(A) and (B);
- (ii) Only to households that meet the household size requirements, as defined in the Procedures Manual;

(iii) At or less than the maximum annual rent according to policies specified in the Procedures Manual.

"Allowable ~~average~~ purchase price." A price for all Owned Units ~~of the size indicated below~~ that ~~are~~ is affordable to a household of median income as defined in this Section, adjusted for the household size indicated below as of the date of the close of escrow, except for Single Room Occupancy units and Group Housing units that are less than 350 square feet (both as defined in Section 102), which shall be 75% of the maximum purchase price level for studio units, and, where applicable, adjusted to reflect the Department's policy on ~~unbundled~~ parking for affordable housing units as specified in the Procedures Manual and amended from time to time.

| <i>Number of Bedrooms (or, for live/work units square foot equivalency)</i> | <i>Number of Persons in Household</i> |
|-----------------------------------------------------------------------------|---------------------------------------|
| <i>0 (Less than 600 square feet)</i>                                        | <i>1</i>                              |
| <i>1 (601 to 850 square feet)</i>                                           | <i>2</i>                              |
| <i>2 (851 to 1,100 square feet)</i>                                         | <i>3</i>                              |
| <i>3 (1,101 to 1,300 square feet)</i>                                       | <i>4</i>                              |
| <i>4 (More than 1,300 square feet)</i>                                      | <i>5</i>                              |

"Allowable ~~average~~ annual rent." Annual rent for a Rental Unit ~~of the size indicated below~~ that is 30% of the annual gross income of a ~~household~~ Household of low income as defined in this Section 401, adjusted for the household size indicated below except for Single Room Occupancy units and Group Housing units that are less than 350 square feet (both as defined in Section 102), which shall be 75% of the maximum rent level for studio units, and, where applicable, adjusted to reflect the Department's policy on ~~unbundled~~ parking for affordable housing units as specified in the Procedures Manual and amended from time to time.

| <i>Number of Bedrooms (or, for live/work units square foot equivalency)</i> | <i>Number of Persons in Household</i> |
|-----------------------------------------------------------------------------|---------------------------------------|
| <i>0 (Less than 600 square feet)</i>                                        | <i>1</i>                              |
| <i>1 (601 to 850 square feet)</i>                                           | <i>2</i>                              |
| <i>2 (851 to 1,100 square feet)</i>                                         | <i>3</i>                              |
| <i>3 (1,101 to 1,300 square feet)</i>                                       | <i>4</i>                              |
| <i>4 (More than 1,300 square feet)</i>                                      | <i>5</i>                              |

At no time can a rent increase, or can multiple rent increases within one year, exceed the percentage change in Maximum Monthly Rent levels as published by MOHCD from the previous calendar year to the current calendar year.

“Alternative.” A method of compliance with Section 415.1 et seq., which shall include payment of the Affordable Housing fee, the provision of Affordable Units On-site, the dedication of land to the City, or the provision of Affordable Units Off-site.

“Area Median Income” or “AMI.” The unadjusted median income levels published by MOHCD derived in part from the Department of Housing and Urban Development (“HUD”) on an annual basis for the San Francisco area, adjusted solely for household size, but not high housing cost area.

“Annual gross income.” Gross income as defined in CCR Title 25 of the California Code of Regulations, Section 6914, as amended from time to time; provided however that MOHCD may develop and apply a different definition to promote consistency with other regulatory requirements ; except that MOHCD may, in order to promote consistency with the procedures of the San Francisco Redevelopment Agency, develop an asset test that differs from the State definition if it publishes that test in the Procedures Manual.

1           “Annual net income.” Net income as defined in Title 25 of the California Code of  
2 Regulations, Section 6916.

3           “Area Plan Impact Fee.” ~~shall mean a~~ A development impact fee collected by the City to  
4 mitigate impacts of new development in the Area Plans of the San Francisco General Plan,  
5 under Article 4 of the Planning Code.

6           ~~“Average annual rent.” The total annual rent for the calendar year charged by a housing~~  
7 ~~project for all Rental Units in the project of an equal number of bedrooms divided by the total number~~  
8 ~~of Affordable Units in the project with that number of bedrooms.~~

9           ~~“Average purchase price.” The purchase price for all Owned Units in an affordable housing~~  
10 ~~project of an equal number of bedrooms divided by the total number of Affordable Units in the project~~  
11 ~~with that number of bedrooms.~~

12           \* \* \* \*

13           **D**

14           “Dedicated.” Legally transferred to the City and County of San Francisco, including all  
15 relevant legal documentation, at no cost to the City.

16           “Dedicated site.” The portion of site proposed to be legally transferred at no cost to the  
17 City and County of San Francisco under the requirements of this section.

18           “Designated affordable housing zones.” For the purposes of implementing the Eastern  
19 Neighborhoods Community Improvements Fund, shall mean the Mission Street NCT defined  
20 in Section 754.

21           “Designated Child Care Unit.” As defined in Section 102.

22           “Development Application.” As defined in Section 102. ~~shall mean any application for a~~  
23 ~~building permit, site permit, Conditional Use, Variance, Large Project Authorization, or any~~  
24 ~~application pursuant to Planning Code Sections 309, 309.1, or 322 or any application to the Planning~~  
25

1 ~~Department for ministerial approval pursuant to state law, including but not limited to California~~  
2 ~~Government Code Sections 65913.4, 65650 et seq., or 65912.100 et seq.~~

3 \* \* \* \*

4 "Director of Transportation." The Director of Transportation of the MTA or ~~his or her~~ their  
5 designee(s).

6 \* \* \* \*

7 **F**

8 "Final Approval." As defined in Section 102.~~For the purposes of this Section 401 shall mean (1)~~  
9 ~~approval of a project's first Development Application, unless such approval is appealed; or (2) if a~~  
10 ~~project only requires a building permit, planning approval of the first site or building permit, unless~~  
11 ~~such permit is appealed; or (3) if the first Development Application or first site or building permit is~~  
12 ~~appealed, then the final decision upholding the Development Application, or first site or building~~  
13 ~~permit, on the appeal by the relevant City Board or Commission~~

14 "First Certificate of Occupancy." As defined in Section 102.~~Either a temporary Certificate of~~  
15 ~~Occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building~~  
16 ~~Code Section 109A, whichever is issued first.~~

17 "First ~~construction document~~ Construction Document." As defined in Section 107A.13.1 of  
18 the San Francisco Building Code.

19 "First-time homebuyer household." At a minimum, shall be a household in which no  
20 member of the qualifying household may have owned any interest in a dwelling unit for a  
21 three-year period prior to applying to qualify for purchase of a unit restricted as affordable  
22 under the Inclusionary Housing Program. The Procedures Manual may contain additional  
23 requirements as necessary.

24 **G**

25 \* \* \* \*

1           **H**

2           “Hope SF Project Area.” ~~shall mean an~~ An area owned by or previously owned by the  
3 San Francisco Housing Authority that is currently undergoing, or planned to undergo  
4 redevelopment, whereby existing affordable dwelling units will be replaced, new affordable  
5 housing units will be constructed, and market-rate units may be constructed as a means to  
6 cross-subsidize newly needed infrastructure and affordable units. Hope SF Project Area shall  
7 include the Hunters View project, which is located within the Hunters View Special Use  
8 District, the Potrero Terrace and Annex Project, which includes Assessor’s Block 4367, Lots  
9 004 and 004A; Block 4220A, Lot 001, Block 4222, Lot 001; and Block 4223, Lot 001; and the  
10 Sunnydale/Velasco Project, which includes Assessor’s Block 6310, Lot 001; Block 6311, Lot  
11 001; Block 6312, Lot 001; Block 6313, Lot 001; Block 6314, Lot 001; and Block 6315, Lot 001.

12           “Household.” Any person or persons who reside or intend to reside in the same  
13 ~~h~~Housing unit.

14           ~~“Household of low income.” For purposes of Section 415 et seq., a household whose combined~~  
15 ~~annual gross income for all members does not exceed 55 percent of AMI.~~

16           ~~“Household of median income.” For purposes of Section 415 et seq., a household whose~~  
17 ~~combined annual gross income for all members does not exceed 90 percent of AMI.~~

18           ~~“Household of moderate income.” For purposes of Section 415 et seq., a household whose~~  
19 ~~combined annual gross income for all members does not exceed 110 percent of AMI.~~

20           “Housing developer.” Any business entity building housing units which receives a  
21 payment from a sponsor for use in the construction of the housing units. A housing developer  
22 may be

- 23                   (a) the same business entity as the sponsor,  
24                   (b) an entity in which the sponsor is a partner, joint ~~venturer~~ venture, or  
25 stockholder, or

1 (c) an entity in which the sponsor has no control or ownership.

2 "Housing ~~Project~~project." Any development which includes a Residential Use as defined  
3 in Section 102 of this Code, including but not limited to Dwellings, Group Housing, Single  
4 Room Occupancy Units, independent living units, and other forms of development which are  
5 intended to provide long-term housing to individuals and households. "Housing ~~P~~project" shall  
6 not include that portion of a development that qualifies as an Institutional Use under the  
7 Planning Code. "Housing ~~P~~project" for purposes of the Inclusionary Housing Program shall  
8 also include the development of Live/Work ~~u~~Units as defined by Section 102. "~~Housing~~  
9 ~~P~~project" for purposes of the Inclusionary Housing Program shall mean all phases or  
10 elements of a multi-phase or multiple lot residential development.

11 "Housing unit" or "unit." A residential use in a Housing project. For the purposes of the  
12 Inclusionary Affordable Housing Program, Planning Code Section 415 et seq., and  
13 corresponding definitions in this Section 401, the use of the word "unit" will also mean  
14 bedrooms where a Group Housing or other Housing project is measured by number of  
15 bedrooms.

16 I

17 \* \* \* \*

18 L

19 "Life of the project." The time during which the development authorized by the *Planning*  
20 Department or Commission, or any modification of such development, remains in existence in  
21 or upon the subject property and thereby confers benefit upon the subject property.

22 "~~Low income.~~" ~~For purposes of this Article, up to 80% of median family income for the San~~  
23 ~~Francisco PMSA, as calculated and adjusted by the United States Department of Housing and Urban~~  
24 ~~Development (HUD) on an annual basis, except that as applied to housing-related purposes such as the~~  
25 ~~construction of affordable housing and the provision of rental subsidies with funds from the SOMA~~

~~Stabilization Fund established in Section 418.7, it shall mean up to 60% of median family income for the San Francisco PMSA, as calculated and adjusted by HUD on an annual basis.~~

**M**

\* \* \* \*

“Market rate housing” or “market rate units.” Housing or residential units constructed in the principal project that is not subject to sales or rental restrictions.

“Maximum annual rent.” The maximum rent that a housing developer may charge any tenant occupying an affordable unit for the calendar year. The maximum annual rent for an affordable housing unit ~~of the size indicated below~~ shall be no more than 30% of the annual gross income for a ~~household of low income~~ Household as defined in this Section, as adjusted for ~~the household size indicated below~~, except in the case of Single Room Occupancy units and Group Housing units that are less than 350 square feet (both as defined in Section 102), which shall be 75% of the maximum rent level for studio units, as of the first date of the tenancy according to the Procedures Manual.÷

| <del>Number of Bedrooms (or, for live/work units square foot equivalency)</del> | <del>Number of Persons in Household</del> |
|---------------------------------------------------------------------------------|-------------------------------------------|
| <del>0 (Less than 600 square feet)</del>                                        | <del>1</del>                              |
| <del>1 (601 to 850 square feet)</del>                                           | <del>2</del>                              |
| <del>2 (851 to 1,100 square feet)</del>                                         | <del>3</del>                              |
| <del>3 (1,101 to 1,300 square feet)</del>                                       | <del>4</del>                              |
| <del>4 (More than 1,300 square feet)</del>                                      | <del>5</del>                              |

At no time can a rent increase, or can multiple rent increases within one year, exceed the percentage change in Maximum Monthly Rent levels as published by MOHCD from the previous calendar year to the current calendar year *in accordance with the Procedures Manual*.

“Maximum purchase price.” The maximum purchase price for an Owned Unit, ~~of the size indicated below~~ except in the case of Single Room Occupancy *Dwelling Units* ~~units and Group Housing units~~ that are less than 350 square feet (both as defined in Section 102), which shall be 75% of the maximum purchase price level for studio units, that is affordable to a household of moderate income, adjusted for ~~the~~ household size ~~indicated below~~, assuming an annual payment for all housing costs of 33% ~~percent~~ of the combined household annual gross income, a down payment recommended by MOHCD and set forth in the Procedures Manual, ~~and available financing~~.

| <i>Number of Bedrooms (or, for live/work units square foot equivalency)</i> | <i>Number of Persons in Household</i> |
|-----------------------------------------------------------------------------|---------------------------------------|
| <i>0 (Less than 600 square feet)</i>                                        | <i>1</i>                              |
| <i>1 (601 to 850 square feet)</i>                                           | <i>2</i>                              |
| <i>2 (851 to 1,100 square feet)</i>                                         | <i>3</i>                              |
| <i>3 (1,101 to 1,300 square feet)</i>                                       | <i>4</i>                              |
| <i>4 (More than 1,300 square feet)</i>                                      | <i>5</i>                              |

“Mayor’s Office of Housing” or “MOH.” The Mayor’s Office of Housing and Community Development or its successor.

“Medical and Health Services.” An economic activity category under the TIDF that includes, but is not limited to, Hospital use and Social Service and Philanthropic Facility uses.

1 "Middle Income Household." ~~Except as used in Section 415 et seq., a~~ A household whose  
2 combined annual gross income for all members is between 120% ~~percent~~ and 150% ~~percent~~ of  
3 the local median income for the City and County of San Francisco, as calculated by ~~the~~  
4 ~~Mayor's Office of Housing~~ MOHCD using data from the United States Department of Housing  
5 and Urban Development (HUD) and adjusted for household size or, if data from HUD is  
6 unavailable, as calculated by ~~the Mayor's Office of Housing~~ MOHCD using other publicly  
7 available and credible data and adjusted for household size.

8 ~~"MOH." The Mayor's Office of Housing, or the Mayor's Office of Housing and Community~~  
9 ~~Development, or its successor.~~

10 "MOHCD." The Mayor's Office of Housing and Community Development, or its  
11 successor.

12 "MTA." The Municipal Transportation Agency, or its successor.

13 "Municipal Railway" ~~or~~ "MUNI." The public transit system owned by the City and  
14 under the jurisdiction of the MTA.

15 "Museum." A permanent institution open to the public, which acquires, conserves,  
16 researches, communicates and exhibits the heritage of humanity or the environment.

17 **N**

18 \* \* \* \*

19 **O**

20 "Off-site Unit." A unit Affordable to Qualifying Households constructed pursuant to this  
21 Article on a site other than the site of the Principal Project. ~~If a Housing Project is constructed in~~  
22 ~~multiple phases or consists of multiple buildings, Affordable Units may be constructed in one building~~  
23 ~~or phase.~~

24 "On-site Unit." A unit Affordable to Qualifying Households constructed pursuant to this  
25 Article on the site of the ~~principal project~~ Principal Project. ~~If a Housing Project is constructed in~~

1 ~~multiple phases or consists of multiple buildings, Affordable Units shall be distributed proportionally~~  
2 ~~throughout the building or phase.~~

3 "Owned Unit." A unit Affordable to Qualifying Households that is a condominium, stock  
4 cooperative, tenancy in common, community apartment, or ~~detached~~ single-family home. The  
5 ~~O~~owner or ~~O~~owners of an Owned Unit must occupy the unit as their primary residence. An  
6 Owned Unit shall not be Group Housing, as defined in Section 102.

7 "Owner." The record owner of the fee or a vendee in possession.

8 "Owner Occupied." A qualified-income owner lives in the affordable unit as ~~his or her~~  
9 their principal residence and resides in the unit for a minimum period of time set forth in the  
10 Procedures Manual.

11 "Ownership Housing Project." A residential housing project in which units are designed and  
12 intended to be sold and conveyed to occupants rather than rented, such that each purchaser obtains  
13 legal title to the dwelling unit, or in the case of a stock cooperative or community apartment project, a  
14 legally recognized ownership interest conferring the right to occupy a specific dwelling unit.  
15 Ownership Housing Projects include, but are not limited to, projects consisting of condominiums, stock  
16 cooperatives, tenancies in common, community apartments, townhomes, or single-family homes.  
17 Ownership Housing Projects include all of the units in a housing development including Affordable  
18 Units and Market Rate Housing.

19  
20 **P**

21 "Pipeline Project." A project that has submitted a Development Application that the  
22 Department has determined to be complete, but has not been issued a First Construction Document.

23 "Principal ~~p~~Project." A housing development on which a requirement to provide  
24 affordable housing units is imposed.

1 "Principal site." The total site proposed for development, including the portion of site  
2 proposed to be legally transferred to the City and County of San Francisco.

3 "Procedures Manual." The City and County of San Francisco Inclusionary Affordable  
4 Housing Program Monitoring Procedures Manual issued by ~~the Mayor's Office of Housing and~~  
5 ~~Community Development~~ MOHCD, as amended from time to time.

6 "Program" or "Inclusionary Housing Program." The Inclusionary Affordable Housing  
7 Program as detailed in Sections ~~415.1 et seq.~~ 417.

8 **Q**

9 \* \* \* \*

10 **R**

11 "Rent" or "rental." The total charges for rent, utilities, and related housing services to  
12 each household occupying an affordable unit according to policies outlined in the Procedures  
13 Manual.

14 "Rental Housing Project." A housing project consisting solely of units owned by a single entity  
15 and rented to individual tenants. Rental Housing Projects include all of the units in a housing  
16 development including Affordable and Market Rate Housing.

17 "Rental Unit." A unit Affordable to Qualifying Households that is not a condominium,  
18 tenancy in common, stock cooperative, or community apartment.

19 "Replacement of use." The total amount of Gross Floor Area, as defined in Section 102  
20 of this Code, to be demolished and reconstructed by a development project. For purposes of  
21 calculating any impact fees, credits, or waivers under Article 4, if the Gross Floor Area to be  
22 demolished has no legally established use, the replacement of use shall consider the last  
23 legal use.

24 \* \* \* \*

25 **S**

1           ~~“Section 6932.” Section 6932 of Title 25 of the California Code of Regulations as such section~~  
2 ~~applies to the County of San Francisco.~~

3           ~~“Significant increase in residential development potential” shall mean, for purposes of Charter~~  
4 ~~Section 16.110(h) and the implementation of the Inclusionary Affordable Housing Program, for areas~~  
5 ~~subject to a change in zoning enacted after November 6, 2012 that affects 40 or more acres or greater~~  
6 ~~and results in a significant increase in residential development potential, where the area is not also~~  
7 ~~encompassed by a Special Use District adopted after November 6, 2012:~~

8                     ~~(a) a 20% or greater increase in developable residential gross floor area, as measured~~  
9 ~~by a change in height limits, Floor Area Ratio limits, or use, over prior zoning, or~~

10                    ~~(b) a change in use permitting Residential Uses (either as a principally permitted use or~~  
11 ~~with a Conditional Use authorization) where Residential Uses were not previously principally~~  
12 ~~permitted or permitted with a Conditional Use authorization, or~~

13                    ~~(c) For parcels with an existing residential development capacity of 10 units or greater,~~  
14 ~~the lesser of~~

15                             ~~1. a 50% or greater increase in residential densities over prior zoning, or,~~  
16                             ~~2. an increase in density of at least 15 additional units over the number of units~~  
17 ~~allowed under prior zoning.~~

18                             ~~3. For the purposes of determining residential development capacity, the~~  
19 ~~Planning Department shall use unit sizes and efficiency ratios typical (or the subject area at the time of~~  
20 ~~the rezoning.~~

21           ~~This definition was adopted by the Board of Supervisors in Motion M13-097 and may only be~~  
22 ~~amended under Charter Section 16.110(h)(1)(B)(iv).~~

23           ~~“Small Family Daycare Home.”~~ A Small Family Daycare Home is defined by California  
24 Health & Safety Code Section 1596.78(c), as amended from time to time.

25           \* \* \* \*

1           **W**

2           “Waiver Agreement.” An agreement acceptable in form and substance to the City  
3 Attorney and the ~~Planning~~ Department under which the City agrees to waive all or a portion of  
4 the Community Improvements Impact Fee.

5  
6           Section 4. Article 4 of the Planning Code is hereby amended by revising Sections  
7 413.6, 414A.6, 415 (including 415.1, 415.2, 415.3, 415.4, 415.6, 415.7, 415.8, 415.9, and  
8 415.10), 424.5, and 436, and deleting Sections 415A, 415B, 416, 417, 419, 424.1 to 424.4,  
9 425, and 428, to read as follows:

10  
11           **SEC. 413. JOBS-HOUSING LINKAGE PROGRAM; HOUSING REQUIREMENTS**  
12 **FOR LARGE-SCALE DEVELOPMENT PROJECTS.**

13           Sections 413.1 through 413.11, hereafter referred to as Section 413.1 et seq., set forth  
14 the requirements and procedures for the Jobs-Housing Linkage Program. The effective date  
15 of these requirements shall be either March 28, 1996, which is the date that the requirements  
16 originally became effective, or the date a subsequent modification, if any, became effective.

17           \* \* \* \*

18           **SEC. 413.6. COMPLIANCE BY LAND DEDICATION.**

19           (a) **Controls.** Projects may satisfy all or a portion of the requirements of Section 413.1  
20 et seq. via dedication of land to the City for the purpose of constructing units Affordable to  
21 Qualifying Households. Projects may receive a credit against such requirements up to the  
22 value of the land donated, calculated pursuant to subsection (b) below.

23           (b) **Requirements.**

24           (1) The value of the dedicated land shall be determined by the Director of  
25 Property pursuant to Chapter 23 of the Administrative Code, but shall not exceed the actual

1 cost of acquisition by the project sponsor of the dedicated land in an arm's length transaction.  
2 Prior to issuance by DBI of the ~~first site or building permit~~ First Construction Document for a  
3 development project subject to Section 413.1 et seq. the sponsor shall submit to the  
4 Department, with a copy to MOHCD and the Director of Property, documentation sufficient to  
5 substantiate the actual cost of acquisition by the sponsor in an arm's length transaction of any  
6 land to be dedicated by the sponsor to the City, and any additional information that would  
7 impact the value of the land.

8 (2) Projects are subject to the requirements of Section 415.7(a)(1), (2), and (4)-  
9 (9). 419.5(a)(2)(A) and (C)-(J).

10  
11 **SEC. 414A.6. OPTION TO PROVIDE SMALL FAMILY CHILD CARE HOME IN LIEU**  
12 **OF FEE.**

13 (a) Election to Provide Designated Child Care Units in Lieu of Residential Child Care  
14 Impact Fee. Consistent with the timing to elect the option to provide On- or Off-site Units  
15 under Section 415.5(~~ge~~), the sponsor of a development project subject to the requirements of  
16 Sections 414A.1 et seq., may elect to fulfill all or a portion of the Residential Child Care  
17 Impact Fee requirement by creating one or more Designated Child Care Units in the project,  
18 as follows:

19 \* \* \* \*

20  
21 **SEC. 415. HOUSING REQUIREMENTS FOR RESIDENTIAL AND LIVE/WORK**  
22 **DEVELOPMENT PROJECTS.**

23 Sections 415.1 through 415.11, hereafter Section 415.1 *et seq.*, set forth the  
24 requirements and procedures for the Inclusionary Affordable Housing Program ("Program" or  
25 "Inclusionary Housing Program").

1 The Planning Department and MOHCD shall periodically publish a Procedures Manual  
2 containing procedures for monitoring and enforcement of the policies and procedures for  
3 implementation of this Program. The Procedures Manual must be made available on the  
4 Department's web site. The Procedures Manual shall not be amended, except for an annual  
5 update of the affordability housing guidelines, which reflect updated income limits, prices, and  
6 rents, without approval of the Commission or as otherwise specified herein.

7 The Procedures Manual in effect at the time of initial purchase or initial rental of an  
8 Affordable Unit shall govern the regulation of that unit until it is sold or re-rented unless an  
9 owner or current tenant chooses to be governed by all ~~of the more up-to-date~~ provisions of the  
10 then-current Procedures Manual. In that case, the owner or tenant must agree to be governed  
11 by the totality of the new regulations – an owner or tenant may not pick some provisions from  
12 the Procedures Manual in effect at the time of initial purchase or initial rental and some in  
13 effect in the then-current Procedures Manual. If the owner or tenant chooses to be governed  
14 by the then-current Procedures Manual, the owner or tenant ~~he or she~~ shall sign an agreement  
15 with the City to that effect, and the Department and MOHCD shall apply all of the rules and  
16 regulations in the then-current Procedures Manual to the unit.

#### 17 18 **SEC. 415.1. FINDINGS.**

19 **Affordable Housing.** The findings in former Planning Code Section 315.2 of the  
20 Inclusionary Affordable Housing Ordinance are hereby readopted and updated as follows:

21 (a) Affordable housing is a paramount statewide concern. ~~In 1980,~~ The California  
22 Legislature declared in Government Code Section 65580:

23 (1) The availability of housing is of vital statewide importance, and the early  
24 attainment of decent housing and a suitable living environment for every California family is a  
25 priority of the highest order.

1                   (2) The early attainment of this goal requires the cooperative participation of  
2 government and the private sector in an effort to expand housing opportunities and  
3 accommodate the housing needs of Californians of all economic levels.

4                   (3) The provision of housing affordable to low-and moderate-income  
5 households requires the cooperation of all levels of government.

6                   (4) Local and state governments have a responsibility to use the powers vested  
7 in them to facilitate the improvement and development of housing to make adequate provision  
8 for the housing needs of all economic segments of the community.

9                   (b) The Legislature further stated in Government Code Section 65581 that:

10                  It is the intent of the Legislature in enacting this article:

11                   (1) To assure that counties and cities recognize their responsibilities in  
12 contributing to the attainment of the state housing goal.

13                   (2) To assure that counties and cities will prepare and implement housing  
14 elements which will move toward attainment of the state housing goal.

15                   (3) To recognize that each locality is best capable of determining what efforts  
16 are required to contribute to the attainment of the state housing goal.

17                   (c) The California Legislature requires each local government agency to develop a  
18 comprehensive long-term general plan establishing policies for future development. As  
19 specified in the Government Code (at Sections 65300, 65302(c), and 65583(c)), the plan must  
20 (1) “encourage the development of a variety of types of housing for all income levels, including  
21 multifamily rental housing”; (2) “[a]ssist in the development of adequate housing to meet the  
22 needs of low- and moderate-income households”; and (3) “conserve and improve the  
23 condition of the existing affordable housing stock, which may include addressing ways to  
24 mitigate the loss of dwelling units demolished by public or private action.”  
25

(d) The Board of Supervisors adopted San Francisco's General Plan 2022 Housing Element Update in January 2023~~March 2015~~, and the California Housing and Community Development Department certified it on February 1, 2023~~May 29, 2015~~. The Housing Element states that San Francisco's share of the regional housing need for years ~~2015~~ 2023 through 2030 ~~2022~~ includes ~~10,873~~ 32,881 housing units for extremely low, very-low and low-income households and ~~5,460~~ 49,188 units for moderate and above-moderate ~~middle~~-income households, and a total production of ~~28,870~~ 82,069 net new units, with almost 60% to be affordable for very-low, low- and moderate~~middle~~-income San Franciscans. The amendments to the Inclusionary Housing Program found in Board File No. 260538 implement policies in the 2022 Housing Element Update to assess Inclusionary Housing Program requirements, including rates, tiers, and density incentives, based on the Controller's Office triennial study of financial feasibility.

## **SEC. 415.2. DEFINITIONS.**

See Sections 102 and 401 of this ~~Article~~ Code.

~~"Ownership Housing Project" shall mean a housing project consisting solely of units that are condominiums, stock cooperatives, community apartments, or detached single-family homes.~~

~~Ownership Housing Projects include all of the units in a housing development including Affordable Units and Market Rate Housing.~~

~~"Rental Housing Project" shall mean a housing project consisting solely of units owned by a single entity and rented to individual tenants. Rental Housing Projects include all of the units in a housing development including Affordable and Market Rate Housing.~~

## **SEC. 415.3. APPLICATION.**

(a) Notwithstanding any other provision to the contrary in this Code, Section 415.1 et seq. shall apply to any housing project that consists of ~~10~~ 25 or more units where an individual

1 project or a phased project is to be undertaken and where the total undertaking comprises a  
2 project with ~~10~~ 25 or more units, even if the development is on separate but adjacent lots. This  
3 provision also applies to housing projects that requires Commission approval of replacement  
4 housing destroyed by earthquake, fire, or natural disaster only where the destroyed housing  
5 included units restricted under the Inclusionary Affordable Housing Program or the City's  
6 predecessor inclusionary housing policy, condominium conversion requirements, or other  
7 affordable housing program.

8 ~~(b) Except as provided in subsection (3) below, any development project that has submitted a~~  
9 ~~complete Environmental Evaluation application prior to January 12, 2016 shall comply with the~~  
10 ~~Affordable Housing Fee requirements, the on-site affordable housing requirements or the off-site~~  
11 ~~affordable housing requirements, and all other provisions of Section 415.1 et seq., as applicable, in~~  
12 ~~effect on January 12, 2016. For development projects that have submitted a complete Environmental~~  
13 ~~Evaluation application on or after January 1, 2013, the requirements set forth in Planning Code~~  
14 ~~Sections 415.5, 415.6, and 415.7 shall apply to certain development projects consisting of 25 dwelling~~  
15 ~~units or more during a limited period of time as follows.~~

16 ~~(1) If a development project is eligible and elects to provide on-site affordable housing,~~  
17 ~~the development project shall provide the following amounts of on-site affordable housing.~~

18 ~~(A) Any development project that has submitted a complete Environmental~~  
19 ~~Evaluation application prior to January 1, 2014 shall provide affordable units in the amount of 13% of~~  
20 ~~the number of units constructed on-site.~~

21 ~~(B) Any development project that has submitted a complete Environmental~~  
22 ~~Evaluation application prior to January 1, 2015 shall provide affordable units in the amount of 13.5%~~  
23 ~~of the number of units constructed on-site.~~

1                   ~~(C) Any development project that has submitted a complete Environmental~~  
2 ~~Evaluation application on or prior to January 12, 2016 shall provide affordable units in the amount of~~  
3 ~~14.5% of the number of units constructed on-site.~~

4                   ~~(D) Any development project that submits an Environmental Evaluation~~  
5 ~~application after January 12, 2016, shall comply with the requirements set forth in Planning Code~~  
6 ~~Sections 415.5, 415.6 and 415.7, as applicable.~~

7                   ~~(E) Notwithstanding the provisions set forth in subsections (b)(1)(A), (B) and~~  
8 ~~(C) of this Section 415.3, if a development project is located in a UMU Zoning District or in the South~~  
9 ~~of Market Youth and Family Zoning District, and is eligible and elects to provide on-site units pursuant~~  
10 ~~to Section 415.5(g), such development project shall comply with the on-site requirements applicable~~  
11 ~~within such Zoning Districts, as they existed on January 12, 2016, plus the following additional~~  
12 ~~amounts of on-site affordable units: (i) if the development project has submitted a complete~~  
13 ~~Environmental Evaluation application prior to January 1, 2014, the Project Sponsor shall provide~~  
14 ~~additional affordable units in the amount of 1% of the number of units constructed on-site; (ii) if the~~  
15 ~~development project has submitted a complete Environmental Evaluation application prior to January~~  
16 ~~1, 2015, the Project Sponsor shall provide additional affordable units in the amount of 1.5% of the~~  
17 ~~number of units constructed on-site; or (iii) if the development project has submitted a complete~~  
18 ~~Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall~~  
19 ~~provide additional affordable units in the amount of 2% of the number of units constructed on-site.~~

20                   ~~(F) Any development project that has submitted a complete Environmental~~  
21 ~~Evaluation application on or before January 12, 2016 and seeks to utilize a density bonus under State~~  
22 ~~Law shall use its best efforts to provide on-site affordable units in the amount of 25% of the number of~~  
23 ~~units constructed on-site and shall consult with the Planning Department about how to achieve this~~  
24 ~~amount of inclusionary affordable housing. An applicant seeking a density bonus under the provisions~~  
25

1 ~~of State Law shall provide reasonable documentation to establish eligibility for a requested density~~  
2 ~~bonus, incentives or concessions, and waivers or reductions of development standards.~~

3 ~~(2) If a development project pays the Affordable Housing Fee or elects to provide off-~~  
4 ~~site affordable housing, the development project shall provide the following fee amount or amounts of~~  
5 ~~off-site affordable housing during the limited periods of time set forth below.~~

6 ~~(A) Any development project that has submitted a complete Environmental~~  
7 ~~Evaluation application prior to January 1, 2014, shall pay a fee or provide off-site housing in an~~  
8 ~~amount equivalent to 25% of the number of units constructed on-site.~~

9 ~~(B) Any development project that has submitted a complete Environmental~~  
10 ~~Evaluation application prior to January 1, 2015, shall pay a fee or provide off-site housing in an~~  
11 ~~amount equivalent to 27.5% of the number of units constructed on-site.~~

12 ~~(C) Any development project that has submitted a complete Environmental~~  
13 ~~Evaluation application on or prior to January 12, 2016 shall pay a fee or provide off-site housing in an~~  
14 ~~amount equivalent to 30% of the number of units constructed on-site.~~

15 ~~(D) Any development project that submits an Environmental Evaluation~~  
16 ~~application after January 12, 2016 shall comply with the requirements set forth in Sections 415.5,~~  
17 ~~415.6, and 415.7, as applicable.~~

18 ~~(E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and~~  
19 ~~(C) of this Section 415.3, for development projects proposing buildings over 120 feet in height, as~~  
20 ~~measured under the requirements set forth in the Planning Code, except for buildings up to 130 feet in~~  
21 ~~height located both within a special use district and within a height and bulk district that allows a~~  
22 ~~maximum building height of 130 feet, such development projects shall pay a fee or provide off-site~~  
23 ~~housing in an amount equivalent to 30% of the number of units constructed on-site. Any buildings up to~~  
24 ~~130 feet in height located both within a special use district and within a height and bulk district that~~  
25

1 allows a maximum building height of 130 feet shall comply with the provisions of subsections (b)(2)(A),  
2 (B) and (C) of this Section 415.3 during the limited periods of time set forth therein.

3 ~~(F) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and~~  
4 ~~(C) of this Section 415.3, if a development project is located in a UMU Zoning District or in the South~~  
5 ~~of Market Youth and Family Zoning District, and pays the Affordable Housing Fee or elects to provide~~  
6 ~~off-site affordable housing pursuant to Section 415.5(g), or elects to comply with a Land Dedication~~  
7 ~~Alternative, such development project shall comply with the fee, off-site or land dedication~~  
8 ~~requirements applicable within such Zoning Districts, as they existed on January 12, 2016, plus the~~  
9 ~~following additional amounts for the Affordable Housing Fee or for land dedication or off-site~~  
10 ~~affordable units: (i) if the development project has submitted a complete Environmental Evaluation~~  
11 ~~application prior to January 1, 2014, the Project Sponsor shall pay an additional fee, or provide~~  
12 ~~additional land dedication or off-site affordable units, in an amount equivalent to 5% of the number of~~  
13 ~~units constructed on-site; (ii) if the development project has submitted a complete Environmental~~  
14 ~~Evaluation application prior to January 1, 2015, the Project Sponsor shall pay an additional fee, or~~  
15 ~~provide additional land dedication or off-site affordable units, in an amount equivalent to 7.5% of the~~  
16 ~~number of units constructed on-site; or (iii) if the development project has submitted a complete~~  
17 ~~Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall pay~~  
18 ~~an additional fee, or provide additional land dedication or off-site affordable units, in an amount~~  
19 ~~equivalent to 10% of the number of units constructed on-site. Notwithstanding the foregoing, a~~  
20 ~~development project shall not pay a fee or provide off-site units in a total amount greater than the~~  
21 ~~equivalent of 30% of the number of units constructed on-site.~~

22 ~~(G) Any development project consisting of 25 dwelling units or more that has~~  
23 ~~submitted a complete Environmental Evaluation application on or prior to January 12, 2016, and~~  
24 ~~elects to provide off-site affordable housing, may provide off-site affordable housing by acquiring an~~  
25 ~~existing building to fulfill all or part of the requirements set forth in this Section 415.3 and in Section~~

1 ~~415.7 with an equivalent amount of units as specified in this Section 415.3(b)(2), as reviewed and~~  
2 ~~approved by the Mayor's Office of Housing and Community Development and consistent with the~~  
3 ~~parameters of its Small Sites Acquisition and Rehabilitation Program, in conformance with the income~~  
4 ~~limits for the Small Sites Program.~~

5 ~~(3) During the limited period of time in which the provisions of Section 415.3(b) apply,~~  
6 ~~the following provisions shall apply:~~

7 ~~(A) For any housing development that is located in an area with a specific~~  
8 ~~affordable housing requirement set forth in an Area Plan or a Special Use District, or in any other~~  
9 ~~section of the Code such as Section 419, with the exception of the UMU Zoning District or in the South~~  
10 ~~of Market Youth and Family Zoning District, the higher of the affordable housing requirement set forth~~  
11 ~~in such Area Plan or Special Use District or in Section 415.3(b) shall apply;~~

12 ~~(B) Development projects that are within the Central SoMa Special Use~~  
13 ~~District; that are designated as Central SoMa Development Tier A, B, or C, as defined in Section~~  
14 ~~423.2; and that submitted a complete Environmental Evaluation application prior to January 12, 2016~~  
15 ~~shall be subject to the affordable housing requirements set forth in Sections 415.5, 415.6, and 415.7~~  
16 ~~that apply to projects that submitted a complete Environmental Evaluation Application on or after~~  
17 ~~January 13, 2016 and before December 31, 2017; and~~

18 ~~(C) Any affordable housing impact fee paid pursuant to an Area Plan or Special~~  
19 ~~Use District shall be counted as part of the calculation of the inclusionary housing requirements~~  
20 ~~contained in Planning Code Sections 415.1 et seq. In the Divisadero Street NCT, the provisions of~~  
21 ~~Section 415.3(b) shall not apply to certain sites, as set forth in the Divisadero Street NCT Affordable~~  
22 ~~Housing Fee And Requirements, Planning Code Sections 428.1 et seq.~~

23 ~~(4) Any development project that constructs on-site or off-site affordable housing units~~  
24 ~~as set forth in subsection (b) of this Section 415.3 shall diligently pursue completion of such units.~~

1                   ~~(A) In the event the project has not been approved, which shall mean approval~~  
2 ~~following any administrative appeal to the relevant City board, on or before December 7, 2018, the~~  
3 ~~development project shall comply with the inclusionary affordable housing requirements set forth in~~  
4 ~~Sections 415.5, 415.6, and 415.7, as applicable. Such deadline shall be extended in the event of any~~  
5 ~~litigation seeking to invalidate the City's approval of such project, for the duration of the litigation.~~

6                   ~~(B) In the event the project has been approved on or before December 7, 2018,~~  
7 ~~but the project sponsor does not procure a building permit or site permit for construction of the~~  
8 ~~affordable housing units within 18 months of the project's approval, or by December 7, 2018,~~  
9 ~~whichever is later, the development project shall comply with the inclusionary affordable housing~~  
10 ~~requirements set forth in Section 415.5, 415.6, and 415.7 as applicable. Such deadline shall be~~  
11 ~~extended in the event of any litigation seeking to invalidate the City's approval of such project, for the~~  
12 ~~duration of the litigation. For purposes of this subsection (B), the date of approval shall be the date of~~  
13 ~~any administrative appeal to the relevant City board.~~

14                   ~~(c) The new inclusionary affordable housing requirements contained in Sections 415.5, 415.6,~~  
15 ~~and 415.7, as well as the provisions contained in Section 415.3(b), shall not apply to (1) any mixed use~~  
16 ~~project that is located in a special use district for which a height limit increase has been approved by~~  
17 ~~the voters prior to January 12, 2016 to satisfy the requirements of Administrative Code Section 61.5.1,~~  
18 ~~or (2) any mixed use project that has entered into a development agreement or other similar binding~~  
19 ~~agreement with the City on or before January 12, 2016, or (3) any housing development project that~~  
20 ~~has procured a final first discretionary development entitlement approval, which shall mean approval~~  
21 ~~following any administrative appeal to the relevant City board, on or before January 12, 2016. The~~  
22 ~~inclusionary housing requirements for these projects shall be those requirements contained in the~~  
23 ~~projects' existing approvals.~~

24                   ~~(d) Notwithstanding the provisions set forth in Section 415.3(b), or the inclusionary affordable~~  
25 ~~housing requirements contained in Sections 415.5, 415.6, and 415.7, such requirements shall not apply~~

1 ~~to any project, consisting of 25 dwelling units or more, that has not submitted a complete~~  
2 ~~Environmental Evaluation Application on or before January 12, 2016, if the project is located within~~  
3 ~~the Eastern Neighborhoods Mission Planning Area, the North of Market Residential Special Use~~  
4 ~~District Subarea 1 or Subarea 2, or the SOMA Neighborhood Commercial Transit District, because~~  
5 ~~inclusionary affordable housing levels for those areas will be addressed in forthcoming area plan~~  
6 ~~processes or an equivalent community planning process. Until such planning processes are complete~~  
7 ~~and new inclusionary housing requirements for projects in those areas are adopted, projects consisting~~  
8 ~~of 25 units or more shall (1) pay a fee or provide off-site housing in an amount equivalent to 30% if the~~  
9 ~~Principal Project is a Rental Housing Project, or 33% if the Proposed Project is an Ownership~~  
10 ~~Housing Project, or (2) provide Affordable Units in the amount of 25% of the number of units~~  
11 ~~constructed on-site in a Rental Housing Project, or 27% of the number of units constructed on-site in~~  
12 ~~an Ownership Housing Project. For Rental Housing Projects, 15% of the on-site Affordable Units shall~~  
13 ~~be affordable to low-income households, 5% shall be affordable to moderate-income households and~~  
14 ~~5% shall be affordable to middle-income households. For Ownership Housing Projects, 15% of the on-~~  
15 ~~site Affordable Units shall be affordable to low-income households, 6% shall be affordable to~~  
16 ~~moderate-income households and 6% shall be affordable to middle-income households.~~

17 ~~(e) The City may continue to enter into development agreements or other similar binding~~  
18 ~~agreements for projects that provide inclusionary affordable housing at levels that may be different~~  
19 ~~from the levels set forth in Sections 415.1 et seq.~~

20 ~~(f)(b)~~ Section 415.1 et seq., the Inclusionary Housing Program, shall not apply to:

21 (1) That portion of a housing project located on property owned by the United  
22 States or any of its agencies or leased by the United States or any of its agencies, for a period  
23 in excess of 50 years, with the exception of such property not used exclusively for a  
24 governmental purpose;

1 (2) That portion of a housing project located on property owned by the State of  
2 California or any of its agencies, with the exception of such property not used exclusively for a  
3 governmental or educational purpose; or

4 (3) That portion of a housing project located on property under the jurisdiction of  
5 the San Francisco Office of Community Investment and Infrastructure or the Port of San  
6 Francisco where the application of Section 415.1 et seq. is prohibited by California or local  
7 law.

8 (4) A ~~100% affordable~~ housing project in which 100% of the residential units satisfy  
9 the requirements under Section 406(b)(1)(A)-(C), excluding a unit reserved for the manager of the  
10 project. rents are controlled or regulated by any government unit, agency or authority, excepting those  
11 unsubsidized and/or unassisted units which are insured by the United States Department of Housing  
12 and Urban Development. The project sponsor shall obtain a certification from MOHCD Mayor's  
13 Office of Housing and Community Development must representing to the Planning Commission or  
14 Planning Department that the project ~~meets~~ satisfies this requirement, subject to the following:-

15 (A) **Affordability Restrictions.** If a Housing Project ~~project sponsor takes~~  
16 ~~advantage~~ satisfies the requirements of this ~~Subsection~~ subsection (b)(4), ~~all of the~~ rules and  
17 regulations of the relevant programs or recorded documents guaranteeing the affordability of  
18 the units shall govern the units and the requirements of this Program shall not apply.

19 (B) **Conditions.** In order to qualify for this provision, the project sponsor  
20 ~~must~~ shall record an NSR against the property that provides that, in the event of foreclosure or  
21 for any other reason, the project no longer qualifies as a project meeting the requirements of  
22 ~~Subsection (b)(4)~~ the project will either:

23 (i) pay the Affordable Housing Fee plus interest from the date the  
24 project received its ~~first~~ First Certificate of Occupancy ~~construction document for the project~~ if no  
25 affordable units were ever provided or, if affordable units were provided and occupied, then

1 the Affordable Housing Fee with no interest is due on the date the units were no longer  
2 occupied by qualifying households; or

3 (ii) provide the required number of on-site affordable units  
4 required by this Section 415.1 et seq. at time of original project approval and subject that those  
5 units ~~shall be subject~~ to all ~~of the~~ requirements of this Program.

6 (C) **Recordation.** In the event that there is a foreclosure or other event  
7 triggering the requirements of ~~Subsection~~ subsection (b)(4)(B) above, the project sponsor shall  
8 record a new NSR specifying the manner in which it complies with this Program, including but  
9 not limited to any specific units restricted as affordable under (B)(ii). The new NSR shall  
10 provide that the units must comply with all of the requirements of this Program.

11 (5) A Student Housing project that meets all of the following criteria:

12 (A) The building or space conversion does not result in loss or  
13 conversion of existing housing, including but not limited to rental housing and dwelling units;

14 (B) An institutional master plan (IMP) pursuant to Section 304.5, when  
15 required, is on file with the Planning Department prior to the issuance of any building permit or  
16 alteration permit in connection with the creation of the Student Housing project, and, in  
17 addition to the requirements of Section 304.5, such IMP shall describe:

18 (i) to the extent such information is available, the type and location  
19 of housing used by its students;

20 (ii) any plans for the provision of Student Housing;

21 (iii) the Educational Institution's need for student housing to  
22 support its program; and

23 (iv) the percentage of its students, on an average annual basis,  
24 that receive some form of need-based assistance.

1 ~~(C) MOHCD is authorized to monitor the Student Housing program described~~  
2 ~~in this subsection (f)(5) and shall develop a monitoring form. An annual monitoring fee of \$792 per~~  
3 ~~building exempted from the Inclusionary Housing Program pursuant to this Section 415.3(f)(5) shall be~~  
4 ~~paid to MOHCD by the owner of the real property or the Post-Secondary Educational Institution or~~  
5 ~~Religious Institutions, as defined in Section 102 of this Code. Beginning with the setting of fees for~~  
6 ~~fiscal year 2018-2019, the Controller shall annually adjust the base monitoring fee amount referenced~~  
7 ~~in this subsection (f)(5)(C) without further action by the Board of Supervisors, to reflect changes in the~~  
8 ~~two-year average Consumer Price Index (CPI) change for the San Francisco/San Jose Primary~~  
9 ~~Metropolitan Area (PMSA). This process shall occur as follows:~~

10 ~~(i) No later than April 15 of each year, MOHCD shall submit the current~~  
11 ~~monitoring fee to the Controller, who shall apply the CPI adjustment to produce a new monitoring fee~~  
12 ~~for the fiscal year beginning July 1. No later than May 15 of each year, the Controller shall file a~~  
13 ~~report with the Board of Supervisors reporting the new monitoring fee and certifying that the fees to be~~  
14 ~~collected will produce sufficient revenue to support the costs of providing the services for which the fee~~  
15 ~~is charged and will not produce revenue that exceeds the costs of providing the services for which the~~  
16 ~~fee is paid.~~

17 ~~(ii) No later than July 1 of each year, MOHCD will publish on its~~  
18 ~~website the current monitoring fee amount inclusive of the annual adjustment, and also make the fee~~  
19 ~~amount available upon request at MOHCD's main office.~~

20 ~~(D) The owner of the real property and each Post-Secondary Educational~~  
21 ~~Institution or Institutions shall agree to submit annual documentation to MOHCD and the Planning~~  
22 ~~Department, along with the annual monitoring fee, on or before December 31 of each year, which~~  
23 ~~addresses the following:~~

24 ~~(i) Evidence that the Post-Secondary Educational Institution continues~~  
25 ~~to own or otherwise control the Student Housing project under a master lease or other contractual~~

~~agreement with at least a two-year term, including a certificate from the owner of the real property and the Post-Secondary Educational Institution attaching a true and complete copy of the master lease or other contractual agreement (financial information may be redacted to the extent permitted by law) and certifying that the lease or contract has not otherwise been amended or terminated; and~~

~~(ii) Evidence, on an average annualized basis, of the percentage of students in good standing enrolled at least half-time or more in the Post-Secondary Educational Institution or Institutions who are occupying the beds or accessory living space in the Student Housing project; and~~

~~(iii) The owner of the real property records a Notice of Special Restrictions (NSR) against fee title to the real property on which the Student Housing is located that states the following:~~

~~a. The Post-Secondary Educational Institution, or the owner of the real property on its behalf, must file a statement with the Department if it intends to terminate the Student Housing project at least 60 days before it terminates such use ("statement of termination");~~

~~b. The Student Housing project becomes subject to the Inclusionary Housing Ordinance requirements applicable to Housing Projects other than Qualified Housing Projects if (1) a Post-Secondary Educational Institution files a statement of termination with the Department and another Post-Secondary Educational Institution or Institutions have not been substituted or obligated to meet the requirements of this subsection (f)(5)3; or (2) the owner of the real property or the Post-Secondary Educational Institution fails to file a statement of termination and fails to meet the requirements for a Student Housing project, then within not more than one year of a Notice Of Violation issued by the Planning Department;~~

~~c. If units in a Student Housing project become subject to the Inclusionary Housing Ordinance then the owner of those units shall (1) pay the Affordable Housing Fee plus interest from the date the project received its first construction document for the project if~~

1 ~~there is no evidence the project ever qualified as Student Housing or, if Student Housing was provided~~  
2 ~~and occupied, then the Affordable Housing Fee with no interest is due on the date the units were no~~  
3 ~~longer occupied by qualifying households and interest would accrue from that date if the fee is not~~  
4 ~~paid; or (2) provide the required number of on-site affordable units required at time of original project~~  
5 ~~approval and that those units shall be subject to all of the requirements of this Program. In this event,~~  
6 ~~the owner of the real property shall record a new NSR providing that the designated units must comply~~  
7 ~~with all of the requirements of this Program.~~

8 ~~d. The Post-Secondary Educational Institution is required to~~  
9 ~~report annually as required in subsection (f)(5)(D)3 above;~~

10 ~~e. The City may commence legal action against the owner and/or~~  
11 ~~Post-Secondary Educational Institution to enforce the NSR and the terms of Article 4 of the Planning~~  
12 ~~Code and Planning Code Section 415 et seq. if it determines that the project no longer meets the~~  
13 ~~requirements for a Student Housing project; and~~

14 ~~f. The Student Housing project may be inspected by any duly~~  
15 ~~authorized City employee to determine its status as a Student Housing project and its compliance with~~  
16 ~~the requirements of this Code at any time upon at least 24 hours' prior notice to the owner of the real~~  
17 ~~property or to the master lessee.~~

18  
19 **SEC. 415.4. IMPOSITION OF REQUIREMENTS AND POST-APPROVAL PROJECT**  
20 **MODIFICATIONS.**

21 (a) **Determination of Requirements.** The Department shall determine the applicability  
22 of Section 415.1 et seq. to any development project requiring a ~~first construction document~~ First  
23 Construction Document and, if Section 415.1 et seq. is applicable, shall impose any such  
24 requirements as a condition of approval for issuance of the ~~first construction document~~ First  
25 Construction Document. The project sponsor shall supply any information necessary to assist

1 the Department in this determination. Unless otherwise required by state law, and except as  
2 provided in Section 415.4(g), a development project shall comply with the requirements of this Section  
3 415.1 et seq. in effect on the date the Development Application is deemed complete. Except as provided  
4 in Section 415.10(e), Pipeline Projects that receive a renewal or extension more than three years from  
5 the date of Final Approval, shall comply with the requirements of Section 415.1 et seq in effect on the  
6 date the project sponsor submits a complete Development Application for the extension or renewal  
7 request.

8 (b) **Compliance Through Payment of Fee or an Alternative.** A project sponsor may either pay  
9 the fee pursuant to Section 415.5 (Affordable Housing Fee), or choose to comply by electing to comply  
10 with an Alternative in Section 415.6 (On-site Alternative), or Section 415.7 (Land Dedication/Off-site  
11 Alternative) as set forth in Section 415.5(e). ~~**Notice to Development Fee Collection Unit of**~~  
12 ~~**Requirements.**~~ After the Department has made its final determination regarding the application of the  
13 affordable housing requirements to a development project pursuant to Section 415.1 et seq., it shall  
14 immediately notify the Development Fee Collection Unit at DBI in addition to the other information  
15 required by Section 402(b) of this Article.

16 (c) The City may enter into development agreements or other similar binding agreements for  
17 projects that provide inclusionary affordable housing at levels that may be different from the levels set  
18 forth in Section 415.1 et seq.

19 (d) If a Housing Project is located in an area with an additional or specific affordable housing  
20 requirement, such as those set forth in a Special Use District or elsewhere in this Code, the additional  
21 or specific inclusionary housing requirement shall apply.

22 (ee) **Timing of Payment of Affordable Housing Fee or Project Sponsor's Selection of**  
23 ~~**Alternative.**~~ If the project sponsor elects to pay the Affordable Housing Fee set forth in Section 415.5.,  
24 the project sponsor shall pay the fee prior ~~Prior~~ to issuance of ~~first the First Certificate of~~  
25 Occupancy. ~~construction document for a development project subject to the requirements of Section~~

1 ~~415.1 et seq., the sponsor of the development project shall pay the Affordable Housing Fee set forth in~~  
2 ~~Section 415.5, or shall select one of the options listed in Section 415.5(f). The Director of DBI shall~~  
3 ~~notify MOHCD when the project requests issuance of a First Certificate of Occupancy, and shall deny~~  
4 ~~all Certificates of Occupancy until the subject project has complied with the requirements of 415.1 et~~  
5 ~~seq.~~

6 ~~(d) Department Notice to Development Fee Collection Unit of Sponsor's Choice. After the~~  
7 ~~sponsor has filled out a Declaration of Intent and, if necessary, an Affidavit of Eligibility for an~~  
8 ~~Alternative to the Affordable Housing Fee indicating how it will fulfill the affordable housing~~  
9 ~~requirements of Section 415.1 et seq., the Department shall immediately notify the Development Fee~~  
10 ~~Collection Unit at DBI of the sponsor's choice.~~

11 ~~(e) Development Fee Collection Unit Notice to Department Prior to Issuance of the First~~  
12 ~~Certificate of Occupancy.. The Development Fee Collection Unit at DBI shall provide notice in writing~~  
13 ~~or electronically to the Department prior to issuing the first Certificate of Occupancy for any~~  
14 ~~development project subject to Section 415.1 et seq. that has elected to fulfill all or part of its~~  
15 ~~requirement with an option other than payment of the Affordable Housing Fee. If the Department~~  
16 ~~notifies the Unit at such time that the sponsor has not satisfied the requirements, the Director of DBI~~  
17 ~~shall deny any and all Certificates of Occupancy until the subject project is brought into compliance~~  
18 ~~with the requirements of Section 415.1 et seq.~~

19 **(f) Process for Revisions of Determination of Program Requirements.** In the event  
20 that the Department or the Commission takes action affecting any development project  
21 subject to Section 415.1 et seq. and such action is subsequently modified, superseded,  
22 vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action,  
23 the procedures of Section 402(c) shall be followed.

24 ~~(g) The Planning Department shall note the existence of any units provided under Section~~  
25 ~~415.6 in a Housing Development Project on a publicly accessible website.~~

1           **(g) Requested Modifications After Final Approval.** The purpose of this Section 415.4(g) is to  
2 provide for the efficient review of requests to modify conditions of approval, conditions on a project  
3 permit, and/or Notice of Special Restrictions, related to requirements under Section 415.1 et seq., for  
4 projects that have been Finally Approved. Project sponsors may modify the number of residential units  
5 or Gross Floor Area of a project, change the selected Alternative, or modify whether the project is an  
6 Ownership Housing Project or a Rental Housing Project (change in tenure), as set forth below. The  
7 Commission may delegate review and approval of a request for modification to the Planning Director  
8 or their designee.

9           **(1) Modifications to Number of Residential Units or Gross Floor Area.** Unless  
10 otherwise required by state law, projects that modify the total Gross Floor Area or number of  
11 residential units by more than 20%, exclusive of any additional density, incentive, concession, or  
12 waiver under the State Density Bonus Law, Government Code Section 65915 et seq., shall comply with  
13 the requirements of this Section 415.1 et seq. in effect on the date the project sponsor submits a  
14 complete Development Application for the modified project.

15           **(2) Modifications to Selected Alternative or Tenure Prior to First Certificate of**  
16 **Occupancy.** If a project has been Finally Approved, but has not received a First Certificate of  
17 Occupancy, the project may modify the approved Alternative or the approved project tenure, if such  
18 request is consistent with the following:

19           **(A)** A project may modify the selected Alternative from the Affordable Housing  
20 Fee to the On-site Alternative, or may modify the approved project tenure prior to the issuance of the  
21 architectural addendum or issuance of the building permit, whichever occurs first.

22           **(B)** A project may only modify the elected Alternative from the On-site  
23 Alternative to the Affordable Housing Fee if such modification is requested prior to MOHCD's  
24 commencement of marketing of the On-site Units to prospective tenants or buyers under Section  
25 415.6(d).

1 (C) Acceptance by the City of land transferred under Section 415.7(a) shall be  
2 final.

3 **(3) Modifications to the Selected Alternative or Tenure After Issuance of a First**  
4 **Certificate of Occupancy.** After issuance of a First Certificate of Occupancy, a project with On-site  
5 Affordable Units may modify the elected Alternative consistent with the following requirements:

6 (A) Projects may convert from a Rental Housing Project to an Ownership  
7 Housing Project, or an Ownership Housing Project to a Rental Housing Project, only in accordance  
8 with the requirements and procedures in the Procedures Manual.

9 (B) A project with On-site Affordable Units subject to Section 415.6 may modify  
10 from the On-site Alternative to payment of the Affordable Housing Fee if the Project meets all the  
11 following:

12 (i) The On-site Affordable Units are vacant and have never been  
13 occupied.

14 (ii) The On-site Affordable Units are not required under state law.

15 (iii) The project sponsor has either (a) marketed the units in accordance  
16 with the Procedures Manual, has exhausted the applicant list, and there are no interested or qualified  
17 applicants; or (b) has never marketed the units.

18 (C) Projects that convert from the On-site Alternative to the Affordable Housing  
19 Fee must pay the fee within 60-days from the date the request is approved by the Department. Any  
20 Affordable Housing Fees paid after the required timeline in Section 415.5 due to a modification from  
21 the On-site Alternative to the Affordable Housing Fee pursuant to this subsection (g)(3) shall be subject  
22 to penalties and interest, as applicable.

23 **(4) Modification Process.**

24 (A) If the Commission has delegated its authority to the Department to review  
25 and approve requests for modifications consistent with this Section 415.4(g) or Section 415.10(e), the

1 modifications shall be reviewed and approved by the Director, and the Commission shall not hold a  
2 public hearing for discretionary review.

3 (B) The Commission or Director shall deny a request for modification under  
4 this Section 415.4(g) if the modified project will no longer comply with applicable Planning Code or  
5 state law requirements, including but not limited to Planning Code Sections 206.6, 206.10, 317.2, and  
6 415.1 et seq.

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

8 ~~The fees set forth in this Section 415.5 will be reviewed when the City completes an Economic~~  
9 ~~Feasibility Study.~~ Except as provided in Section 415.5(ge), all development projects subject to  
10 this Program shall be required to pay an Affordable Housing Fee subject to the following  
11 requirements:

12 (a) **Timing of Fee Payments.** The fee shall be paid to DBI for deposit into the  
13 Citywide Affordable Housing Fund at the time required by Section 402(d).

14 (b) **Amount of Fee.** The amount of the fee that may be paid by the project sponsor  
15 subject to this Program shall be determined by ~~MOHCD-Planning using~~ utilizing the following  
16 factors:

17 (1) The number of units equivalent to the applicable off-site percentage of the  
18 number of units in the Principal Project, as specified in subsections (A) and (B) below.

19 (A) Except as otherwise specified in subsection (b)(1)(B), the applicable  
20 percentage shall be 10%.

21 (B) The applicable percentage shall be 15% in the following areas or districts:

22 (i) Mission Area Plan (See San Francisco General Plan, Eastern  
23 Neighborhoods Area Plan, Map I);

24 (ii) North of Market Residential Special Use District (Section 249.5);

25 (iii) SoMa Neighborhood Commercial Transit District (Section 753);

1 (iv) South of Market Youth and Family Special Use District (Section  
2 249.38);

3 (v) Urban Mixed Use (UMU) District (Section 838); and

4 (vi) Western SoMa Special Use District (Section 249.39).

5 ~~(A) For housing development projects consisting of 10 units or more, but less~~  
6 ~~than 25 units, the applicable percentage shall be 20%.~~

7 ~~(B) For development projects consisting of 25 units or more, the applicable~~  
8 ~~percentage shall be 33% if such units are Owned Units.~~

9 ~~(C) For development projects consisting of 25 units or more, the applicable~~  
10 ~~percentage shall be 30% if the development project is a Rental Housing Project. In the event a Rental~~  
11 ~~Housing Project becomes an Ownership Housing Project, the Project Sponsor shall either (A)~~  
12 ~~reimburse the City the proportional amount of the Inclusionary Affordable Housing Fee, which would~~  
13 ~~be equivalent to the current Inclusionary Affordable Housing Fee requirement for Ownership Housing~~  
14 ~~Projects, or (B) provide additional on-site or off-site Affordable Units equivalent to the current~~  
15 ~~inclusionary requirements for Ownership Housing Units, apportioned among the required number of~~  
16 ~~units at various income levels in compliance with the requirements in effect at the time of conversion.~~  
17 ~~Any additional Affordable Units provided on-site or off-site shall comply with Section 415 and the~~  
18 ~~Procedures Manual.~~

19 (2) The affordability gap, using data on MOHCD's cost of construction of  
20 affordable residential housing. ~~No later than January 31, 2018, the Controller, with the support of~~  
21 ~~consultants as necessary, and in consultation with the Inclusionary Housing Technical Advisory~~  
22 ~~Committee (TAC) established in Planning Code Section 415.10, shall conduct a study to develop an~~  
23 ~~appropriate methodology for calculating, indexing, and applying the appropriate amount of the~~  
24 ~~Inclusionary Affordable Housing Fee. To support the Controller's study, and annually thereafter,~~  
25 ~~MOHCD shall provide the following documentation: (1) schedules of sources and uses of funds and~~

1 ~~independent auditor's reports ("Cost Certifications") for all MOHCD-funded developments completed~~  
2 ~~within three years of the date of reporting to the Controller; and, (2) for any MOHCD-funded~~  
3 ~~development that commenced construction within three years of the reporting date to the Controller but~~  
4 ~~for which no Cost Certification is yet complete, the sources and uses of funds approved by MOHCD~~  
5 ~~and the construction lender as of the date of the development's construction loan closing. Cost~~  
6 ~~Certifications completed in years prior to the year of reporting to the Controller may be increased or~~  
7 ~~decreased by the applicable annual Construction Cost Index percentage(s) for residential construction~~  
8 ~~for San Francisco reported in the Engineering News Record. MOHCD, together with the Controller~~  
9 ~~and TAC, shall evaluate the cost to construct data, including actual and appraised land costs, state~~  
10 ~~and/or federal public subsidies available to MOHCD-funded projects, and determine MOHCD's~~  
11 ~~average costs. Following completion of this study, the Board of Supervisors, in its sole and absolute~~  
12 ~~discretion, and within the legal allowances of the Residential Nexus Analysis, will review the analyses,~~  
13 ~~methodology, fee application, and the proposed fee schedule; and may consider adopting legislation to~~  
14 ~~revise the Inclusionary Affordable Housing fees. The method of calculating, indexing, and applying the~~  
15 ~~fee shall be published in the Procedures Manual. The Department and MOHCD shall update the fee~~  
16 ~~methodology and technical report every three years, with analysis from the Technical Advisory~~  
17 ~~Committee, in order to ensure that the affordability gap remains current, consistent with the~~  
18 ~~requirements set forth below in Section 415.5(b)(3) and Section 415.10.~~

19 (3) **Annual Fee Update.** For all housing developments, no later than January 1  
20 of each year, MOHCD shall adjust the fee based on the cost of constructing affordable  
21 housing, including development and land acquisition costs. MOHCD shall provide the  
22 Planning Department, DBI, and the Controller with current information on the adjustment to  
23 the fee so that it can be included in the Planning Department's and DBI's website notice of the  
24 fee adjustments and the Controller's Citywide Development Fee and Development Impact  
25

1 Requirements Report described in Section 409(a). ~~The method of indexing shall be published in~~  
2 ~~the Procedures Manual.~~

3 ~~(4) **Specific Geographic Areas.** For any housing development that is located in an area~~  
4 ~~with a specific affordable housing requirement set forth in a Special Use District, or in any other~~  
5 ~~section of the Code such as Section 419, the higher affordable housing requirement shall apply.~~

6 ~~(5) The applicable amount of the inclusionary housing fee shall be determined based~~  
7 ~~upon the date that the project sponsor has submitted a complete Environmental Evaluation application.~~  
8 ~~In the event the project sponsor does not procure a building permit or site permit for construction of~~  
9 ~~the principal project within 30 months of the project's approval, the development project shall comply~~  
10 ~~with the inclusionary affordable housing requirements applicable thereafter at the time when the~~  
11 ~~project sponsor does proceed with pursuing a building permit. Such time period shall be extended in~~  
12 ~~the event of any litigation seeking to invalidate the City's approval of such project, for the duration of~~  
13 ~~the litigation.~~

14 ~~(6) The fee shall be imposed on any additional units or square footage authorized and~~  
15 ~~developed under California Government Code Sections 65915 et seq.~~

16 ~~(7) If the principal project has resulted in demolition of affordable housing units that~~  
17 ~~are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons~~  
18 ~~and families of moderate-, low- or very low-income, or housing that is subject to any form of rent or~~  
19 ~~price control through a public entity's valid exercise of its police power and determined to be~~  
20 ~~affordable housing, the project sponsor shall comply with Section 317.2.~~

21 ~~(c) **Notice to Development Fee Collection Unit of Amount Owed.** Prior to issuance of the first~~  
22 ~~construction document for a development project subject to Section 415.5, the Planning Department~~  
23 ~~shall notify the Development Fee Collection Unit at DBI electronically or in writing of its calculation~~  
24 ~~of the amount of the fee owed.~~

1           ~~(d)(c)~~ **Lien Proceedings.** If, for any reason, the Affordable Housing Fee imposed  
2 pursuant to Section 415.5 remains unpaid following issuance of the ~~first~~First Certificate of  
3 Occupancy for the Residential Use, the Development Fee Collection Unit at DBI shall institute  
4 lien proceedings to make the entire unpaid balance of the fee, plus interest and any deferral  
5 surcharge, a lien against all parcels used for the development project in accordance with  
6 Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code.

7           ~~(e) If a housing project is located in an Area Plan with an additional or specific affordable~~  
8 ~~housing requirements such as those set forth in a special use district or Sections 416, 417, and 419 or~~  
9 ~~elsewhere in this code, the higher housing requirement shall apply.~~

10          ~~(f)(d)~~ **Use of Fees.** All monies contributed pursuant to the Inclusionary Affordable  
11 Housing Program shall be deposited in the Citywide Affordable Housing Fund ("Fund"),  
12 established in Administrative Code Section 10.100-49, ~~except as specified below~~. MOHCD shall  
13 use the funds collected under this Section 415.5 in the following manner:

14                 (1) Except as provided in subsection (2) below, the funds collected under this  
15 Section shall be used to:

16                         (A) increase the supply of housing Affordable to Qualifying Households  
17 subject to the conditions of this Section; ~~and~~

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

19                         (C) pay the expenses of MOHCD in connection with monitoring and  
20 administering compliance with the requirements of the Program. MOHCD is authorized to use  
21 funds in an amount not to exceed \$200,000 every 5 years to ~~conduct follow-up studies under~~  
22 ~~Section 415.9(e) and to~~ update the ~~a~~Affordable ~~h~~Housing ~~f~~Fee amounts as described above in  
23 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated  
24 through the annual budget process or supplemental appropriation for MOHCD.

~~(D) Funds from this fee collected from projects within the Central SoMa Special Use District shall be accounted for separately and expended only within the area bounded by Market Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue.~~

(2) **“Small Sites Funds.”**

(A) **Designation of Funds.** MOHCD shall designate and separately account for 10% of all fees that it receives under Section 415.1 et seq. that are deposited into the Fund, ~~excluding fees that are geographically targeted such as those referred to in Sections 249.78(e)(1), 415.5(b)(1), and 827(b)(1),~~ to support acquisition and rehabilitation of Small Sites (“Small Sites Funds”). When the total amount of fees paid to the City under Section 415.1 et seq. ~~totals~~ is less than \$10 million over the preceding 12-month period, MOHCD is authorized to temporarily divert funds from the Small Sites Funds for other purposes. MOHCD shall keep track of the diverted funds, however, such that when the amount of fees paid to the City under Section 415.1 et seq. meets or exceeds \$10 million over the preceding 12-month period, MOHCD shall commit all of the previously diverted funds and 10% of any new funds to the Small Sites Funds.

(B) **Use of Small Sites Funds.** The funds shall be used exclusively to acquire or rehabilitate “Small Sites” defined as properties consisting of 2-25 units. ~~Units supported by monies from the fund shall be designated as housing affordable to qualified households for the life of the project. Properties supported by the Small Sites Funds must be:~~

- ~~(i) rental properties that will be maintained as rental properties;~~
- ~~(ii) vacant properties that were formerly rental properties as long as those properties have been vacant for a minimum of two years prior to the effective date of this legislation;~~
- ~~(iii) properties that have been the subject of foreclosure; or~~

1 ~~(iv) a Limited Equity Housing Cooperative as defined in Subdivision~~  
2 ~~Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity modeled as a~~  
3 ~~Community Land Trust.~~

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

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

12 ~~(E)~~(D) **Intent.** In establishing guidelines for Small Sites Funds, the Board  
13 of Supervisors does not intend to preclude MOHCD from expending other eligible sources of  
14 funding on Small Sites as described in this Section 415.5.

15 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD  
16 requires the project sponsor or its successor in interest to give preference as provided in  
17 Administrative Code Chapter 47.

18 ~~(4) Pursuant to Section 249.78(e)(1), all monies contributed pursuant to the~~  
19 ~~Inclusionary Affordable Housing Program and collected within the Central SoMa Special Use District~~  
20 ~~shall be paid into the Citywide Affordable Housing Fund, but the funds shall be separately accounted~~  
21 ~~for. Such funds shall be expended within the area bounded by Market Street, the Embarcadero, King~~  
22 ~~Street, Division Street, and South Van Ness Avenue.~~

23 (ge) **Alternatives to Payment of Affordable Housing Fee.**

24 (1) ~~Eligibility:~~ A project sponsor must pay the Affordable Housing Fee unless it  
25 chooses to meet the requirements of the Program through an Alternative provided in Section

1 ~~415.6 (On-site Alternative) or Section 415.7 (Land Dedication/Off-site Alternative) this subsection (g).~~

2 The project sponsor may satisfy the requirements of the Program through a combination of  
3 Alternatives, provided that the project sponsor constructs, dedicates, or pays the fee at the appropriate  
4 percentage or fee level required for that option. ~~choose one of the following Alternatives:~~

5 ~~(A) **Alternative #1: On-Site Units.** Project sponsors may elect to construct units~~  
6 ~~Affordable to Qualifying Households on-site of the Principal Project pursuant to the requirements of~~  
7 ~~Section 415.6.~~

8 ~~(B) **Alternative #2: Off-Site Units.** Project sponsors may elect to construct units~~  
9 ~~Affordable to Qualifying Households at an alternative site within the City and County of San Francisco~~  
10 ~~pursuant to the requirements of Section 415.7.~~

11 ~~(C) **Alternative #3: Small Sites.** Qualifying project sponsors may elect to fund~~  
12 ~~buildings as set forth in Section 415.7-1.~~

13 ~~(D) **Alternative #4: Combination.** Project sponsors may elect any combination~~  
14 ~~of payment of the Affordable Housing Fee as provided in Section 415.5, construction of on-site units as~~  
15 ~~provided in Section 415.6, or construction of off-site units as provided in Section 415.7, provided that~~  
16 ~~the project applicant constructs or pays the fee at the appropriate percentage or fee level required for~~  
17 ~~that option. Development Projects that are providing on-site units under Section 415.6 and that qualify~~  
18 ~~for and receive additional density under California Government Code Sections 65915 et seq. shall use~~  
19 ~~Alternative #4 to pay the Affordable Housing Fee on any additional units or square footage authorized~~  
20 ~~under Section 65915.~~

21 (2) A project sponsor who elects to satisfy Section 415.1 et seq. by choosing  
22 through one of the alternatives described an Alternative set forth in Section 415.6 or  
23 415.7~~415.5(g)(1)~~, must provide written notice of their election 30 days prior to project approval  
24 by the ~~Planning~~ Commission or Department, as applicable. The ~~Planning~~ Commission or the  
25 Department may not require a project sponsor to select a specific Alternative. The Alternative

1 will be a condition of project approval and recorded against the property in a Notice of Special  
2 Restrictions.

3 ~~(3) **Modification of Elected Alternative.** Except as specified below, after project~~  
4 ~~approval, any proposed change in the alternative elected by a project sponsor under Section~~  
5 ~~415.5(g)(1), or any proposed change from an Ownership Project to a Rental Project, or from a Rental~~  
6 ~~Project to an Ownership Project, shall require public notice for a hearing and approval from the~~  
7 ~~Planning Commission to amend the conditions of approval. Public notice shall be as required by the~~  
8 ~~original entitlement.~~

9 ~~(4) Notwithstanding subsection (g)(3), if such modification is requested prior to~~  
10 ~~issuance of a first construction document, the Zoning Administrator or the Zoning Administrator's~~  
11 ~~designee may modify conditions of approval to allow a project that had elected to pay the Affordable~~  
12 ~~Housing Fee to change from an Ownership Project to a Rental Project or a Rental Project to an~~  
13 ~~Ownership Project, or to allow a project that had elected to pay the Affordable Housing Fee to provide~~  
14 ~~on-site units under Section 415.6.~~

15 ~~(5) If a project sponsor requests a modification to its conditions of approval for the sole~~  
16 ~~purpose of complying with this Section 415.5(g)(3), the Planning Commission shall be limited to~~  
17 ~~considering issues related to Section 415 et seq. in considering the request for modification. The~~  
18 ~~Planning Commission shall approve such modification if it finds all of the following:~~

19 ~~(A) The project sponsor complied with the applicable requirements for~~  
20 ~~modification set forth in the Procedures Manual including protections for current occupants, if any, of~~  
21 ~~Rental Units or Owned Units;~~

22 ~~(B) The modification will not result in a delay in marketing any On-Site Units at~~  
23 ~~the same time as the market-rate housing in the project;~~

24 ~~(C) If a Rental Housing Project was granted a density bonus pursuant to Section~~  
25 ~~206, the change from a Rental Housing Project to an Ownership Housing Project provides On-Site~~

1 ~~Units in an amount such that the Ownership Housing Project qualifies for the same density bonus,~~  
2 ~~waivers, and/or incentives and concessions that were granted to the Rental Housing Project;~~

3 ~~(D) If a Rental Housing Project is converting to an Ownership Housing Project,~~  
4 ~~the amount of Affordable Housing Fee or number of On-Site Units complies with Section 415.6(a)(7);~~

5 ~~(E) For projects that chose to provide On-site or Off-site units and seek a~~  
6 ~~modification of the conditions of approval to pay the Affordable Housing Fee prior to the issuance of~~  
7 ~~the first construction permit, the project sponsor shall pay the Affordable Housing Fee equivalent to the~~  
8 ~~loss of On-site or Off-site Affordable Housing units that were approved in the original conditions of~~  
9 ~~approval; and~~

10 ~~(F) For projects that chose to provide On-site or Off-site units and seek a~~  
11 ~~modification of the conditions of approval to pay the Affordable Housing Fee after the issuance of the~~  
12 ~~first construction document, the project sponsor or its successor shall pay the Affordable Housing Fee~~  
13 ~~equivalent to the loss of On-site or Off-site Affordable Housing units that were approved in the original~~  
14 ~~conditions of approval, plus interest and any applicable penalties provided for under this Code.~~

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

17 If a project sponsor elects to provide ~~on-site~~ On-site units pursuant to Section 415.5(~~ge~~),  
18 the development project shall meet the following requirements:

19 (a) **Number of Units.** The number of units constructed on-site shall be as follows:

20 ~~(1) For housing development projects consisting of 10 dwelling units or more, but less~~  
21 ~~than 25 dwelling units, the number of affordable units constructed on-site shall generally be 12% of all~~  
22 ~~units constructed on the project site. The affordable units shall all be affordable to low-income~~  
23 ~~households. Owned Units shall be affordable to households earning up to 100% of Area Median~~  
24 ~~Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units shall be~~

~~affordable to households earning up to 65% of Area Median Income, with an affordable rent set at 55% of Area Median Income or less.~~

(21) For any Ownership Housing Project ~~consisting of 25 or more units~~, the number of Affordable Units constructed on-site shall ~~generally~~ be ~~20%~~ 5% of all units constructed on the project site. A minimum of ~~10%~~ 4% of the units shall be affordable to low-income households, ~~and 1%-5% of the units shall be affordable to moderate-income households, and 5% of the units shall be affordable to middle-income households. In no case shall the total number of Affordable Units required exceed the number required as determined by the application of the applicable on-site requirement rate to the total project units.~~ Owned Units for low-income households shall have an affordable purchase price set at 80% of Area Median Income or less, with households earning up to 100% of Area Median Income eligible to apply for low-income units. Owned Units for moderate-income households shall have an affordable purchase price set at ~~105%~~ 100% of Area Median Income or less, with households earning ~~from 95% more than 100% and up to~~ 120% of Area Median Income eligible to apply for moderate-income units. ~~Owned Units for middle-income households shall have an affordable purchase price set at 130% of Area Median Income or less, with households earning from 120% to 150% of Area Median Income eligible to apply for middle-income units. For any Affordable Units with purchase prices set at 130% of Area Median Income, the units shall have a minimum occupancy of two persons. This unit requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than February 26, 2018.~~ MOHCD may reduce Area Median Income pricing and the minimum income required for eligibility in each ownership category.

(32) For any Rental Housing Project ~~consisting of 25 or more units~~, the number of Affordable Units constructed on-site shall ~~generally~~ be ~~18%~~ 5% of all units constructed on the project site, with a minimum of ~~10%~~ 4% of the units affordable to low-income households, ~~4% and 1% of the units affordable to moderate-income households, and 4% of the units affordable to~~

1 ~~middle-income households. In no case shall the total number of Affordable Units required exceed the~~  
2 ~~number required as determined by the application of the applicable on-site requirement rate to the total~~  
3 ~~project units.~~ Rental Units for low-income households shall have an affordable rent set at 55%  
4 of Area Median Income or less, with households earning up to 65% of Area Median Income  
5 eligible to apply for low-income units. Rental Units for moderate-income households shall  
6 have an affordable rent set at 80% of Area Median Income or less, with households earning  
7 ~~from 65% up to~~ 90% of Area Median Income eligible to apply for moderate-income units. ~~Rental~~  
8 ~~Units for middle-income households shall have an affordable rent set at 110% of Area Median Income~~  
9 ~~or less, with households earning from 90% to 130% of Area Median Income eligible to apply for~~  
10 ~~middle-income units. For any Affordable Units with rental rates set at 110% of Area Median Income,~~  
11 ~~the units shall have a minimum occupancy of two persons. This unit requirement shall be outlined~~  
12 ~~within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than~~  
13 ~~February 26, 2018.~~ MOHCD may reduce Area Median Income pricing and the minimum income  
14 required for eligibility in each rental category, and may apply the income eligibility ranges set forth  
15 in this subsection (a)(2) to previously approved Rental Units.

16 ~~(4)(3)~~ Notwithstanding the foregoing Area Median Income limits for Rental Units  
17 and Owned Units, the maximum affordable rents or sales price shall be no higher than 20%  
18 below market rents or sales prices for the neighborhood within which the project is located,  
19 which shall be defined as within one mile of the project site. ~~in accordance with the American~~  
20 ~~Community Survey Neighborhood Profile Boundaries Map.~~ MOHCD shall adjust the allowable  
21 rents and sales prices, ~~and the eligible households for such units,~~ accordingly, and consistent with  
22 the Procedures Manual, and such potential readjustment shall be a condition of approval upon  
23 project entitlement. The City shall periodically review the updated data on neighborhood rents  
24 and sales prices ~~on an annual basis.~~

1                    (4) Method of Calculation. The on-site inclusionary requirement shall be calculated by  
2                    applying the on-site rate to the total number of Residential Units in the project, or for projects seeking  
3                    approval under California Government Code Section 65915, by applying the On-site rate to the total  
4                    number of Residential Units in the base project prior to any bonus units allowed. If the total number of  
5                    units is not a whole number, the project sponsor shall round up to the nearest whole number for any  
6                    portion that is .5 or above. In no case shall the total number of Affordable Units required exceed the  
7                    number required as determined by the application of the applicable On-site rate to the total project  
8                    units. If rounding each of the AMI levels results in more Affordable Units than required, the number  
9                    with the lowest remainder will not be rounded up. If the rounding of each of the AMI levels results in  
10                   fewer Affordable Units than required, then the number of with the highest remainder shall be rounded  
11                   up.

12                   ~~(5) Starting on January 1, 2018, and no later than January 1 of each year thereafter,~~  
13                   ~~MOHCD shall increase the percentage of units required on-site for projects consisting of 10 – 24 units,~~  
14                   ~~as set forth in Section 415.6(a)(1), by increments of 0.5% each year, until such requirement is 15%.~~  
15                   ~~For all development projects with 25 or more units, the required on-site affordable ownership housing~~  
16                   ~~to satisfy this Section 415.6 shall increase by 1% annually for two consecutive years starting January~~  
17                   ~~1, 2018. The increase shall be apportioned to units affordable to low income households, as defined~~  
18                   ~~above in subsection 415.6(a)(3). Starting January 1, 2020, the increase to on-site housing~~  
19                   ~~developments with 25 or more units shall increase by 0.5% annually, with such increases allocated~~  
20                   ~~equally to moderate and middle income households, as defined above in subsection 415.6(a)(3). The~~  
21                   ~~total on-site inclusionary affordable housing requirement shall not exceed 26% for Ownership Housing~~  
22                   ~~Projects or 24% for Rental Housing Projects, and the increases shall cease at such time as these limits~~  
23                   ~~are reached. MOHCD shall provide the Planning Department, DBI, and the Controller with~~  
24                   ~~information on the adjustment to the on-site percentage so that it can be included in the Planning~~  
25

1 ~~Department's and DBI's website notice of the fee adjustments and the Controller's Citywide~~  
2 ~~Development Fee and Development Impact Requirements Report described in Section 409(a).~~

3 ~~(6) The Department shall require as a condition of Department approval of a project's~~  
4 ~~building permit, or as a condition of approval of a Conditional Use Authorization or Planned Unit~~  
5 ~~Development or as a condition of Department approval of a live/work project, that 12%, 18%, or 20%,~~  
6 ~~as applicable, or such percentage that has been adjusted annually by MOHCD, of all units constructed~~  
7 ~~on the project site shall be Affordable to Qualifying Households so that a project sponsor must~~  
8 ~~construct .12, .18, or .20 times, or such current number as adjusted annually by MOHCD, as~~  
9 ~~applicable, the total number of units produced in the Principal Project. If the total number of units is~~  
10 ~~not a whole number, the project sponsor shall round up to the nearest whole number for any portion of~~  
11 ~~.5 or above. In no case shall the total number of Affordable Units required exceed the number required~~  
12 ~~as determined by the application of the applicable on-site requirement rate to the total project units.~~

13 ~~(7) A project seeking to convert from a Rental Housing Project to an Ownership~~  
14 ~~Housing Project, or from an Ownership Housing Project to a Rental Housing Project, shall require~~  
15 ~~public notice for a hearing and approval from the Planning Commission to amend the conditions of~~  
16 ~~approval for the Principal Project.~~

17 ~~(8) In the event that a Rental Housing Project converts to an Ownership Housing~~  
18 ~~Project, the project sponsor shall either (A) reimburse the City the proportional amount of the~~  
19 ~~inclusionary affordable housing fee, which would be equivalent to the then-current inclusionary~~  
20 ~~affordable fee requirement for Ownership Housing Projects, or (B) provide additional on-site or off-~~  
21 ~~site Affordable Units equivalent to the then-current inclusionary requirements for Ownership Housing~~  
22 ~~Projects, apportioned among the required number of units at various income levels in compliance with~~  
23 ~~the requirements in effect at the time of conversion.~~

24 ~~(9) Notwithstanding subsection 415.6(a)(10) below, Affordable Units in Rental Housing~~  
25 ~~Projects shall be Rental Units, and Affordable Units in Ownership Housing Projects shall be Owned~~

1 ~~Units. In the event an Ownership Housing Project converts to a Rental Housing Project, or more than~~  
2 ~~50% of the total units in the Principal Project operate as a Rental Housing Project, on-site Affordable~~  
3 ~~Units shall be offered as Rental Units. Affordable Units may only be sold as Owned Units if more than~~  
4 ~~50% of the units in the building shall be sold to unaffiliated third party homebuyers and are operated~~  
5 ~~as an Ownership Housing Project.~~

6 ~~(10) A development project consisting of multiple buildings may include both a Rental~~  
7 ~~Housing Project and an Ownership Housing Project with written notice to the Department and~~  
8 ~~MOHCD, at least 30 days prior to approval of the project by the Planning Commission or the Planning~~  
9 ~~Department.~~

10 (5) **Mixed Tenure Projects.** If a project complying with this Section 415.1 et seq. by  
11 providing On-site Units under this Section 415.6 will provide both Rental Units and Ownership Units  
12 (a “Mixed-Tenure Project”), the Mixed-Tenure Project shall satisfy the following minimum  
13 requirements:

14 (A) If more than 50% of the total units within the Mixed-Tenure Project are  
15 Rental Units, all Affordable Units shall be Rental Units. If more than 50% of the total units within the  
16 Mixed-Tenure Project are sold to unaffiliated third-party homebuyers for Owner occupancy, all  
17 Affordable Units shall be Owned Units.

18 (B) Leasing of residential units within a Mixed-Tenure Project shall comply with  
19 applicable requirements published (and as amended or updated from time to time) by the Federal  
20 National Mortgage Association (known as Fannie Mae), Federal Home Loan Mortgage Corporation  
21 (known as Freddie Mac), and/or the Federal Housing Financing Agency (FHFA), including, but not  
22 limited to investor ownership and owner-occupancy thresholds. Any leasing of units within a Mixed-  
23 Tenure Project shall not inhibit (1) mortgage financing eligibility for buyers and/or homeowners,  
24 including, but not limited to Qualified Households, under Fannie Mae, Freddie Mac, and/or FHFA, or  
25 (2) the purchase, sale, or refinancing of any ownership units, including Owned Units.

1 (C) To protect the eligibility of Owned Units for conventional mortgage  
2 financing, project sponsors or owners of units proposed for leasing, as applicable, in a Mixed Tenure  
3 Project shall demonstrate to MOHCD and the Department that the project satisfies the applicable  
4 condominium eligibility requirements published by the Federal National Mortgage Association,  
5 Federal Home Loan Mortgage Corporation, and/or the Federal Housing Financing Agency, or any  
6 successor agency, prior to marketing such units.

7 (D) MOHCD and the Department are authorized to adopt any rules and/or  
8 regulations for the approval of Mixed-Tenure Projects.

9 ~~(11) **Specific Geographic Areas.** For any housing development that is located in an~~  
10 ~~area with a specific affordable housing requirement set forth in a Special Use District or in any other~~  
11 ~~section of the Code such as Section 419, the higher housing requirement shall apply. The Planning~~  
12 ~~Department, in consultation with the Controller, shall undertake a study of areas greater than five~~  
13 ~~acres in size, where an Area Plan, Special Use District, or other re-zoning is being considered for~~  
14 ~~adoption or has been adopted after January 1, 2015, to determine whether a higher on-site~~  
15 ~~inclusionary affordable housing requirement is feasible on sites that have received a 20% or greater~~  
16 ~~increase in developable residential gross floor area or a 35% or greater increase in residential density~~  
17 ~~over prior zoning, and shall submit such information to the Planning Commission and Board of~~  
18 ~~Supervisors.~~

19 ~~(12) If the Principal Project has resulted in demolition, conversion, or removal of~~  
20 ~~affordable housing units that are subject to a recorded covenant, ordinance, or law that restricts rents~~  
21 ~~to levels affordable to persons and families of moderate, low or very low income, or housing that is~~  
22 ~~subject to any form of rent or price control through a public entity's valid exercise of its police power~~  
23 ~~and determined to be affordable housing, the Commission or the Department shall require that the~~  
24 ~~project sponsor replace the number of Affordable Units removed with units of a comparable number of~~  
25

1 ~~bedrooms and sales prices or rents, in addition to compliance with the requirements set forth in this~~  
2 ~~Section.~~

3 ~~(13) The applicable amount of the percentage required for the on-site housing units~~  
4 ~~shall be determined based upon the date that the project sponsor has submitted a complete~~  
5 ~~Environmental Evaluation application. Any development project that constructs on-site affordable~~  
6 ~~housing units as set forth in this Section 415.6 shall diligently pursue completion of such units. In the~~  
7 ~~event the project sponsor does not procure a building permit or site permit for construction of the~~  
8 ~~Principal Project within 30 months of the project's approval, the development project shall comply~~  
9 ~~with the inclusionary affordable housing requirements applicable thereafter at the time when the~~  
10 ~~project sponsor procures a building permit. Such deadline shall be extended in the event of any~~  
11 ~~litigation seeking to invalidate the City's approval of such project, for the duration of the litigation.~~

12 **(6) Affordable Units Provided Consistent with State or Federal Law.**

13 (A) Any On-site Units provided through this Section 415.6 may be used to  
14 qualify for a density bonus under California Government Code Section 65915 or any of the Affordable  
15 Housing Bonus Programs contained in Planning Code Section 206 et seq. An applicant seeking a  
16 density bonus under any State Law shall provide reasonable documentation to establish eligibility for  
17 the requested density bonus, incentive or concession, or waiver or reduction of development standards,  
18 as provided for under that law.

19 (B) On-site Units provided through this Section 415.6 may be used to satisfy or  
20 partially satisfy requirements for deed-restricted units required by Planning Code Section 317.2, or any  
21 state or local streamlining program that requires the provision of on-site affordable units, including,  
22 but not limited to, Government Code Sections 65913.4, 65912.100 et seq., and 65658. To qualify as an  
23 Inclusionary Unit through both this Section 415.6 and under any state law or Section 317.2, such unit  
24 shall meet the requirements of Section 415.1 et seq. ~~(b) Any On-site units provided through this Section~~  
25 ~~415.6 may be used to qualify for a density bonus under California Government Code Section 65915;~~

1 ~~any ordinance implementing Government Code Section 65915, or one of the Affordable Housing Bonus~~  
2 ~~Programs contained in Planning Code Section 206 et seq. An applicant seeking a density bonus under~~  
3 ~~State Law shall provide reasonable documentation to establish eligibility for a requested density bonus,~~  
4 ~~incentive or concession, and waiver or reduction of development standards, as provided for under State~~  
5 ~~Law and as consistent with the process and procedures detailed in a locally adopted ordinance~~  
6 ~~implementing the State Law.~~

7 ~~(e) Beginning in January 2018, the Planning Department shall prepare an annual report to the~~  
8 ~~Planning Commission about the number of density bonus projects under California Government Code~~  
9 ~~Section 65915, the number of density bonus units, and the types of concessions and incentives and~~  
10 ~~waivers provided to each density bonus project.~~

11 ~~(d) In the event the project sponsor is eligible for and elects to receive additional density under~~  
12 ~~California Government Code Section 65915, the Sponsor shall pay the Affordable Housing Fee on any~~  
13 ~~additional units or square footage authorized under that section in accordance with the provisions in~~  
14 ~~Section 415.5(g)(1)(D).~~

15 ~~(e)(b)~~ **Timing of Construction.** On-site affordable housing required by this Section  
16 415.6 shall be constructed, completed, and ready for occupancy, ~~and marketed~~ no later than  
17 the market rate units in the Principal Project. Affordable Rental Units shall be marketed  
18 concurrently with Market Rate Rental Units. Affordable Owned Units shall comply with the presale and  
19 marketing requirements set forth in the Procedures Manual, as amended from time to time. A project  
20 shall not receive its ~~first certificate of occupancy~~ First Certificate of Occupancy until MOHCD has  
21 approved the marketing plan.

22 ~~(fc)~~ **Type of Housing-Affordable Unit Designation Standards.** Except for Housing Projects  
23 consisting of more than 20% of total units as Affordable Units, Affordable Units constructed under this  
24 Section 415.6 shall comply with the following requirements:

1                   (1) **Equivalency of Units.** ~~In general,~~ Affordable Units ~~constructed~~ required under  
2 this Section 415.6 shall ~~be comparable in number of bedrooms, exterior appearance, and overall~~  
3 ~~quality of construction to market rate units in the Principal Project. A Notice of Special Restrictions~~  
4 ~~shall be recorded prior to issuance of the architectural addendum to the Site Permit for the project or~~  
5 ~~building permit for the project, whichever is earlier and shall specify the number, location, and sizes~~  
6 ~~for all Affordable Units required under this subsection (f). The Affordable Units shall be evenly~~  
7 ~~distributed throughout the building. For buildings over 120 feet in height, as measured under the~~  
8 ~~requirements set forth in the Planning Code, the Affordable Units may be distributed throughout the~~  
9 ~~lower 2/3 of the building, as measured by the number of residential floors~~ comply with the following  
10 equivalency criteria:

11                               (A) Reflect the Principal Project's unit mix, calculated by multiplying the  
12 number of each unit type by the required On-site percentage.

13                               (B) Be evenly distributed throughout the building. For the purposes of this  
14 subsection (B), "evenly distributed" shall mean that the Affordable Units are distributed proportionally  
15 throughout the Principal Project based on the total units per floor. For buildings over 120 feet in  
16 height, as measured under the requirements set forth in this Code, the Affordable Units may be evenly  
17 distributed throughout the lower 2/3 of the building, as measured by the number of residential floors.  
18 For buildings at or under 120 feet in height, the Affordable Units must be evenly distributed throughout  
19 the residential floors of the entire building.

20                               (C) Be proportional in the number of bedrooms and bathrooms, and be  
21 comparable in exterior appearance and overall quality of construction to the market rate units in the  
22 Principal Project.

23                               (D) The Interior features in Affordable Units should be generally the same  
24 as those of the market rate units in the Principal Project, but need not be the same make,  
25

model or type of such item as long as they are of good and new quality and are consistent with then-current standards for new housing.

(E) If the Principal Project is required to provide a mix of income levels, the income levels shall be proportionally distributed throughout all of the unit types. The Zoning Administrator shall provide the methodology for compliance with this subsection.

(F) Where applicable, parking shall be offered to the Affordable Units subject to the terms and conditions of the Department's policy on ~~unbundled~~ parking for affordable housing units as specified in the Procedures Manual and amended from time to time.

(G) If a Housing Project is constructed in multiple phases or consists of multiple buildings, On-site Affordable Units shall be distributed proportionally throughout the buildings or phases.

(2) **Minimum Size of Affordable Units.** The Affordable Units are not required to be the same size as the market rate units. For buildings over 120 feet in height, as measured under the requirements set forth in the Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the building, as measured by the number of residential floors. All units shall be no smaller than the minimum unit sizes set forth by the California Tax Credit Allocation Committee as of May 16, 2017 as indicated in the table below, and no smaller than 300 square feet for studios.

| Unit Type     | Minimum Unit Size in Square Feet |
|---------------|----------------------------------|
| One-bedroom   | 450                              |
| Two-bedroom   | 700                              |
| Three-bedroom | 900                              |
| Four-bedroom  | 1,000                            |

1           The total residential floor area devoted to the affordable units shall not be less than the  
2 applicable percentage applied to the total residential floor area of the Principal Project,  
3 provided that a 10% variation in floor area is permitted.

4           (~~gd~~) **Marketing the Units.** MOHCD shall be responsible for overseeing and monitoring  
5 the marketing of Affordable Units by the Project Sponsor under this Section 415.6. In general,  
6 the marketing requirements and procedures shall be contained in the Procedures Manual as  
7 amended from time to time and shall apply to the Affordable Units in the project. MOHCD may  
8 develop occupancy standards for units of different bedroom sizes in the Procedures Manual in  
9 order to promote an efficient allocation of Affordable Units. MOHCD may require in the  
10 Procedures Manual that prospective purchasers complete homebuyer education training or  
11 fulfill other requirements. MOHCD shall develop a list of minimum qualifications for marketing  
12 firms that market Affordable Units under Section 415.6 *et seq.*, referred to in the Procedures  
13 Manual as Below Market Rate (BMR units). Developers marketing Affordable Units under  
14 Section 415.6 shall market the Affordable Units through a marketing firm meeting all of the  
15 minimum qualifications. The Notice of Special Restrictions or conditions of approval shall  
16 specify that the marketing requirements and procedures contained in the Procedures Manual  
17 as amended from time to time, shall apply to the Affordable Units in the project.

18           (1) **Notice of Special Restrictions.** The Notice of Special Restrictions ("NSR")  
19 required pursuant to this Section 415.6 shall be completed and recorded by the project  
20 sponsor ~~no later than~~ prior to the issuance of the architectural addendum for the site permit, or  
21 the building permit, whichever is earlier, and in all events not less than ~~and at least~~ 12 months prior  
22 to the issuance of the First Certificate of Occupancy. ~~first certificate of occupancy.~~ The NSR shall  
23 specify the unit number, location, square footage, and AMI level for each Affordable Unit required  
24 under this Section 415.6.

1                   (2) **Pricing Determination.** The project sponsor shall submit a request for a  
2 pricing determination from MOHCD at least 8 months prior to issuance of a First Certificate of  
3 Occupancy. ~~first certificate of occupancy.~~

4                   (3) **Timeline for Construction.** After the project has been Finally Approved  
5 ~~approved by the Planning Commission or Department,~~ the project sponsor ~~must~~ shall respond ~~submit~~  
6 ~~an update~~ to the Department and MOHCD's Construction Survey, which includes an estimated  
7 timeline for the construction of the project, within 30 days of receipt of such survey. The estimated  
8 construction timeline must assume the requirements of subsections (gd)(1) and (gd)(2) above.  
9 Failure to finalize the NSR or initiate marketing within the time frames set forth in this Section  
10 415.6(gd), or to submit an estimated construction timeline will be deemed a violation of the  
11 Planning Code subject to enforcement and penalties.

12                  (4) **Lottery.** At the initial offering of Affordable Units in a housing project and  
13 when Affordable Units become available for re-sale or re-rent in any housing project subject to  
14 this Program after the initial offering, MOHCD must require the use of a public lottery  
15 approved by MOHCD to select purchasers or tenants.

16                  (5) **Preferences.** MOHCD shall create a lottery system that gives preference  
17 according to the provisions of Administrative Code Chapter 47. MOHCD shall ~~propose~~ create  
18 policies and procedures for implementing these preferences. ~~to the Planning Commission for~~  
19 ~~inclusion as an addendum to the Procedures Manual.~~ In accordance with Administrative Code Chapter  
20 47, MOHCD shall provide an annual report on implementation of this subsection (d)(5). Otherwise, it  
21 is the policy of the City to treat all households equally in allocating affordable units under this  
22 Program.

23                  ~~(he)~~ **Use of Subsidies.**

24                  (1) **Generally Prohibited.** Individual affordable units constructed under Section  
25 415.6 as part of an on-site project shall not have received development subsidies from any

1 Federal, State, or local program established for the purpose of providing affordable housing.  
2 Units that have received such development subsidies shall not be counted to satisfy any  
3 affordable housing requirement.

4 (2) **Exceptions:** Notwithstanding subsection (e)(1), subsidies may be used to:

5 (A) ~~Notwithstanding subsection (h)(1), subsidies may be used to~~ deepen the  
6 affordability of an affordable unit beyond the level of affordability required by this Program with  
7 the express written permission of MOHCD; or:

8 (B) ~~CDLAC and TCAC. Notwithstanding the provisions of subsection~~  
9 ~~415.6(h)(1) and (h)(2)(A) above, a project may use California Debt Limit Allocation Committee~~  
10 ~~(CDLAC) tax-exempt bond financing, 4% tax credits under the Tax Credit Allocation Committee~~  
11 ~~(TCAC), and tax credits allocated under the TCAC guidelines to help fund its obligations under Section~~  
12 ~~415.1 et seq. as long as the project provides at least one of the following: (i) 20% of the units as~~  
13 ~~affordable to households at 50% of Area Median Income for on-site housing; (ii) 10% of the units as~~  
14 ~~affordable to households at 50% of Area Median Income and 30% of the units as affordable to~~  
15 ~~households at 60% of Area Median Income for on-site housing; or (iii) provide~~ the same number of  
16 ~~on-site affordable units~~ On-site Affordable Units as required by the applicable ~~on-site~~ On-site  
17 affordable housing requirement in this Section 415.1 et seq. ~~or any temporary reduction as set~~  
18 ~~forth in Sections 415A et seq. or 415B et seq., plus an additional number of on-site affordable units~~  
19 On-site Affordable Units equal to 25% of the ~~number of required applicable on-site affordable units~~  
20 On-site Affordable Units, as affordable Affordable to households Households at or below 80% of  
21 Area Median Income. The income table to be used for such projects when the units are  
22 priced at 50%, 60%, or 80% of Area Median Income is the income table used by MOHCD for  
23 the Inclusionary Affordable Housing Program, ~~not that used by TCAC or CDLAC~~. Except as  
24 provided in this subsection ~~(h)(2)(B)~~, all Affordable Units ~~units~~ provided under this Section

1 must meet all of the requirements of Section 415.1 et seq. and the Procedures Manual for on-  
2 site housing.

3 ~~(3) **Reporting.** MOHCD shall monitor state and federal funding for 100% affordable~~  
4 ~~housing projects, awards made by TCAC and CDLAC to 100% affordable housing projects in San~~  
5 ~~Francisco, and any changes to the regulations of TCAC and CDLAC. MOHCD shall provide to the~~  
6 ~~Inclusionary Housing Technical Advisory Committee, established in Administrative Code Chapter 5~~  
7 ~~Article XXIX, a written report of projects approved under Section 415.6(h)(2)(B), 100% affordable~~  
8 ~~housing projects applying for tax exempt bond financing under CDLAC and tax credits under TCAC,~~  
9 ~~and challenges for 100% affordable housing projects to obtain an award from CDLAC and TCAC.~~

10 ~~(j) **Benefits.** If the project sponsor elects to satisfy the affordable housing requirements through~~  
11 ~~the production of on-site affordable housing in this Section 415.6, the project sponsor shall be eligible~~  
12 ~~to receive a refund for only that portion of the housing project which is affordable for the following~~  
13 ~~fees: a Conditional Use authorization or other fee required by Section 352 of this Code, if applicable;~~  
14 ~~an environmental review fee required by Administrative Code Section 31.22, if applicable; a building~~  
15 ~~permit fee required by Section 355 of this Code for the portion of the housing project that is affordable.~~  
16 ~~The project sponsor shall pay the building fee for the portion of the project that is market-rate. An~~  
17 ~~application for a refund must be made within six months from the issuance of the first certificate of~~  
18 ~~occupancy.~~

19 ~~The Controller shall refund fees from any appropriated funds to the project sponsor on~~  
20 ~~application by the project sponsor. The application must include a copy of the Certificate of Occupancy~~  
21 ~~for all units affordable to a qualifying household required by the Inclusionary Housing Program. It is~~  
22 ~~the policy of the Board of Supervisors to appropriate money for this purpose from the General Fund.~~

23 ~~(f) **Public Notice.** The Planning Department shall note the existence of any Affordable~~  
24 ~~Units provided under this Section 415.6 on a publicly-accessible website.~~

1           **SEC. 415.7. LAND DEDICATION AND OFF-SITE ALTERNATIVES TO THE**  
2           **AFFORDABLE HOUSING FEE ALTERNATIVE.**

3           *A project sponsor may elect to satisfy the requirements of Section 415.1 et seq. by dedicating*  
4           *land for affordable housing to the City, or by providing Affordable Off-site Units as set forth below.*

5           *(a) **Land Dedication Alternative.** A project sponsor may dedicate a parcel of land to the City*  
6           *and County of San Francisco for the purpose of constructing units Affordable to Qualifying*  
7           *Households. To meet the requirements of this Alternative, the developer must convey title to land in fee*  
8           *simple absolute to the City according to the Procedures Manual, provided the dedicated site is deemed*  
9           *of equivalent or greater value to the Principal Site per those procedures, and is in line with the*  
10          *following requirements:*

11                   *(1) The dedicated site will result in a total amount of Affordable Units of not less than*  
12                   *70 units, as determined by MOHCD. MOHCD may approve and accept dedicated sites which result in*  
13                   *fewer units, but no less than the number of units set forth in subsection (a)(3), at its sole discretion.*

14                   *(2) The dedicated site is located within one mile of the Principal Project, except that for*  
15                   *Principal Projects located in one of the areas listed in Section 415.7(a)(3), or in a Well-Resourced*  
16                   *Neighborhood as defined in Section 436, the dedicated site may be located within one mile of the*  
17                   *Principal Project or anywhere within that area.*

18                   *(3) The dedicated site will result in a total number of Affordable Units as follows:*

19                           *(A) Except as otherwise specified in subsection (a)(3)(B), equivalent to or*  
20                           *greater than 10% of the units that will be provided on the Principal Site;*

21                           *(B) Equivalent to or greater than 15% of the units that will be provided on the*  
22                           *Principal Site if the Principal Site is in the following areas or districts:*

23                                   *(i) Mission Area Plan (See San Francisco General Plan, Eastern*  
24                                   *Neighborhoods Area Plan, Map I);*

25                                   *(ii) SoMa Neighborhood Commercial Transit District (Section 753);*

1 (iii) North of Market Residential Special Use District (Section 249.5);  
2 (iv) South of Market Youth and Family Special Use District (Section  
3 249.38);  
4 (v) Urban Mixed Use (UMU) District (See Section 838);  
5 (vi) Western SoMa Special Use District (Section 249.39) and  
6 (vii) Central South of Market (Central SOMA) Special Use District  
7 (Section 249.78).

8 (4) The dedicated site is deemed suitable by MOHCD based on size, configuration,  
9 physical characteristics, physical and environmental constraints, access, location, adjacent use, and  
10 other relevant planning criteria.

11 (5) The dedicated site includes infrastructure necessary to serve the Affordable Units,  
12 including sewer, utilities, water, light, street access, and sidewalks.

13 (6) The developer must submit full environmental clearance, including any required  
14 remediation, for the dedicated site before the land can be considered for conveyance, and before a first  
15 site or building permit may be conferred upon the Principal Project.

16 (7) The City may accept dedicated sites that vary from the minimum threshold, provided  
17 such a dedication is deemed generally equivalent to the original requirement by MOHCD.

18 (8) The City may accept dedicated sites that meet the above requirements in accordance  
19 with the Procedures Manual, in combination with fees or On-site Units, provided such a combination is  
20 deemed generally equivalent by MOHCD to the original requirement.

21 (9) The project applicant has a letter from MOHCD verifying acceptance of the  
22 dedicated site before the project is Finally Approved, which shall be used to verify land dedication as a  
23 condition of approval.

24 (b) Off-Site Affordable Housing Alternative. Project Sponsors may elect to construct units  
25 Affordable to Qualifying Households at an alternative location within the City and County of San

San Francisco pursuant to this Section 415.7(b). If the project sponsor elects pursuant to Section 415.5(~~ge~~) to provide ~~off-site units~~ Off-site Units to satisfy the requirements of Sections 415.1 et seq., the project sponsor shall notify the ~~Planning~~ Department and MOHCD of its intent prior to ~~Final Approval.~~approval of the project by the Planning Commission or Department. The ~~Planning~~ Department and MOHCD shall provide an evaluation of the project's compliance with this Section 415.7 prior to ~~Final Approval.~~approval by the Planning Commission or Planning Department. The development project shall meet the following requirements:

(~~a~~1) **Number of Units.** The number of units constructed off-site shall be as follows:

(A) Except as otherwise specified in subsection (b)(1)(B), the applicable percentage shall be 10%.

(B) The applicable percentage shall be 15% in the following areas or districts:

(i) Mission Area Plan (See San Francisco General Plan, Eastern Neighborhoods Area Plan, Map I);

(ii) SoMa Neighborhood Commercial Transit District (Section 753);

(iii) North of Market Residential Special Use District (Section 249.5);

(iv) South of Market Youth and Family Special Use District (Section 249.38);

(v) Urban Mixed Use (UMU) District (See Section 838); and

(vi) Western SoMa Special Use District (Section 249.39).

~~(1) For any housing development that is located in an area or Special Use District with a specific affordable housing requirement, or in any other Planning Code provision, such as Section 419, the higher off-site housing requirement shall apply.~~

~~(2) For housing development projects consisting of 10 units or more but less than 25 units, the number of Affordable Units constructed off-site shall be 20%, so that a project~~

1 ~~applicant shall construct .20 times the total number of units produced in the Principal Project. If the~~  
2 ~~total number of units is not a whole number, the project applicant shall round up to the nearest whole~~  
3 ~~number for any portion of .5 or above. In no case shall the total number of Affordable Units required~~  
4 ~~exceed the number required as determined by the application of the applicable off-site requirement rate~~  
5 ~~to the total project units. Owned Units shall be affordable to households earning up to 100% of Area~~  
6 ~~Median Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units~~  
7 ~~shall be affordable to households earning up to 65% of Area Median Income, with an affordable rent~~  
8 ~~set at 55% of Area Median Income or less.~~

9 (32) For any Ownership Housing Project not listed in an area or district set  
10 forth in subsection (b)(1)(B), consisting of 25 or more units, the number of Affordable Units  
11 constructed off-site shall be 33% of all units constructed on the project site, with a minimum of 8%  
12 18% of the units shall be affordable to low-income households, 8% and 2% of the units shall be  
13 affordable to moderate-income households, and 7% of the units affordable to middle income  
14 households. For any Ownership Housing Project in an area or district listed in subsection (b)(1)(B), a  
15 minimum of 12% of the units shall be affordable to low-income households and 3% of the units shall be  
16 affordable to moderate-income households. In no case shall the total number of Affordable Units  
17 required exceed the number required as determined by the application of the applicable off-  
18 site requirement rate to the total project units. Owned Units for low-income households shall  
19 have an affordable purchase price set at 80% of Area Median Income or less, with  
20 households earning up to 100% of Area Median Income eligible to apply for low-income units.  
21 Owned Units for moderate-income households shall have an affordable purchase price set at  
22 ~~105~~100% of Area Median Income or less, with households earning from 95% to 120% of Area  
23 Median Income eligible to apply for moderate-income units. ~~Owned Units for middle-income~~  
24 ~~households shall have an affordable purchase price set at 130% of Area Median Income or less, with~~  
25 ~~households earning from 120% to 150% of Area Median Income eligible to apply for middle-income~~

1 ~~units. For any Affordable Units with purchase prices set at 100% of Area Median Income or above, the~~  
2 ~~units shall have a minimum occupancy of two persons. This unit requirement shall be outlined within~~  
3 ~~the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than February 26,~~  
4 ~~2018. MOHCD may reduce Area Median Income pricing and the minimum income required for~~  
5 ~~eligibility in each rental category.~~

6 (43) For any Rental Housing Project not listed in an area or district set forth in  
7 subsection (b)(1)(B), consisting of 25 or more Rental Units, the number of affordable units constructed  
8 off-site shall generally be 30% of all units constructed on the project site, with a minimum of 18% 8%  
9 of the units shall be affordable to low-income households, 6% and 2% of the units shall be  
10 affordable to moderate-income households, and 6% of the units affordable to middle-income  
11 households. For any Rental Housing Project in an area or district listed in subsection (b)(1)(B), a  
12 minimum of 12% of the units shall be affordable to low-income households and 3% of the units shall be  
13 affordable to moderate-income households. In no case shall the total number of affordable units  
14 required exceed the number required as determined by the application of the applicable off-  
15 site requirement rate to the total project units. Rental Units for low-income households shall  
16 have an affordable rent set at 55% of Area Median Income or less, with households earning  
17 up to 65% of Area Median Income eligible to apply for low-income units. Rental Units for  
18 moderate-income households shall have an affordable rent set at 80% of Area Median  
19 Income or less, with households earning ~~from 65% up~~ to 90% of Area Median Income eligible  
20 to apply for moderate-income units. ~~Rental Units for middle-income households shall have an~~  
21 ~~affordable rent set at 110% of Area Median Income or less, with households earning from 90% to~~  
22 ~~130% of Area Median Income eligible to apply for middle-income units. For any affordable units with~~  
23 ~~rental rates set at 100% of Area Median Income or above, the units shall have a minimum occupancy of~~  
24 ~~two persons. This unit requirement shall be outlined within the Mayor's Office of Housing Preferences~~  
25 ~~and Lottery Procedures Manual no later than 6 months following the effective date of the Ordinance~~

1 ~~contained in Board of Supervisors File No. 161351.~~ MOHCD may reduce Area Median Income  
2 pricing and the minimum income required for eligibility in each rental category, and may apply  
3 the income eligibility ranges set forth in this subsection (b)(3) to previously approved Off-site Rental  
4 Units. ~~MOHCD shall set forth in the Procedures Manual the administration of rental units within this~~  
5 ~~range.~~

6 ~~(5) In the event that a Rental Housing project converts to an Ownership Housing~~  
7 ~~project, the Project Sponsor shall either (A) reimburse the City the proportional amount of the~~  
8 ~~Inclusionary Affordable Housing Fee, which would be equivalent to the then-current Inclusionary~~  
9 ~~Affordable Housing Fee requirement for Ownership Housing Projects, or (B) provide additional on-site~~  
10 ~~or off-site Affordable Units equivalent to the then-current inclusionary requirements for Ownership~~  
11 ~~Housing Projects, apportioned among the required number of units at various income levels in~~  
12 ~~compliance with the requirements in effect at the time of conversion.~~

13 ~~(6) The applicable amount of the percentage required for the off-site housing units~~  
14 ~~shall be determined based upon the date that the project sponsor has submitted a complete~~  
15 ~~Environmental Evaluation application. Any development project that constructs off-site affordable~~  
16 ~~housing units as set forth in this Section 415.6 shall diligently pursue completion of such units. In the~~  
17 ~~event the project sponsor does not procure a building permit or site permit for construction of the~~  
18 ~~principal project or the off-site affordable housing project within 30 months of the project's approval,~~  
19 ~~the development project shall comply with the inclusionary affordable housing requirements applicable~~  
20 ~~thereafter at the time when the project sponsor procures a building permit. Such deadline shall be~~  
21 ~~extended in the event of any litigation seeking to invalidate the City's approval of the principal project~~  
22 ~~or off-site affordable housing project for the duration of the litigation.~~

23 ~~(7) If the principal project or the off-site project has resulted in demolition of affordable~~  
24 ~~housing units that are subject to a recorded covenant, ordinance, or law that restricts rents to levels~~  
25 ~~affordable to persons and families of moderate-, low- or very low-income, or housing that is subject to~~

~~any form of rent or price control through a public entity's valid exercise of its police power and determined to be affordable housing, the project sponsor shall comply with Section 317.2.~~

**(b4) Timing of Construction.** The project sponsor shall ensure that the ~~off-site units~~ Off-site Units are constructed, completed, ready for occupancy, and marketed no later than the market rate units in the principal project. In no case shall the Principal Project receive its ~~f~~First ~~e~~Certificate of ~~o~~Occupancy until the off-site project has received its ~~f~~First ~~e~~Certificate of ~~o~~Occupancy. If a Housing Project is constructed in multiple phases or consists of multiple buildings, Off-site Units shall be constructed prior to or concurrently with the first building or phase that contains market rate units.

**(e5) Location of ~~off-site~~ Off-Site housing.**  
~~(1) Except as specified in subsection (ii) below, the off-site units~~ Off-site Units shall be located within one mile of the ~~principal project~~ Principal Project. If the Principal Project is located in an area or district listed in 415.7(b)(1)(B), or in a Well-Resourced Area as defined in Section 436, Off-site Units may be located within one mile of the Principal Project or anywhere within that area or district.

~~(2) Projects within the Central SoMa SUD must be located within the area bounded by Market Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue.~~

**(d6) Type of Housing.** Nothing in this Section shall limit a project sponsor from meeting the requirements of this Section 415.7 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 ~~O~~off-site ~~housing~~ Units. ~~In general, affordable units constructed or otherwise provided under this Section 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 or otherwise provided under this Section shall be no less than the calculation of the total square footage of the on-site market-rate units in the principal project

multiplied by the relevant on-site percentage requirement for the project specified in this Section. The Notice of Special Restrictions or conditions of approval shall include a specific number of units at specified unit sizes – including number of bedrooms and minimum square footage – for affordable units. The interior features in affordable units should generally be the same as those of the market rate units in the principal project but need not be the same make, model, or type of such item as long as they are of new and good quality and are consistent with then-current standards for new housing and so long as they are consistent with the “Quality Standards for Off-Site Affordable Housing Units” found in the Procedures Manual. Where applicable, parking shall be offered to the affordable units subject to the terms and conditions of the Department’s policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time. ~~If the residential units in the principal project are live/work units which do not contain bedrooms or are other types of units which do not contain bedrooms separated from the living space, the off-site units shall be comparable in size according to the following equivalency calculation between live/work and units with bedrooms:~~

| <del>Number of Bedrooms (or for live/work units square foot equivalency)</del> | <del>Number of Persons in Household</del> |
|--------------------------------------------------------------------------------|-------------------------------------------|
| <del>0 (Less than 600 square feet)</del>                                       | <del>1</del>                              |
| <del>1 (601 to 850 square feet)</del>                                          | <del>2</del>                              |
| <del>2 (851 to 1,100 square feet)</del>                                        | <del>3</del>                              |
| <del>3 (1,101 to 1,300 square feet)</del>                                      | <del>4</del>                              |
| <del>4 (More than 1,300 square feet)</del>                                     | <del>5</del>                              |

**(e7) Marketing the Units.** The Project Sponsor shall submit a proposed marketing plan to MOHCD to begin marketing the Affordable Units at least six months prior to the beginning of marketing for any unit in the Principal Project. MOHCD shall approve the

1 marketing plan for the Affordable Units prior to the Project Sponsor marketing any unit in the  
2 Principal Project. Failure to comply shall be deemed a violation of the Planning Code subject  
3 to enforcement and penalties as set forth in Section 415.9. MOHCD shall be responsible for  
4 overseeing and monitoring the marketing of Affordable Units under this Section 415.7. In  
5 general, the marketing requirements and procedures shall be contained in the Procedures  
6 Manual as amended from time to time and shall apply to the Affordable Units in the project.  
7 MOHCD may develop occupancy standards for units of different bedroom sizes in the  
8 Procedures Manual in order to promote an efficient allocation of Affordable Units. MOHCD  
9 may require in the Procedures Manual that prospective purchasers complete homebuyer  
10 education training or fulfill other requirements. MOHCD shall develop a list of minimum  
11 qualifications for marketing firms that market Affordable Units under Section 415.1 et seq.,  
12 referred to in the Procedures Manual as Below Market Rate (BMR units). No project sponsor  
13 marketing units under the Program shall be able to market BMR units except through a firm  
14 meeting all of the minimum qualifications. The Notice of Special Restrictions or conditions of  
15 approval shall specify that the marketing requirements and procedures contained in the  
16 Procedures Manual as amended from time to time, shall apply to the Affordable Units in the  
17 project.

18 (~~1A~~) **Lottery:** At the initial offering of affordable units in a housing project  
19 and when Affordable Units become available for resale or re-lease in any housing project  
20 subject to this Program after the initial offering, MOHCD must require the use of a public  
21 lottery approved by MOHCD to select purchasers or tenants.

22 (~~2B~~) **Preferences:** MOHCD shall create a lottery system that gives  
23 preference according to the provisions of Administrative Code Chapter 47. MOHCD shall  
24 ~~propose create~~ policies and procedures for implementing these preferences. In accordance with  
25 Administrative Code Chapter 47, MOHCD shall provide an annual report on implementation of this

1 ~~subsection (b)(7)(B). to the Planning Commission for inclusion in the Procedures Manual.~~ Otherwise,  
2 it is the policy of the City to treat all households equally in allocating affordable units under this  
3 Program.

4 ~~(f) Individual affordable units constructed as part of a larger off-site project under this Section~~  
5 ~~415.7 shall not receive development subsidies from any Federal, State or local program established for~~  
6 ~~the purpose of providing affordable housing, and shall not be counted to satisfy any affordable housing~~  
7 ~~requirement for the off-site development. Other units in the same off-site project may receive such~~  
8 ~~subsidies. In addition, subsidies may be used, only with the express written permission by MOHCD, to~~  
9 ~~deepen the affordability of an affordable unit beyond the level of affordability required by this~~  
10 ~~Program.~~

11 ~~(g) Notwithstanding the provisions of Section 415.7(f) above, a project may use California~~  
12 ~~Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% credits under the Tax~~  
13 ~~Credit Allocation Committee (TCAC) to help fund its obligations under this ordinance as long as the~~  
14 ~~project provides at least 60% of the off-site affordable units as affordable at 55% of area median~~  
15 ~~income and the balance of the off-site affordable units using these funds at affordability rates that~~  
16 ~~comply with the requirements of TCAC, CDLAC, and this Section 415. The income table to be used for~~  
17 ~~such projects when the units are priced at 55% of area median income is the income table used by~~  
18 ~~MOHCD for the Inclusionary Housing Program, not that used by TCAC or CDLAC. Except as~~  
19 ~~provided in this subsection (g), all units provided under this Section 415.7 must meet all of the~~  
20 ~~requirements of the Inclusionary Affordable Housing Program and the Procedures Manual for off-site~~  
21 ~~housing.~~

22 **~~SEC. 415.7-1. SMALL SITES AFFORDABLE HOUSING ALTERNATIVE.~~**

23 ~~A project sponsor of a principal project comprised of 24 or fewer residential units may elect~~  
24 ~~under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement by designating its~~  
25 ~~payment of the Affordable Housing Fee due under Section 415.5 for a Small Sites program that~~

1 ~~MOHCD shall establish for this purpose. Affordable Housing Fees designated for this program shall~~  
2 ~~not be considered part of the designated funds specified by Section 415.5(f). MOHCD shall expend the~~  
3 ~~program funds from a principal project on a Small Sites Project that meets the requirements set forth in~~  
4 ~~Section 415.5(f)(2)(B) and that is within the same neighborhood as the principal project. The~~  
5 ~~neighborhood of the principal project shall be determined by the Planning Department's Neighborhood~~  
6 ~~Groups Map. If MOHCD is unable to identify and apply the fee to a qualifying Small Sites Project~~  
7 ~~within the same neighborhood as the principal project within two years of the payment of the fee, such~~  
8 ~~fee shall be released into the Affordable Housing Fund to fund other qualifying Small Sites Projects in~~  
9 ~~San Francisco.~~

#### 10 **SEC. 415.8. DURATION AND MONITORING OF AFFORDABILITY.**

11 (a) For any units permitted under the Program:

12 (1) All units constructed pursuant to Sections 415.6 (On-site Affordable Housing  
13 Alternative) and 415.7 (Off-site Affordable Housing Alternative) must be owner-occupied, as  
14 defined in the Procedures Manual, in the case of Owned Units, or occupied by qualified  
15 households in the case of Rental Units.

16 (2) Units shall not remain vacant for a period exceeding 60 days without the  
17 written consent of MOHCD in accordance with the Procedures Manual.

18 (3) All units constructed pursuant to Sections 415.6 and 415.7 must remain  
19 Affordable to Qualifying Households for the life of the project.

20 (4) The income levels specified in the Notice of Special Restrictions and/or  
21 conditions of approval for the project shall be the required income percentages for the life of  
22 the project. Notwithstanding the foregoing sentence, if approved by MOHCD and as provided  
23 in the Procedures Manual, an exception to the required income percentage may be made in  
24 the following cases:  
25

1 (A) a rental unit that converts to an Owned Unit with Qualifying Income  
2 up to a maximum of 150% of AMI and a sales price established pursuant to Section  
3 415.8(b)(5);

4 (B) where there is an existing tenant who has undergone re-certification  
5 as defined in the Procedures Manual, the existing tenant's household income may increase  
6 up to a maximum of 200% of AMI;

7 (C) new Owned Units where the project sponsor has used good faith  
8 efforts to secure a contract with a qualified buyer but is unable to secure such a contract in a  
9 timely manner from the initiation of marketing;

10 (D) resale Owned Units where the owner has used good faith efforts to  
11 secure a contract with a qualified buyer but is unable to secure a buyer contract at a  
12 maximum resale price specified by MOHCD in a timely manner;

13 (E) the Qualifying Income level for new or resale Owned Units may be  
14 set at 20% above the income level stated in the Notice of Special Restrictions or conditions of  
15 approval; or

16 (F) resale Owned Units where the owner has requested an adjustment to  
17 the maximum income limit stated in the existing Notice of Special Restrictions or other  
18 document establishing affordability requirements for the unit and/or has requested an increase  
19 to the Qualifying Income level, pursuant to subsection (b)(9).

20 (5) The Commission or the Department shall require all housing projects subject  
21 to Section 415.1 et seq. to record a Notice of Special Restrictions in the official records of the  
22 City and County of San Francisco. The Notice of Special Restrictions must incorporate the  
23 affordability restrictions, including the requirements of Section 415.8. All projects described in  
24 ~~Section 415.3(a) must incorporate all of the requirements of this Section 415.8 into the Notice for~~  
25 ~~Special Restrictions, including any provisions required to be in the conditions of approval for housing~~

1 ~~projects described in Section 415.3(a). These Section 415.3(a) projects which are housing projects that~~  
2 ~~go through the conditional use or planned unit development process shall have conditions of approval.~~

3 The conditions of approval shall specify that project applicants shall adhere to the marketing,  
4 monitoring, and enforcement procedures outlined in the Procedures Manual, as amended  
5 from time to time, in effect at the time of project approval. ~~The Commission shall file the~~  
6 ~~Procedures Manual in the case file for each project requiring inclusionary housing pursuant to this~~  
7 ~~Program.~~ The Procedures Manual will be referenced in the Notice of Special Restrictions for  
8 each project.

9 (b) For any units permitted to be Owned Units under the Program, ~~the~~ MOHCD shall:

10 (1) Establish and implement a process for reselling an affordable unit in the  
11 Procedures Manual.

12 (2) Provide that owners may not change title on the unit without review and  
13 approval by MOHCD and according to guidelines published in the Procedures Manual, as  
14 amended from time to time.

15 (3) Provide that owners must comply with refinancing procedures and  
16 limitations as published in the Procedures Manual, as amended from time to time.

17 (4) Provide that, in order to retain all units restricted as affordable under this  
18 Program within the City's affordable housing stock, the specific procedures for passing an  
19 affordable unit through inheritance are contained in the Procedures Manual. All transfers  
20 through inheritance must be reviewed and approved by MOHCD and, in all cases, the heir  
21 must acknowledge and agree to the provisions of the Program. The following households may  
22 inherit the ability to occupy a unit restricted under this Program: (i) a spouse or registered  
23 domestic partner, regardless of income; or (ii) a child of the owner if the child is a qualifying  
24 household for the unit. If the heir qualifies under one of these categories, the heir must occupy  
25 the unit or the heir must market and sell the unit at the restricted price through a public lottery

1 process and retain the proceeds from the sale. If the heir does not qualify to occupy the unit,  
2 the heir must market and sell the unit at the restricted price to a qualified buyer through a  
3 public lottery process. The heir would retain the proceeds of such sale.

4 (5) Require that affordable Rental Units permitted by the Commission to be  
5 converted to Owned Units satisfy the requirements of the Procedures Manual, as amended  
6 from time to time, including that the units shall be sold at restricted sales prices to households  
7 meeting the income qualifications specified in the Notice of Special Restrictions or conditions  
8 of approval, with a right of first refusal for the occupant(s) of such units at the time of  
9 conversion. If the current tenant qualifies for and purchases the unit, the unit shall be sold at a  
10 sales price corresponding to the affordability level required for the unit as a Rental Unit as  
11 specified in the Notice of Special Restrictions or conditions of approval, with a maximum  
12 allowable Qualifying Income level up to 150% of AMI. If the unit is sold to a buyer who is not a  
13 current tenant, the sales price shall correspond to the affordability level required for the unit as  
14 an Owned Unit as specified in the Notice of Special Restrictions or conditions of approval.  
15 Upon conversion to ownership, the units are subject to the resale and other restrictions of this  
16 Program for the life of the project, as defined in the Notice of Special Restrictions or  
17 conditions of approval for the Project.

18 (6) For Owned Units approved pursuant to Sections 415.6 ~~or 415.7~~, the Notice of  
19 Special Restrictions or conditions of approval will include provisions restricting resale prices  
20 and purchaser income levels according to the formula specified in the Procedures Manual, as  
21 amended from time to time. All amenities and parking spaces that were purchased with the  
22 initial sale of the Owned Unit must be sold with the Owned Unit upon resale and shall be  
23 included in the resale price. In the event subordination of the Affordability Conditions  
24 contained in a recorded Notice of Special Restrictions may be necessary to ensure the project  
25 applicant's receipt of adequate construction and/or permanent financing for the project, or to

1 enable first-time home buyers to qualify for mortgages, the project applicant may follow the  
2 procedures for subordination of affordability restrictions as described in the Principal Project's  
3 conditions of approval or in the Procedures Manual. A release following foreclosure or other  
4 transfer in lieu of foreclosure may be authorized if required as a condition to financing  
5 pursuant to the procedures set forth in the Procedures Manual.

6 (7) Purchasers of Affordable Units shall secure the obligations contained in the  
7 Notice of Special Restrictions or conditions of approval by executing and delivering to the City  
8 a promissory note secured by a deed of trust encumbering the applicable affordable unit as  
9 described in the Procedures Manual or by an alternative means if so provided for in the  
10 Procedures Manual, as amended from time to time.

11 (8) **Procedures for Units Unable to Resell.** The Board of Supervisors finds  
12 that certain requirements of this Program and the Procedures Manual may create hardship for  
13 owners of Affordable Units restricted under this Program. However, the Board also recognizes  
14 that the requirements of this Program are important to preserve the long-term affordability of  
15 units restricted under the Program. In order to allow some relief for owners of Affordable Units  
16 during a time of economic downturn, but to provide the maximum protection for the long-term  
17 affordability of the units, the Board directs MOHCD to analyze the following issues and, if it  
18 deems appropriate, to propose amendments to the Procedures Manual to address the issues:

19 (A) **Waiver of Resale Requirements and Maximum Qualifying**  
20 **Income Level for New Buyers of Resale BMR Units.** The Board recognizes that the risk to  
21 low- and moderate-income homeowners during times of economic downturn can increase the  
22 risk of default and foreclosure of units restricted under this Program. The Board directs  
23 MOHCD to study ways to reduce such risks in the below market rate unit context and, if it  
24 deems appropriate, to make recommendations to the *Planning* Commission to amend the  
25 Procedures Manual to allow MOHCD discretion, in certain limited circumstances, to waive

1 requirements for owners of Affordable Units who have used good faith efforts to secure a  
2 contract with a qualified buyer but are unable to resell their unit in a timely manner. Such  
3 amendments to the Procedures Manual may include, but are not limited to, authorizing  
4 MOHCD to make one or more allowances for owners of Affordable Units unable to resell,  
5 such as: (i) a one-time waiver of the first-time homebuyer rule for the purchasing household;  
6 (ii) a one-time waiver of qualifying household size requirements for the purchasing household;  
7 (iii) a one-time waiver of owner occupancy rules to allow a temporary rental; (iv) a one-time  
8 modification of the asset test for the new buyer household; and (v) allowing MOHCD  
9 discretion to increase the Qualifying Income level for the unit by up to 20% above the  
10 maximum income limit currently allowed by the Use Restrictions for the unit but at no time  
11 higher than 150% of AMI. MOHCD and the Commission shall set forth criteria for granting  
12 such allowances such as establishing a minimum time that the units must have been  
13 advertised by MOHCD without selling; establishing criteria related to unusual economic or  
14 personal circumstances of the owner; providing a maximum percentage for the increase  
15 above the maximum income limit currently allowed; providing that the increase may only be  
16 granted on a one-time basis; and requiring the owner to clearly establish that the BMR unit is  
17 being resold at the maximum resale price specified in the Procedures Manual, as amended  
18 from time to time.

19 **(B) Waiver of Maximum Qualifying Income Level for New Buyers of**  
20 **Initial Sale BMR Units.** The Board of Supervisors recognizes that the current Program  
21 provides that the income of a new buyer of a below market rate household cannot exceed the  
22 maximum income stated in the Planning Approval or Notice of Special Restrictions for the  
23 BMR Unit. Due to less desirable developments or geographic areas, a project sponsor is  
24 sometimes unable to find a buyer for a BMR Unit within the maximum income stated in the  
25 Planning Approval or Notice of Special Restrictions for the unit. This situation makes it

difficult, if not impossible, for certain current owners of below market rate units to resell their units. In order to minimize this situation, the Board of Supervisors directs MOHCD to study ways to address this issue and, if it deems appropriate, to make recommendations to the *Planning* Commission to amend the Procedures Manual to allow MOHCD to assist project sponsors who have used good faith efforts as determined by MOHCD to secure a contract with a qualified buyer but who are unable to secure such a contract in a timely manner from the initiation of marketing. Such amendments may include allowing MOHCD discretion to increase the Qualifying Income level for the unit by up to 20% above the maximum income limit currently allowed by the Use Restrictions for the unit but at no time higher than 150% of AMI. MOHCD and the *Planning* Commission shall establish limits to this or a similar proposal such as: providing a maximum percentage for the increase above the maximum income limit currently allowed; requiring that a certain period without securing a buyer would pass before such an allowance would be made; and providing that the increase may only be granted on a one-time basis.

**(9) Adjustment of Pricing and Income Limits for Owned Units Purchased at a Price Above the Affordable Price Determined at the Time of Resale.**

**(A) Findings and Purposes.** The Board of Supervisors finds that the requirements of this Program and the Procedures Manual may create financial hardship for certain Owners of Affordable Units who could suffer a financial loss if said Owners sold their units at a price in compliance with the existing Notice of Special Restrictions or other affordability restrictions for the unit. However, the Board also recognizes that the requirements of this Program are important to preserve the long-term affordability of units restricted under the Program. To provide flexibility while protecting the long-term affordability of the Affordable Units and viability of the Program, this subsection (b)(9) provides options to allow some relief

1 for Owners of Affordable Units that are re-selling at a time when the Affordable Price would be  
2 lower than the price at which they originally purchased their Affordable Unit.

3 (B) **Authorization to Reset Pricing and Income Limits.** The Board  
4 authorizes MOHCD to adjust the Affordable Price at the time of resale and to establish the  
5 corresponding maximum income limit or income range for eligible Owned Units, as further  
6 specified and limited in this subsection (b)(9). This authorization and adjustment procedure  
7 shall be available only once per eligible Owned Unit and shall result in an Affordable Price that  
8 is based on a permanent increase to the restrictions on Affordable Price and maximum  
9 income limit for the Owned Unit. For the resale and any subsequent resale of the Owned Unit,  
10 the Maximum Purchase Price shall be determined by MOHCD based on the new, increased  
11 maximum percentage of AML established pursuant to this subsection (b)(9).

12 (C) **Eligibility.** An Owned Unit is eligible for an increase in the Affordable  
13 Price and corresponding maximum income limit or income range for the Owned Unit if: 1) the  
14 Owner purchased the unit at a price above the Affordable Price at the time of resale, which  
15 Affordable Price shall be determined by MOHCD based on the existing Notice of Special  
16 Restrictions or other document establishing affordability requirements for the unit at the time  
17 MOHCD processes the Owner's resale request; and 2) the Owner submits a resale request  
18 for the unit to MOHCD ~~within three years from~~ by December 14, 2027.~~the effective date of the~~  
19 ~~ordinance in Board File No. 240802, enacting this subsection (b)(9).~~ The Owner is not required to  
20 attempt to sell the unit prior to the adjustment described in this subsection (b)(9) to qualify for  
21 said adjustment.

22 (D) **Maximum Allowable Adjustment.** For the resale of an Owned Unit  
23 eligible for an adjustment under this subsection (b)(9), MOHCD may establish an adjusted  
24 Affordable Price up to the original purchase price paid by the current Owner. MOHCD may  
25 increase the maximum income limit or income range for the unit to reflect the adjusted

1 Affordable Price, up to a maximum of 130% AMI. In addition, once per eligible Owned Unit,  
2 MOHCD may increase the maximum Qualifying Income level for the unit by up to 20% above  
3 the maximum income limit or income range in the new Notice of Special Restrictions or other  
4 document establishing affordability requirements for the unit, provided that the increased  
5 maximum Qualifying Income level does not exceed 150% of AMI. The ultimate resale price  
6 may be lower or higher than the adjusted Affordable Price. Nothing in this subsection (b)(9)  
7 ensures or entitles an Owner to a resale price equal to the adjusted Affordable Price when  
8 reselling their Owned Unit.

9 (E) **Procedures.**

10 (i) MOHCD shall propose policies and procedures for  
11 implementing price and AMI level adjustments consistent with this subsection (b)(9) to the  
12 ~~Planning~~ Commission for inclusion in the Procedures Manual.

13 (ii) MOHCD may establish an adjusted Affordable Price and  
14 increase the maximum AMI level consistent with this subsection (b)(9) for the purposes of  
15 processing the resale, including marketing the Affordable Unit. If approved pursuant to  
16 subsections (b)(9)(E)(iii) through (vi), the increased maximum AMI level shall be established  
17 for all other purposes by the recording of a new Notice of Special Restrictions upon closing  
18 the resale of the Owned Unit that reflects the increased AMI level. As a condition of MOHCD's  
19 approval of the adjustments under this subsection (b)(9), the Owner shall execute and  
20 authorize the recordation of the new Notice of Special Restrictions in senior lien priority upon  
21 closing the resale of the Owned Unit.

22 (iii) For units in principal projects that required ~~Planning~~  
23 Commission approval, the ~~Planning~~ Commission, in consultation with MOHCD, may modify  
24 any original conditions of approval for the principal project related to the maximum price or  
25 income levels consistent with this subsection (b)(9), including, but not limited to, modification

1 to the required terms of a Notice of Special Restrictions recorded or to be recorded against  
2 the project or the Owned Unit. If the *Planning* Commission has delegated its authority to the  
3 Planning Department to review and approve requests for pricing and AMI level adjustments,  
4 such adjustments shall be reviewed and considered for approval by the Director of the  
5 Planning Department, and the *Planning* Commission shall not hold a public hearing for  
6 discretionary review.

7 (iv) For units in principal projects that required *Planning*  
8 Department approval but not *Planning* Commission approval, the *Planning* Department, in  
9 consultation with MOHCD, may modify any original conditions of approval for the principal  
10 project related to the maximum price or income levels including but not limited to modification  
11 to the required terms of a Notice of Special Restrictions recorded or to be recorded against  
12 the project or the Owned Unit.

13 (v) For units in principal projects that did not require *Planning*  
14 Commission or *Planning* Department approval, the *Planning* Department, in consultation with  
15 MOHCD, may modify the required terms of a Notice of Special Restrictions recorded or to be  
16 recorded against the project or the Owned Unit.

17 (vi) Any other City approval required prior to modifying the terms  
18 of a Notice of Special Restrictions, such as amending a development agreement, shall be  
19 obtained.

20 (vii) Modifications under this subsection (b)(9) shall not be subject  
21 to review under any other Planning Code provision applicable to a change of use or change of  
22 condition including but not limited to Sections 303(e), 309(f), or 329(f)(7).

23 (F) **Reporting.** MOHCD shall provide a report to the Inclusionary  
24 Housing Technical Advisory Committee, Planning Commission, and Board of Supervisors or a  
25 committee thereof after 10 adjustments are approved under this subsection (b)(9), and after

every tenth adjustment approved thereafter. In addition, MOHCD shall provide a report to the Inclusionary Housing Technical Advisory Committee, Planning Commission, and Board of Supervisors or a committee thereof ~~within twelve months from~~ by December 14, 2025 ~~the effective date of the ordinance in Board File No. 240802 enacting this subsection (b)(9),~~ and every ~~twelve~~ 12 months thereafter. The Board of Supervisors or a committee thereof shall hold a public hearing on the first annual report; accordingly, that report must be accompanied by a draft resolution for the Board to accept the report. Each report provided pursuant to this subsection (F) shall include at least the following information for each approved adjustment:

- (i) The location of the Affordable Unit;
- (ii) The date the adjustment was approved; and
- (iii) Pricing and AMI level information before and after the adjustment.

**(G) Expiration of this Subsection and Related Subsection.** This subsection (b)(9), and the related subsection (a)(4)(F), shall expire by operation of law on December 14, 2028. ~~four years from the effective date of the ordinance in Board File No. 240802 enacting those two subsections.~~ Upon expiration of those subsections, the City Attorney is authorized to cause their removal from the Planning Code, which removal may include as appropriate nonsubstantive modifications in subsection lettering, numbering, punctuation, and language.

(c) For any units permitted to be Rental Units under the Program, MOHCD shall establish, and set forth in the Procedures Manual, the following:

(1) ~~Restrictions on lease changes and propose such restrictions to the Commission for inclusion in the Procedures Manual.~~

(2) ~~Additional eligibility criteria for sub-leasing and propose such restrictions to the Commission for inclusion in the Procedures Manual.~~

1 (3) ~~€~~Criteria for continued eligibility for occupied rental units ~~and propose such~~  
2 ~~restrictions to the Commission for inclusion in the Procedures Manual.~~

3 (4) ~~€~~Criteria for homeownership status ~~and propose such restrictions to the~~  
4 ~~Commission for inclusion in the Procedures Manual.~~

5 (5) ~~€~~Criteria for granting affordable rental households the right of first refusal in  
6 purchasing an Affordable Unit that is converted from a Rental Unit to an Owned Unit ~~and~~  
7 ~~propose such restrictions to the Commission for inclusion in the Procedures Manual.~~

8 (6) ~~€~~That at no time shall an annual rent increase exceed the actual allowable  
9 increase for that year. ~~In cases where the rent has decreased, the tenant's rent must be decreased.~~ In  
10 cases where the annual adjustments have not been applied year to year, the Project Owner  
11 may not take advantage of any increases that were not applied until the Unit is vacant and re-  
12 rented.

#### 14 **SEC. 415.9. ENFORCEMENT PROVISIONS AND MONITORING OF PROGRAM.**

15 (a) A ~~first construction document~~ First Construction Document or ~~first~~ First Certificate of  
16 Occupancy, whichever applies, shall not be issued by the Director of DBI to any unit in the  
17 Principal Project until all of the affordable housing requirements of Section~~s~~ 415.1 et seq. are  
18 satisfied.

19 (b) If, after issuance of the ~~first~~ First Certificate of Occupancy, the Commission or  
20 Department determines that a project sponsor has failed to comply with any requirement in  
21 Section 415.1 et seq. or any reporting requirements detailed in the Procedures Manual, or has  
22 violated the Notice of Special Restrictions, the Commission, Department, or DBI may, until the  
23 violation is cured, (1) revoke the Certificate of Occupancy for the Principal Project or required  
24 Affordable Units, (2) impose a penalty on the project pursuant to Section 176(c) of this Code,

1 and/or (3) the Zoning Administrator or MOHCD may enforce the provisions of Section 415.1 et  
2 seq. through any means provided for in Section 176 of this Code.

3 (c) The Department shall notify MOHCD of any housing project subject to the  
4 requirements of Section 415.1 et seq., ~~including the name of the project sponsor and the number~~  
5 ~~and location of the Affordable Units, within 30 days of the Department's approval of a building or site~~  
6 ~~permit for the project.~~ MOHCD shall provide all project sponsors with information concerning  
7 the City's first time homebuyer assistance programs and any other related programs MOHCD  
8 shall deem relevant to the Inclusionary Affordable Housing Program.

9 ~~(d) The Department shall, as part of the annual Housing Inventory, report to the Board of~~  
10 ~~Supervisors on the results of Section 415.1 et seq. including, but not limited to, a report on the~~  
11 ~~following items:~~

12 ~~(1) The number of, location of, and project applicant for, housing projects which came~~  
13 ~~before the Commission for a Conditional Use Authorization or Planned Unit Development, and the~~  
14 ~~number of, location of, and project applicant for, housing projects which were subject to the~~  
15 ~~requirements of Section 415.1 et seq.;~~

16 ~~(2) The number of, location of, and project sponsor for, housing projects which applied~~  
17 ~~for a waiver, adjustment, or reduction from the requirements of Section 415.1 et seq. pursuant to~~  
18 ~~Section 406 of this Article, and the number of, location of, and project sponsor for, housing projects~~  
19 ~~which were granted such a waiver, adjustment, or reduction and, if a reduction, to what percentage;~~  
20 ~~and~~

21 ~~(3) The number of, location of, and project sponsor for, every housing project to which~~  
22 ~~Section 415.1 et seq. applied and the number of market rate units and the number of affordable on- and~~  
23 ~~off-site units provided, including the location of all of the affordable units.~~

24 ~~(e) A study is authorized to be undertaken under the direction of MOHCD approximately every~~  
25 ~~five years to update the requirements of Section 415.1 et seq. MOHCD shall make recommendations to~~

1 ~~the Board of Supervisors and the Commission regarding any legislative changes. MOHCD shall~~  
2 ~~specifically evaluate the different inclusionary housing requirements for developments of over 120 feet~~  
3 ~~approximately five years from the enactment of the requirement or as deemed appropriate by MOHCD.~~  
4 ~~MOHCD shall coordinate this report with the five year evaluation by the Director of Planning required~~  
5 ~~by Section 410 of this Article.~~

6 **(fd) ~~Annual or Bi-annual~~ Monitoring of Affordable Units.**

7 (1) MOHCD shall monitor and require occupancy certification for Owned Units  
8 and Rental Units on an annual or bi-annual basis, as outlined in the Procedures Manual.

9 (2) MOHCD may require the owner of a Rental Unit, or the owner's designated  
10 representative, ~~or the tenant in an affordable unit~~ to verify the income levels of the tenant in an  
11 Affordable Unit on an annual or bi-annual basis, as outlined in the Procedures Manual.

12 **(e) Monitoring and Enforcement of Affordable Student Housing.**

13 (1) MOHCD is authorized to monitor the Student Housing program described in  
14 Section 415.3(b)(5) and shall develop a monitoring form. An annual monitoring fee of \$792 per  
15 building exempted from the Inclusionary Housing Program pursuant to this Section 415.9(e)(1) shall  
16 be paid to MOHCD by the owner of the real property or the Post-Secondary Educational Institution or  
17 Religious Institutions, as defined in Section 102 of this Code. Beginning with the setting of fees for  
18 fiscal year 2018-2019, the Controller shall annually adjust the base monitoring fee amount referenced  
19 in this subsection (e)(1) without further action by the Board of Supervisors, to reflect changes in the  
20 two-year average Consumer Price Index (CPI) change for the San Francisco/San Jose Primary  
21 Metropolitan Area (PMSA). This process shall occur as follows:

22 (A) No later than April 15 of each year, MOHCD shall submit the current  
23 monitoring fee to the Controller, who shall apply the CPI adjustment to produce a new monitoring fee  
24 for the fiscal year beginning July 1. No later than May 15 of each year, the Controller determine the  
25 new monitoring fee and certify to the Board of Supervisors that the fees to be collected will produce

1 sufficient revenue to support the costs of providing the services for which the fee is charged and will  
2 not produce revenue that exceeds the costs of providing the services for which the fee is paid.

3 (B) No later than July 1 of each year, MOHCD will publish on its website the  
4 current monitoring fee amount inclusive of the annual adjustment, and also make the fee amount  
5 available upon request at MOHCD's main office.

6 (2) The owner of the real property and each Post-Secondary Educational Institution or  
7 Institutions shall agree to submit annual documentation to MOHCD and the Department, along with  
8 the annual monitoring fee, on or before January 31 of each year, which addresses the following:

9 (A) Evidence that the Post- Secondary Educational Institution continues to own  
10 or otherwise control the Student Housing project under a master lease or other contractual agreement  
11 with at least a two-year term, including a certificate from the owner of the real property and the Post-  
12 Secondary Educational Institution attaching a true and complete copy of the master lease or other  
13 contractual agreement (financial information may be redacted to the extent permitted by law) and  
14 certifying that the lease or contract has not otherwise been amended or terminated; and

15 (B) Evidence, on an average annualized basis, of the percentage of students in  
16 good standing enrolled half-time or more in the Post-Secondary Educational Institution or Institutions  
17 who are occupying the beds or accessory living space in the Student Housing project; and

18 (3) The Post-Secondary Educational Institution, or the owner of the real property on its  
19 behalf, shall submit a statement that it intends to terminate the Student Housing project at least 60 days  
20 before it terminates such use ("statement of termination"), and shall be subject to the following:

21 (A) The Student Housing project becomes subject to the Inclusionary Housing  
22 Program requirements if (1) a Post-Secondary Educational Institution files a statement of termination  
23 with the Department and another Post-Secondary Educational Institution or Institutions have not been  
24 substituted or obligated to meet the requirements of Section 415.3(d)(5); or (2) the owner of the real  
25 property or the Post-Secondary Educational Institution fails to file a statement of termination and fails

1 to meet the requirements for a Student Housing project within not more than one year of a Notice Of  
2 Violation issued by the Department;

3 (B) If units in a Student Housing project become subject to the Inclusionary  
4 Housing Program requirements then the owner of those units shall (1) pay the Affordable Housing Fee  
5 plus interest from the date the project received its First Construction Document for the project if there  
6 is no evidence the project ever qualified as Student Housing or, if Student Housing was provided and  
7 occupied, then the Affordable Housing Fee with no interest is due on the date the units were no longer  
8 occupied by qualifying households and interest would accrue from that date if the fee is not paid; or (2)  
9 provide the required number of on-site affordable units required at time of original project approval  
10 and that those units shall be subject to all of the requirements of this Program. In this event, the owner  
11 of the real property shall record a new NSR providing that the designated units must comply with all of  
12 the requirements of this Program.

13 (4) The Post-Secondary Educational Institution is required to report annually as  
14 required in subsection (e)(2) above.

15 (5) The Student Housing project may be inspected by any duly authorized City employee  
16 to determine its status as a Student Housing project and its compliance with the requirements of this  
17 Code at any time upon at least 24 hours prior notice to the owner of the real property or to the master  
18 lessee. The City may commence legal action against the owner and/or Post- Secondary Educational  
19 Institution to enforce the NSR and the terms of Article 4 of the Planning Code if it determines that the  
20 project no longer meets the requirements for a Student Housing project.

21  
22 **SEC. 415.10. TRIENNIAL ECONOMIC FEASIBILITY ANALYSIS; REPORTING TO**  
23 **BOARD OF SUPERVISORS.**

24 **(a) Findings.**  
25

1 San Francisco continues to experience a housing crisis that requires a broad spectrum  
2 of land use and financing tools to address. The 2022 Housing Element Update of the City's  
3 General Plan calls for 40% of all new housing production to be affordable for lower income  
4 households below 80% of area median income and 17% of new housing affordable to be built  
5 for moderate/~~middle~~ income households up to 120% of area median income. San Francisco's  
6 inclusionary housing program, which requires housing developers to provide affordable units  
7 as part of their projects, is a critical component of the City's programs to expand affordable  
8 housing options. The Inclusionary Housing program is one of the City's tools for increasing  
9 affordable housing dedicated to lower income San Franciscans without using public subsidies,  
10 and in particular it is a useful tool for creating any affordable housing to meet the growing  
11 need of moderate/~~middle~~ income households.

12 The City adopted an Inclusionary Housing ordinance in 2002 that set requirements on  
13 market rate development to include affordable units at 12% of the total for the first time. *As of*  
14 2025, the ~~The~~ inclusionary program has successfully resulted in more than ~~3,330~~ 3,600 units of  
15 below-market, permanently affordable housing since its adoption. The City prepared a Nexus  
16 Study in 2007 in support of the program, which was updated in 2016. The reports  
17 demonstrated the necessary affordable housing in order to mitigate the impacts of market rate  
18 housing. The City's inclusionary housing requirements, which have been set at various levels  
19 since 2002 in response to changing economic conditions, are codified in Section 415 *et seq.* of  
20 the Planning Code.

21 The purpose of this Section 415.10 is to provide for the ongoing study of how to set  
22 inclusionary housing obligations in San Francisco at the maximum economically feasible  
23 amount in market rate housing development to create housing for low and moderate/~~middle~~  
24 income households, at the income levels set forth in Section 415.10(d), and with guidance  
25 from the City's Nexus Study, which shall be periodically updated.

1           **(b) Triennial Economic Feasibility Analysis.** With the support of independent  
2 consultants as deemed appropriate by the Controller and with advice on setting qualifications  
3 and criteria for consultant selection from the Inclusionary Housing Technical Advisory  
4 Committee established in Administrative Code Chapter 5, Article XXIX, the Controller, in  
5 consultation with relevant City Departments and the Inclusionary Housing Technical Advisory  
6 Committee, shall conduct a feasibility study of the City's inclusionary affordable housing  
7 obligations set forth in Planning Code Section 415 et seq., including but not limited to the  
8 affordable housing fee and On- site and Off-site Alternatives, and shall submit a report to the  
9 Board of Supervisors by September 1, 2029. ~~July 31, 2016 and by October 31 for subsequent years.~~  
10 Thereafter, the Controller, in consultation with the Department and the Inclusionary Housing  
11 Technical Advisory Committee, shall repeat this process at least every 36 months, or more  
12 frequently as deemed necessary by the Controller in response to a significant shift in  
13 economic or market conditions.

14           **(c) Elements of the Economic Feasibility Analysis.** The economic feasibility  
15 analysis required by subsection (b) of this Section 415.10 shall include sensitivity analyses of  
16 key economic parameters that can vary significantly over time, such as, but not limited to:  
17 interest rates; capitalization rates; equity return rates; land prices; construction costs; project  
18 scale, available state and federal housing finance programs including Low Income Housing  
19 Tax Credits readily available for market rate housing; tax-exempt bond financing; Federal  
20 Housing Administration and U.S. Department of Housing and Urban Development mortgage  
21 insurance; available City or local housing finance programs, such as Enhanced Infrastructure  
22 District (EIFD) and tax increments; zoning changes that increase or decrease development  
23 potential; variable City exactions, including community benefit fees, capacity charges,  
24 community facilities districts; the value of state density bonus, concessions and incentives  
25 under California Government Code Section 65915 and any other state law that confers value

1 to development and which project sponsors may attempt to avail themselves of and public-  
2 private partnership development agreements where applicable and other factors as deemed  
3 reasonably relevant.

4 (d) **Report to Board of Supervisors.** The Board of Supervisors may review the  
5 feasibility analyses, as well as the periodic updates to the City's Nexus Study evaluating the  
6 necessary affordable housing in order to mitigate the impacts of market rate housing. The  
7 Board of Supervisors will review the feasibility analyses within three months of completion and  
8 may consider legislative amendments to the City's Inclusionary Affordable Housing ~~in-lieu~~ fees,  
9 On-site or Land Dedication/Off-site Alternatives, and in so doing will seek consultation from the  
10 ~~Planning~~ Commission, adjusting levels of inclusionary or affordable housing obligations and  
11 income levels ~~up to maximums as defined in Section 415.2~~, based on the feasibility analyses, with  
12 the objective of maximizing affordable Inclusionary Housing in market rate housing  
13 production, and with guidance from the City's Nexus Study. Any adjustment in income levels  
14 shall be adjusted commensurate with the percentage of units required so that the obligation  
15 for inclusionary housing is not reduced by any change in income levels. The Board of  
16 Supervisors may also utilize the Nexus Study in considering legislative amendments to the  
17 Inclusionary Housing requirements. Updates to the City's Inclusionary Housing requirements  
18 shall address affordable housing fees, On-site affordable housing and Land Dedication/Off-site  
19 affordable housing, as well as the provision of affordable housing available to low-income  
20 households at or below 55% of Area Median Income for Rental Units and up to 80% of Area  
21 Median Income for Owned Units, and moderate/middle-income households from 80% to  
22 120% of Area Median Income.

23 (e) Permitted Modifications to Pipeline Projects Following Legislative Amendments to the  
24 Inclusionary Affordable Housing Program. If any of the requirements of Section 415.1 et seq., are  
25 amended by the Board of Supervisors following recommendation by the Technical Advisory Committee

1 or otherwise, Pipeline Projects may request a modification of conditions of approval, conditions on a  
2 project permit, Notice of Special Restrictions, or other requirements that have been so amended  
3 pursuant to requirements of Section 415.1 et seq.. Modifications shall be requested under the process  
4 set forth in Planning Code section 415.4(e)(4). In addition to the modifications allowed in Section  
5 415.4(e)(2), a Pipeline Project may seek the following additional modifications:

6 (1) A reduction in the Affordable Housing Fee, or On-site Unit, Off-site Unit or Land  
7 Dedication percentages or other requirements in effect at the time of the modification request.

8 (2) An extension of up to three years of the performance standards for the Final  
9 Approval, including the entitlement validity, expiration, and renewal.

10 (3) Removal of Planning Code requirements no longer applicable to the Pipeline  
11 Project at the time of the request for modification.

12  
13 **~~SEC. 415A. TEMPORARY REDUCTION OF INCLUSIONARY REQUIREMENTS FOR~~**  
14 **~~RESIDENTIAL AND LIVE/WORK DEVELOPMENT PROJECTS APPROVED PRIOR TO~~**  
15 **~~NOVEMBER 1, 2023.~~**

16 **~~SEC. 415A.1. PURPOSE.~~**

17 ~~In order to encourage the construction of residential and live/work development projects that~~  
18 ~~have been Finally Approved prior to November 1, 2023, but have not procured a First Construction~~  
19 ~~Document, the City hereby establishes a temporary program to: (1) reduce certain inclusionary~~  
20 ~~affordable housing fees and obligations; (2) extend the time such developments have to obtain a site~~  
21 ~~permit after project approval; and (3) allow the modification of certain findings required by Planning~~  
22 ~~Code Section 206.6 (“State Density Bonus Program: Individually Requested.”)~~

23 **~~SEC. 415A.2. DEFINITIONS.~~**

24 ~~The following terms shall have the following definitions:~~

1           ~~“Pipeline Project” means a residential or live/work project that (1) is subject to the~~  
2           ~~Inclusionary Affordable Housing Ordinance, Planning Code Section 415.1 et seq., and (2) was Finally~~  
3           ~~Approved prior to November 1, 2023, and (3) has not been issued a First Construction Document prior~~  
4           ~~to November 1, 2023.~~

5           ~~“Finally Approved” or “Final Approval” shall mean (1) approval of a project’s first~~  
6           ~~Development Application, unless such approval is appealed; or (2) if a project only requires a building~~  
7           ~~permit, planning approval of the first site or building permit, unless such permit is appealed; or (3) if~~  
8           ~~the first Development Application or first site or building permit is appealed, then the final decision~~  
9           ~~upholding the Development Application, or first site or building permit, on the appeal by the relevant~~  
10          ~~City Board or Commission. “Finally Approved” or “Final Approval” shall not include any~~  
11          ~~modification of the approval under Section 415A.5.~~

12           **~~SEC 415A.3. APPLICATION.~~**

13          ~~This Section 415A shall apply to Pipeline Projects. This Section 415A shall not apply to (1) any~~  
14          ~~mixed-use project that has entered into a development agreement executed pursuant to Chapter 56 of~~  
15          ~~the Administrative Code or other similar binding agreement with the City on or before November 1,~~  
16          ~~2023, or (2) projects that have chosen to comply with affordable housing requirements by dedicating~~  
17          ~~land, including but not limited to projects meeting the requirements set forth in Sections 419.5(a)(2) or~~  
18          ~~249.33(b)(16), or (3) projects that have paid development impact fees, including inclusionary impact~~  
19          ~~fees, on or before November 1, 2023.~~

20           **~~SEC. 415A.4. MODIFICATION OF PIPELINE PROJECTS.~~**

21          ~~On or before November 1, 2026, project sponsors of Pipeline Projects shall be entitled to~~  
22          ~~request a modification under Section 415A.5 to that project’s conditions of approval, conditions on a~~  
23          ~~project permit, notice of special restrictions, or other requirements related to: (1) specified~~  
24          ~~requirements of the Inclusionary Affordable Housing Program, Planning Code Section 415.1 et seq., or~~  
25          ~~other applicable inclusionary housing requirement; (2) conditions that require a project sponsor to~~

1 ~~obtain a site permit within a certain timeframe after project approval; and (3) findings required by~~  
2 ~~Planning Code Section 206.6. Except as specifically set forth herein, or as modified under the~~  
3 ~~procedure set forth in subsection 415A.5, Pipeline Projects shall comply with all other conditions of~~  
4 ~~approval, conditions on a project permit, or notice of special restrictions and any applicable~~  
5 ~~requirements of the Planning Code, including the requirements set forth in Sections 415.1 through~~  
6 ~~415.11. Project sponsors may request the following modifications:~~

7 ~~(a) **Affordable Housing Fee.** If a project sponsor of a Pipeline Project elected to pay the~~  
8 ~~inclusionary housing fee pursuant to Section 415.5, the project shall be entitled to a modification of the~~  
9 ~~inclusionary housing requirements set forth in Section 415.5(b)(1)(A), 415.5(b)(1)(B) or~~  
10 ~~415.5(b)(1)(C), or if applicable 415.3(b)(2)(A) through (2)(C), as follows:~~

11 ~~(1) For Ownership or Rental Housing Pipeline Projects consisting of 10 units or more,~~  
12 ~~the applicable percentage shall be 16.4%.~~

13 ~~(2) For any Pipeline Project consisting of 10 units or more located in an area with a~~  
14 ~~specific affordable housing requirement set forth in a Special Use District, Area Plan, or in any other~~  
15 ~~section of the Code, including 415.3(d), 419, or 428, the applicable percentage shall be 54.5% of the~~  
16 ~~rate for Rental Housing Projects in the specific area, rounded to the nearest tenth of one percent. This~~  
17 ~~reduction shall not apply to fees subject to the Temporary Fee Reduction Program set forth in Section~~  
18 ~~403.~~

19 ~~(3) Notwithstanding subsection (2), in no case shall a Pipeline Project be entitled to a~~  
20 ~~modification of an affordable housing fee that would result in an applicable percentage lower than~~  
21 ~~16.4%.~~

22 ~~(b) **On-site Affordable Housing Alternative.** If a project sponsor of a Pipeline Project elected~~  
23 ~~to provide on-site affordable units pursuant to Section 415.5(g), the development project shall be~~  
24 ~~entitled to the following modifications to the on-site percentages in Sections 415.6(a)(1), 415.6(a)(2),~~  
25

1 ~~or 415.6(a)(3), or if applicable, the on-site percentages set forth in Sections 415.3(b)(1)(A) to~~  
2 ~~(b)(1)(D), or Section 206.3:~~

3 ~~(1) For Pipeline Projects consisting of 10 units or more, but less than 25 units, the~~  
4 ~~applicable percentage shall be 12%.~~

5 ~~(2) For Pipeline Projects consisting of 25 units or more, the number of Affordable~~  
6 ~~Units constructed on-site shall be 12% of all units constructed on the project site. Such projects shall~~  
7 ~~ensure that a minimum of 8% of the units are affordable to low-income households, 2% are affordable~~  
8 ~~to moderate-income households, and 2% are affordable to middle-income households.~~

9 ~~(3) For any Pipeline Project consisting of 10 units or more that is located in an area~~  
10 ~~with a specific affordable housing on-site requirement set forth in a Special Use District, Area Plan, or~~  
11 ~~in any other section of the Code, including Sections 415.3(b)(1)(E), 415.3(d), 419, or 428, the~~  
12 ~~applicable percentage shall be 54.5% of the rate for Rental Housing Projects in that specific area,~~  
13 ~~rounded to the nearest tenth of one percent. For any Pipeline Project consisting of 10 units or more~~  
14 ~~that was approved pursuant to Section 206.3, the applicable percentage shall be 54.5% of the rate in~~  
15 ~~Section 206.3(f).~~

16 ~~(4) Notwithstanding subsection (3), in no case shall a Pipeline Project be entitled to a~~  
17 ~~modification of an on-site affordable housing obligation that would result in an applicable percentage~~  
18 ~~lower than 12%.~~

19 ~~(c) Off-Site Affordable Housing Alternative. If a project sponsor of a Pipeline Project elected~~  
20 ~~to provide off-site units pursuant to Section 415.5(g), the development project shall be entitled to a~~  
21 ~~modification of the requirements in Section 415.7(a) as follows:~~

22 ~~(1) For Pipeline Projects consisting of 25 units or more, the applicable percentage~~  
23 ~~shall be 16.4%. Such projects shall ensure that a minimum of 9.4% of the units are affordable to low-~~  
24 ~~income households, 4% are affordable to moderate-income households, and 3% are affordable to~~  
25 ~~middle-income households.~~

1                   ~~(2) For any Pipeline Project consisting of 25 units or more located in an area or~~  
2 ~~Special Use District or in any other section of the Code, including Sections 415.3(d), 419, and 428 with~~  
3 ~~a specific affordable housing requirement, the applicable percentage shall 54.5% of the rate for Rental~~  
4 ~~Housing Projects in the specific area, rounded to the nearest tenth of one percent.~~

5                   ~~(3) Notwithstanding subsections (1) and (2), in no case shall a Pipeline Project be~~  
6 ~~entitled to a modification of the off-site affordable housing alternative that would result in a percentage~~  
7 ~~lower than 16.4%.~~

8                   ~~(d) Site Permit and First Construction Document Timing Requirements; Conditions of~~  
9 ~~Approval.~~

10                   ~~(1) Notwithstanding any contrary provision in this Code, project sponsors of Pipeline~~  
11 ~~Projects shall be entitled to a modification under Section 415A.5 of any conditions of approval or~~  
12 ~~conditions on a project permit, requiring procurement of a site permit within a specified time, but in no~~  
13 ~~event may such a deadline be extended past May 1, 2029.~~

14                   ~~(2) Notwithstanding any contrary provision in this Code, any modification under~~  
15 ~~Section 415A.5 shall require as a condition that the project sponsor procure a First Construction~~  
16 ~~Document on or before May 1, 2029. Failure to meet this condition shall invalidate the modification.~~  
17 ~~Pipeline Projects that fail to procure a First Construction Document on or before May 1, 2029 shall be~~  
18 ~~subject to the Inclusionary Affordable Housing requirements in effect on May 1, 2029 that are~~  
19 ~~applicable to a project at the same location, size, and tenure.~~

20                   ~~(e) Density Bonus Projects: Affordability Levels, Concessions, Incentives and Waivers. If a~~  
21 ~~Pipeline Project elected to proceed under the State Density Bonus law, Government Code section~~  
22 ~~65915 and/or Planning Code section 206.6. (State Density Bonus Program: Individually Requested),~~  
23 ~~the project sponsor may request the following modifications to a condition of approval or regulatory~~  
24 ~~agreement pursuant to Section 415A.5, provided that the project continues to meet the requirements of~~  
25 ~~the State Density Bonus law and/or Section 206.6:~~

1                   ~~(1) the number of units to be restricted as affordable units and the affordability levels~~  
2 ~~of those units;~~

3                   ~~(2) the number and type of concessions, incentives, and waivers granted under~~  
4 ~~206.6(e).~~

5                   **~~SEC. 415A.5. PROCESS FOR MODIFICATION OF INCLUSIONARY AFFORDABLE~~**  
6 **~~HOUSING PROGRAM REQUIREMENTS.~~**

7                   ~~The purpose of this Section 415A.5 is to provide for the efficient review and approval of~~  
8 ~~requests for modifications to conditions of approval, conditions on a project permit, or notice of special~~  
9 ~~restrictions, for projects eligible for such modifications under Section 415A. The Planning Commission~~  
10 ~~shall be responsible for reviewing and approving such requests, or may delegate those functions to the~~  
11 ~~Planning Director.~~

12                  ~~(a) Planning Commission Review. Notwithstanding Section 415A.5(b), any modification of the~~  
13 ~~conditions of approval, conditions on a project permit, or notice of special restrictions consistent with~~  
14 ~~Section 415A that would result in the significant modification of approved plans shall require review~~  
15 ~~and approval by the Planning Commission under the modification process otherwise applicable to the~~  
16 ~~project, including but not limited to Planning Code Sections 303(e), 309(j) or 329(f)(7)). All~~  
17 ~~modifications pursuant to this subsection 415A.5(a), including any appeal of such modifications, shall~~  
18 ~~be granted prior to November 1, 2026. A significant modification shall include, but is not limited to:~~

19                   ~~(1) a change in the number of Residential or Group Housing units by more than 20%;~~  
20 ~~or a change of more than 10% in Gross Floor Area; or,~~

21                   ~~(2) a change of use from Dwelling Units to Group Housing.~~

22                  ~~(b) Administrative Modifications. Notwithstanding Section 415A.5(a), if the Planning~~  
23 ~~Commission has delegated its authority to the Planning Department to review and approve requests for~~  
24 ~~modifications consistent with Section 415A.5, the following modifications shall be reviewed and~~  
25 ~~approved by the Director of the Planning Department, and the Planning Commission shall not hold a~~

1 ~~public hearing for discretionary review. Modifications under this subsection 415A.5(b) shall not be~~  
2 ~~subject to review under Planning Code sections 303(e), 309(f), 309(j) or 329(f)(7). Any modifications~~  
3 ~~pursuant to this Section 415A.5(b) must be granted prior to November 1, 2026. If so delegated, the~~  
4 ~~Planning Director shall be authorized to modify:~~

5 ~~(1) the applicable inclusionary fee required consistent with Section 415A.4(a).~~

6 ~~(2) the applicable percentage of off-site units required consistent with Section~~  
7 ~~415A.4(b).~~

8 ~~(3) the applicable percentage of on-site units required, consistent with Section~~  
9 ~~415A.4(c).~~

10 ~~(4) for projects that elected to develop using the State Density Bonus Law, Government~~  
11 ~~Code section 65915 or State Density Bonus Program: Individually Requested, under Planning Code~~  
12 ~~section 206.6, the number of on-site Affordable Units, and the affordability levels of those units if such~~  
13 ~~levels require modification for the project to continue to qualify for the same amount of density bonus~~  
14 ~~previously approved, and findings required by Section 206.6(e) related to eligibility for a density~~  
15 ~~bonus, concessions and incentives and/or waivers of development standards, consistent with Section~~  
16 ~~415A.4(e). Notwithstanding the previous sentence, modifications to a density bonus project that are~~  
17 ~~significant as set forth in subsection (a), shall be reviewed by the Planning Commission.~~

18 ~~—— (5) performance standards consistent with Section 415A.4(d), including the time of~~  
19 ~~validity, expiration and renewal.~~

20 ~~(e) Additional Conditions. Any modification to conditions of approval under this Section~~  
21 ~~415A.5 shall include a condition that a project must secure a First Construction Document on or before~~  
22 ~~May 1, 2029 and if a project sponsor fails to secure a First Construction Document on or before May~~  
23 ~~1, 2029, the inclusionary requirements applicable to the project shall be those requirements in place at~~  
24 ~~the time a First Construction Document is secured applicable to a project of the same size, location,~~  
25 ~~and tenure.~~

1           **~~SEC. 415A.6. SUNSET PROVISION.~~**

2           ~~This Section 415A shall expire by operation of law on May 1, 2029, unless extended by an~~  
3 ~~ordinance effective on or before that date. Upon expiration of this Section 415A, the City Attorney shall~~  
4 ~~cause the section to be removed from the Planning Code.~~

5           **~~SEC. 415B. TEMPORARY REDUCTION IN REQUIREMENTS FOR NEW RESIDENTIAL~~**  
6 **~~AND LIVE/WORK DEVELOPMENT PROJECTS.~~**

7           ~~In order to encourage construction of residential and live/work development projects subject to~~  
8 ~~the Inclusionary Affordable Housing Program, Planning Code Sections 415.1 et seq, this Section 415B~~  
9 ~~shall apply to housing and live/work development projects that are Finally Approved, as defined in~~  
10 ~~Planning Code Section 415A.2, between November 1, 2023 and November 1, 2026, provided that such~~  
11 ~~projects receive a First Construction Document within 30 months from Final Approval. Such deadline~~  
12 ~~shall be extended in the event of any litigation seeking to invalidate the City's approval of such project,~~  
13 ~~for the duration of the litigation. Housing development projects that fail to obtain a First Construction~~  
14 ~~Document within 30 months of Final Approval shall be subject to the requirements of Section 415.1 et~~  
15 ~~seq. in effect on the date a First Construction Document is finally obtained. Except as specifically set~~  
16 ~~forth herein, all other Inclusionary Affordable Housing requirements in Sections 415.1 et seq shall~~  
17 ~~continue to apply.~~

18           **~~SEC. 415B.1. AFFORDABLE HOUSING FEE.~~**

19           ~~If a project sponsor elects to pay the affordable housing fee under Section 415.5, the project~~  
20 ~~shall comply the requirements set forth in Section 415.6(b)(1), except as follows:~~

21           ~~(a) For any housing development consisting of 25 units or more, the applicable percentage~~  
22 ~~shall be 20.5%.~~

23           ~~(b) For any housing development located in an area with a specific affordable housing~~  
24 ~~requirement set forth in a Special Use District, Area Plan, or in any other section of the Code,~~  
25 ~~including 415.3(d), 419, or 428, the percentage shall be 68% of the rate applicable to Rental Housing~~

1 *Projects, rounded to the nearest tenth of one percent. This section shall not apply to fees subject to the*  
2 *Temporary Fee Reduction Program set forth in Section 403.*

3 ***SEC. 415B.2. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.***

4 *If a project sponsor elects to provide on-site Affordable Units pursuant to Section 415.5(g), the*  
5 *housing development shall be subject to the following required percentages rather than the percentage*  
6 *of units set forth in Section 415.6(a):*

7 *(a) For any housing development consisting of 25 or more units, the number of Affordable*  
8 *Units constructed on-site shall be 15% of all units constructed on the project site. Project sponsors*  
9 *shall ensure that a minimum of 10% of the Affordable Units shall be affordable to low-income*  
10 *households, 2.5% of the Affordable Units shall be affordable to moderate-income households, and*  
11 *2.5% of the Affordable Units shall be affordable to middle-income households.*

12 *(b) For any housing development located in an area with a specific affordable housing*  
13 *requirement set forth in a Special Use District, Area Plan, or in any other section of the Code such as*  
14 *Section 415.3(d), 419, or 428, the percentage shall be 68% of the rate applicable to Rental Housing*  
15 *Projects in such area, rounded to the nearest tenth of one percent.*

16 ***SEC. 415B.3. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.***

17 *If a project sponsor elects to provide off-site units to satisfy the requirements of Section 415.1 et*  
18 *seq. pursuant to 415.5(g)(1)(B), the housing development project shall be subject to the requirements of*  
19 *Section 415.7(a), except as follows:*

20 *(a) For any housing development consisting of 25 units or more, the applicable percentage*  
21 *shall be 20.5%. Project sponsors shall ensure that a minimum of 11.5% of the Affordable Units shall be*  
22 *affordable to low-income households, 5% of the Affordable Units shall be affordable to moderate-*  
23 *income households, and 4% of the Affordable Units shall be affordable to middle-income households.*

24 *(b) For any housing development that is located in an area with a specific off-site affordable*  
25 *housing requirement set forth in a Special Use District, Area Plan, or in any other section of the Code*

1 ~~including Section 415.3(d), 419, or 428, the percentage shall be 68% of the applicable rate for Rental~~  
2 ~~Housing Projects in the area, rounded to the nearest tenth of one percent.~~

3 **~~SEC. 415B.4. INCLUSIONARY FEE ANNUAL FEE UPDATES.~~**

4 ~~Notwithstanding any other provision of the Code, during the period that this Section 415B~~  
5 ~~applies:~~

6 ~~(a) the amount of the inclusionary housing fee shall be adjusted consistent with the factors set~~  
7 ~~forth in Sections 415.5(b)(2) and 415.5(b)(3), but in no case shall the fee be increased by more than 2%~~  
8 ~~annually; and~~

9 ~~(b) the provisions of 415.6(a)(5) shall not apply.~~

10 **~~SEC. 415B.5. SUNSET PROVISION.~~**

11 ~~This section 415B shall expire by operation of law on November 1, 2026, unless extended by an~~  
12 ~~ordinance on or effective before that date. Upon expiration of this Section 415B, the City Attorney shall~~  
13 ~~cause the section to be removed from the Planning Code.~~

14  
15 **~~{AFFORDABLE HOUSING: MARKET AND OCTAVIA AREA PLAN;~~**

16 **~~UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT}~~**

17 **~~SEC. 416. MARKET AND OCTAVIA AREA PLAN AND UPPER MARKET~~**  
18 **~~NEIGHBORHOOD COMMERCIAL DISTRICT AFFORDABLE HOUSING FEE.~~**

19 ~~Sections 416.1 through 416.5, hereafter referred to as Section 416.1 et seq., set forth the~~  
20 ~~requirements and procedures for the Market and Octavia Area Plan and Upper Market Neighborhood~~  
21 ~~Commercial District Affordable Housing Fee. The effective date of these requirements shall be either~~  
22 ~~May 30, 2008, which is the date that the requirements originally became effective, or the date a~~  
23 ~~subsequent modification, if any, became effective.~~

24 **~~SEC. 416.1. FINDINGS.~~**

25 ~~The Board of Supervisors hereby finds that:~~

1           A. ~~The additional affordable housing requirements of this Section are supported by the Nexus~~  
2 ~~Study performed by Keyser Marston and Associates referenced in Section 415.1(11) and found in~~  
3 ~~Board File No. 081152. The Board of Supervisors has reviewed the study and staff analysis and report~~  
4 ~~of the study and, on that basis, finds that the study supports the current inclusionary affordable housing~~  
5 ~~requirements combined with the additional affordable housing fee. Specifically, the Board finds that the~~  
6 ~~study: (1) identifies the purpose of the additional fee to mitigate impacts on the demand for affordable~~  
7 ~~housing in the City; (2) identifies the use to which the additional fee is to be put as being to increase the~~  
8 ~~City's affordable housing supply; and (3) establishes a reasonable relationship between the use of the~~  
9 ~~additional fee for affordable housing and the need for affordable housing and the construction of new~~  
10 ~~market rate housing. Moreover, the Board finds that the current inclusionary affordable requirements~~  
11 ~~combined with the additional fee are less than the cost of mitigation and do not include the costs of~~  
12 ~~remedying any existing deficiencies. The Board also finds that the study establishes that the current~~  
13 ~~inclusionary affordable requirements and additional fee do not duplicate other City requirements or~~  
14 ~~fees.~~

15           B. ~~Furthermore, the Board finds that generally an account has been established, funds~~  
16 ~~appropriated, and a construction schedule adopted for affordable housing projects funded through the~~  
17 ~~Inclusionary Affordable Housing program. The Affordable Housing Fee will reimburse the City for~~  
18 ~~expenditures on affordable housing that have already been made.~~

19           C. ~~A major Market and Octavia Area Plan objective is to direct new market rate housing~~  
20 ~~development to the area. That new market rate development will greatly outnumber both the number of~~  
21 ~~units and potential new sites within the plan area for permanently affordable housing opportunities.~~  
22 ~~The City and County of San Francisco has adopted a policy in its General Plan to meet the affordable~~  
23 ~~housing needs of its general population and to require new housing development to produce sufficient~~  
24 ~~affordable housing opportunities for all income groups, both of which will not be met by the projected~~  
25 ~~housing development in the plan area. In addition, the "Draft Residential Nexus Analysis City and~~

County of San Francisco” of December 2006 indicates that market rate housing itself generates additional lower income affordable housing needs for the workforce needed to serve the residents of the new market rate housing proposed for the plan area. In order to meet the demand created for affordable housing by the specific policies of the Plan and to be consistent with the policy of the City and County of San Francisco it is found that an additional affordable housing fee need be included on all market rate housing development in the Plan Area with priority for its use being given to the Plan area.

***SEC. 416.2. DEFINITIONS.***

*See Section 401 of this Article.*

***SEC. 416.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.***

*The requirements of Sections 415.1 through 415.9 shall apply in the Market and Octavia Plan Area and the entirety of the Upper Market NCT District in addition to the following affordable housing requirement:*

*(a) Amount of Fee. Development projects that are subject to the Residential Inclusionary Affordable Housing Program shall pay an additional affordable housing fee per the fee schedule in Table 416.3A, except as provided under Section 406(k).*

***TABLE 416.3A***

***AFFORDABLE HOUSING FEE SCHEDULE IN THE MARKET AND OCTAVIA PROGRAM***

***AREA***

|                                                                                        | <i>Van Ness and Market<br/>Special Use District</i> | <i>NCT</i>                      | <i>RTO</i>                      |
|----------------------------------------------------------------------------------------|-----------------------------------------------------|---------------------------------|---------------------------------|
| <i>Net addition of<br/>residential use or<br/>change of use to<br/>residential use</i> | <i>\$7.20/gross<br/>square foot</i>                 | <i>\$3.60/gross square foot</i> | <i>\$0.00/gross square foot</i> |

|   |                               |                                 |                                 |                                 |
|---|-------------------------------|---------------------------------|---------------------------------|---------------------------------|
| 1 | <i>Replacement of, or</i>     | <i>\$3.80/gross square foot</i> | <i>\$0.20/gross square foot</i> | <i>\$0.00/gross square foot</i> |
| 2 | <i>change of use from,</i>    |                                 |                                 |                                 |
| 3 | <i>non-residential to</i>     |                                 |                                 |                                 |
| 4 | <i>residential</i>            |                                 |                                 |                                 |
| 5 | <i>Replacement of, or</i>     | <i>\$5.50/gross square foot</i> | <i>\$1.90/gross square foot</i> | <i>\$0.00/gross square foot</i> |
| 6 | <i>change of use from,</i>    |                                 |                                 |                                 |
| 7 | <i>PDR to residential use</i> |                                 |                                 |                                 |

8

9 ~~(b) Other Fee Provisions. This additional affordable housing fee shall be subject to the~~

10 ~~inflation adjustment provisions of Section 409 and the waiver and reduction provisions of Section 406.~~

11 ~~This additional affordable housing fee may not be met through the in-kind provision of community~~

12 ~~improvements or Community Facilities (Mello Roos) financing options of Sections 421.3(d) and (e).~~

13 ~~Pursuant to Section 249.33, in the Van Ness & Market Residential Special Use District this fee may be~~

14 ~~paid in any of the Alternatives set forth in Section 415.5(g).~~

15 ~~(c) Exemption for Affordable Housing. A project applicant shall not pay a supplemental~~

16 ~~affordable housing fee for any square foot of space designated as a below market rate unit under~~

17 ~~Section 415.1 et seq., the Citywide Inclusionary Affordable Housing Program, or any other residential~~

18 ~~unit that is designated as an affordable housing unit under a Federal, State, or local restriction in a~~

19 ~~manner that maintains affordability for a term no less than 50 years.~~

20 ~~(d) Timing of Fee Payments. The Market and Octavia Plan Area and Upper Market NCD~~

21 ~~Affordable Housing Fee shall be paid to DBI for deposit into the Citywide Affordable Housing Fund at~~

22 ~~the time required by Section 402(d).~~

23

24 **~~SEC. 416.4. IMPOSITION OF AFFORDABLE HOUSING FEE REQUIREMENT.~~**

25

1           ~~(a) Determination of Requirements. The Department shall determine the applicability of~~  
2           ~~Section 416.1 et seq. to any development project requiring a first construction document and, if Section~~  
3           ~~416.1 et seq. is applicable, shall impose any such requirements as a condition of approval for issuance~~  
4           ~~of the first construction document. The project sponsor shall supply any information necessary to assist~~  
5           ~~the Department in this determination.~~

6           ~~(b) Department Notice to Development Fee Collection Unit of Fee Requirements. After the~~  
7           ~~Department has made its final determination regarding the application of the affordable housing~~  
8           ~~requirements to a development project pursuant to Section 416.1 et seq., it shall immediately notify the~~  
9           ~~Development Fee Collection Unit at DBI of the applicable affordable housing fee amount in addition to~~  
10          ~~the other information required by Section 402(b) of this Article.~~

11          ~~(c) Process for Revisions of Determination of Requirements. In the event that the Department~~  
12          ~~or the Commission takes action affecting any development project subject to Section 416.1 et seq. and~~  
13          ~~such action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the~~  
14          ~~Board of Supervisors, or by court action, the procedures of Section 402(c) of this Article shall be~~  
15          ~~followed.~~

#### 16 17           **~~SEC. 416.5. USE OF FUNDS.~~**

18          ~~The additional affordable housing requirement specified in this Section 416.5 for the Market~~  
19          ~~and Octavia Plan Area and the Upper Market NCT District shall be paid into the Citywide Affordable~~  
20          ~~Housing Fund, established in Administrative Code Section 10.100-49, but the funds shall be separately~~  
21          ~~accounted for. MOHCD shall expend the funds according to the following priorities: First, to increase~~  
22          ~~the supply of housing Affordable to Qualifying Households in the Market and Octavia Plan Area and~~  
23          ~~the Upper Market NCT District; second, to increase the supply of housing Affordable to Qualifying~~  
24          ~~Households within one mile of the boundaries of the Plan Area and the Upper Market NCT District;~~  
25          ~~third, to increase the supply of housing affordable to qualifying households in the City and County of~~

1 *San Francisco. The funds may also be used for monitoring and administrative expenses subject to the*  
2 *process described in Section 415.5(f)*

3  
4 **~~[AFFORDABLE HOUSING: EASTERN NEIGHBORHOODS AREA PLAN]~~**

5 **~~SEC. 417. EASTERN NEIGHBORHOODS AREA PLAN AFFORDABLE HOUSING~~**  
6 **~~REQUIREMENT.~~**

7 *(Formerly Section 315.4(a)(1)(ii)).*

8 *Sections 417.1 through 417.5, hereafter referred to as Section 417.1 et seq., set forth the*  
9 *requirements and procedures for the Eastern Neighborhoods Area Plan Alternate Affordable Housing*  
10 *Fee. The effective date of these requirements shall be either January 19, 2009, which is the date that*  
11 *the requirements originally became effective, or the date a subsequent modification, if any, became*  
12 *effective.*

13 **~~SEC. 417.1. FINDINGS.~~**

14 *The Board of Supervisors hereby finds that:*

15 *A. The fee provisions of this Section are equivalent to or less than the fees for developments of*  
16 *over 20 units previously adopted by the Board in Ordinance No. 051685 and 060529 and are also*  
17 *supported by the Nexus Study performed by Keyser Marston and Associates referenced in Section*  
18 *415.1(11) and found in Board File No. 081152. The Board of Supervisors has reviewed the study and*  
19 *staff analysis prepared by the MOH dated July 24, 2008 in Board File No. 081152 and, on that basis,*  
20 *finds that the study supports the current proposed changes to the inclusionary housing requirements for*  
21 *projects of 20 units or less in the Eastern Neighborhood Area Plan. Specifically, the Board finds that*  
22 *the study and staff memo: (1) identifies the purpose of the additional fee to mitigate impacts on the*  
23 *demand for affordable housing in the City; (2) identifies the use to which the additional fee is to be put*  
24 *as being to increase the City's affordable housing supply; and (3) establishes a reasonable relationship*  
25 *between the use of the additional fee for affordable housing and the need for affordable housing and*

1 ~~the construction of new market rate housing. Moreover, the Board finds that the new inclusionary~~  
2 ~~affordable housing requirements are less than the cost of mitigation and do not include the costs of~~  
3 ~~remediating any existing deficiencies. The Board also finds that the study establishes that the~~  
4 ~~inclusionary requirements do not duplicate other City requirements or fees.~~

5 ~~B. Furthermore, the Board finds that generally an account has been established, funds~~  
6 ~~appropriated, and a construction schedule adopted for affordable housing projects funded through the~~  
7 ~~Inclusionary Affordable Housing program and the in-lieu fees will reimburse the City for expenditures~~  
8 ~~on affordable housing that have already been made.~~

9 ~~C. The Board finds that small scale development faces a number of challenges in the current~~  
10 ~~development climate, including limited access to credit and often, a higher land cost per unit for the~~  
11 ~~small sites on which they develop. Because of these and other variations from larger-scale~~  
12 ~~development, they operate under a somewhat unique development model which cannot be fully~~  
13 ~~encapsulated within the constraints of the Eastern Neighborhoods Financial Analysis, prepared to~~  
14 ~~assess the financial feasibility of increasing housing requirements and impact fees in the Plan Areas.~~  
15 ~~To address these challenges, the Board finds that a number of slight modifications to the affordable~~  
16 ~~housing requirements of the Eastern Neighborhoods, to apply to small projects (defined as 20 units or~~  
17 ~~fewer, or less than 25,000 gross square feet) are appropriate.~~

18 **~~SEC. 417.2. DEFINITIONS.~~**

19 ~~See Section 401 of this Article.~~

20 ~~“Gross Square Footage” shall have the meaning set forth in Section 102.~~

21 ~~“Eastern Neighborhood Controls” shall have the meaning set forth in Section 175.6(c)(1).~~

22 **~~SEC. 417.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.~~**

23 ~~(a) Application. The alternate Affordable Housing Fee described in this Section shall only~~  
24 ~~apply to development projects that are subject to the Eastern Neighborhood Controls, consist of 20~~  
25 ~~units or less or less than 25,000 gross square feet, and are subject to the requirements of Sections 415~~

1 through 415.9 and 419, and any stated exceptions elsewhere in this Code, including the specific  
2 provisions in Section 419.

3 ~~(b) **Amount of Fee.** Any sponsor of a development projects subject to this Section may choose~~  
4 ~~to pay an alternate fee equal to \$40.00 per gross square foot of net new residential development instead~~  
5 ~~of the standard Affordable Housing Fee requirements set forth in Section 415.5 as follows.~~

6 ~~(c) **Calculation of Gross Square Feet of Residential Area.** The calculation of gross square feet~~  
7 ~~shall not include nonresidential uses, including any retail, commercial, or PDR uses, and all other~~  
8 ~~space used only for storage and services necessary to the operation or maintenance of the building~~  
9 ~~itself.~~

10 ~~(d) **Timing of Fee Payments.** The Eastern Neighborhoods Alternate Affordable Housing Fee~~  
11 ~~shall be paid to DBI for deposit into the Citywide Affordable Housing Fund at the time required by~~  
12 ~~Section 402(d).~~

13 **~~SEC. 417.4. IMPOSITION OF AFFORDABLE HOUSING FEE REQUIREMENT.~~**

14 ~~(a) **Determination of Requirements.** The Department shall determine the applicability of~~  
15 ~~Section 417.1 et seq. to any development project requiring a first construction document and, if Section~~  
16 ~~417.1 et seq. is applicable, shall impose any such requirements as a condition of approval for issuance~~  
17 ~~of the first construction document for the development project. The project sponsor shall supply any~~  
18 ~~information necessary to assist the Department in this determination.~~

19 ~~(b) **Department Notice to Development Fee Collection Unit at DBI.** After the Department has~~  
20 ~~made its final determination regarding the application of the affordable housing requirements to a~~  
21 ~~development project pursuant to Section 417.1 et seq., it shall immediately notify the Development Fee~~  
22 ~~Collection Unit at DBI of the applicable affordable housing fee amount in addition to the other~~  
23 ~~information required by Section 402(b) of this Article.~~

24 ~~(c) **Process for Revisions of Determination of Requirements.** In the event that the Department~~  
25 ~~or the Commission takes action affecting any development project subject to Section 417.1 et seq. and~~

1 ~~such action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the~~  
2 ~~Board of Supervisors, or by court action, the procedures of Section 402(e) shall be followed.~~

3 **~~SEC. 417.5. USE OF FUNDS.~~**

4 ~~The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee shall be paid into the~~  
5 ~~Citywide Affordable Housing Fund, but the funds shall be separately accounted for. MOH shall expend~~  
6 ~~the funds according to the following priorities: First, to increase the supply of housing Affordable to~~  
7 ~~Qualifying Households in the Eastern Neighborhoods Project Areas; second, to increase the supply of~~  
8 ~~housing Affordable to Qualifying Households within one mile of the boundaries of the Eastern~~  
9 ~~Neighborhoods Project Areas; third, to increase the supply of housing Affordable to Qualifying~~  
10 ~~Households in the City and County of San Francisco. The funds may also be used for monitoring and~~  
11 ~~administrative expenses subject to the process described in Section 415.5(e). All monies contributed~~  
12 ~~pursuant to the Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee and collected~~  
13 ~~within the Central SoMa Special Use District shall be paid into the Citywide Affordable Housing Fund,~~  
14 ~~but the funds shall be separately accounted for. Such funds shall be expended within the area bounded~~  
15 ~~by Market Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue.~~

16  
17 **~~/HOUSING REQUIREMENTS, UMU ZONING DISTRICTS OF THE EASTERN~~**  
18 **~~NEIGHBORHOODS; LAND DEDICATION ALTERNATIVE IN THE MISSION NCT DISTRICT/~~**

19 **~~SEC. 419. HOUSING REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT~~**  
20 **~~PROJECTS IN THE UMU ZONING DISTRICTS OF THE EASTERN NEIGHBORHOODS AND~~**  
21 **~~THE LAND DEDICATION ALTERNATIVE IN THE UMU DISTRICT, MISSION NCT~~**  
22 **~~DISTRICT, AND CENTRAL SOMA SPECIAL USE DISTRICT.~~**

23 ~~Sections 419.1 through 419.6, hereafter referred to as Section 419.1 et seq., set forth the~~  
24 ~~housing requirements for residential development projects in the UMU Zoning Districts of the Eastern~~  
25 ~~Neighborhoods and the Land Dedication Alternative in the UMU District, Mission NCT District, and~~

1 ~~Central SoMa Special Use District. The effective date of these requirements shall be either December~~  
2 ~~19, 2008, which is the date that the requirements originally became effective, or the date a subsequent~~  
3 ~~modification, if any, became effective.~~

4 **~~SEC. 419.1. FINDINGS.~~**

5 ~~(a) **Need for New Housing and Other Land Uses.** San Francisco is experiencing a severe~~  
6 ~~shortage of housing available to people at all income levels. In addition, San Francisco has an ongoing~~  
7 ~~affordable housing crisis. Many future San Francisco workers will be earning below 80% of the area's~~  
8 ~~median income, and even those earning moderate or middle incomes, above the City's median, are~~  
9 ~~likely to need assistance to continue to live in San Francisco. In 2007, the median income for a family~~  
10 ~~of four in the City was about \$86,000. Yet median home prices suggest that nearly twice that income is~~  
11 ~~needed to be able to afford a dwelling suitable for a family that size. Only an estimated 10% of~~  
12 ~~households in the City can afford a median-priced home.~~

13 ~~The Association of Bay Area Governments' (ABAG) Regional Housing Needs Determination~~  
14 ~~(RHND) forecasts that San Francisco must produce over 31,000 new units in the next five years, or~~  
15 ~~over 6,000 new units of housing annually, to meet projected needs. At least 60%, or over 18,000, of~~  
16 ~~these new units should be available to households of very low, low, and moderate incomes. With land in~~  
17 ~~short supply in the City, it is increasingly clear that the City's formerly industrial areas offer a critical~~  
18 ~~source of land where this great need for housing, particularly affordable housing, can be partially~~  
19 ~~addressed.~~

20 ~~(b) **Target Area For New Housing.** San Francisco's Housing Element establishes the Eastern~~  
21 ~~Neighborhoods as a target area for development of new housing to meet San Francisco's identified~~  
22 ~~housing targets. The release of some of the area's formerly industrial lands, no longer needed to meet~~  
23 ~~current industrial or PDR needs, offers an opportunity to achieve higher affordability, and meet a~~  
24 ~~greater range of need. The Mission, Showplace Square – Potrero Hill, East SoMa and Central~~  
25 ~~Waterfront Area Plans of the General Plan (Eastern Neighborhoods Plans) thereby call for creation of~~

1 ~~new zoning intended specifically to meet San Francisco's housing needs, through higher affordability~~  
2 ~~requirements and through greater flexibility in the way those requirements can be met.~~

3 ~~New affordable units are currently funded through a variety of sources, including inclusionary~~  
4 ~~housing and in lieu fees leveraged by new market rate residential development pursuant to Sections 413~~  
5 ~~and 415; as well as City, State, and federal funding. Using these existing sources, the Planning~~  
6 ~~Department projects that approximately 1,000 to 1,500 new units of affordable housing will be~~  
7 ~~developed in the Eastern Neighborhoods.~~

8 ~~Recognizing that this number of affordable units is not sufficient, the Plans call for further~~  
9 ~~measures beyond the existing inclusionary requirements and Citywide funding, including new funding~~  
10 ~~sources for affordable housing programs such as an impact fee; and new zoning districts in formerly~~  
11 ~~industrial areas which require deeper affordability.~~

12 ~~(c) **Requirements for New Development To Contribute Towards Housing Objectives.** A key~~  
13 ~~policy goal of the Eastern Neighborhoods Plans is to provide a significant amount of new housing~~  
14 ~~affordable to low, moderate, and middle income families and individuals, along with "complete~~  
15 ~~neighborhoods" that provide appropriate amenities for these new residents. The Plans obligate all new~~  
16 ~~development within the Eastern Neighborhoods to contribute towards these goals, by providing a~~  
17 ~~contribution towards affordable housing needs and by paying for a reasonable share of their impact on~~  
18 ~~the neighborhood's infrastructure. They further require new development in transitioning formerly~~  
19 ~~industrial areas to contribute a higher share towards the City's exponentially high affordability needs.~~

20 ~~To address the full range of housing needs of all income categories, including low, moderate,~~  
21 ~~and middle income families and individuals, the Plans provide programs which address all of these~~  
22 ~~income levels, as follows:~~

23 ~~(1) **Low:** Current housing programs funded by federal and State funds, private equity raised~~  
24 ~~through Low Income Housing Tax Credits, and local funds such as inclusionary in-lieu and Jobs-~~  
25 ~~Housing Linkage fees and run by MOHCD and the San Francisco Redevelopment Agency fund~~

1 ~~affordable housing primarily at very low and low income levels, to households making below 80% of~~  
2 ~~the area median income; but due to the low supply and high costs of land in the City, are at a~~  
3 ~~disadvantage for sites upon which to provide such housing. An alternative to the city's Inclusionary~~  
4 ~~Housing Program will allow developers to dedicate sites for very low and low income level units.~~

5 ~~(2) **Moderate:** The City's Inclusionary Housing Program funds affordable housing primarily at~~  
6 ~~the moderate income levels through on-site provision of below market rate units, to households making~~  
7 ~~between 80% and 120% of the San Francisco median income. Continuation and expansion of the~~  
8 ~~Inclusionary Housing Program will allow provision of these moderate income units to increase.~~

9 ~~(3) **Middle:** The City has no current programs to fund affordable housing to those at "middle"~~  
10 ~~income levels, below the 200% area median income level estimated to be required to purchase market~~  
11 ~~rate housing yet above the 120% threshold required for the City's Inclusionary Housing Program. An~~  
12 ~~alternative to the city's Inclusionary Housing Program will allow developers to provide "middle"~~  
13 ~~income level units.~~

14 ~~The Eastern Neighborhoods Plans structure requirements and fees by tiers to ensure feasibility.~~  
15 ~~This feasibility amount remains below the nexus established in the Residential Nexus Analysis, April~~  
16 ~~2007, on file with the Planning Department. Within these districts, new development of market-rate~~  
17 ~~housing will be required to meet affordable housing requirements above the City's ordinary affordable~~  
18 ~~housing requirements for Residential and Live/Work Development Projects (Section 415), as described~~  
19 ~~in Sections 419.2-419.4. These housing requirements may be met through increased inclusionary~~  
20 ~~requirements under the City's traditional Inclusionary Program, or through alternative methods~~  
21 ~~contained herein.~~

22 ***SEC. 419.2. DEFINITIONS.***

23 ~~(a) In addition to the definitions set forth in Section 401 of this Article:~~

24 ~~(1) "Tier A."~~

1                   ~~(i) All development on sites within the UMU District which received a height~~  
2 ~~increase of eight feet or less, or received a reduction in height, as part of the Eastern Neighborhoods~~  
3 ~~Plan (on file with the Clerk of the Board of Supervisors in File No. 081154), and all sites within the~~  
4 ~~Mission NCT District utilizing the land dedication alternative specified in Section 419.5(a)(2).~~

5                   ~~(ii) All changes of use within existing structures.~~

6                   ~~(2) “Tier B.” All development on sites within the UMU District which received a height~~  
7 ~~increase of nine to 28 feet as part of the Eastern Neighborhoods Plan (on file with the Clerk of the~~  
8 ~~Board of Supervisors in File No. 081154).~~

9                   ~~(3) “Tier C.” All development on sites within the UMU District which received a~~  
10 ~~height increase of 29 feet or more as part of the Eastern Neighborhoods Plan (on file with the Clerk of~~  
11 ~~the Board of Supervisors in file No. 081154).~~

12                   **~~SEC. 419.3. APPLICATION OF UMU AFFORDABLE HOUSING REQUIREMENTS.~~**

13                   ~~(a) Section 419.1 et seq. shall apply to any housing project located in the UMU Zoning~~  
14 ~~District of the Eastern Neighborhoods, that is subject to the requirements of Sections 415 et seq.~~

15                   ~~(b) Additional UMU Affordable Housing Requirements to the Section 415 Inclusionary~~  
16 ~~Affordable Housing Program Requirements. The requirements of Section 415 through 415.9 shall~~  
17 ~~apply subject to the following exceptions:~~

18                   ~~(1) For all projects sites designated as Tier A, a minimum of 14.4 percent of the total~~  
19 ~~units constructed shall be affordable to and occupied by qualifying persons and families as defined~~  
20 ~~elsewhere in this Code, so that a project sponsor must construct .144 times the total number of units~~  
21 ~~produced in the principal project beginning with the construction of the tenth unit. If the total number~~  
22 ~~of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion~~  
23 ~~of .5 or above.~~

24                   ~~(A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g)~~  
25 ~~to build off site units to satisfy the requirements of this program, the sponsor shall construct 23 percent~~

1 ~~so that a sponsor must construct .23 times the total number of units produced in the principal project~~  
2 ~~beginning with the construction of the tenth unit. If the total number of units is not a whole number, the~~  
3 ~~sponsor shall round up to the nearest whole number for any portion of .5 or above.~~

4 ~~(B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to~~  
5 ~~satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415~~  
6 ~~according to the number of units required above if the project applicant were to elect to meet the~~  
7 ~~requirements of this Section by off-site housing development. For the purposes of this Section, the City~~  
8 ~~shall calculate the fee using the direct fractional result of the total number of units multiplied by the~~  
9 ~~percentage of off-site housing required, rather than rounding up the resulting figure.~~

10 ~~(2) For all project sites designated Tier B, a minimum of 16 percent of the total units~~  
11 ~~constructed shall be affordable to and occupied by qualifying persons and families as defined~~  
12 ~~elsewhere in this Code, so that a project sponsor must construct .16 times the total number of units~~  
13 ~~produced in the principal project beginning with the construction of the tenth unit. If the total number~~  
14 ~~of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion~~  
15 ~~of .5 or above.~~

16 ~~(A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g)~~  
17 ~~to build off-site units to satisfy the requirements of this program, the sponsor shall construct 25 percent~~  
18 ~~so that a sponsor must construct .25 times the total number of units produced in the principal project~~  
19 ~~beginning with the construction of the tenth unit. If the total number of units is not a whole number, the~~  
20 ~~sponsor shall round up to the nearest whole number for any portion of .5 or above.~~

21 ~~(B) If the project sponsor elects pursuant to Section 415.5(g) to pay the fee to~~  
22 ~~satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415~~  
23 ~~according to the number of units required above if the sponsor were to elect to meet the requirements~~  
24 ~~of this Section by off-site housing development. For the purposes of this Section, the City shall calculate~~  
25

1 ~~the fee using the direct fractional result of the total number of units multiplied by the percentage of off-~~  
2 ~~site housing required, rather than rounding up the resulting figure.~~

3 ~~(3) For all project sites designated Tier C, a minimum of 17.6 percent of the total units~~  
4 ~~constructed shall be affordable to and occupied by qualifying persons and families as defined~~  
5 ~~elsewhere in this Code, so that a project sponsor must construct .176 times the total number of units~~  
6 ~~produced in the principal project beginning with the construction of the tenth unit. If the total number~~  
7 ~~of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion~~  
8 ~~of .5 or above.~~

9 ~~(A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g)~~  
10 ~~to build off-site units to satisfy the requirements of this program, the sponsor shall construct 27 percent~~  
11 ~~so that a sponsor must construct .27 times the total number of units produced in the principal project~~  
12 ~~beginning with the construction of the tenth unit. If the total number of units is not a whole number, the~~  
13 ~~sponsor shall round up to the nearest whole number for any portion of .5 or above.~~

14 ~~(B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to~~  
15 ~~satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415~~  
16 ~~according to the number of units required above if the sponsor were to elect to meet the requirements~~  
17 ~~of this Section by off-site housing development. For the purposes of this Section, the City shall calculate~~  
18 ~~the fee using the direct fractional result of the total number of units multiplied by the percentage of off-~~  
19 ~~site housing required, rather than rounding up the resulting figure.~~

20 ~~(c) **Timing of Fee Payments.** Any fee required by Section 419.1 et seq. shall be paid to DBI for~~  
21 ~~deposit into the Citywide Affordable Housing Fund at the time required by Section 402(d).~~

22 **~~SEC. 419.4. IMPOSITION OF UMU AFFORDABLE HOUSING REQUIREMENTS.~~**

23 ~~(a) The Department shall determine the applicability of Section 419.1 et seq. to any~~  
24 ~~development project requiring a first construction document and, if Section 419.1 et seq. is applicable,~~  
25 ~~the additional affordable housing required pursuant to Section 419.1 et seq. and shall impose these~~

1 ~~requirements as condition on the approval for issuance of the first construction document for the~~  
2 ~~development project. The project sponsor shall supply any information necessary to assist the~~  
3 ~~Department in this determination.~~

4 ~~(b) **Notice to Development Fee Collection Unit at DBI.** After the Department has made its~~  
5 ~~final determination of the additional affordable housing required pursuant to Section 419.1 et seq., it~~  
6 ~~shall immediately notify the Development Fee Collection Unit at DBI of its determination in addition to~~  
7 ~~the other information required by Section 402(b) of this Article.~~

8 ~~(c) **Sponsor's Choice to Fulfill Requirements.** Prior to issuance of a building or site permit~~  
9 ~~for a development project subject to the requirements of Section 419.1 et seq., the sponsor of the~~  
10 ~~development project shall select one of the options described in Section 419.3 above or the Alternatives~~  
11 ~~described in Section 419.5 below to fulfill the affordable housing requirements and notify the~~  
12 ~~Department of their choice.~~

13 ~~(d) **Department Notice to Development Fee Collection Unit of Sponsor Choice.** After the~~  
14 ~~sponsor has notified the Department of their choice to fulfill the additional affordable housing~~  
15 ~~requirements of Section 419.1 et seq., the Department shall immediately notify the Development Fee~~  
16 ~~Collection Unit at DBI of the sponsor's choice.~~

17 ~~(e) **The Development Fee Collection Unit Notice to Department Prior to Issuance of the**~~  
18 ~~**First Certificate of Occupancy.** The Development Fee Collection Unit at DBI shall provide notice in~~  
19 ~~writing or electronically to the Department prior to issuing the first certificate of occupancy for any~~  
20 ~~development project subject to Section 419.1 et seq. that has elected to fulfill its requirement with an~~  
21 ~~option other than payment of an in-lieu fee. If the Department notifies the Unit at such time that the~~  
22 ~~sponsor has not satisfied the requirements, the Director of DBI shall deny any and all certificates of~~  
23 ~~occupancy until the subject project is brought into compliance with the requirements of Section 419.1~~  
24 ~~et seq.~~

1           ~~(f) **Process for Revisions of Determination of Requirements.** In the event that the Department~~  
2 ~~or the Commission takes action affecting any development project subject to Section 419.1 et seq. and~~  
3 ~~such action is subsequently modified, superseded, vacated, or reversed by the Department or the~~  
4 ~~Commission, Board of Appeals, the Board of Supervisors, or by court action, the procedures of Section~~  
5 ~~402(c) of this Article shall be followed.~~

6  
7           **~~SEC. 419.5. ALTERNATIVES TO THE INCLUSIONARY HOUSING COMPONENT.~~**

8           ~~(a) **Alternatives to the Inclusionary Housing Component.** In addition to the Alternatives~~  
9 ~~specified in Section 415.5(g) the project sponsor may elect to satisfy the requirements of Section 415.5~~  
10 ~~by one of the Alternatives specified in this Section. The project sponsor has the choice between the~~  
11 ~~Alternatives and the Planning Commission may not require a specific Alternative. The project sponsor~~  
12 ~~must elect an Alternative before it receives project approvals from the Planning Commission or~~  
13 ~~Planning Department and that Alternative will be a condition of project approval. The Alternatives are~~  
14 ~~as follows:~~

15           ~~(1) **Middle Income Alternative.** On sites with less than 50,000 square feet of total~~  
16 ~~developable area, applicants may provide units as affordable to qualifying “middle income”~~  
17 ~~households as follows:~~

18           ~~(A) **A minimum percent of the total units constructed shall be affordable to and**~~  
19 ~~occupied affordable to qualifying “middle income” households upon initial sale, according the~~  
20 ~~schedule in Table 419.5. If the total number of units is not a whole number, the project applicant shall~~  
21 ~~round up to the nearest whole number for any portion of .5 or above. Units shall be affordable to~~  
22 ~~households between 120% and 150% of the San Francisco Area Median Income, with an average~~  
23 ~~affordability level of 135% for all units provided through this Alternative.~~

24           ~~(B) **Where market rate sales prices exceed restricted sales prices, the difference**~~  
25 ~~between the market rate sales prices and the restricted sales prices shall be held by the MOHCD as a~~

1 ~~silent second mortgage according to the Procedures Manual. The City shall hold a deed of trust and~~  
2 ~~promissory note for the second mortgage. MOHCD shall hold this mortgage and shall release it when~~  
3 ~~the original note and proportional share of the appreciation are paid in full to the City.~~

4 ~~(C) Units shall initially be sold at or below prices to be determined by MOHCD~~  
5 ~~in the Conditions of Approval or Notice of Special Restrictions according to the formula specified in~~  
6 ~~the Procedures Manual to make them affordable to middle income households. Upon resale, the seller~~  
7 ~~shall be permitted to sell the units at their market price. The City will waive its right of first refusal to~~  
8 ~~the seller when the promissory note and deed of trust are paid, along with the City's share of the~~  
9 ~~appreciation of the unit. The promissory note shall accrue no interest and shall require no monthly~~  
10 ~~payments.~~

11 ~~(D) Upon first resale, the seller shall have a right to keep a percentage of the~~  
12 ~~total appreciation of the unit proportional to every year the original seller owns the unit as an owner~~  
13 ~~occupant. The remainder of the proceeds of the sale, after the first mortgage, the second mortgage, and~~  
14 ~~any other subordinate financing is paid off, shall be repaid to MOHCD. Detailed resale procedures~~  
15 ~~shall be specified in the Middle Income Housing Procedures Manual published by MOHCD and~~  
16 ~~approved by the Planning Commission. The Director of MOHCD shall amend the Procedures Manual~~  
17 ~~as needed with the Commission's approval.~~

18 ~~(E) The City shall monitor units provided under this option during the 2- and 5-~~  
19 ~~year Monitoring Report specified in Section 342 of this Code and in separate resolution. Should this~~  
20 ~~monitoring report indicate that units constructed under this program do not meet the programs~~  
21 ~~program's stated goals of providing affordable housing to Middle Income Households, the Planning~~  
22 ~~Department and MOHCD shall consider changes to this program, including, but not limited to,~~  
23 ~~legislative changes.~~

24 ~~(F) If the project sponsor elects to satisfy the requirements of Section 415.5 and~~  
25 ~~of this Section by the Alternative specified above, the dwelling unit mix required by Section 207.6 may~~

1 ~~be waived provided the minimum percent of total units affordable to qualifying “middle income”~~  
2 ~~households as required by Table 419.5 is increased by 10%.~~

3 ~~(2) **Land Dedication Alternative.** Applicants may dedicate a portion of the total~~  
4 ~~developable area of the principal site to the City and County of San Francisco for the purpose of~~  
5 ~~constructing units Affordable to Qualifying Households. A minimum percentage of developable area,~~  
6 ~~representing an equivalent percent of total potential units to be constructed, shall be dedicated to the~~  
7 ~~City according the schedule in Table 419.5. To meet the requirements of this Alternative, the developer~~  
8 ~~must convey title to land in fee simple absolute to MOHCD according to the Procedures Manual,~~  
9 ~~provided the dedicated site is deemed of equivalent or greater value to the principal site per those~~  
10 ~~procedures and is in line with the following requirements:~~

11 ~~(A) The dedicated site will result in a total amount of inclusionary units not less~~  
12 ~~than 40 units. MOHCD may conditionally approve and accept dedicated sites which result in no less~~  
13 ~~than 25 units at its discretion.~~

14 ~~(B) The dedicated site will result in a total amount of inclusionary units that is~~  
15 ~~equivalent or greater than the minimum percentage of the units that will be provided on the principal~~  
16 ~~site, as required by Table 419.5. MOHCD may also accept dedicated sites that represent the equivalent~~  
17 ~~of or greater than the required percentage of units for all units that could be provided on a collective of~~  
18 ~~sites within a one-mile radius, provided the total amount of inclusionary units provided on the~~  
19 ~~dedicated site is equivalent to or greater than the total requirements for all principal sites participating~~  
20 ~~in the collective, according to the requirements of Table 419.5.~~

21 ~~(C) The dedicated site is suitable from the perspective of size, configuration,~~  
22 ~~physical characteristics, physical and environmental constraints, access, location, adjacent use, and~~  
23 ~~other relevant planning criteria. The site must allow development of affordable housing that is sound,~~  
24 ~~safe, and acceptable.~~

1                   ~~(D) The dedicated site includes infrastructure necessary to serve the~~  
2 ~~inclusionary units, including sewer, utilities, water, light, street access, and sidewalks.~~

3                   ~~(E) The developer must submit full environmental clearance for the dedicated~~  
4 ~~site before the land can be considered for conveyance, and before a first site or building permit may be~~  
5 ~~conferred upon the Principal Project.~~

6                   ~~(F) The City may accept dedicated sites that vary from the minimum threshold,~~  
7 ~~provided such a dedication is deemed generally equivalent to the original requirement by the MOHCD.~~

8                   ~~(G) The City may accept dedicated sites that meet the above requirements in~~  
9 ~~accordance with the Procedures Manual, in combination with fees or on-site units, provided such a~~  
10 ~~combination is deemed generally equivalent by MOHCD to the original requirement.~~

11                   ~~(H) The project applicant has a letter from MOHCD verifying acceptance of~~  
12 ~~site before it receives project approvals from the Planning Commission or Planning Department, which~~  
13 ~~shall be used to verify dedication as a condition of approval.~~

14                   ~~(I) If the project sponsor elects to satisfy the requirements of Section 415.5 and~~  
15 ~~of this Section by the Alternative specified above, the dwelling unit mix required by Section 207.6 may~~  
16 ~~be waived.~~

17                   ~~(J) The Land Dedication Alternative may be satisfied through the dedication to~~  
18 ~~the City of air space above or adjacent to the project, upon the approval of MOHCD, or a successor~~  
19 ~~entity, and provided the other requirements of subsection (a)(2)(A)-(I) are otherwise satisfied.~~

20  
21                   ~~TABLE 419.5~~

22                   ~~HOUSING REQUIREMENTS FOR THE UMU DISTRICT~~  
23  
24  
25

| <i>Tier</i> | <i>On-Site Housing Requirement</i> | <i>Off-Site/In-Lieu Requirement</i> | <i>Middle Income Alternative</i> | <i>Land Dedication Alternative for sites that have less than 30,000 square feet of developable area</i> | <i>Land Dedication Alternative for sites that have at least 30,000 square feet of developable area</i> |
|-------------|------------------------------------|-------------------------------------|----------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| <i>A</i>    | <i>14.4%</i>                       | <i>23%</i>                          | <i>30%</i>                       | <i>35%</i>                                                                                              | <i>30%</i>                                                                                             |
| <i>B</i>    | <i>16%</i>                         | <i>25%</i>                          | <i>35%</i>                       | <i>40%</i>                                                                                              | <i>35%</i>                                                                                             |
| <i>C</i>    | <i>17.6%</i>                       | <i>27%</i>                          | <i>40%</i>                       | <i>45%</i>                                                                                              | <i>40%</i>                                                                                             |

*\*Requirement increases by 5% if dwelling unit mix required by Section 207.6 is waived.*

*(b) ~~Adjustments to Requirements for the Inclusionary Housing Component.~~ This Section is intended to incorporate, rather than supersede, any changes made to Planning Code Section 415. In the instance that the base requirements of Section 415 are amended, the above noted requirements shall be reviewed, and if appropriate, amended and/or increased accordingly.*

**~~SEC. 419.6. LAND DEDICATION ALTERNATIVE IN THE MISSION NCT DISTRICT AND CENTRAL SOMA SPECIAL USE DISTRICT.~~**

*(a) ~~Mission NCT District.~~ The Land Dedication Alternative is available for any project within the Mission NCT District under the same terms and conditions as provided for in Section 419.5(a)(2)(A)-(J).*

1           ~~(b) Central SoMa Special Use District. The Land Dedication Alternative is available for~~  
2 ~~projects within the Central SoMa Special Use District under the same terms and conditions as provided~~  
3 ~~for in Section 419.5 (a)(2), except that in lieu of the Land Dedication Alternative requirements of Table~~  
4 ~~419.5, projects may satisfy the requirements of Section 415.5 by dedicating land for affordable housing~~  
5 ~~if the dedicated site will result in a total amount of dedicated Gross Floor Area that is equal to or~~  
6 ~~greater than 45% of the potential Gross Floor Area that could be provided on the principal site, as~~  
7 ~~determined by the Planning Department. Land dedicated for affordable housing that results in less than~~  
8 ~~45% of such potential Gross Floor Area may be counted in partial satisfaction of the requirements of~~  
9 ~~Section 415.5, so long as the land dedicated is at least 10,000 square feet or has a minimum capacity of~~  
10 ~~75 units of affordable housing; provided that the project satisfies any remaining obligations under~~  
11 ~~Section 415.5 through the alternatives described in Section 415.5(g)(1). Any dedicated land shall be~~  
12 ~~within the area bounded by Market Street, the Embarcadero, King Street, Division Street, and South~~  
13 ~~Van Ness Avenue.~~

14  
15           ~~**[VAN NESS & MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD**~~  
16 ~~**INFRASTRUCTURE]**~~

17           ~~**SEC. 424. VAN NESS & MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD**~~  
18 ~~**INFRASTRUCTURE FEE AND PROGRAM.**~~

19           ~~Sections 424.1 through 424.5, hereafter referred to as Section 424.1 et seq., set forth the~~  
20 ~~requirements and procedures for the Van Ness and Market Affordable Housing and Neighborhood~~  
21 ~~Infrastructure Program. The effective date of these requirements shall be either May 30, 2008, which is~~  
22 ~~the date that the requirements original became effective, or the date a subsequent modification, if any,~~  
23 ~~became effective.~~

24           ~~**SEC. 424.1. FINDINGS SUPPORTING THE VAN NESS & MARKET AFFORDABLE**~~  
25 ~~**HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.**~~

1           ~~(a) Affordable Housing. The Van Ness and Market Residential Special Use District (“SUD”)~~  
2           ~~enables the creation of a very dense residential neighborhood through significant increases in~~  
3           ~~development potential. This increase in development potential permits an increase in market rate~~  
4           ~~housing development. As described in Section 415.1, affordable housing is a priority for San Francisco~~  
5           ~~and additional demand for affordable housing is closely correlated to the development of new market~~  
6           ~~rate housing. At the direction of the Board of Supervisors and as part of a larger analysis of~~  
7           ~~development impact fees in the City, the City contracted with Keyser Marston Associates to prepare a~~  
8           ~~nexus analysis in support of the Inclusionary Housing Program, or an analysis of the impact of~~  
9           ~~development of market rate housing on affordable housing supply and demand.~~

10           ~~The City’s Inclusionary Housing Program including the in-lieu fee provision which is offered as~~  
11           ~~an alternative to building units within market rate projects, is not subject to the requirements of the~~  
12           ~~Mitigation Fee Act, Government Code Sections 66000 et seq. Notwithstanding this policy, as an~~  
13           ~~additional support measure, the City prepared a nexus study consistent with the Mitigation Fee Act to~~  
14           ~~determine whether the Inclusionary Affordable Housing Program was supported by such analysis. The~~  
15           ~~final nexus study can be found in the Board of Supervisors File and is incorporated by reference~~  
16           ~~herein. The Board of Supervisors has reviewed the study and the Department’s analysis and report of~~  
17           ~~the study and, on that basis finds that the nexus study supports the current Inclusionary Affordable~~  
18           ~~Housing Program requirements as specified in this Section 424.1 et seq. combined with this Affordable~~  
19           ~~Housing Floor Area Ratio (“FAR”) Bonus Program. Specifically, the Board finds that the nexus study:~~  
20           ~~identifies the purpose of the fee to mitigate impacts on the demand for affordable housing in the City;~~  
21           ~~identifies the use to which the fee is to be put as being to increase the City’s affordable housing supply;~~  
22           ~~and establishes a reasonable relationship between the use of the fee for affordable housing and the~~  
23           ~~need for affordable housing and the construction of new market rate housing. Moreover, the Board~~  
24           ~~finds that the current inclusionary requirements combined with the Affordable Housing FAR Bonus~~  
25           ~~Program are less than the cost of mitigation and do not include the costs of remedying any existing~~

1 ~~deficiencies. The Board also finds that the study establishes that the current inclusionary requirements~~  
2 ~~combined with the Affordable Housing FAR Bonus Program do not duplicate other City requirements~~  
3 ~~or fees.~~

4 ~~Moreover, according to the study undertaken by Seifel Consulting at the direction of the~~  
5 ~~Planning Department, increased development potential in the Van Ness and Market Downtown~~  
6 ~~Residential Special Use district through the increased FAR allowance enables an increased~~  
7 ~~contribution to the Citywide Affordable Housing Fund without discouraging the development of new~~  
8 ~~market rate housing. A copy of said study is on file with the Clerk of the Board of Supervisors.~~

9 ~~(b) **Neighborhood Infrastructure.** The Van Ness & Market Residential SUD enables the~~  
10 ~~creation of a very dense residential neighborhood in an area built for back-office and industrial uses.~~  
11 ~~Projects that seek the FAR bonus above the maximum cap would introduce a very high localized~~  
12 ~~density in an area generally devoid of necessary public infrastructure and amenities, as described in~~  
13 ~~the Market and Octavia Area Plan. While envisioned in the Plan, such projects would create localized~~  
14 ~~levels of demand for open space, streetscape improvements, and public transit above and beyond the~~  
15 ~~levels both existing in the area today and funded by the Market and Octavia Community Improvements~~  
16 ~~Fee. Such projects also entail construction of relatively taller or bulkier structures in a concentrated~~  
17 ~~area, increasing the need for offsetting open space for relief from the physical presence of larger~~  
18 ~~buildings. Additionally, the FAR bonus provisions herein are intended to provide an economic incentive~~  
19 ~~for project sponsors to provide public infrastructure and amenities that improve the quality of life in~~  
20 ~~the area. The bonus allowance is calibrated based on the cost of responding to the intensified demand~~  
21 ~~for public infrastructure generated by increased densities available through the FAR density bonus~~  
22 ~~program.~~

23 ~~The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis (“Nexus~~  
24 ~~Analysis”), and the San Francisco Infrastructure Level of Service Analysis, both on file with the Clerk~~  
25 ~~of the Board in File No. 230764 and, under Section 401A, adopts the findings and conclusions of those~~

1 ~~studies and the general and specific findings in that Section, specifically including the Recreation and~~  
2 ~~Open Space Findings, Complete Streets Findings, Childcare Findings, and Transit Infrastructure~~  
3 ~~Findings, and incorporates those by reference herein to support the imposition of the fees under this~~  
4 ~~Section.~~

5 ~~(c) **Public Improvements.** The public improvements acceptable in exchange for granting the~~  
6 ~~FAR bonus, and that would be necessary to serve the additional population created by the increased~~  
7 ~~density, are listed below. All public improvements shall be consistent with the Market and Octavia Area~~  
8 ~~Plan.~~

9 ~~(1) **Open Space Acquisition and Improvement.** Open Spaces (as described in the~~  
10 ~~Market and Octavia Area Plan), or other open space of comparable size and performance. Open space~~  
11 ~~shall be dedicated for public ownership or permanent easement for unfettered public access and~~  
12 ~~improved for public use, including landscaping, seating, lighting, and other amenities.~~

13 ~~(2) **Complete Streets.** Pedestrian and Streetscape improvements and Bicycle~~  
14 ~~Infrastructure within the Special Use District as described in the Market and Octavia Area Plan,~~  
15 ~~including Van Ness and South Van Ness Avenues, Gough, Mission, McCoppin, Market, Otis, Oak, Fell,~~  
16 ~~Valencia, 11th, 12th, and 13th Streets, along with adjacent alleys. Improvements include sidewalk~~  
17 ~~widening, landscaping and trees, lighting, seating and other street furniture (e.g., newsracks, kiosks,~~  
18 ~~bicycle racks), signage, transit stop and subway station enhancements (e.g., shelters, signage, boarding~~  
19 ~~platforms), roadway and sidewalk paving, public art and living alleys.~~

20 ~~(3) **Affordable Housing.** The type of affordable housing needed in San Francisco is~~  
21 ~~documented in the City's Consolidated Plan and the Housing Element of the General Plan. New~~  
22 ~~affordable rental housing and ownership housing affordable to households earning less than the~~  
23 ~~median income is greatly needed in San Francisco.~~

24  
25 **SEC. 424.2. DEFINITIONS.**

1        ~~See Section 401 of this Article.~~

2  
3        **~~SEC. 424.3. APPLICATION OF VAN NESS & MARKET AFFORDABLE HOUSING AND~~**  
4 **~~NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.~~**

5        ~~(a) **Application and Timing of Fee Payments.** Section 424.1 et seq. shall apply to any~~  
6 ~~development project located in the Van Ness & Market Residential Special Use District, as established~~  
7 ~~in Section 249.33 of this Code, except as provided under Section 406(k) of this Code. The Fee shall be~~  
8 ~~paid to DBI for deposit into either the Van Ness and Market Downtown Residential Special Use~~  
9 ~~District Affordable Housing Fund or the Van Ness and Market Downtown Residential Special Use~~  
10 ~~District Infrastructure Fund, as applicable, at the time required by Section 402(d) of this Code.~~

11        ~~(b) **Amount of Fee.**~~

12                ~~(1) All uses in any development project within the Van Ness & Market Residential~~  
13 ~~Special Use District shall pay \$30.00 per net additional gross square foot of floor area in any portion~~  
14 ~~of building area exceeding the base development site FAR of 6:1 up to a base development site FAR of~~  
15 ~~9:1.~~

16                ~~(2) All uses in any development project within the Van Ness & Market Residential~~  
17 ~~Special Use District shall pay \$15.00 per net additional gross square foot of floor area in any portion~~  
18 ~~of building area exceeding the base development site FAR of 9:1.~~

19        ~~(c) **Option for In-Kind Provision of Infrastructure Improvements and Fee Credits.** Project~~  
20 ~~sponsors may propose to directly provide community improvements to the City. In such a case, the City~~  
21 ~~may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver from the~~  
22 ~~neighborhood infrastructure portion (\$15.00 per net additional gross square foot of floor area) of the~~  
23 ~~Van Ness & Market Residential Special Use District Affordable Housing and Neighborhood~~  
24 ~~Infrastructure Fee from the Planning Commission, subject to the following rules and requirements:~~

1                   ~~(1) **Approval Criteria.** The City shall not enter into an In-Kind Agreement unless the~~  
2 ~~proposed in-kind improvements meet an identified community need as analyzed in the Van Ness &~~  
3 ~~Market Affordable Housing and Neighborhood Infrastructure Program and where they substitute for~~  
4 ~~improvements that could be provided by the Van Ness & Market Residential Special Use District~~  
5 ~~Infrastructure Fee Fund (as described in Section 424.5). The City may reject in-kind improvements if~~  
6 ~~they are not consistent with the priorities identified in the Van Ness & Market Affordable Housing and~~  
7 ~~Neighborhood Infrastructure Program. No physical improvement or provision of space otherwise~~  
8 ~~required by the Planning Code or any other City Code shall be eligible for consideration as part of this~~  
9 ~~In-Kind Improvements Agreement.~~

10                   ~~(2) **Valuation.** The Director of Planning shall determine the appropriate value of the~~  
11 ~~proposed in-kind improvements. For the purposes of calculating the total value, the project sponsor~~  
12 ~~shall provide the Planning Department with a cost estimate for the proposed in-kind improvement(s)~~  
13 ~~from two independent sources or, if relevant, real estate appraisers. If the City has completed a~~  
14 ~~detailed site-specific cost estimate for a planned improvement this may serve as one of the cost~~  
15 ~~estimates provided it is indexed to current cost of construction.~~

16                   ~~(3) **Content of the In-Kind Improvements Agreement.** The In-Kind Improvements~~  
17 ~~Agreement shall include at least the following items:~~

18                                 ~~(i) A description of the type and timeline of the proposed in-kind improvements.~~

19                                 ~~(ii) The appropriate value of the proposed in-kind improvement, as determined~~  
20 ~~in subsection (2) above.~~

21                                 ~~(iii) The legal remedies in the case of failure by the project sponsor to provide~~  
22 ~~the in-kind improvements according to the specified timeline and terms in the agreement. Such~~  
23 ~~remedies shall include the method by which the City will calculate accrued interest.~~

24                   ~~(4) **Approval Process.** The Planning Commission must approve the material terms of an~~  
25 ~~In-Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the~~

1 ~~agreement as to form and to substance. The Director of Planning is authorized to execute the~~  
2 ~~Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall~~  
3 ~~waive the amount of the neighborhood infrastructure portion of the Van Ness & Market Residential~~  
4 ~~Special Use District Affordable Housing and Neighborhood Infrastructure Fee by the value of the~~  
5 ~~proposed In-Kind Improvements Agreement as determined by the Director of Planning. No credit shall~~  
6 ~~be made for land value unless ownership of the land is transferred to the City or a permanent public~~  
7 ~~easement is granted, the acceptance of which is at the sole discretion of the City. The maximum value~~  
8 ~~of the In-Kind Improvements Agreement shall not exceed the required neighborhood infrastructure~~  
9 ~~portion of the Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee.~~

10 ~~(5) Administrative Costs. Project sponsors that pursue an In-Kind Improvements~~  
11 ~~Agreement will be billed time and materials for any administrative costs that the Planning Department~~  
12 ~~or any other City entity incurs in negotiating, drafting, and monitoring compliance with the In-Kind~~  
13 ~~Improvement Agreement.~~

14  
15 **~~SEC. 424.4. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT AFFORDABLE~~**  
16 **~~HOUSING FUND.~~**

17 ~~(a) That portion of gross floor area subject to the \$30 per gross square foot fee referenced in~~  
18 ~~Section 424.3(b)(1) above shall be deposited into the special fund maintained by the Controller called~~  
19 ~~the Citywide Affordable Housing Fund established by Section 413.9. Except as specifically provided in~~  
20 ~~this Section, collection, management, enforcement, and expenditure of funds shall conform to the~~  
21 ~~requirements related to in-lieu fees in Planning Code Section 415.1 et seq., specifically including, but~~  
22 ~~not limited to, the provisions of Section 415.7.~~

23 ~~(b) Priorities for SUD Affordable Housing Fees Implementation. In order to increase the~~  
24 ~~supply of housing Affordable to Qualifying Households in the Market and Octavia Plan Area, the~~  
25 ~~Upper Market NCT District, and to the City, the following is the prioritization of the use of these fees;~~

~~(1) First, to increase the supply of housing Affordable to Qualifying Households in the Van Ness & Market Residential Special Use District;~~

~~(2) Second, to increase the supply of housing Affordable to Qualifying Households within one mile of the boundaries of the Market and Octavia Area Plan;~~

~~(3) Third, to increase the supply of housing Affordable to Qualifying Households in the City and County of San Francisco.~~

## **SEC. 424.5. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT INFRASTRUCTURE FUND.**

(a) **Purpose.** There is ~~hereby established~~ a separate fund set aside for a special purpose entitled the Van Ness and Market Neighborhood Infrastructure Fund ("Fund"). ~~That portion of Gross Floor Area subject to the \$15.00 per gross square foot fee referenced in Section 424.3(b)(ii) above shall be deposited into the Fund,~~ maintained by the Controller. The receipts of the Fund are ~~hereby~~ appropriated in accordance with law through the normal budgetary process to fund public infrastructure and other allowable improvements subject to the conditions of this Section.

| <b>Table 424.5A.<br/>Breakdown of Use of Van Ness and Market Neighborhood Infrastructure Fund<br/>by Infrastructure Type</b> |                                                              |                                                               |
|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------------|
| <b>Infrastructure Type</b>                                                                                                   | <b>Dollars Received From<br/>Residential<br/>Development</b> | <b>Dollars Received From Non-<br/>Residential Development</b> |
| Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Facilities                                                | 44%                                                          | 30%                                                           |
| Transit                                                                                                                      | 22%                                                          | 45%                                                           |
| Recreation and Open Space                                                                                                    | 21%                                                          | 20%                                                           |
| Childcare                                                                                                                    | 8%                                                           | Not applicable                                                |
| Program Administration                                                                                                       | 5%                                                           | 5%                                                            |

1  
2 (1) **Infrastructure.** All monies deposited in the Fund, plus accrued interest,  
3 shall be used solely to design, engineer, acquire and develop neighborhood recreation and  
4 open space, pedestrian amenities and streetscape improvements, and bicycle infrastructure  
5 that result in new publicly-accessible facilities. First priority should be given to projects within  
6 the Van Ness & Market Residential Special Use District. Second Priority should be given to  
7 projects within the Market and Octavia Plan Area or within 1,250 feet of the Plan Area. These  
8 improvements shall be consistent with the Market and Octavia Area Plan of the General Plan  
9 and any Plan that is approved by the Board of Supervisors in the future for the area covered  
10 by the Van Ness & Market Residential Special Use District, except that monies from the Fund  
11 may be used by the Planning Commission to commission studies to revise the fee above, or  
12 to commission landscape, architectural or other planning, design and engineering services in  
13 support of the proposed public improvements.

14 (2) No portion of the Fund may be used, by way of loan or otherwise, to pay any  
15 administrative, general overhead, or similar expense of any public entity.

16 ~~(3) At the close of a fiscal year in which the Market and Octavia Community~~  
17 ~~Improvements Program has generated funding for no less than \$211 million of expenditures in the plan~~  
18 ~~area, including revenue generated through this Section 424.1 et seq., Section 421 fee payments, in-kind~~  
19 ~~improvements, public grants, San Francisco general funds, assessment districts, and other sources~~  
20 ~~which contribute to the overall programming, all future funds generated through Section 424.1 et~~  
21 ~~seq. shall be redirected 100% to the Citywide Affordable Housing Fund.~~

22 (4~~3~~) Expenditure of funds shall be coordinated with appropriate City agencies as  
23 detailed in Section 421.5.

24 (5~~4~~) The Director shall have the authority to prescribe rules and regulations  
25 governing the Fund, which are consistent with Section 424.5 ~~424.1 et seq.~~ The Director of

1 *Planning*, as the head of the Interagency Plan Implementation Committee (IPIC), shall make  
2 recommendations to the Board regarding allocation of funds.

3 *(b) The Van Ness and Market Neighborhood Infrastructure Fee was repealed by the ordinance*  
4 *in Board File No. 260538. This Section 424.5 shall expire by operation of law upon certification by the*  
5 *Controller, with notice to the Board of Supervisors, Mayor, and City Attorney, that all monies in the*  
6 *Fund have been expended. Thereafter, the City Attorney is authorized to cause the removal of this*  
7 *Section 424.5 from the Planning Code.*

8  
9 ~~**VAN NESS & MARKET COMMUNITY FACILITIES FEE AND FUND**~~

10 ~~**SEC. 425. VAN NESS & MARKET COMMUNITY FACILITIES FEE AND FUND.**~~

11 ~~*Sections 425.1 through 425.4 set forth the requirements and procedures for the Van Ness &*~~  
12 ~~*Market Community Facilities Fee and Fund.*~~

13 ~~**SEC. 425.1. PURPOSE AND FINDINGS.**~~

14 ~~*(a) Purpose. New development in the Van Ness & Market Residential Special Use District will*~~  
15 ~~*increase the resident populations, generating new demand for use of community facilities, such as*~~  
16 ~~*cultural facilities, health clinics, services for people with disabilities, and job training centers. New*~~  
17 ~~*revenues to fund investments in community services are necessary to maintain the existing level of*~~  
18 ~~*service. This fee will generate revenue that will be used to ensure an expansion in community service*~~  
19 ~~*facilities as new development occurs in the Van Ness & Market Residential Special Use District area.*~~

20 ~~*(b) Findings. In adopting the amendments to the Market and Octavia Area Plan (Ordinance*~~  
21 ~~*No. 125-20), on file with the Clerk of the Board of Supervisors in File No. 200557, and corresponding*~~  
22 ~~*amendments to the Planning Code (Ordinance No. 126-20 on file with the Clerk of the Board of*~~  
23 ~~*Supervisors in File No. 200559), the Board of Supervisors reviewed the Central SoMa Community*~~  
24 ~~*Facilities Nexus Study, prepared by Economic & Planning Systems and dated March 2016, as well as*~~  
25 ~~*the Hub Community Facilities Nexus Memo, prepared by the Planning Department and dated June 29,*~~

1 ~~2020 (collectively the “Nexus Study” for the purposes of Sections 425 et seq.). The Board of~~  
2 ~~Supervisors reaffirms the findings and conclusions of the Nexus Study as they relate to the impact of~~  
3 ~~new development in the Van Ness & Market Special Use District on community services facilities and~~  
4 ~~hereby adopts the findings contained in the Nexus Study.~~

5 **~~SEC. 425.2. APPLICATION OF FEES.~~**

6 ~~(a) Applicable Projects. Except as provided under Section 406(k) of this Code, the Van Ness &~~  
7 ~~Market Community Facilities Fee is applicable to any development project within the Van Ness &~~  
8 ~~Market Residential Special Use District, described in Section 249.33 of this Code, that:~~

9 ~~(1) Includes new construction, or an addition of space, in excess of 800 gross square~~  
10 ~~feet of residential use; or~~

11 ~~(2) Converts 800 gross square feet or more of existing structure(s) from non-residential~~  
12 ~~to residential use.~~

13 ~~(b) Fee Calculation. For applicable projects, the fee is \$1.16 per net additional gross square~~  
14 ~~foot of residential use or gross square foot of space converted from non-residential to residential use.~~

15 ~~(c) Option for In-Kind Provision of Community Improvements and Fee Credits. Project~~  
16 ~~sponsors may propose to provide community improvements directly to the City. In such a case, the City~~  
17 ~~may enter into an In-Kind Improvements Agreement with the sponsor and issue a partial or total fee~~  
18 ~~waiver for the Van Ness & Market Community Facilities Fund from the Planning Commission, subject~~  
19 ~~to the following rules and requirements:~~

20 ~~(1) Approval Criteria. The City shall not enter into an In-Kind Improvements~~  
21 ~~Agreement unless the proposed in-kind improvements meet an identified community need for~~  
22 ~~cultural/arts facilities, social welfare facilities, or community health facilities, as described in the~~  
23 ~~Nexus Study. In addition, the City may reject in-kind improvements if they are not consistent with the~~  
24 ~~priorities identified in the Market & Octavia Area Plan; the priorities identified by the Interagency~~  
25 ~~Plan Implementation Committee (see Section 36 of the Administrative Code), or the Market & Octavia~~

1 ~~Citizens Advisory Committee; or other prioritization processes related to the Market & Octavia Area~~  
2 ~~Plan community improvements programming. No physical improvement or provision of space~~  
3 ~~otherwise required by the Planning Code or any other City Code shall be eligible for consideration as~~  
4 ~~part of an In-Kind Improvements Agreement.~~

5 ~~(2) Valuation, Content, Approval Process, and Administrative Costs. The valuation,~~  
6 ~~content, approval process, and administrative costs shall be undertaken pursuant to the requirements of~~  
7 ~~subsections 421.3(d)(2) through 421.3(d)(5).~~

8 ~~(d) Timing of Fee Payments. The fee shall be due and payable to the Development Fee~~  
9 ~~Collection Unit at DBI consistent with the timing set forth in Section 107A.13.3 of the San Francisco~~  
10 ~~Building Code.~~

11 ~~(e) Waiver or Reduction of Fees. Development projects may be eligible for a waiver or~~  
12 ~~reduction of impact fees, pursuant to Section 406.~~

13 **~~SEC. 425.3. IMPOSITION OF VAN NESS & MARKET COMMUNITY FACILITIES FEE.~~**

14 ~~(a) Determination of Requirements. The Department shall determine the applicability of~~  
15 ~~Section 425 et seq. to any residential development project requiring a first construction document and,~~  
16 ~~if Section 425 et seq. is applicable, the Department shall determine the amount of the Van Ness &~~  
17 ~~Market Community Facilities Fees required and shall impose these requirements as a condition of~~  
18 ~~approval for issuance of the first construction document for the development project. The project~~  
19 ~~sponsor shall supply any information necessary to assist the Department in this determination.~~

20 ~~(b) Department Notice to Development Fee Collection Unit at DBI. Prior to the issuance of a~~  
21 ~~building or site permit for a development project subject to the requirements of Section 425 et seq., the~~  
22 ~~Department shall notify the Development Fee Collection Unit at DBI of its final determination of the~~  
23 ~~amount of the Van Ness & Market Community Facilities Fees required, including any reductions~~  
24 ~~calculated for an In-Kind Improvements Agreement, in addition to the other information required by~~  
25 ~~Section 402(b) of this Article.~~

1           ~~(c) Development Fee Collection Unit Notice to Department Prior to Issuance of the First~~  
2           ~~Certificate of Occupancy. The Development Fee Collection Unit at DBI shall provide notice in writing~~  
3           ~~or electronically to the Department prior to issuing the first certificate of occupancy for any~~  
4           ~~development project subject to Section 425 et seq. that has elected to fulfill all or part of its Van Ness &~~  
5           ~~Market Community Facilities Fee requirement with an In-Kind Improvements Agreement. If the~~  
6           ~~Department notifies the Unit at such time that the sponsor has not fully satisfied all of the terms of the~~  
7           ~~In-Kind Improvements Agreement, the Director of DBI shall deny any and all certificates of occupancy~~  
8           ~~until the project complies with the requirements of Section 425 et seq., either through conformance with~~  
9           ~~the In-Kind Improvements Agreement or payment of the remainder of the Van Ness & Market~~  
10           ~~Community Facilities Fee that would otherwise have been required, plus a deferral surcharge as set~~  
11           ~~forth in Section 107A.13.3.1 of the San Francisco Building Code.~~

12           ~~(d) Process for Revisions of Determination of Requirements. In the event that the Department~~  
13           ~~or the Commission takes action affecting any development project subject to Section 425 et seq. and~~  
14           ~~such action is subsequently modified, superseded, vacated, or reversed by the Department or the~~  
15           ~~Commission, Board of Appeals, the Board of Supervisors, or by court action, the procedures of Section~~  
16           ~~402(c) of this Article shall be followed.~~

17  
18           **~~SEC. 425.4. THE VAN NESS & MARKET COMMUNITY FACILITIES FEE~~**

19           ~~(a) There is hereby established a separate fund set aside for a special purpose entitled the Van~~  
20           ~~Ness & Market Community Facilities Fund ("Fund"). All monies collected by the Development Fee~~  
21           ~~Collection Unit at DBI pursuant to this Section 425 shall be deposited in a special fund maintained by~~  
22           ~~the Controller. The receipts in the Fund are to be used solely to fund community facilities subject to the~~  
23           ~~conditions of this Section 425 et seq.~~

24           ~~(b) Expenditures from the Fund shall be administered by the Mayor's Office of Housing and~~  
25           ~~Community Development, or its successor. The Mayor's Office of Housing and Community~~

1 ~~Development or its successor shall have the authority to prescribe rules and regulations governing the~~  
2 ~~Fund.~~

3 ~~(1) All monies deposited in the Fund shall be used to design, engineer, and develop~~  
4 ~~community facilities as described in the Nexus Study, including cultural/arts facilities, social welfare~~  
5 ~~facilities, and community health facilities, in the Market and Octavia Plan Area or within 1,250 feet of~~  
6 ~~the Plan Area.~~

7 ~~(2) Funds may be used for administration and accounting of fund assets, for additional~~  
8 ~~studies related to community facilities identified in the Market & Octavia Area Plan or Market &~~  
9 ~~Octavia Area Plan Implementation Document, or by the Interagency Plan Implementation Committee~~  
10 ~~or the Market & Octavia Citizens Advisory Committee, and to defend the Van Ness & Market~~  
11 ~~Community Facilities Fee against legal challenge, including the legal costs and attorney's fees~~  
12 ~~incurred in the defense. Administration of this fund includes time and materials associated with~~  
13 ~~reporting requirements, facilitating any necessary or required public meetings aside from Planning~~  
14 ~~Commission hearings, and maintenance of the fund. Monies from the Fund may be used by the~~  
15 ~~Planning Commission to commission economic analyses for the purpose of revising the fee, and/or to~~  
16 ~~complete an updated nexus study to demonstrate the relationship between development and the need for~~  
17 ~~public facilities and services if this is deemed necessary. Monies used for the purposes consistent with~~  
18 ~~this subsection 425.4(b)(2) shall not exceed five percent of the total fees collected. All interest earned~~  
19 ~~on this account shall be credited to the Van Ness & Market Community Facilities Fund.~~

20 ~~(3) The Planning Department shall report quarterly to the Planning Commission on the~~  
21 ~~current status of the fund, as well as annually as part of the Annual Progress Reports required by~~  
22 ~~Administrative Code Section 36.4.~~

23 ~~(4) All funds are justified and supported by the Nexus Study, adopted as part of the~~  
24 ~~Market & Octavia Area Plan Amendments (Ordinance No. 125-20, on file with the Clerk of the Board~~  
25 ~~of Supervisors in File No. 200557) and corresponding Planning Code Amendments (Ordinance No.~~

1 ~~126-20 on file with the Clerk of the Board of Supervisors in File No. 200559). Implementation of the~~  
2 ~~Fee and Fund shall be monitored according to the Market and Octavia Area Plan Monitoring Program~~  
3 ~~required by Planning Code Section 34I.~~

4  
5 ~~**{DIVISADERO STREET NCT AFFORDABLE HOUSING FEE}**~~

6 ~~**SEC. 428. DIVISADERO STREET NCT AFFORDABLE HOUSING FEE AND**~~  
7 ~~**REQUIREMENTS.**~~

8 ~~Sections 428.1 through 428.5, hereafter referred to as Sections 428.1 et seq., set forth the~~  
9 ~~requirements and procedures for the Divisadero Street Neighborhood Commercial Transit District~~  
10 ~~Affordable Housing Fee.~~

11 ~~**SEC. 428.1. FINDINGS.**~~

12 ~~The Board of Supervisors hereby finds that:~~

13 ~~(a) The additional affordable housing fee requirement of Sections 428.1 et seq. is supported by~~  
14 ~~the November 2016 Nexus Study performed by Keyser Marston and Associates. The Board of~~  
15 ~~Supervisors has reviewed the Nexus Study and other documents and, on that basis, finds that the Study~~  
16 ~~supports the inclusionary affordable housing requirements combined with the additional affordable~~  
17 ~~housing fee and requirements set forth in Sections 428.1 et seq. Specifically, the Board finds that the~~  
18 ~~Study: (1) identifies the purpose of the additional fee and requirements to mitigate impacts on the~~  
19 ~~demand for affordable housing in the City; (2) identifies the use of the additional fee to increase the~~  
20 ~~City's affordable housing supply; and (3) establishes a reasonable relationship between the use of the~~  
21 ~~additional fee for affordable housing and the need for affordable housing and the construction of new~~  
22 ~~market rate housing. Further, the affordable housing fee and requirements do not include the costs of~~  
23 ~~remedying any existing deficiencies and do not duplicate other City requirements or fees.~~

24 ~~(b) An account has been established, funds appropriated, and a construction schedule adopted~~  
25 ~~for affordable housing projects funded through the Inclusionary Affordable Housing Program. The~~

1 ~~Affordable Housing Fee will reimburse the City for expenditures on affordable housing that have~~  
2 ~~already been made and that will be made in the future.~~

3 ~~(c) A major objective of the Divisadero Street NCT, set forth in Planning Code Section 759, is~~  
4 ~~to encourage and promote development that enhances the walkable, mixed-use character of the~~  
5 ~~corridor and surrounding neighborhood and to encourage housing development in new buildings~~  
6 ~~above the ground floor. New market rate housing development could outnumber both the number of~~  
7 ~~units and potential new sites within the area for permanently affordable housing opportunities. The~~  
8 ~~City has adopted a policy in its General Plan to meet the affordable housing needs of its general~~  
9 ~~population and to require new housing developments to produce sufficient affordable housing~~  
10 ~~opportunities for all income groups, both of which goals are not likely to be met by the potential~~  
11 ~~housing development in the area. In addition, the Nexus Study indicates that market rate housing itself~~  
12 ~~generates additional lower income affordable housing needs for the workforce needed to serve the~~  
13 ~~residents of the new market rate housing proposed for the area. To meet the demand created for~~  
14 ~~affordable housing by the Divisadero Street NCT zoning and to be consistent with the policy of the City,~~  
15 ~~additional affordable housing requirements should be included for all market rate housing development~~  
16 ~~in this NCT.~~

17 ~~(d) The Divisadero Street NCT rezoning set forth in Ordinance No. 127-15 allows greater~~  
18 ~~residential development on certain sites within the NCT, and such residential development will create a~~  
19 ~~greater need for affordable housing, and should provide more affordable housing. The higher densities~~  
20 ~~will also make provision of higher levels of affordable housing feasible for such sites.~~

21 ~~(e) If a site located in the Divisadero Street NCT received an increase in density of 50% or~~  
22 ~~more from the 2015 rezoning set forth in Ordinance No. 127-15, a higher inclusionary affordable~~  
23 ~~housing requirement should apply. The density for the previously existing Divisadero Street~~  
24 ~~Neighborhood Commercial District was one unit per 800 square feet of lot area.~~

25 **~~SEC. 428.2. DEFINITIONS.~~**

1        ~~See Section 401 of this Article 4.~~

2        **~~SEC. 428.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.~~**

3        ~~(a) For any project for which a complete development application has been submitted before~~  
4        ~~October 1, 2018, the Inclusionary Affordable Housing Program set forth in Planning Code Sections~~  
5        ~~415.1 et seq. shall apply in the Divisadero Street NCT, except the temporary provisions of Planning~~  
6        ~~Code Section 415.3(b) shall not apply and except as set forth in Section 428.3(a). For any development~~  
7        ~~site for which the Planning Department determines that the residential development potential within the~~  
8        ~~Divisadero Street NCT has been increased through the adoption of the NCT rezoning set forth in~~  
9        ~~Ordinance No. 127-15, as detailed in Section 428.1(e) herein, the requirements of Sections 415.1 et seq~~  
10       ~~of the Planning Code shall apply, except as set forth in subsections (a)(1), (a)(2), and (a)(3), below,~~  
11       ~~and the temporary provisions of Planning Code Section 415.3(b) shall not apply.~~

12        ~~(1) **Fee.** For a development project of 10 or more dwelling units that is subject to the~~  
13        ~~Inclusionary Affordable Housing Program, the development project shall pay an affordable housing fee~~  
14        ~~equivalent to a requirement to provide 33% of the units in the Principal Project as affordable units if~~  
15        ~~those units are Owned Units, or 30% of the units if the project is a Rental Housing Project, using the~~  
16        ~~method of fee calculation set forth in Section 415.5(b).~~

17        ~~(2) **On-site.** For a development project of 10 or more units that is subject to the~~  
18        ~~Inclusionary Affordable Housing Program that elects to construct units Affordable to Qualifying~~  
19        ~~Households on-site of the Principal Project as set forth in Planning Code Section 415.5(g), the~~  
20        ~~development project shall comply with all otherwise applicable requirements of Section 415.6, except~~  
21        ~~that for all housing development projects consisting of 10 or more units, the following requirements~~  
22        ~~shall apply:~~

23        ~~(A) For an Ownership Housing Project, the number of affordable units~~  
24        ~~constructed on site shall be 23% of all units constructed on the site. A minimum of 12% of the units~~  
25        ~~shall be affordable to low-income households, 5.5% of the units shall be affordable to moderate-income~~

1 ~~households, and 5.5% of the units shall be affordable to middle-income households. In no case shall the~~  
2 ~~total number of affordable units required exceed the number required as determined by the application~~  
3 ~~of the applicable on-site requirement rate to the total project units. Owned Units for low-income~~  
4 ~~households shall have an affordable purchase price set at 80% of Area Median Income or less, with~~  
5 ~~households earning up to 100% of Area Median Income eligible to apply for low-income units. Owned~~  
6 ~~Units for moderate-income households shall have an affordable purchase price set at 105% of Area~~  
7 ~~Median Income or less, with households earning from 95% to 120% of Area Median Income eligible to~~  
8 ~~apply for moderate-income units. Owned Units for middle-income households shall have an affordable~~  
9 ~~purchase price set at 130% of Area Median Income or less, with households earning from 120% to~~  
10 ~~150% of Area Median Income eligible to apply for middle-income units.~~

11 ~~(B) For a Rental Housing Project, the number of affordable units constructed on~~  
12 ~~site shall be 20% of all units constructed on the site. A minimum of 12% of the units shall be affordable~~  
13 ~~to low-income households, 4% of the units shall be affordable to moderate-income households, and 4%~~  
14 ~~of the units shall be affordable to middle-income households. In no case shall the total number of~~  
15 ~~affordable units required exceed the number required as determined by the application of the~~  
16 ~~applicable on-site requirement rate to the total project units. Rental Units for low-income households~~  
17 ~~shall have an affordable rent set at 55% of Area Median Income or less, with households earning up to~~  
18 ~~65% of Area Median Income eligible to apply for low-income units. Rental Units for moderate-income~~  
19 ~~households shall have an affordable rent set at 80% of Area Median Income or less, with households~~  
20 ~~earning from 65% to 90% of Area Median Income eligible to apply for moderate-income units. Rental~~  
21 ~~Units for middle-income households shall have an affordable rent set at 110% of Area Median Income~~  
22 ~~or less, with households earning from 90% to 130% of Area Median Income eligible to apply for~~  
23 ~~middle-income units.~~

24 ~~(3) Off-site. If the project sponsor of a housing development project of 10 or more units~~  
25 ~~that is subject to the Inclusionary Affordable Housing Program elects to provide units Affordable to~~

1 ~~Qualifying Households off-site of the Principal Project as set forth in Section 415.5(g), the project~~  
2 ~~sponsor shall construct or cause to be constructed affordable housing equal to 33% of all units~~  
3 ~~constructed on the Principal Project site as affordable housing if the units in the Principal Project are~~  
4 ~~owned units, and 30% if the project is a Rental Housing Project.~~

5 ~~(b) For any project for which a complete development application has been submitted on or~~  
6 ~~after October 1, 2018, the Inclusionary Affordable Housing Program set forth in Planning Code~~  
7 ~~Sections 415.1 et seq. shall apply in the Divisadero Street NCT except as set forth in this subsection (b).~~  
8 ~~For any development site for which the Planning Department has determined that the residential~~  
9 ~~development potential has been increased through the adoption of the NCT rezoning set forth in~~  
10 ~~Ordinance No. 127-15, as detailed in Section 428.1(e) herein, the requirements of Planning Code~~  
11 ~~Sections 415.1 et seq. shall apply, except that the following affordable housing requirements shall be~~  
12 ~~applied to residential development on such sites:~~

13 ~~(1) **Fee.** For a development project of 10 or more dwelling units that is subject to the~~  
14 ~~Inclusionary Affordable Housing Program, the development project shall pay an affordable housing fee~~  
15 ~~equivalent to a requirement to provide 33% of the units in the Principal Project as Affordable Units if~~  
16 ~~those units are Owned Units, or 30% of the units if the project is a Rental Housing Project, using the~~  
17 ~~method of fee calculation set forth in Section 415.5(b).~~

18 ~~(2) **On-site.** If the housing development project of 10 or more dwelling units that is~~  
19 ~~subject to the Inclusionary Affordable Housing Program elects to construct units Affordable to~~  
20 ~~Qualifying Households on-site of the Principal Project as set forth in Planning Code Section 415.5(g),~~  
21 ~~the project sponsor shall comply with all otherwise applicable requirements of Section 415.6, except~~  
22 ~~that for all housing development projects consisting of 10 or more units, the number of Affordable~~  
23 ~~Units constructed on-site shall be provided as follows:~~

24 ~~(A) A project that consists of Owned Units shall provide 23% of units as~~  
25 ~~Affordable Units at the following levels: 10% shall have an average affordable purchase price set at~~

1 ~~80% of Area Median Income; 8% shall have an average affordable purchase price set at 105% of Area~~  
2 ~~Median Income; and 5% shall have an average affordable purchase price set at 130% of Area Median~~  
3 ~~Income.~~

4 ~~(B) A project that consists of Rental Units shall provide 23% of units as~~  
5 ~~Affordable Units at the following levels: 10% shall have an average affordable rent set at 55% of Area~~  
6 ~~Median Income; 8% shall have an average affordable rent set at 80% of Area Median Income; and 5%~~  
7 ~~shall have an average affordable rent set at 110% of Area Median Income.~~

8 ~~(C) Notwithstanding subsections (b)(2)(A) and (b)(2)(B), the percentage and~~  
9 ~~affordability levels of Affordable Units constructed on-site as set forth in subsections (b)(2)(A) and~~  
10 ~~(b)(2)(B) shall be the same percentage and affordability levels as set forth in Section 206.3(f)(2)(A), as~~  
11 ~~it may be amended from time to time, and in no case shall the percentage of Affordable Units~~  
12 ~~constructed on-site pursuant to this subsection (b)(2) be less than the percentage required by Section~~  
13 ~~415.6 for projects consisting of 25 or more units. If the percentage of Affordable Units constructed on-~~  
14 ~~site pursuant to this subsection (b)(2) would be less than the percentage set forth in Section 415.6 for~~  
15 ~~projects consisting of 25 or more units, the percentage of Affordable Units set forth in Section 415.6 for~~  
16 ~~projects consisting of 25 or more units shall apply.~~

17 ~~(3) Off-site. If the project sponsor of a housing development project of 10 or more units~~  
18 ~~is eligible and elects to provide units Affordable to Qualifying Households off-site of the Principal~~  
19 ~~Project as set forth in Section 415.5(g), the project sponsor shall construct or cause to be constructed~~  
20 ~~affordable housing equal to 33% of all units constructed on the Principal Project site as affordable~~  
21 ~~housing if the units in the Principal Project are owned units, and 30% if the project is a Rental Housing~~  
22 ~~Project.~~

#### 23 **~~SEC. 428.4. IMPOSITION OF AFFORDABLE HOUSING REQUIREMENTS.~~**

24 ~~(a) Determination of Requirements. The Planning Department shall determine the~~  
25 ~~applicability of Sections 428.1 et seq. to any development project requiring a first construction~~

1 ~~document and, if Sections 428.1 et seq. applies, shall impose any such requirements as a condition of~~  
2 ~~approval for issuance of the first construction document. The project sponsor shall supply any~~  
3 ~~information necessary to assist the Department in this determination.~~

4 ~~(b) **Department Notice to Development Fee Collection Unit of Fee Requirements.** After the~~  
5 ~~Department has made its final determination regarding the application of the affordable housing~~  
6 ~~requirements to a development project pursuant to Sections 428.1 et seq., it shall immediately notify the~~  
7 ~~Development Fee Collection Unit at DBI of the applicable affordable housing fee amount in addition to~~  
8 ~~the other information required by Planning Code Section 402(b).~~

9 ~~(c) **Process for Revisions of Determination of Requirements.** If the Department or the~~  
10 ~~Commission takes action affecting any development project subject to Sections 428.1 et seq. and such~~  
11 ~~action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the Board~~  
12 ~~of Supervisors, or a court, the procedures of Planning Code Section 402(c) shall be followed.~~

13 **~~SEC. 428.5. USE OF FUNDS.~~**

14 ~~The affordable housing fee specified in Sections 428.1 et seq. for the Divisadero Street NCT~~  
15 ~~shall be paid into the Citywide Affordable Housing Fund, established in Administrative Code Section~~  
16 ~~10.100-49, and the funds shall be separately accounted for. The Mayor's Office of Housing and~~  
17 ~~Community Development shall expend the funds to increase the supply of housing Affordable to~~  
18 ~~Qualifying Households in the City. The funds may also be used for monitoring and administrative~~  
19 ~~expenses subject to the process described in Planning Code Section 415.5(f).~~

20  
21 **SEC. 436. WELL-RESOURCED NEIGHBORHOODS INCLUSIONARY HOUSING**  
22 **ORDINANCE WAIVER OPTION ~~AND ADDITIONAL INCLUSIONARY HOUSING OPTIONS.~~**

23 This Section 436 provides for a waiver of the requirements in the Inclusionary Housing  
24 Ordinance, Section 415 et seq., for specified Housing Projects in certain districts in Well-  
25 Resourced Neighborhoods. ~~This Section 436 also allows Housing Projects in those districts to~~

~~comply with the Inclusionary Housing Ordinance through a land dedication.~~ As used in this Section 436, Well-Resourced Neighborhoods means those areas outside the Priority Equities Geographies Special Use District (SUD), Section 249.97.

(a) **Eligibility.** This Section 436 shall apply to Housing Projects in Residential – House (RH), Residential Mixed (RM), Neighborhood Commercial, or ~~Named~~ Neighborhood Commercial Districts with a height limit of 65 feet or less located in Well-Resourced Neighborhoods.

(b) ~~Additional Inclusionary Housing Options~~ Rent Control In Lieu of Inclusionary Housing.

~~(1) Rent Control.~~ If an eligible Housing Project is a Rental Housing Project and agrees to subject all units in the project to the San Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) for the Life of the Project, the project shall not be subject to the Inclusionary Housing Ordinance, Planning Code Section 415 et seq., pursuant to this Section 436.

~~(A)~~ **Regulatory Agreement.** Project Sponsors of Housing Projects that agree to subject all units in the Housing Project to the San Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) pursuant to this subsection ~~(a)~~ shall enter into a regulatory agreement with the City, as a condition of approval of the project (“Regulatory Agreement”). At a minimum, the Regulatory Agreement shall contain the following: (A) a statement that none of the units in the project are subject to the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et seq.) because, consistent with California Civil Code Section 1954.52(b), the property owner has entered into and agreed to the terms of an agreement with the City in consideration for a direct financial contribution or other form of assistance specified in California Government Code Sections 65915 et seq.; (B) a statement that the units will be rented for the Life of the Project because, consistent with Government Code Section 7060.1(a), the property owner has entered into and

1 agreed to the terms of an agreement with the City, in consideration for a direct financial  
2 contribution specified in Section 7060.1(a); (C) a statement that all units subject to the  
3 Regulatory Agreement shall be held as an undivided ownership and will not be subdivided;  
4 (D) a calculation of the direct financial contribution or form of assistance provided to the  
5 property owner in the form of the fee waiver; and (E) a description of the remedies for breach  
6 of the agreement and other provisions to ensure implementation and compliance with the  
7 agreement. The property owner and the Planning Director or the Director's designee, on  
8 behalf of the City, may execute the Regulatory Agreement, which shall be reviewed and  
9 approved as to form by the City Attorney's Office. The Regulatory Agreement shall be  
10 executed prior to the City's issuance of the First Construction Document for the project, as  
11 defined in Section 107A.13.1 of the San Francisco Building Code. Following execution of the  
12 Regulatory Agreement by all parties, the Regulatory Agreement or a memorandum thereof  
13 shall be recorded to the title records in the Office of the Assessor-Recorder against the  
14 property and shall be binding on all future owners and successors in interest.

15 (B2) **Procedures Manual.** If a Housing Project subject to this Section  
16 436 includes Rental Units subject to a recorded covenant, ordinance, or law that restricts  
17 rents to levels affordable to persons and families of lower income in compliance with any state  
18 law, those units shall comply with the timing, type, and marketing requirements of Section  
19 415.6(~~eb~~), (~~fc~~), and (~~gd~~), and the Procedures Manual, as amended from time to time.

20 ~~(2) **Land Dedication Alternative.** In lieu of Section 415 et seq., the Project Sponsor of~~  
21 ~~any Housing Project outside the Priority Equity Geographies SUD, may comply with the Land~~  
22 ~~Dedication Alternative requirements in Section 419.5(a)(2), except that in lieu of the Land Dedication~~  
23 ~~Alternative requirements of Table 419.5, projects may satisfy the requirements of Section 415.5 by~~  
24 ~~dedicating land for affordable housing if the dedicated land could accommodate a total amount of units~~  
25 ~~that is equal to or greater than 35% of the units that are being provided on the principal development~~

1 ~~site, as determined by the Planning Department. Any land dedicated pursuant to this Section 436 shall~~  
2 ~~be provided outside the Priority Equity Geographies SUD.~~

3  
4 Section 5. Articles 2, 2.5, 3, and 7 of the Planning Code are amended by revising  
5 Sections 206.3, 206.10, 207, 243, 249.20, 249.22, 249.33, 249.38, 249.39, 249.40, 249.78,  
6 329, 343, and 759, and deleting Section 263.7, to read as follows:

7  
8 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

9 \* \* \* \*

10 (c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations  
11 under this Section 207 shall be made in the following circumstances:

12 (1) **Affordable Units in Projects with 20% or More Affordable Units.** For  
13 projects that are not located in any RH-1 or RH-2 zoning district, or are not seeking and  
14 receiving a density bonus under the provisions of California Government Code Section 65915,  
15 where 20% or more of the Dwelling Units on-site are “Affordable Units,” the on-site Affordable  
16 Units shall not count towards the calculation of dwelling unit density. This Planning Code  
17 Section does not provide exceptions to any other Planning Code requirements such as height  
18 or bulk. For purposes of this Section 207, “Affordable Units” shall be defined as meeting (A)  
19 the criteria of Section 406(b); (B) the requirements of Section 415 et seq. for on-site units; or  
20 (C) restricted units in a project using California Debt Limit Allocation Committee (CDLAC) tax-  
21 exempt bond financing and 4% tax credits under the Tax Credit Allocation Committee (TCAC).  
22 If a project sponsor proposes to provide “Affordable Units” that are not restricted by any other  
23 program, in order to receive the benefit of the additional density permitted under this  
24 Subsection (c)(1) or Subsection (c)(2), the project sponsor shall elect and the Planning  
25 Department and MOHCD shall be authorized to enforce, restricting the units as affordable

1 under Planning Code Section 415.6 up to a maximum of 25% of the units in the Principal  
2 Project. The project sponsor shall make such election through the procedures described in  
3 Section 415.5(~~ge~~) including submitting an Affidavit of Compliance indicating the project  
4 sponsor's election to pursue the benefits of Subsection (c)(1) or (c)(2) and committing to up to  
5 25% on-site units restricted under Section 415.6 prior to approval by the Planning  
6 Commission or Planning Department staff. If a project sponsor obtains the exemption from the  
7 density calculation for Affordable Units provided in this subsection, the exemption shall be  
8 documented and recorded against the property under the terms of a Regulatory Agreement as  
9 defined under Section 206.2 and consistent with the provisions set forth in Section 206.6(f)(4).  
10 Any later request to decrease the number of Affordable Units shall require the project to go  
11 back to the Planning Commission or Planning Department, whichever entity approved the  
12 project as a whole.

13 \* \* \* \*

14  
15 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**  
16 **PROGRAM.**

17 (a) **Purpose.** This Section 206.3 sets forth the HOME-SF Program. The HOME-SF  
18 Program or "HOME-SF" provides benefits to project sponsors of housing projects that either  
19 (1) set aside residential units onsite at below market rate rent or sales price in an amount  
20 higher than the amount required by the Inclusionary Housing Ordinance, or (2) agree to  
21 subject all units in the project, except for units required by the Inclusionary Housing  
22 Ordinance, to the San Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of  
23 the Administrative Code). The purpose of HOME-SF is to expand the number of below market  
24 rate units produced in San Francisco and provide housing opportunities to a wider range of  
25 incomes than traditional affordable housing programs, such as the City's Inclusionary

1 Affordable Housing Program, Planning Code Sections 415 et seq., which typically provide  
2 housing only for very low, low or moderate income households, and to expand the number of  
3 units in San Francisco that are subject to rent control. For projects that elect to provide  
4 additional on-site below market rate units, HOME-SF also provides an alternative method of  
5 complying with the on-site inclusionary option set forth in Section 415.6. HOME-SF allows  
6 market-rate projects to match the City's Proposition K (November 2014) housing goals that  
7 50% of new housing constructed or rehabilitated in the City by 2020 be within the reach of  
8 working middle class San Franciscans, and that at least 33% be affordable for low and  
9 moderate income households, and the Housing Element of the General Plan's finding that  
10 rent control has been critical to protecting low- and moderate-income residents from being at  
11 risk of eviction and displacement.-

12 \* \* \* \*

13 (ix) For projects that elect to proceed under Section 206.3(c)(1)(B), a statement  
14 that the units included in such project, except for any Affordable Units as defined in Planning  
15 Code Section 401, are not subject to the Costa-Hawkins Rental Housing Act (California Civil  
16 Code Sections 1954.50 et seq.) because under Section 1954.52(b), the property owner has  
17 entered into and agreed to the terms of the agreement with the City in consideration for  
18 additional density and modifications to the Planning Code, or other direct financial contribution  
19 or forms of assistance specified in California Government Code Sections 65915 et seq.; and

20 (x) For projects that elect to proceed under Section 206.3(c)(1)(B), an  
21 agreement that any lease, sublease, or other agreement regarding tenancy of units not  
22 subject to the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et  
23 seq.) shall ~~shall~~ include the following text: "This unit is a rental unit subject to the San  
24 Francisco ~~Residential~~ Residential Rent Stabilization and Arbitration Ordinance."

1 (f) ~~Temporary provisions~~HOME-SF Eligibility Tiers. To facilitate the construction of  
2 HOME-SF projects that elect to include HOME SF Units under subsection (c)(1)(A) of this  
3 Section 206.3, and based on information from the inclusionary housing study prepared for the  
4 Divisadero and Fillmore Neighborhood Commercial Transit District, in Board of Supervisors  
5 File No. 151258, and the Office of the Controller's Inclusionary Housing Working Group final  
6 report (February 2016), the HOME-SF program shall include temporary development  
7 incentives as specified in this subsection (f) based on the amount and level of affordability  
8 provided in this subsection (f). For any development project that has submitted a complete  
9 Development Application prior to January 1, 2020, subsections (c)(1)(A) and (d)(1), (d)(2), and  
10 (d)(3) shall not apply, and the provisions in this subsection (f) shall apply. For any  
11 development project that submits a complete Development Application on or after January 1,  
12 2020, this subsection (f) shall apply until such time as it may be amended based on the  
13 Triennial Economic Feasibility Analysis established in Section 415.10. This subsection (f) shall  
14 not apply to HOME-SF projects that elect to proceed under subsection (c)(1)(B).

15 (1) **HOME-SF Project Eligibility Requirements.** To receive the development  
16 bonuses granted under this Section 206.3, a HOME-SF Project must provide a percentage of  
17 units, in the amounts set forth in ~~s~~Section 206.3(f)(2)(A), (B), or (C), as HOME-SF Units, as  
18 defined in Section 206.2. The HOME-SF Units shall be restricted for the Life of the Project  
19 and shall comply with all of the requirements of the Procedures Manual authorized in Section  
20 415 except as otherwise provided in this Section 206.3. All HOME-SF Units must be marketed  
21 at a price that is at least 20% less than the current market rate for that unit size and  
22 neighborhood, and MOHCD shall reduce the Area Median Income levels set forth in this  
23 Section 206.3 in order to maintain such pricing. As provided for in subsection (e), the Planning  
24 Department and MOHCD shall amend the Procedures Manual to provide policies and  
25

procedures for the implementation, including monitoring and enforcement, of the HOME-SF Units;

(2) **Development Bonuses.** Any HOME-SF Project shall at the project sponsor's request receive the following:

(A) **Tier One:** ~~A Tier One HOME-SF Project that consists of fewer than 25 units and are Owned Units shall provide 20% of units in the HOME-SF Project as HOME-SF Units at the following levels: ten percent shall have an average affordable purchase price set at 80% of Area Median Income; 5% shall have an average affordable purchase price set at 105% of Area Median Income; and 5% shall have an average affordable purchase price set at 130% of Area Median Income.~~ A Tier One HOME-SF Project that consists of fewer than 25 units and are rental units shall provide 20% of units in the HOME-SF Project as HOME-SF Units at the following levels: ten percent shall have an average affordable rent set at 55% of Area Median Income; 5% shall have an average affordable rent set at 80% of Area Median Income; and 5% shall have an average affordable rent set at 110% of Area Median Income. A Tier One HOME-SF Project that consists of 25 or more units and are Owned Units shall provide ~~23%~~ 7% of units in the HOME-SF Project as HOME-SF Units at the following levels: ~~ten 5% percent~~ shall have an average affordable purchase price set at 80% of Area Median Income, with households earning up to 100% of Area Median Income eligible to apply; and 8% 2% shall have an average affordable purchase price set at ~~105%~~ 100% of Area Median Income, with households earning more than 100% to 120% of Area Median Income eligible to apply; and 5% shall have an average affordable purchase price set at 130% of Area Median Income. A Tier One HOME-SF Project that consists of 25 or more units and are Rental Units shall provide ~~23%~~ 7% of units in the HOME-SF Project as HOME-SF Units at the following levels: ~~ten 5% percent~~ shall have an average affordable rent set at 55% of Area Median Income, with households earning up to 65% of Area Median Income eligible to apply; 8% and 2% shall have an average affordable rent set at 80% of Area Median Income, with households earning up to 90%

1 ~~of Area Median Income eligible to apply; and 5% shall have an average affordable rent set at 110% of~~  
2 ~~Area Median Income.~~

3 \* \* \* \*

4 (B) **Tier Two:** A Tier Two HOME-SF Project shall provide ~~25%~~ 8% of units in the  
5 HOME-SF Project as HOME-SF Units. ~~Ten percent of For~~ Tier Two HOME-SF Units that are  
6 Owned Units, 6% shall have an average affordable purchase price set at 80% of Area Median  
7 Income, with households earning up to 100% of Area Median Income eligible to apply; 8% and 2%  
8 shall have an average affordable purchase price set at ~~105%~~ 100% of Area Median Income,  
9 with households earning more than 100% and up to 120% of Area Median Income eligible to apply;  
10 ~~and 7% shall have an average affordable purchase price set at 130% of Area Median Income. Ten~~  
11 ~~percent of For~~ HOME-SF Units that are rental units, 6% shall have an average affordable rent  
12 set at 55% of Area Median Income, with households earning up to 65% of Area Median Income  
13 eligible to apply; 8% and 2% shall have an average affordable rent set at 80% of Area Median  
14 Income, with households earning up to 90% of Area Median Income eligible to apply; ~~and 7% shall~~  
15 ~~have an average affordable rent set at 110% of Area Median Income.~~

16 \* \* \* \*

17 (C) **Tier Three:** A Tier Three HOME-SF Project shall provide ~~30%~~ 10% of units  
18 in the HOME-SF Project as HOME-SF Units. ~~Ten percent of For~~ Tier Three HOME-SF Units  
19 that are Owned Units, 8% shall have an average affordable purchase price set at 80% of Area  
20 Median Income, with households earning up to 100% of Area Median Income eligible to apply; 10%  
21 and 2% shall have an average affordable purchase price set at ~~105%~~ 100% of Area Median  
22 Income, with households earning more than 100% and up to 120% of Area Median Income eligible to  
23 apply; ~~and 10% shall have an average affordable purchase price set at 130% of Area Median Income.~~  
24 ~~Ten percent of For~~ Tier Three HOME-SF Units that are rental units, 8% shall have an average  
25 affordable rent set at 55% of Area Median Income, with households earning up to 65% of Area

1 Median Income eligible to apply; 40% and 2% shall have an average affordable rent set at 80% of  
2 Area Median Income, with households earning up to 90% of Area Median Income eligible to apply;  
3 ~~and 10% shall have an average affordable rent set at 110% of Area Median Income.~~

4 \* \* \* \*

## 6 **SEC 206.10. HOUSING CHOICE-SAN FRANCISCO PROGRAM**

7 (a) **Purpose.** This Section 206.10 sets forth the Housing Choice-San Francisco  
8 Program (HC-SF Program). The HC-SF Program provides additional residential development  
9 capacity, additional options for complying with the Inclusionary Housing Ordinance,  
10 modifications to certain Planning Code and design standards, and an administrative or  
11 discretionary review process for eligible residential projects that comply with the program.  
12 Except as provided in this Section 206.10, all HC-SF projects shall comply with Article 4 of the  
13 Planning Code.

14 (b) **Applicability.** An HC-SF Project under this Section 206.10 shall be a project that  
15 complies with all of the following requirements:

16 \* \* \* \*

17 (8) is not located in a Special Use District that implements a Development  
18 Agreement adopted under California Government Code 65864 et seq. and/or Administrative  
19 Code Chapter 56;

20 \* \* \* \*

21 (c) **Inclusionary Housing Ordinance Alternatives and Requirements.** HC-SF Projects  
22 of ~~40~~ 25 or more units shall comply with Section 415 et seq., ~~and if applicable Section 419 et seq.,~~  
23 except as allowed by, or modified by, this subsection (c). ~~Projects that elect the off-site off-site~~  
24 ~~alternative in Section 415.5(g)(1)(B) or the Land Dedication Alternative in Section 419.5(a)(2) 415.7~~  
25 ~~allowed in subsection (c)(2), shall provide the required units within the R-4 Height and Bulk District,~~

1 ~~or within one-half mile of the project. In addition to the alternatives set forth in Section 415.3(g), HC-~~  
2 ~~SF Projects may satisfy the requirements of Section 415 et seq. by choosing one of the following~~  
3 ~~options:~~

4 (1) In addition to the Alternatives set forth in Section 415.5(e), Rental Housing Projects  
5 that are less than 65 feet in height, including any additional height allowed by this Section 206.10, may  
6 satisfy the requirements of Section 415.1 et seq. by if the project is a Rental Project with 24 or fewer  
7 units, including any additional units allowed by this Section 206.10, a project sponsor shall subject  
8 subjecting all units in the project to the San Francisco Rent Stabilization and Arbitration  
9 Ordinance (Chapter 37 of the Administrative Code) for the Life of the Project, ~~or~~

10 (2) Notwithstanding Section 415.7(a)(2), projects that elect the Off-site or the Land  
11 Dedication Alternative in Section 415.7, shall provide the required units within the R-4 Height and  
12 Bulk District, or within one mile of the Principal Project. applicants shall comply with the Land  
13 Dedication Alternative requirements of Section 419.5(a)(2), regardless of project location.

14 \* \* \* \*

15 (e) **Additional Height, Square Footage, and Other Bonuses.** HC-SF Projects that  
16 contain certain uses, amenities, or other building features are eligible for additional bonuses  
17 and code modifications, as described below.

18 \* \* \* \*

19 (7) **Limits on Bonuses.** Except as provided below, an HC-SF Project can  
20 combine the heights, square footage, and additional bonuses in subsections (e)(1) through  
21 (e)(6).

22 (~~1A~~) **Height.** A project may combine the bonuses in subsections (e)(1)  
23 through (e)(5) provided that any height bonus is limited to 10 feet above the Housing Choice-  
24 SF height limit. A project may combine the bonuses in subsections (e)(1) through (e)(6)  
25 provided that any height bonus is limited to 30 feet above the Housing Choice-SF height limit.

1                   (~~2B~~) **Rear Yard.** A project cannot reduce the required rear yard beyond  
2 the lowest of the limits set forth in subsections (e)(3)-(e)(6).

3  
4                   **SEC. 243. VAN NESS SPECIAL USE DISTRICT.**

5                   (a) **General.** A Special Use District entitled the Van Ness Special Use District, the  
6 boundaries of which are shown on Sectional Map No. SU02 of the Zoning Map of the City and  
7 County of San Francisco, is hereby established for the purposes set forth below.

8                   \* \* \* \*

9                   (c) **Controls.** All provisions of the Planning Code applicable to an RC-4 District shall  
10 apply except as otherwise provided in this Section 243.

11                   \* \* \* \*

12                   **(8) Limitation of Nonresidential Uses.**

13                   (A) **Residential Uses; Ratio Established.** In newly constructed  
14 structures, nonresidential uses shall only be permitted if the ratio between the amount of net  
15 additional occupied floor area for residential uses, as defined in this paragraph below, to the  
16 amount of occupied floor area for nonresidential uses in excess of the occupied floor area of  
17 structures existing on the site at the time the project is approved is 3 to 1 or greater. In  
18 additions to existing structures that exceed 20% of the gross floor area of the existing  
19 structure, nonresidential uses shall be permitted in the addition in excess of 20% only if the  
20 ratio between the amount of occupied floor area for residential use, as defined in this  
21 paragraph below, to the area of occupied floor area for nonresidential use is 3 to 1 or greater.  
22 This residential use ratio shall not apply to (i) development sites in the Van Ness Special Use  
23 District that have less than 60 feet of street frontage on Van Ness Avenue and have no street  
24 frontage other than the Van Ness Avenue frontage, or (ii) development consisting of new  
25 construction proposed for an Institutional Community Use at 1750 Van Ness Avenue,

Assessor's Parcel Block 0622, Lot 019. For purposes of this Section, "nonresidential uses" shall mean any use not defined as a Residential Use in Section 102 and principally or conditionally permitted in the Van Ness Special Use District.

**(B) Reduction of Ratio of Residential Uses for Affordable Housing.**

The ~~Planning~~ Commission may modify the Van Ness Special Use District residential to nonresidential use ratio between Golden Gate Avenue and California Street, or may modify the timing and location requirements of linked projects, as a with eConditional uUse authorization provided that, in one of the following ways: in addition to the findings required by Section 303(c), the Commission finds that:

~~(i) **In-Lieu Fee.** By conditional use, the developer may elect to fulfill the obligation to build housing by paying an in-lieu fee to the Affordable Housing Fund as provided in Section 413 of this Code. No more than a 50 percent reduction of the required housing for a specific project can be fulfilled by paying an in-lieu fee. Use of these funds shall provide affordable housing within 2,000 feet of the Van Ness Special Use District. The in-lieu fee shall be determined by the following formula:~~

$$\del{(1) (Lot\ Area \times FAR) / 4 \times 3 = Residential\ SQ.\ FT.\ Requirement}$$

$$\del{(2) Residential\ SQ.\ FT.\ Requirement - Residential\ SQ.\ FT.}$$

$$\del{Developed = LOSS}$$

$$\del{(3) LOSS \times \$15 = In-Lieu\ Fee}$$

~~(ii) **Providing Affordable Housing.** By conditional use, the developer may reduce up to 50 percent of the required amount of on-site housing by maintaining a portion of that housing as permanently affordable for the life of the project. Affordable units shall be managed by a nonprofit housing agency through a duly executed agreement between the project sponsor, the nonprofit agency, and the Planning Department. The mix of affordable units retained in the project shall conform to the overall dwelling unit size mix of the project. The portion of retained residential~~

1 ~~that shall be affordable will be determined by calculating the number of market rate units that could be~~  
2 ~~subsidized by the amount of “in-lieu fee” calculated in Paragraph (i) above. The number of square feet~~  
3 ~~of affordable housing shall be calculated in the following manner:~~

4 ~~(1) In Lieu Fee / \$30/square foot subsidy = Square Feet of~~  
5 ~~Affordable Housing Retained in the Project~~

6 ~~(iii) Annual Reporting, Evaluation, and Adjustments to Affordability~~  
7 ~~and Fee Calculations. The Department shall report annually to the Planning Commission on the~~  
8 ~~activity and utilization of Section 243(c)(8)(B). Based on an evaluation of this report, the Planning~~  
9 ~~Commission may initiate a modification or deletion of Section 243(c)(8)(B). The dollar amounts used in~~  
10 ~~the calculation for Paragraphs (i) and (ii) of this Subsection shall be subject to annual adjustments in~~  
11 ~~accord with Section 409 of this Code. Affordability shall be defined by rents or sale prices affordable~~  
12 ~~by households with no more than 80 percent of median income standards developed by HUD.~~

13 ~~(iv) If the Planning Commission finds that taking into consideration~~  
14 ~~projects constructed since the effective date of the Van Ness Special Use District and the housing~~  
15 ~~development potential remaining in the District the overall objective of adding a substantial increment~~  
16 ~~of new housing on Van Ness Avenue will not be significantly compromised, the Commission may by~~  
17 ~~conditional use modify the 3:1 housing ratio or may modify the rules regarding the timing and location~~  
18 ~~of linked projects if in addition to Section 303(c) standards of this Code it finds that:~~

19 ~~(1i) The project is to provide space for expansion of an~~  
20 ~~established business from an adjacent site (for this purpose two sites separated by an alley~~  
21 ~~shall be deemed to be adjacent); or~~

22 ~~(2ii) The project is to provide space for an institutional,~~  
23 ~~hotel, medical, cultural, or social service use meeting an important public need which cannot~~  
24 ~~reasonably be met elsewhere in the area; and~~

(iii) Housing cannot reasonably be included in the project referred to in (1) and (2) above.

(iv) Taking into consideration projects constructed since the effective date of the Van Ness Special Use District and the housing development potential remaining in the District, the overall objective of adding a substantial amount of new housing on Van Ness Avenue will not be significantly compromised.

The Commission shall consider the feasibility of requiring the project to be constructed in such a manner that it can support the addition of housing at some later time.

\* \* \* \*

#### **SEC. 249.20. GEARY-MASONIC SPECIAL USE DISTRICT.**

(a) **General.** A Special Use District entitled the Geary-Masonic Special Use District ("District"), the boundaries of which are shown on Sectional Map SU03 of the Zoning Maps of the City and County of San Francisco, is hereby established for the purpose set out ~~below~~below.

(b) **Purpose.** In order to provide for a mixed use development project with ground floor retail, ~~and a combination of very low income, low income, moderate income, middle income, and market rate residential units,~~ at densities higher than what otherwise would be permitted in the NC-3 zoning district and 80 foot height district, in an area well-served by transit, there shall be a Geary-Masonic Special Use District consisting of Assessor's Block 1071, Lot 003 as designated on Sectional Map SU03 of the Zoning Maps of the City and County of San Francisco.

\* \* \* \*

~~(d) **Inclusionary Housing.** Compliance with Section 415 et seq. shall be by payment of the affordable housing fee, or provision of on-site units, as follows:~~

1                   ~~(1) **Affordable Housing Fee.** Payment of the Affordable Housing Fee pursuant to~~  
2 ~~Section 415.5 and subject to the following provisions:~~

3                   ~~(A) For a project providing Owned Units, the applicable percentage shall be~~  
4 ~~33% of the Gross Floor Area of residential use.~~

5                   ~~(B) For a project providing Rental Units, the applicable percentage shall be~~  
6 ~~30% of the Gross Floor Area of residential use.~~

7                   ~~(C) **Use of Fees.** Fees shall be payable to the Development Fee Collection Unit~~  
8 ~~at DBI for deposit into the Citywide Affordable Housing Fund. MOHCD shall designate and separately~~  
9 ~~account for all fees that it receives under this subsection (d)(1). The funds shall be used exclusively to~~  
10 ~~acquire and construct a 100% affordable housing project on a site located within one and one-half mile~~  
11 ~~of the boundaries of the SUD. If such funds have not been allocated for the acquisition or~~  
12 ~~predevelopment of a project on a site within one and one-half mile of the boundaries of the SUD within~~  
13 ~~five years of deposit into the Citywide Affordable Housing Fund, such funds may be used anywhere in~~  
14 ~~the City and for any size project.~~

15                   ~~(2) **On-Site Inclusionary Units.** On-site Units pursuant to Section 415.6 in the~~  
16 ~~following amounts and income levels:~~

17                   ~~(A) In a rental project, at least 10% of units must be affordable to very low-~~  
18 ~~income households, at least 4% must be affordable to low-income households, at least 4% must be~~  
19 ~~affordable to moderate-income households and at least 5% must be affordable to middle-income~~  
20 ~~households. For purposes of this section, rental units for very low-income households shall have an~~  
21 ~~affordable rent set at 55% of Area Median Income or less, with households earning up to 65% of Area~~  
22 ~~Median Income eligible to apply for very low-income units. For purposes of this section, rental units~~  
23 ~~for low-income households shall have an affordable rent set at 80% of Area Median Income or less,~~  
24 ~~with households earning up from 65% to 90% of Area Median Income eligible to apply for low-income~~  
25 ~~units. For purposes of this section, rental units for moderate-income households shall have an~~

1 ~~affordable rent set at 110% of Area Median Income or less, with households earning from 90% to~~  
2 ~~120% of Area Median Income eligible to apply for moderate-income units. For purposes of this section,~~  
3 ~~rental units for middle-income households shall have an affordable rent set at 120% of Area Median~~  
4 ~~Income or less, with households earning from 120% to 140% of Area Median Income eligible to apply~~  
5 ~~for middle-income units. For any affordable units with rental rates set at 110% of Area Median Income~~  
6 ~~or above, the units shall have a minimum occupancy of two persons.~~

7 ~~(B) In an ownership project, at least 11% of units must be affordable to very~~  
8 ~~low-income households, at least 5% must be affordable to low-income households, at least 5% must be~~  
9 ~~affordable to moderate-income households and at least 5% must be affordable to middle-income~~  
10 ~~households. For purposes of this section, ownership units for very low-income households shall have~~  
11 ~~an affordable sales price set at 80% of Area Median Income or less, with households earning up to~~  
12 ~~100% of Area Median Income eligible to apply for very low-income units. For purposes of this section,~~  
13 ~~ownership units for low-income households shall have an affordable sales price set at 105% of Area~~  
14 ~~Median Income or less, with households earning up from 95% to 120% of Area Median Income eligible~~  
15 ~~to apply for low-income units. For purposes of this section, ownership units for moderate-income~~  
16 ~~households shall have an affordable sales price set at 130% of Area Median Income or less, with~~  
17 ~~households earning from 120% to 140% of Area Median Income eligible to apply for moderate-income~~  
18 ~~units. For purposes of this section, ownership units for middle-income households shall have an~~  
19 ~~affordable sales price set at 150% of Area Median Income or less, with households earning from 140%~~  
20 ~~to 160% of Area Median Income eligible to apply for middle-income units. For any affordable units~~  
21 ~~with sales prices set at 130% of Area Median Income or above, the units shall have a minimum~~  
22 ~~occupancy of two persons.~~

23 ~~(3) The grandfathering provisions in Section 415.3(b) shall not apply. Except as~~  
24 ~~expressly provided in this subsection (d), all other provisions of Section 415 shall apply.~~

1           **SEC. 249.22. NON-CONTIGUOUS SAN FRANCISCO MUNICIPAL**  
2           **TRANSPORTATION AGENCY SITES SPECIAL USE DISTRICT.**

3           (a) **Purpose.** There shall be a non-contiguous Special Use District (“SUD”) for sites  
4 owned by the City and County of San Francisco and under the jurisdiction of the San  
5 Francisco Municipal Transportation Agency (SFMTA) to enable SFMTA to use the sites for  
6 transportation and other Public uses as well as uses permitted by the underlying zoning  
7 district. This SUD also enables mixed-use residential development with characteristics not  
8 accommodated by underlying zoning.

9           \* \* \* \*

10          (c) **General Controls.**

11          \* \* \* \* \*

12                 (6) **Development Impact Fees.** For a development project on land subject to  
13 the SUD:

14                         (A) With the recommendation of the SFMTA Board of Directors, the  
15 Board of Supervisors may waive all or a portion of any applicable Transportation Sustainability  
16 Fee under Section 411A, and all or a portion of any applicable Jobs-Housing Linkage  
17 Program requirements under Section 413.

18                         (B) The provisions of Section 415 et seq., as amended or replaced from  
19 time to time, shall apply. Notwithstanding Section 415.6(~~he~~)(1), a development project may  
20 receive development subsidies if the development provides the same number of on-site  
21 affordable units as required by the applicable on-site affordable housing requirement in  
22 Section 415 et seq., ~~or any temporary reduction as set forth in Sections 415A et seq. or 415B et seq.,~~  
23 plus an additional number of on-site affordable units equal to 25% of the applicable on-site  
24 affordable units. Additional units shall be provided as affordable to households at or below  
25 80% of Area Median Income. Any units required to be affordable to ~~middle- or moderate-~~

1 income households under Sections 415.6(a), ~~415A, or 415B, as applicable,~~ or this subsection  
2 249.22(c)(6)(B), may instead be affordable to moderate- or low-income households.  
3 Notwithstanding Section 415.6(~~f~~c)(1), ~~the moderate and low income~~ On-site units may be located  
4 anywhere in the project.

5  
6 **SEC. 249.33. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT.**

7 \* \* \* \*

8 **(b) Use Controls.**

9 \* \* \* \*

10 **(6) Accessory Parking.** ~~For projects that provide 25% or more on-site affordable~~  
11 ~~housing units as defined in Section 415, accessory~~ Accessory non-residential parking may be used  
12 jointly as accessory residential parking for residential uses within the same project, so long as  
13 the following criteria are met:

14 (A) the total number of independently accessible parking stalls (whether  
15 residential or non-residential) provided in such project shall not exceed the sum of the  
16 maximum amount of accessory residential and accessory non-residential parking spaces  
17 permitted by the Planning Code, and;

18 (B) the total number of parking spaces used as residential accessory  
19 parking shall not exceed 0.4 spaces per each Dwelling Unit.

20 \* \* \* \*

21 ~~**(10) Option for Dedication of Land.**~~

22 ~~(A) Development projects in this District may opt to fulfill the Inclusionary~~  
23 ~~Housing requirement of Section 415 through the Land Dedication alternative in Section 419.6. The~~  
24 ~~Land Dedication alternative is available for development projects within the District under the same~~  
25 ~~terms and conditions as provided for in Section 419.5(a)(2), except that in lieu of the Land Dedication~~

~~Alternative requirements of Table 419.5, projects may satisfy the requirements of Section 415.5 by dedicating land for affordable housing if the dedicated land could accommodate a total amount of units that is equal to or greater than 35% of the units that are being provided on the principal development project site, as determined by the Planning Department. Any dedicated land shall be at least partly located within one mile of the boundaries of either the Market and Octavia Plan Area or the Upper Market NCT District.~~

~~(B) Notwithstanding the requirements of Section 419.5(a)(2)(H), development projects dedicating land shall obtain the required letter from the Mayor's Office of Housing and Community Development verifying acceptance of the dedicated land no later than 180 days following Planning Commission or Planning Department approval of the development project. The Director of the Mayor's Office of Housing and Community Development may waive application of Section 419.5(a)(2)(G).~~

~~(H10)~~ **Required Minimum Dwelling Unit Mix.** Development projects in this District shall comply with Section 207.6.

~~(H11)~~ **Active Uses.** For purposes of this Section 249.33, Arts Activities and Institutional Community Uses are considered to be "active uses," as defined in Section 145.4 of this Code.

~~(H12)~~ Projects with on-site affordable housing units provided pursuant to a Purchase and Sale Agreement with the City that are in excess of the amount required by Planning Code Section 415 may deviate from the building floor distribution requirements of Section 415.6(~~f~~)(1) by up to 15%.

\* \* \* \*

## **SEC. 249.38. SOMA YOUTH AND FAMILY SPECIAL USE DISTRICT.**

1 (a) **Purpose.** The South of Market (SoMa) Youth and Family Special Use District is  
2 intended to expand the provision of affordable housing in the area defined below. In addition,  
3 this zoning is intended to protect and enhance the health and environment of youth and  
4 families by adopting policies that focus on certain lower density areas of this District for the  
5 expansion of affordable housing opportunities. ~~The findings of Planning Code Section 419.1~~  
6 ~~concerning the provision of affordable housing are incorporated herein by reference.~~

7 (b) **Geography.** The general boundaries of the SoMa Youth and Family Special Use  
8 District are Natoma Street on the north, Harrison Street on the south, 4th Street on the east,  
9 and 7th Street on the west. The Special Use District is more particularly identified in the  
10 Zoning Map.

11 (c) **Controls.**

12 (1) For the entire Special Use District, all provisions of the Planning Code shall  
13 continue to apply, except for the following:

14 (A) The following uses, as defined in Section 102, shall require a  
15 Conditional Use authorization, pursuant to Section 303, unless the underlying zoning is more  
16 restrictive:

17 \* \* \* \*

18 (B) The Land Dedication alternative is available for any project ~~of 55 feet~~  
19 ~~or more~~ under the same terms and conditions as provided for in Section 415.7(a). ~~419 et seq.~~

20 ~~(C) In addition to the controls above, the following provisions shall apply to all~~  
21 ~~properties that are not tangent to the following streets: Howard Street, Harrison Street, Folsom Street,~~  
22 ~~4th, 5th, 6th and 7th Streets: Any project subject to Section 415 et seq. in excess of 45 feet in height~~  
23 ~~within this Special Use District shall be subject to the Tier C affordable housing requirements of~~  
24 ~~Sections 419 et seq.~~

1           **SEC. 249.39. WESTERN SOMA SPECIAL USE DISTRICT.**

2           (a) The Western SoMa Special Use District, as shown on Section Maps 1SU, 7SU,  
3 and 8SU of the Zoning Map, is governed by Section 303-~~7~~ of this Code, and Board of  
4 Supervisors Resolution No. 731-04.

5           \* \* \* \*

6           (c) **Controls.** All provisions of the Planning Code shall apply except as otherwise  
7 provided in this subsection (c).

8           \* \* \* \*

9                       **(9) Major Developments Requesting Height Bonuses.**

10                   \* \* \* \*

11                       (b) **Controls.** The project shall require conditional use authorization from  
12 the Planning Commission pursuant to Section 303 of this Code, and shall not require a Large  
13 Project Authorization if otherwise required under Section 329, and shall be subject to the  
14 following criteria:

15                               (i) As a component of such conditional use authorization, the  
16 project may seek specific exceptions to the provisions of this Code as provided under Section  
17 329;

18                               \* \* \* \*

19                               ~~(vi) Projects on development sites greater than .5 acre, but less than 3~~  
20 ~~acres, shall be subject to the Tier B affordable housing requirements of Section 419.3(b)(2) of this~~  
21 ~~Code.~~

22  
23           **SEC. 249.40. POTRERO CENTER MIXED-USE SPECIAL USE DISTRICT.**

24           (a) **Purpose.** The Potrero Center Mixed-Use Special Use District is intended to  
25 facilitate the continued operation of the shopping center located at 2300 16th Street, which is

1 characterized by large formula retail sales and services, while providing an appropriate  
2 regulatory scheme for a potential phased mixed-use redevelopment of the shopping center in  
3 the future.

4 \* \* \* \*

5 (c) **Controls.** All provisions of the Planning Code shall continue to apply, except for  
6 the following:

7 \* \* \* \*

8 (4) **Housing Requirements.** The Potrero Center is one of the largest properties  
9 in the UMU zoning district that provides a unique opportunity for a mixed-use project with the  
10 provision of a significant amount of affordable housing, through either on-site inclusionary  
11 units, a dedication of a portion of the land or the air rights of the property to the City. This  
12 would enable the City (or another affordable housing developer) to develop affordable housing  
13 on such dedicated portion or provide for a combination of both on-site inclusionary housing  
14 and land dedication. The City supports such affordable housing production in this location,  
15 rather than in an off-site location or locations. ~~The provisions of Table 419.5 shall be modified to~~  
16 ~~increase the~~ The off-site affordable unit election and in lieu fee election requirements ~~from 27~~  
17 ~~percent to 30 percent~~ shall be 10% of the total number of units produced in the principal project.  
18 ~~The findings of Section Section 419.5(a)(2) concerning the provision of affordable housing are~~  
19 ~~incorporated herein by reference.~~

20 (5) **Land Dedication Election.** The Land Dedication Alternative for the provision of  
21 inclusionary housing units specified in Section ~~419.5(a)(2)~~ 415.7(a) may be satisfied  
22 incrementally over time in the event that portions of the SUD are redeveloped in phases and  
23 may be satisfied through the dedication to the City of air space parcels above or adjacent to  
24 retail, parking or other uses, as well as through dedications of land, upon the approval of the  
25

1 ~~Mayor's Office of Housing~~ MOHCD or a successor entity, and provided the requirements of  
2 Section ~~419.5(a)(2)~~ 414.7(a) are otherwise satisfied.

3  
4 **SEC. 249.78. CENTRAL SOMA SPECIAL USE DISTRICT.**

5 (a) **Purpose.** To implement the goals, objectives, and policies of the Central SoMa  
6 Plan (Ordinance No. 280-18, on file with the Clerk of the Board of Supervisors in File No.  
7 180185), the Central SoMa Special Use District (SUD) is hereby established.

8 \* \* \* \*

9 (c) **Land Use Controls.**

10 \* \* \* \*

11 (6) **Use on Large Development Sites.**

12 \* \* \* \*

13 (C) **Residential Bonus Program.** Projects on large development sites  
14 identified in subsection 249.78(c)(6)(A) shall be eligible for an exception from the use  
15 requirement in subsection 249.78(c)(6)(B), provided that the projects satisfy all of the  
16 following:

17 \* \* \* \*

18 (v) **Land Dedication for 100% Affordable Housing.** For  
19 purposes of this Section 249.78 (c)(6), "Land Dedication for 100% Affordable Housing" as  
20 applied to projects on the Key Sites identified in this section means fully or partially satisfying  
21 the project's affordable housing requirements of Sections 413 et seq. and 415 et seq. under  
22 Sections 413.6 and ~~419.5~~ 415.7(a). ~~by providing no less than 10,000 square feet or a minimum~~  
23 ~~capacity of 75 units of affordable housing, provided that if the combined full requirements of Section~~  
24 ~~413 et seq. and Section 415 et seq. as applied to the proposed project would not result in a land~~  
25 ~~dedication site of at least 10,000 square feet or a minimum capacity of 75 units of affordable housing.~~

1 ~~then the proposed project on the Key Site may instead meet the requirements of Sections 413 et seq. and~~  
2 ~~415 et seq. as otherwise provided for in this Code.~~

3 \* \* \* \*

4 **(e) Community Development Controls.**

5 ~~(1) **Affordable Housing Funds.** Affordable Housing Fees for projects within the~~  
6 ~~Central SoMa Special Use District shall be subject to Section 415.5(f)(1)(D).~~

7 ~~(2) **Land Dedication.**~~

8 ~~(A) Residential projects in this SUD may opt to fulfill the Inclusionary Housing~~  
9 ~~requirement of Section 415 through the Land Dedication alternative contained in Section 419.6.~~

10 ~~(B) Non-Residential projects in this Special Use District may opt to fulfill their~~  
11 ~~Jobs-Housing Linkage Fee requirement of Section 413 through the Land Dedication alternative~~  
12 ~~contained in Section 413.6.~~

13 **(31) TDR Requirements for Large Development Sites.** The transfer and use  
14 of TDR by Large Development Sites in the Central SoMa SUD is subject to the controls of  
15 Section 128.1.

16 ~~(B) **Requirement.**~~

17 ~~(iA)~~ A project subject to this subsection **(31)** will be considered a  
18 "Development Lot," pursuant to Section 128.1;

19 ~~(iiB)~~ To exceed a Floor Area Ratio of 3:1, a Development Lot shall  
20 acquire one Unit of TDR from a Transfer Lot, as defined in Sections 128 and 128.1, per  
21 square foot of development up to a Floor Area Ratio of 4.25:1. Above 4.25:1, the acquisition  
22 of additional TDR is not required.

23 **(42) Onsite Childcare Facilities.** Prior to issuance of a building or site permit  
24 for a development project subject to the requirements of Section 414.4, the sponsor of an  
25 Office or Hotel project on a Key Site, as defined in Section 329(e), shall elect its choice of the

options described in subsection (A), (B) and (E) of Section 414.4(c)(1) to fulfill any requirements imposed pursuant to Section 414.4 as a condition of approval. The Planning Commission shall review the project for compliance with Section 414.4. In addition, the following process shall apply:

\* \* \* \*

**~~SEC. 263.7. SPECIAL HEIGHT EXCEPTIONS: NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT.~~**

~~(a) **General.** In the 80-120-T and 80-130-T Height and Bulk Districts, as designated on Sectional Maps No. 1H and No. 2H of the Zoning Map, located within the boundaries of the North of Market Residential Special Use District, as designated on Sectional Map No. 1Sub of the Zoning Map, height exceptions may be approved by the City Planning Commission, pursuant to the provisions set forth below, from the base height of 80 feet up to 120 feet in the 80-120-T District and up to 130 feet in the 80-130-T District.~~

~~(b) **Findings and Purposes.** In the 80-120-T and 80-130-T Height and Bulk Districts located within the North of Market Residential Special Use District (NOMRSUD), heights higher than 80 feet would be appropriate in order to effect a transition from the higher downtown heights to the generally lower heights of the existing buildings in the NOMRSUD core area and the Civic Center area and to make more feasible the construction of new housing, provided that development of the site is also consistent with the general purposes of the NOMRSUD as set forth in Section 249.5(b). Because development at heights greater than 80 feet may create pressures on existing affordable housing in the area, it is desirable to ameliorate such pressures by requiring that a portion of the value added to the new development resulting from the granting of a height exception be contributed to a fund established for the purpose of stabilizing, rehabilitating, and retaining existing affordable units in the area.~~

1        *The amount of contribution shall be a reasonable proportion of the value added to the*  
2 *development as a result of the extra building area enabled by the height exception.*

3        ~~*(c) **Procedures.** Exceptions from the base height of 80 feet shall be permitted, up to 120 feet in*~~  
4 ~~*the 80-120-T Height and Bulk District, and up to 130 feet in the 80-130-T Height and Bulk District,*~~  
5 ~~*only upon approval by the City Planning Commission, according to the procedures for conditional use*~~  
6 ~~*approval set forth in Section 303 of this Code.*~~

7        ~~*(d) **Conditions.** The Planning Commission shall impose conditions on the approval of*~~  
8 ~~*applications for conditional use authorization, required pursuant to Section 253 for buildings which*~~  
9 ~~*exceed 40 feet in height in an R District, if such authorization includes a grant of an exception to the*~~  
10 ~~*80-foot base height limit, in order to mitigate the impact that such height exception is likely to have on*~~  
11 ~~*the existing supply of affordable housing in the area. The condition shall require that the applicant pay*~~  
12 ~~*a fee to the Controller which shall be deposited in the Citywide Affordable Housing Fund established in*~~  
13 ~~*Administrative Code Section 10.100-49 (the "Fund").*~~

14        ~~*(e) **Fee.** The fee required pursuant to subsection (d) above shall be equal to the sum of \$5 times*~~  
15 ~~*the total gross square footage of floor space located above 80 feet in height as determined by the*~~  
16 ~~*Zoning Administrator, as shown on the building plans. The fee shall be due and payable prior to the*~~  
17 ~~*issuance of a temporary certificate of occupancy, unless the project sponsor agrees to and qualifies for*~~  
18 ~~*participation in an amortized payment program, to be established by the Director of the Mayor's Office*~~  
19 ~~*of Housing and Community Development (MOHCD) and the Director of City Planning, such program*~~  
20 ~~*to be subject to subsequent review and approval by the City Planning Commission and the Board of*~~  
21 ~~*Supervisors, which program would result in the City receiving an amount equivalent to the value of the*~~  
22 ~~*contribution at the time the temporary certificate of occupancy is issued.*~~

23        ~~*(f) **Procedure Regarding Temporary Permit of Occupancy.** The Superintendent of the Bureau*~~  
24 ~~*of Building Inspection shall provide notice in writing to the Zoning Administrator at least two business*~~  
25 ~~*days prior to issuing a temporary permit of occupancy for any building subject to the provisions of this*~~

1 ~~Section. If the Zoning Administrator notifies the Superintendent of the Bureau of Building Inspection~~  
2 ~~within such time that the provisions of this Section have not been complied with, the Superintendent~~  
3 ~~shall deny the temporary permit. If the Zoning Administrator notifies the Superintendent that the~~  
4 ~~provisions of this Section have been complied with or fails to respond within two business days, the~~  
5 ~~temporary permit of occupancy shall not be disapproved pursuant to this Section.~~

6 ~~(g) **Citywide Affordable Housing Fund.** All fees collected by the Controller pursuant to this~~  
7 ~~Section 263.7 shall be deposited in the Fund, but the fees shall be separately accounted for and~~  
8 ~~expended by MOHCD as provided in this Section. All fees collected under this Section and deposited in~~  
9 ~~the Fund shall be used solely to stabilize, rehabilitate, and retain affordable housing in the North of~~  
10 ~~Market Residential Special Use District. No fees collected under this Section may be used, by way of~~  
11 ~~loan or otherwise, to pay any administrative, general overhead, or similar expense of any entity except~~  
12 ~~for servicing cost related to participation in the amortized payment program.~~

13 ~~(h) **Rules and Regulations for Implementation.** The Director of MOHCD and the Director of~~  
14 ~~City Planning shall prepare and submit to the Planning Commission and the Board of Supervisors for~~  
15 ~~review and approval such rules and regulations as may be necessary for the implementation of this~~  
16 ~~Section. The Director of MOHCD and the Director of City Planning shall further propose such~~  
17 ~~amendments or additions to the rules and regulations that he or she determines to be necessary. Such~~  
18 ~~amendments and additions shall include periodic revision of the fee to reflect current conditions.~~

## 20 **SEC. 329. LARGE PROJECT AUTHORIZATION IN EASTERN NEIGHBORHOODS** 21 **MIXED USE DISTRICTS.**

22 (a) **Purpose.** The purpose of this Section is to ensure that all large projects proposed  
23 in the Eastern Neighborhoods Mixed Use Districts are reviewed by the Planning Commission,  
24 in an effort to achieve the objectives and policies of the General Plan, the applicable Design  
25 Guidelines, and the purposes of this Code.

\* \* \* \*

(e) **Exceptions for Key Sites in Central SoMa.**

(1) **Purpose.** The Central SoMa Plan Area contains a number of large, underutilized development sites. By providing greater flexibility in the development of these sites, the City has an opportunity to achieve key objectives of the Central SoMa Plan and to locate important public assets that would otherwise be difficult to locate in a highly developed neighborhood like SoMa.

\* \* \* \*

(3) **Controls.** Pursuant to this Section 329(e) and the Key Site Guidelines adopted as part of the Central SoMa Area Plan, the Planning Commission may grant exceptions to the provisions of this Code as set forth in subsection (d) above and may also grant the exceptions listed below for projects that provide qualified amenities in excess of what is required by the Code.

(A) **Qualified Amenities.** Qualified additional amenities that may be provided by these Key Sites include: affordable housing beyond what is required under Section 415 et seq.; land dedication pursuant to Section 413.6 by non-residential projects for construction of affordable housing in partial or full satisfaction of the Jobs-Housing linkage Fee, or in excess of that required to satisfy the Jobs-Housing linkage Fee, provided that if the land dedication is in partial satisfaction of that Fee, the balance of the Fee shall be paid with the land value calculated as set forth in Section 413.6; land dedication pursuant to Section 413.6 by residential projects for construction of affordable housing in partial or full satisfaction of the Alternatives to the Inclusionary Housing Fee, or in excess of that required to satisfy the Alternatives to the Inclusionary Housing Fee, pursuant to Section ~~419.5~~415.7(a), to the extent permitted by state law, provided that if the land dedication is in partial satisfaction of that Fee, the balance of the Fee shall be paid with the land value calculated as set forth in Section

413.6; PDR at a greater amount and/or lower rent than is otherwise required under Sections 202.8 or 249.78(c)(5); public parks, recreation centers, or plazas; and improved pedestrian networks.

\* \* \* \*

#### **SEC. 343. CENTRAL SOMA HOUSING SUSTAINABILITY DISTRICT.**

\* \* \* \*

(d) **Eligibility.** Projects seeking approval pursuant to this Section 343 shall meet all of the following requirements:

\* \* \* \*

(7) The project complies with the following affordability requirements, as applicable:

(A) Projects subject to Section 415 shall comply with Section 415 by choosing the On-Site Affordable Housing Alternative under Section 415.5~~(ge)(1)(A)~~, and shall provide no less than 10% of dwelling units as units affordable to very low or low income families.

\* \* \* \*

#### **SEC. 759. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.**

The Divisadero Street Neighborhood Commercial Transit District ("Divisadero Street NCT") extends along Divisadero Street between Haight and O'Farrell Streets. Divisadero Street's dense mixed-use character consists of buildings with residential units above ground-story commercial use. The District has an active and continuous commercial frontage along Divisadero Street for most of its length. Divisadero Street is an important public transit corridor

1 and throughway street. The commercial district provides convenience goods and services to  
2 the surrounding neighborhoods as well as limited comparison shopping goods for a wider  
3 market.

4 \* \* \* \*

5 ~~If the Planning Department determines that any site proposed for residential development and~~  
6 ~~located within the Divisadero Street NCT has received a 50% or greater increase in residential~~  
7 ~~densities over prior zoning through the adoption of Ordinance No. 127-15, any development project~~  
8 ~~that is subject to the Inclusionary Affordable Housing Program on such site shall pay the Affordable~~  
9 ~~Housing Fee, or provide one of the Alternatives to Payment of the Affordable Housing Fee, set forth in~~  
10 ~~Planning Code Sections 415 et seq., except that the amount of the Affordable Housing Fee or~~  
11 ~~Alternatives to Payment of the Affordable Housing Fee shall be modified as set forth in Planning Code~~  
12 ~~Sections 428 et seq.~~

13 \* \* \* \*

14  
15 Section 6. Article 4 of the Planning Code is hereby amended by revising Sections 402,  
16 403, 406, and 409 as follows:

17 **SEC. 402. PROCEDURE FOR ASSESSMENT, PAYMENT, AND COLLECTION OF**  
18 **DEVELOPMENT FEES.**

19 \* \* \* \*

20 (b) **Required Department Notice to Development Fee Collection Unit; Request to**  
21 **Record Notice of Fee.**

22 (1) **Required Notice.** When the Planning Department determines that a  
23 development project is subject to one or more development fees or development impact  
24 requirements as set forth in Section 402(e), the Department shall send written or electronic  
25 notification to the Development Fee Collection Unit at DBI, and also to MOHCD, SFMTA or

1 other applicable agency that administers an applicable development fee or development  
2 impact requirement, that:

- 3 (i) identifies the development project,
- 4 (ii) lists which specific development fees and/or development impact  
5 requirements are applicable and the legal authorization for their application,
- 6 (iii) specifies the dollar amount of the development fee or fees that the  
7 Department calculates is owed to the City or that the project sponsor has elected to satisfy a  
8 development impact requirement through the provision of physical or “in-kind” improvements,  
9 and
- 10 (iv) lists the name and contact information for the staff person at each  
11 agency or department responsible for calculating the development fee or monitoring  
12 compliance with the development impact requirement for physical or in-kind improvements.

13 \* \* \* \*

14 (e) **Amount and Applicability of Impact Fees.** When the Planning Department  
15 determines that a project is subject to development impact fees established in the Planning  
16 Code, with the exception of the Inclusionary Housing Fee as set forth in Section 415 et seq.,  
17 the assessment shall be based on the types of fees ~~and the rates of those fees~~ in effect at the  
18 time the Department determines that the Development Application is complete, or the Department  
19 received a preliminary application, as applicable, and the Department shall not impose any  
20 subsequently established development impact fees. The amount of development impact fees shall be  
21 assessed at ~~of~~ **Final Approval**, based on the rates published in the Development Impact Fee Register in  
22 effect at the time of Final Approval. After Final Approval, the City shall not ~~impose subsequently~~  
23 ~~established development impact fees or~~ increase the rate of existing fees on the development  
24 project, including annual inflation adjustments pursuant to Section 409, except as provided in  
25 subsections (e)(1)-(e)(2) of this Section 402. The Planning Department shall transmit the fee

1 assessment to the Development Fee Collection Unit at DBI in accordance with this Section  
2 402.

3 (1) **Modification, Renewal, Extension for Projects.** After the Final Approval, if  
4 a development project requires a modification to, renewal, or extension of a previously  
5 approved Development Application, the Planning Department shall reassess development  
6 impact fees pursuant to subsection (e)(2). For the purposes of this subsection (e)(1), a  
7 “modification” shall not include a legislatively-authorized reduction or waiver of fees, including  
8 any waivers pursuant to Section 406.

9 (2) **Amount of Reassessment.** For any development project that requires a  
10 modification to, renewal, or extension pursuant to subsection (e)(1), the Planning Department  
11 shall reassess fees as follows:

12 (A) **Modified Projects.** For projects increasing Gross Floor Area of any  
13 ~~Use by 20% or less,~~ the Planning Department shall assess the new or increased Gross Floor  
14 Area by applying the types of impact fees in effect at the time ~~of the Department determined that~~  
15 ~~the application was complete, Final Approval~~ at the rates in effect at the time of Final  
16 Approval. ~~modification. For projects increasing Gross Floor Area by more than 20%, the Department~~  
17 ~~shall apply the types of impact fees in effect at the time the new Development Application is deemed~~  
18 ~~complete, and the rate in effect at the time the new Development Application is Finally Approved.~~ For  
19 projects reducing Gross Floor Area, the Planning Department shall assess the types of fees in  
20 effect at the time the Department determined the Development Application was complete, and the rates  
21 of fees in effect at the time of Final Approval only on the remaining Gross Floor Area. ~~If the~~  
22 ~~modified project would result in a new type of fee or a different rate based on applicable thresholds in~~  
23 ~~effect at the time of Final Approval, the entire project square footage is subject to the new type of fee or~~  
24 ~~different rate in effect at the time of modification. The City shall refund fees, if any, without interest,~~  
25 ~~based on the fees in effect at the time of Final Approval.~~

1 (B) **Renewal and Extended Projects.** For projects receiving a renewal  
2 or extension, the Planning Department shall reassess fees for the entire project's Gross Floor  
3 Area based on the type of fees and rates of those fees in effect at the time of renewal or  
4 extension.

5 (3) **Permitted Modifications to Projects Following Legislated Amendments to**  
6 **Development Impact Fees.**

7 **(A) Projects Approved Prior to Effective Date of Ordinance in Board**  
8 **File No. 230764.** For projects that have obtained a Final Approval, but that have not yet  
9 obtained a first site or building permit prior to the effective date of the ordinance in Board File  
10 No. 230764, the assessed types and rates of impact fees shall not be increased after that  
11 effective date, unless such project requires a modification, extension, or renewal pursuant to  
12 subsection (e)(1)-(2) of this Section 402. For projects that have obtained a Final Approval and  
13 a site or building permit prior to the effective date of the ordinance in Board File No. 230764,  
14 the types and rate of fees are those assessed at the time of site or building permit issuance,  
15 subject to legislative reduction or waiver of fees, unless such project requires a modification,  
16 extension, or renewal pursuant to subsection (e)(1)-(2) of this Section 402.

17 **(B) Modifications to Pipeline Projects and Certain Approved Projects**  
18 **Following Legislative Amendments to Development Impact Fee Requirements.**

19 **(i) For Pipeline Projects, if the Board of Supervisors reduces or deletes**  
20 **an applicable development impact fee imposed by this Article 4, the project shall be entitled to modify**  
21 **the types and/or rates of the impact fees reduced or deleted to those in effect as of the effective date of**  
22 **the ordinance adopting the legislative amendment or deletion. All other fees shall continue to be**  
23 **assessed as provided in Section 403(e).**

24 **(ii) For Projects that have been issued a First Construction Document**  
25 **prior to the effective date of legislation reducing or deleting an applicable development impact fee**

1 imposed by this Article 4, the project shall be entitled to a waiver of the reduced or deleted  
2 development impact fee only for the portion of the fee that has been deferred and not yet paid pursuant  
3 to Building Code Section 107A.13.3. All other fees shall continue to be assessed as provided in Section  
4 403(e).

5 ~~(4) **Applicability to Development Agreements.**~~

6 ~~(A) For projects subject to development agreements executed prior to the~~  
7 ~~effective date of the ordinance in Board File No. 230764, the Planning Department shall assess the~~  
8 ~~applicable fees pursuant to the development agreement and no later than the earlier of site or building~~  
9 ~~permit issuance.~~

10 ~~(B) Except as may otherwise be agreed to by the parties, for a project subject to~~  
11 ~~a development agreement executed on or after the effective date of the ordinance in Board File No.~~  
12 ~~230764, the Planning Department shall assess the applicable fees at the earlier of site or building~~  
13 ~~permit issuance.~~

14 ~~(C) The procedures set forth in subsection (e)(1)-(2) shall govern the~~  
15 ~~modification, renewal, or extension of a project subject to a development agreement.~~

16 ~~(D) In the event of a conflict between this Section 402(e) and the terms of a~~  
17 ~~development agreement, the terms of the development agreement shall apply, unless the development~~  
18 ~~agreement is modified pursuant to the terms of that agreement.~~

19  
20 **SEC. 403. PAYMENT OF DEVELOPMENT FEE(S) OR SATISFACTION OF**  
21 **DEVELOPMENT IMPACT REQUIREMENT(S) AS A CONDITION OF APPROVAL;**  
22 **~~TEMPORARY~~ FEE REDUCTION PROGRAM.**

23 In addition to any other condition of approval that may otherwise be applicable, the  
24 Department or Commission shall require as a condition of approval of a development project  
25 subject to a development fee or development impact requirement under this Article 4 that

1 such development fee or fees be paid consistent with the timing set forth in California  
2 Government Code section 66007, or in Building Code Section 107A.13.3, in proportion to the  
3 amount required for each building if there are multiple buildings, with an option for the project  
4 sponsor to defer payment of 85% of the fees, ~~or 80% of the fees if the project is subject to a~~  
5 ~~neighborhood infrastructure impact development fee,~~ to prior to issuance of the first certificate of  
6 occupancy, as provided by Section 107A.13.3.1 of the San Francisco Building Code ("Fee  
7 Deferral Program"). ~~The Fee Deferral Program shall not apply to fees that must be deposited in the~~  
8 ~~Citywide Affordable Housing Fund (Administrative Code Section 10.100-49).~~ Projects subject to  
9 development agreements executed pursuant to Chapter 56 of the Administrative Code shall  
10 be eligible for the Fee Deferral Program, except as may otherwise be agreed to by the parties  
11 to the development agreement. The Department or Commission shall also require as a  
12 condition of approval that any development impact requirement imposed on a development  
13 project under this Article shall be satisfied prior to issuance of the first certificate of occupancy  
14 for any building or buildings within the development project, in proportion to the amount  
15 required for each building if there are multiple buildings.

16 (a) **Temporary Fee Reduction Program.** Except for the Inclusionary Housing Fee as set  
17 forth in Section 415.1 et seq., all ~~The following~~ development impact fees imposed by this Article 4  
18 ~~assessed on or before November 1, 2026 shall be reduced by 33% at the time of collection by the~~  
19 Development Fee Collection Unit at DBI by 67% from the amount assessed for the project pursuant to  
20 Section 402(e); for (1) projects that receive a First Construction Document, as defined in Building  
21 Code Section 107A.13.1, within 30 months of Final Approval, as defined in Section 415A.2; and (2) for  
22 Pipeline Projects as defined in Section 415A.2, if such Pipeline Projects receive a First Construction  
23 Document on or before May 1, 2029. Projects approved pursuant to a development agreement under  
24 Chapter 56 of the Administrative Code shall not be eligible for a fee reduction under this Section 403.  
25 Upon receipt of a First Construction Document, the Planning Department shall determine whether the

1 ~~project is eligible for the Temporary Fee Reduction Program, and update the fees assessment as~~  
2 ~~applicable. If the project is found eligible, the following fees shall be reduced:~~

3 ~~(1) The Transportation Sustainability Fee (Section 411A);~~

4 ~~(2) The Downtown Park Fee (Section 412);~~

5 ~~(3) The Jobs Housing Linkage Program (Section 413);~~

6 ~~(4) The Childcare Requirement for Office and Hotel Development Projects (Section 414);~~

7 ~~(5) The Childcare Requirements for Residential Projects (Section 414A);~~

8 ~~(6) Market and Octavia Area Plan and Upper Market Neighborhood Commercial District~~  
9 ~~Affordable Housing Fee (Section 416);~~

10 ~~(7) Eastern Neighborhoods Area Plan Affordable Housing Requirement (Section 417);~~

11 ~~(8) Rincon Hill Community Improvements Fund and SOMA Community Stabilization Fund~~  
12 ~~(Section 418);~~

13 ~~(9) Visitation Valley Community Facilities and Infrastructure Fee and Fund (Section 420);~~

14 ~~10 The Market and Octavia Community Improvements Fund (Section 421);~~

15 ~~11 Balboa Park Community Improvements Fund (Section 422);~~

16 ~~12 Eastern Neighborhood Impact Fees and Public Benefits Fund (Section 423);~~

17 ~~13 Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee and Program~~  
18 ~~(Section 424);~~

19 ~~14 Transit Center District Open Space Impact Fee and Fund (Section 424.6) and~~  
20 ~~Transportation and Street Improvement Impact Fee (Section 424.7);~~

21 ~~15 Van Ness and Market Community Facilities Fee and Fund (Section 425);~~

22 ~~16 Open Space requirements (Sections 426 and 427);~~

23 ~~17 Public Art Fee (Section 429);~~

24 ~~18 Bicycle Parking fee (Section 430);~~

25 ~~19 Central SOMA Community Services Facilities Fees and Fund (Section 432);~~

~~20 Central SOMA Infrastructure Fee and Fund (Section 433);~~

~~21 Union Square Park, Recreation, and Open Space Fee (Section 435);~~

Fees eligible for reduction under this section, including the amount with a reduction, shall be included in the Controller's Citywide Development Fee and Development Impact Requirements Report described in Section 409(a).

**(b) Modifications to Pipeline Projects and Certain Approved Projects.**

(1) Pipeline Projects shall be entitled to receive the impact fee reduction provided in Section 403(a).

(2) Projects that have been issued a First Construction Document and that have deferred a portion of the impact fee amount owed pursuant to Building Code Section 107A.13.3 shall be entitled to receive an adjustment to the remaining unpaid balance such that the project receives the percentage reduction set forth in Section 403(a) from the project's original assessment under Section 402(e). However, there shall be no refund issued for any portion of the impact fee amount already paid.

**SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT PROJECT REQUIREMENTS.**

\* \* \* \*

(h) **Waiver for Projects in the C-2 and C-3 Districts.** In the C-2 and C-3 Districts, a development project that meets the eligibility criteria in subsection (h)(1) of this Section 406 shall receive a waiver from any development impact fee or development impact requirement imposed by this Article.

(1) **Eligibility.** To be eligible for the waiver in this subsection (h), the project shall:

(A) be located in a C-2 or C-3 District; and

(B) contain any of the following uses: Hotel, Restaurant, Bar, Outdoor Activity, or Entertainment;

~~(C) submit a complete Development Application on or before December 31, 2026, including any projects that have obtained Final Approval prior to the effective date of the ordinance in Board File No. 230764 that have not already paid development impact fees.~~

(2) **Extent of Waiver.** The waiver in this subsection (h) shall be limited to development impact fees or development impact requirements for the establishment of any new Gross Floor Area of the Hotel, Restaurant, Bar, Outdoor Activity, or Entertainment Use.

(3) **Modification of Previously Approved Projects.** Projects that received a Final Approval before November 1, 2023, have not been issued a First Construction Document, and have not paid development impact fees, shall be entitled to the waiver provided in this subsection 406(h).

~~(34)~~ **Sunset.** This subsection (h) shall expire by operation of law on December 31, ~~2026~~2029, unless the duration of the subsection has been extended by ordinance effective on or before that date. Upon expiration, the City Attorney shall cause subsection (h) to be removed from the Planning Code.

\* \* \* \*

## **SEC. 409. CITYWIDE DEVELOPMENT FEE REPORTING REQUIREMENTS AND COST INFLATION FEE ADJUSTMENTS.**

\* \* \* \*

(b) **Annual Development Fee Inflation Adjustments** and Development Impact Fee Register. Prior to issuance of the Citywide Development Fee and Development Impact Requirements Report referenced in subsection (a) above, the Controller shall review the amount of each development fee established in the Planning Code and, with the exception of the Inclusionary Affordable Housing Fee in Section 415 et seq., shall adjust the dollar amount

1 of any development fee by ~~two percent~~ 2% on an annual basis every January 1 in order to  
2 maintain a reasonably conservative connection between construction costs and development  
3 fees for the next calendar year for a mix of public infrastructure and facilities in San Francisco.  
4 MOHCD shall adjust the Inclusionary Affordable Housing Fee consistent with the procedures  
5 established in Section 415.5(b)(3). The Planning Department shall publish the fee adjustments from  
6 the Controller and MOHCD in an annual Development Impact Fee Register, and along with the  
7 Development Fee Collection Unit at DBI shall provide notice of the Controller's development  
8 fee adjustments, and MOHCD's separate adjustment of the Inclusionary Affordable Housing  
9 Fee on the Planning Department and DBI websites and to any interested party who has  
10 requested such notice at least 30 days prior to the adjustment taking effect each January 1.  
11 ~~The Inclusionary Affordable Housing Fee shall be adjusted under the procedures established in Section~~  
12 ~~415.5(b)(3).~~

13  
14 Section 8. Section 107A of the Building Code is hereby amended by revising Section  
15 107A.13 (including Sections 107A.13.1, 107A.13.3.1, and 107A.13.3.1.1, and adding Section  
16 107A.13.3.1.2), to read as follows:

17 **107A.13 Development impact and in-lieu fees.**

18 **107A.13.1 Definitions.**

19 (a) The following definitions shall govern interpretation of this Section:

20 \* \* \* \*

21 (8) "First construction document" shall mean the first building permit issued for a  
22 development project or, in the case of a site permit, the first building permit addendum issued  
23 or other document that authorizes construction of the development project. Construction  
24 document shall not include permits or addenda for demolition, grading, shoring, pile driving, or  
25 site preparation work. For a development project with multiple buildings, including projects

1 approved pursuant to Administrative Code Chapter 56, First construction document shall mean the  
2 building permit, or in the case of a site permit, the first building permit addendum, for each building.

3 (9) "In-lieu fee" is a fee paid by the project sponsor in lieu of complying with a  
4 City requirement that is not a development impact fee within the meaning of the Mitigation Fee  
5 Act.

6 (10) "Neighborhood Infrastructure Seed Fund" shall mean the fund or funds  
7 established by the Controller's Office for the purpose of collecting the ~~20 percent~~ pre-paid  
8 portion of the development fees intended to fund pre-development work on any neighborhood  
9 infrastructure project funded by any of the neighborhood infrastructure impact development  
10 fees listed below. ~~in Subsection 107A.13.3.1.1.~~ In addition, third-party grant monies or loans may  
11 also be deposited into this fund for the purpose of funding pre-development or capital  
12 expenses to accelerate the construction start times of any neighborhood infrastructure project  
13 funded by any of the neighborhood infrastructure impact development fees listed below.~~in~~  
14 ~~Subsection 107A.13.3.1.1.~~

15 (A) Rincon Hill Community Infrastructure Impact Fee, as set forth in Planning  
16 Code Section 418.3(b)(1);

17 (B) Visitacion Valley Community Facilities and Infrastructure Fee, as set forth  
18 in Planning Code Section 420.3(b);

19 (C) Market and Octavia Community Infrastructure Fee, as set forth in Planning  
20 Code Section 421.3(b);

21 (D) Balboa Park Community Infrastructure Impact Fee, as set forth in Planning  
22 Code Section 422.3(b);

23 (E) Eastern Neighborhoods Infrastructure Impact Fee, as set forth in Planning  
24 Code Section 423.3(b);

1 (F) Van Ness and Market Neighborhood Infrastructure Impact Fee, as set forth  
2 in former Planning Code Section 424.3(b)(ii); and

3 (G) Central SoMa Infrastructure Impact Fee, as set forth in Planning Code  
4 Section 433.

5 \* \* \* \*

6  
7 **Sec. 107A.13.3.1. Fee deferral program.** A project sponsor may elect to defer  
8 payment of any development impact or in-lieu fee imposed by Article 4 of the Planning Code and  
9 excluding any fees that must be deposited into the Citywide Affordable Housing Fund (Administrative  
10 Code Section 10.100-49); collected by the Department to a due date prior to issuance by the  
11 Department of the first certificate of occupancy; provided, however, that the project sponsor  
12 shall pay 15% ~~percent~~ of the total amount of the development fees owed, ~~excluding any fees that~~  
13 ~~must be deposited into the Citywide Affordable Housing Fund (Administrative Code Section 10.100-~~  
14 ~~49);~~ prior to issuance of the first construction document. ~~If a project is subject to one of the~~  
15 ~~neighborhood infrastructure impact development fees listed in Subsection 107A.13.3.1.1, the project~~  
16 ~~sponsor shall pay 20 percent of the total amount of the development fees owed prior to issuance of the~~  
17 ~~first construction document. These pre-paid funds shall be deposited as provided in Subsection~~  
18 ~~107A.13.3.1.1 below. A project sponsor that has not obtained its First Construction Document prior to~~  
19 ~~the Effective Date of the ordinance in Board File No. 230764 and has Pipeline Projects, as defined in~~  
20 Planning Code Section 401, that have not yet paid ~~a~~ any development impact or in-lieu fee  
21 imposed by Article 4 of the Planning Code may elect to defer payment under the provisions of this  
22 Section notwithstanding a condition of approval that required the fee to be paid prior to  
23 issuance of the First Construction Document. This option to defer payment may be exercised by  
24 submitting a deferral request to the Department on a form provided by the Department prior to  
25 issuance of the first construction document.

~~This option to defer payment may be exercised by submitting a deferral request to the Department on a form provided by the Department prior to issuance of the first construction document. This deferral option shall not be available to a project sponsor who paid the fee prior to the Effective Date date of the ordinance in Board File No. 230764; the project sponsor's reapplication for a building or site permit after expiration of the original permit and refund of the development fees paid shall not authorize the project sponsor to elect the deferral option.~~

**Sec. 107A.13.3.1.1 Deposit of pre-paid portion of deferred development fees.** ~~If a development project is not subject to one of the neighborhood infrastructure impact fees listed below, the~~ The pre-paid portion of the any development impact fees imposed by Article 4 of the Planning Code shall be deposited into the appropriate fee account for each fee. If there is more than one fee account for any given fee, the pre-paid portion of the fees shall be apportioned to each account in proportion to the percentage imposed under Article 4.~~equally.~~

~~If a development project is subject to one of the neighborhood infrastructure impact development fees listed below, the entire 20 percent development fee pre-payment shall be deposited in the appropriate neighborhood infrastructure impact fee account. These pre-paid funds shall be dedicated solely to replenishing the Neighborhood Infrastructure Seed Fund for that specific neighborhood infrastructure impact fee account. In no event shall a neighborhood infrastructure impact fee specific to one Area Plan be mixed with neighborhood infrastructure impact fees specific to a different Area Plan. If the 20 percent development fee pre-payment exceeds the total amount owed for the neighborhood infrastructure impact fee account, the remaining pre-paid portion of the 20 percent development fee pre-payment shall be apportioned equally among the remaining applicable development fees.~~

~~The neighborhood infrastructure development fees subject to the 20 percent pre-payment provision of this Subsection 107A.13.3.1.1 are as follows: (1) the Rincon Hill Community Infrastructure Impact Fee, as set forth in Planning Code Section 418.3(b)(1); (2) the Visitacion Valley Community~~

~~Facilities and Infrastructure Fee, as set forth in Planning Code Section 420.3(b); (3) the Market and Octavia Community Infrastructure Fee, as set forth in Planning Code Section 421.3(b); (4) the Balboa Park Community Infrastructure Impact Fee, as set forth in Planning Code Section 422.3(b); (5) the Eastern Neighborhoods Infrastructure Impact Fee, as set forth in Planning Code Section 423.3(b); (6) the Van Ness and Market Neighborhood Infrastructure Impact Fee, as set forth in Planning Code Section 424.3(b)(ii); and (7) the Central SoMa Infrastructure Impact Fee, as set forth in Planning Code Section 433.~~

**Sec. 107A.13.3.1.2 Prior deposit of pre-paid portion of deferred development impact fees into Neighborhood Infrastructure Seed Funds.** For a project that has been issued a first construction document, but has not been issued a first certificate of occupancy, any portion of a non-neighborhood infrastructure development impact fee that has been paid into a Neighborhood Infrastructure Seed Fund under Section 107A.13.3.1.1 shall be reallocated and deposited into the applicable fee account.

Section 8. Chapter 5, Article XXIX, and Chapter 10, Article XIII, of the Administrative Code are hereby amended by revising sections 5.29-6, and 10.100-49 respectively, to read as follows:

## **CHAPTER 5: COMMITTEES**

\* \* \* \*

## **ARTICLE XXIX. INCLUSIONARY HOUSING TECHNICAL ADVISORY COMMITTEE**

\* \* \* \*

### **SEC. 5.29-6. MEETINGS AND PROCEDURES.**

The Advisory Committee shall hold a regular meeting not less than once every four months until the sunset date set forth in Section 5.29-7. Notwithstanding any other provision of this Section 5.29 or Planning Code section 415.10, the Advisory Committee shall convene no later than ~~January 1, 2026~~ April 1, 2029, and every 36 months thereafter.

1  
2           **CHAPTER 10: FINANCE, TAXATION, AND OTHER FISCAL MATTERS.**

3  
4           **ARTICLE XIII: FUNDS**

5           \* \* \* \*

6           **SEC. 10.100-49. CITYWIDE AFFORDABLE HOUSING FUND.**

7           (a) **Establishment of Fund.** The Citywide Affordable Housing Fund is established as  
8 a category eight fund to receive fee revenue dedicated to affordable housing and other  
9 contributions to the fund. The fund receives, or received, money from, among other sources:

10                 (1) The North of Market Residential Special Use District, former Planning Code  
11 Section 263.7;

12                 (2) The Jobs Housing Linkage Program, Planning Code Sections 413 et seq.;

13                 (3) The Inclusionary Affordable Housing Program, Planning Code Sections 415  
14 et seq.;

15                 (4) The Market and Octavia Affordable Housing Program, former Planning Code  
16 Section 416.5;

17                 (5) The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee,  
18 former Planning Code Section 417.5;

19                 (6) The Eastern Neighborhoods Housing Fund, Planning Code Section 423.5;

20                 (7) The Expedited Condominium Conversion Program, Subdivision Code  
21 Section 1396.4; and,

22                 (8) Repayments of loans and other program income associated with  
23 investments initially made with monies from the fund.

24           (b) **Use of Fund.** The fund is to be used exclusively by the Mayor's Office of Housing  
25 and Community Development ("MOHCD"), or its successor, for the purpose of supporting

1 affordable housing in San Francisco. Specific eligible uses of the fund are delineated for each  
2 fee in the code where the fee is or was established, or as set forth in subsection (e). Within the  
3 fund, all fees, repayments, and program income shall be separately accounted for as required  
4 by each fee.

5 (c) **Exceptions to Fund Category.** The Director of ~~the Mayor's Office of Housing and~~  
6 ~~Community Development~~ MOHCD shall approve all expenditures from the fund.

7 (d) **Administration of Fund.** ~~The Mayor's Office of Housing and Community Development,~~  
8 ~~or its successor,~~ MOHCD shall administer the fund and shall report annually to the Board of  
9 Supervisors on the current status of the fund, the amounts approved for disbursement, and  
10 the number and types of housing units or households assisted. ~~The Mayor's Office of Housing~~  
11 ~~and Community Development~~ MOHCD shall have the authority to prescribe rules and regulations  
12 governing the Fund.

13 (e) The following fees were deleted in the ordinance in Board File No. 260538. Fees deposited  
14 into those funds prior to the effective date of the ordinance in Board File No. 260538 shall continue to  
15 be separately accounted for and expended according to the following priorities:

16 (1) Funds from the North of Market Residential Special Use District, former Planning  
17 Code Section 263.7, shall be used solely to stabilize, rehabilitate, and retain affordable housing in the  
18 North of Market Residential Special Use District. No fees collected under Section 263.7 may be used,  
19 by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any  
20 entity except for servicing cost related to participation in the amortized payment program.

21 (2) Funds from the Market and Octavia Affordable Housing program, former Planning  
22 Code Section 416 et seq., shall be expended according to the following priorities: (a) to increase the  
23 supply of housing Affordable to Qualifying Households in the Market and Octavia Plan Area and the  
24 Upper Market Neighborhood Commercial Transit District (NCT); (b) to increase the supply of housing  
25 Affordable to Qualifying Households within one mile of the boundaries of the Plan Area and the Upper

1 Market NCT District; and (c) to increase the supply of housing affordable to qualifying households in  
2 the City and County of San Francisco.

3 (3) Funds from The Eastern Neighborhoods Area Plan Alternate Affordable Housing  
4 Fee, former Planning Code Section 417 et seq., shall be expended according to the following priorities:  
5 (a) to increase the supply of housing Affordable to Qualifying Households in the Eastern  
6 Neighborhoods Project Areas; (b) to increase the supply of housing Affordable to Qualifying  
7 Households within one mile of the boundaries of the Eastern Neighborhoods Project Areas; and (c) to  
8 increase the supply of housing Affordable to Qualifying Households in the City and County of San  
9 Francisco. No funds were collected within the Central SoMa Special Use District, thus the restrictions  
10 on the use of those funds in former Planning Code Section 417.5 do not apply to the existing fund  
11 balance.

12 (4) Funds from the Van Ness and Market Downtown Residential Special Use District  
13 Affordable Housing Fund, former Planning Code Section 424.4, shall be prioritized as follows: (a) to  
14 increase the supply of housing Affordable to Qualifying Households in the Van Ness & Market  
15 Residential Special Use District; (b) to increase the supply of housing Affordable to Qualifying  
16 Households within one mile of the boundaries of the Market and Octavia Area Plan; and (c) to increase  
17 the supply of housing Affordable to Qualifying Households in the City and County of San Francisco.

18 (5) Funds from the Housing Requirements, UMU Zoning Districts of the Eastern  
19 Neighborhoods, former Planning Code Section 419, shall be spent to increase the supply of housing  
20 Affordable to Qualifying Households in the City and County of San Francisco.

21  
22 Section 9: Deletion of “Significant increase in residential development potential.” This  
23 ordinance, in Section 3, deletes the definition of “Significant increase in residential  
24 development potential” in Planning Code Section 401. That definition was first adopted by the  
25 Board of Supervisors in Motion M13-097, pursuant to then Charter Section

1 16.110(h)(1)(B)(iv), enacted by Proposition C, adopted by the voters in November 2012. That  
2 Section required the City to “adopt a standard for determining what constitutes ‘a significant  
3 increase in residential development potential.’” Charter Section 16.110(h), including the  
4 requirement for defining a “significant increase in residential development potential,” was later  
5 deleted by Proposition C, adopted by the voters in June 2016. Because Charter Section  
6 16.110(h) has been deleted, the Charter requirement for a definition of “significant increase in  
7 residential development potential” no longer exists and the definition may be deleted by  
8 ordinance, as provided herein.  
9

10 Section 10. This ordinance includes amendments to Section 415.3, 415.5, 415.6, and  
11 415.7, and deletes Sections 419.3, 419.5, 428, and 428.3 in their entirety. Section 7 of  
12 Ordinance 201-23, adopted November 12, 2023, amends those same sections, with an  
13 operative date of November 21, 2026. This ordinance supersedes any amendments included  
14 in Section 7 of Ordinance 201-23, and the Board hereby rescinds the amendments to those  
15 sections made in Ordinance 201-23. Accordingly, the amendments to those sections made in  
16 Ordinance 201-23 shall not become effective on November 21, 2026 or any other date, unless  
17 re-enacted by the Board in a subsequent ordinance.  
18

19 Section 11. Severability. If any section, subsection, sentence, clause, phrase, or word  
20 of this ordinance, or any application thereof to any person or circumstance is held to be invalid  
21 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not  
22 affect the validity of the remaining portions or application of the ordinance; provided that if the  
23 amendments to Planning Code Section 206.10 are held invalid or unconstitutional by decision  
24 of a court of competent jurisdiction, all of Section 206.10 shall become inoperative and have  
25 no legal effect. Except as stated regarding Section 206.10, the Board of Supervisors hereby

1 declares that it would have passed this ordinance and each and every section, subsection,  
2 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to  
3 whether any other portion of this ordinance or application thereof would be subsequently  
4 declared invalid or unconstitutional.

5  
6 Section 12. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
10 additions, and Board amendment deletions in accordance with the "Note" that appears under  
11 the official title of the ordinance.

12 Section 13. Effective Date. This ordinance shall become effective on the 31st day  
13 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns  
14 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the  
15 Board of Supervisors overrides the Mayor's veto of the ordinance.

16  
17  
18 APPROVED AS TO FORM:  
19 DAVID CHIU, City Attorney

20 By: /s/  
21 Audrey Williams Pearson  
22 Deputy City Attorney

23 4934-3343-4285, v. 1  
24  
25

## **LEGISLATIVE DIGEST**

[Planning, Administrative, Building Codes - Inclusionary Housing Programs Updates and reductions; Development Impact Fee Reductions]

**Ordinance amending the Planning Code to: 1) reduce Inclusionary Affordable Housing Program requirements for projects of 25 units or more; 2) delete Inclusionary Affordable Housing Program requirements for projects under 25 units; 3) allow all projects to dedicate land to the City as an alternative to payment of the Inclusionary Affordable Housing Program fee; 4) adopt a process for projects to request a modification to conditions of approval related to Inclusionary Affordable Housing Program requirements; 5) delete certain Article 4 affordable housing and development impact fees; and 6) adopt conforming amendments to various sections of the Planning Code; amending the Building Code to reduce Planning Code Article 4 development impact fees and allow deferral of payment of such fees; amending the Administrative Code to adopt conforming amendments to the requirements of the Citywide Affordable Housing Fund; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

### **Existing Law**

#### **Inclusionary Affordable Housing Program**

The Inclusionary Affordable Housing Program ("Inclusionary Program" or "Program"), Planning Code section 415 *et seq.*, applies to new market-rate housing developments of 10 units or more. There are several ways to comply with the Program: a developer can (1) pay a fee to the City, which the City uses to construct affordable housing; (2) provide affordable units within the new development (on-site units); or provide affordable units in a separate development (off-site units). In a limited number of areas within the City, a developer can also comply with the Inclusionary Program by dedicating land to City for use as affordable housing; the land must allow a minimum of 40 units. The amount of the fee, or the number of on-site or off-site units required by the Inclusionary Program depends on a variety of factors, including the size of the project; whether the project is a rental project or an ownership project; where the project is located; when the project's development application was submitted; and in some cases, the height of the project. The Program requirements apply to the entire project, including any additional units allowed under the state density bonus law.

In 2023, the Board of Supervisors temporarily reduced the Inclusionary Program requirements. The temporary reduction was for a period of three years and is set to expire on November 1, 2026. After this date, the rates would increase as indicated below. In addition, the Board further reduced the Program requirements of projects that had been approved prior

to November 1, 2023, as a way to encourage the construction of those projects, provided that the projects begin construction within a certain timeframe.

Current and future Citywide Inclusionary Program requirements are set forth in this chart:

|                 | <b>Project Size</b> | <b>Pre 2023 ordinance citywide rates</b> | <b>Rates for “Pipeline Projects” approved before 11/1/2023</b> | <b>Temporary “interim” rates (projects approved 11/1/2023-11/1/2026)</b> | <b>Citywide rates for projects approved after 11/1/2026</b> |
|-----------------|---------------------|------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------|-------------------------------------------------------------|
| <b>Fee</b>      | Small (10-24 units) | 20%*                                     | 16.4%                                                          | 20%                                                                      | 20%                                                         |
|                 | Large (25+ units)   | 30% rental<br>33% ownership              | 16.4%                                                          | 20.5%                                                                    | 24.5% rental<br>27% ownership                               |
| <b>On-site</b>  | Small               | 15%                                      | 12%                                                            | 15%                                                                      | 15%                                                         |
|                 | Large               | 22% rental<br>24% ownership              | 12%                                                            | 15%                                                                      | 18% rental<br>20% ownership                                 |
| <b>Off-site</b> | Small               | 20%                                      | 16.4%                                                          | 20%                                                                      | 20%                                                         |
|                 | Large               | 30% rental<br>33% ownership              | 16.4%                                                          | 20.5%                                                                    | 24.5% rental<br>27% ownership                               |

\* Percentages are for both ownership and rental projects, unless otherwise noted.

Various neighborhoods within the City, including parts of the Mission, SOMA, and the Tenderloin, and a number of special use districts, have unique Inclusionary Program requirements, which are higher than the citywide requirements. In the 2023 ordinance, the Board reduced the rates in these neighborhoods temporarily for projects approved before November 1, 2023; the reductions were in proportion to the reductions approved for the citywide rates.

The Inclusionary Program on-site requirements increase automatically each year until a specified amount is reached. These automatic increases were paused between 2023 and 2026, but after November 2028, the inclusionary on-site requirement for large projects increases by .5% per year until it reaches 26% for ownership projects and 24% for rental projects.

On-site units in small projects (10-24 units) are required to be rented at a price affordable to households earning 55% of Area Median Income (AMI) or sold at a cost affordable to households earning up to 80% of AMI. On-site units in large rental projects (25 units or more) are required to be rented at three levels of affordability: to households earning up to 55% of the Area Median Income (AMI), 80% AMI and 110% AMI. Similarly, on-site units in large ownership projects are required to be priced at three tiers of affordability: affordable to

households earning up to 80% AMI, 105% of AMI, and 130% of AMI. The percentage required at each income level varies, depending on the total inclusionary requirement.

In most instances, Inclusionary Program fees are deposited into the Citywide Inclusionary Affordable Housing Fund. In some areas, the Controller is directed to place fees in the Fund, but separately account for them; the fees are prioritized for affordable housing located in that same area, but can be used citywide.

### **Approval Process**

Inclusionary Program requirements become conditions on a project approval. If the Planning Commission approves a development, the Planning Commission must modify the development's conditions of approval, although the Zoning Administrator has authority to allow some minor changes. Most projects are required to obtain a building or site permit within 36 months from project approval; projects that fail to meet this deadline must request an extension from the Planning Commission. Regarding Inclusionary Affordable Housing Program requirements specifically, projects that have not obtained a building or site permit within 30 months of project approval are subject to the Inclusionary Program rates at the time a building permit is issued. Projects can request a modification of their approvals to reduce their Inclusionary Program obligations consistent with the Interim or reduced pre-2023 rates. The Planning Department can approve the modifications administratively.

### **Development Impact Fees**

San Francisco assesses development impact fees on residential and non-residential projects for various public purposes, including fees for transit, parks, public infrastructure, and art. Development impact fees are set forth in Article 4 of the Planning Code. The fees noted in the Code are increased each year by two percent; the current amount of each fee is noted in the Development Fee Register on the Planning Department's website. The 2023 ordinance temporarily reduced impact fees by 33% as long as the project receives a first construction document before May 1, 2029 for projects approved before November 1, 2023, or within 30 months of project approval for projects approved between November 1, 2023 and November 1, 2026. Development impact fees assessed after November 1, 2026 are not discounted. Projects approved under a development agreement are ineligible for reduced impact fees under this process.

Under the Building Code, impact fees must be paid prior to issuance of a first construction document, unless state law requires a later date. Under the Building Code's fee deferral program, certain projects can defer payment of up to 85% of most fees, or up to 80% of infrastructure fees in certain areas, until they are issued a certificate of occupancy.

Consistent with the Administrative Code, an "Inclusionary Housing Technical Advisory Committee" generally meets every three years. The most recent convening of the committee began in January 2026.

## Amendments to Current Law

This ordinance would amend the Planning Code, Building Code and Administrative Codes as set forth below:

### **Planning Code Amendments**

#### **Reductions in Inclusionary Program Requirements (Section 415)**

The ordinance would amend the inclusionary requirements as follows:

- Only projects of 25 or more units would be required to comply with the Inclusionary Program. Inclusionary requirements would only apply to a base project, not to additional units allowed under state density bonus law.
- The on-site requirement would be 5% for both ownership and rental projects citywide. The ordinance deletes the annual .5% increase in the rate. Project sponsors would be required to provide on-site units at two affordability levels: rental units would be rented at a price affordable to households earning 55% and 80% of AMI and ownership units would be sold at a price affordable to households earning 80% and 100% AMI.
- The fee requirement would be 10% for both ownership and rental projects. However, in the following areas, the requirement would be 15%:
  - Mission Area Plan
  - SOMA Neighborhood Commercial Transit District
  - North of Market Residential Special Use District
  - South of Market Youth and Family Special Use District
  - Urban Mixed Use (UMU) District
  - Western SOMA Special Use District
- All Inclusionary Program fees would be deposited in the Citywide Affordable Housing Fee Fund for use citywide.
- The off-site requirement would be 10% for both ownership and rental projects. The requirement would be 15% in the same areas listed under the fee requirement.
- The land dedication alternative would be available to all projects citywide. Dedicated land must allow for at least 70 units, or the equivalent number of off-site units, whichever is higher. Projects in Central SOMA would also have a 15% requirement. Dedicated land must be located within one mile of the principle project, or if the principle project is within one of the areas or districts listed above, plus Central SOMA and in Well-Resourced Neighborhoods, within one mile or within that area.

The ordinance would make miscellaneous amendments to Section 415 related to definitions, procedures, unit designations, and program administration, and would delete Sections 415A and 415B, the temporary provisions adopted as part of the 2023 ordinance. Those sections expire on November 1, 2029, and November 1, 2026, respectively, by operation of law.

**Area Plan and Special Use District Affordable Housing Requirements.**

The ordinance would delete the higher affordable housing requirements in the following areas or special use districts (SUDs):

- Van Ness SUD (Section 243)
- Geary and Masonic SUD (Section 249.20)
- Western SOMA SUD (Section 249.33)
- Potrero Center Mixed Use SUD (Section 249.40)
- Central Soma SUD (Section 249.78)
- North of Market Residential SUD (Section 263)
- Market and Octavia Area Plan and Upper Market Neighborhood Commercial District Affordable Housing Fee (Section 416)
- Eastern Neighborhoods Area Plan Affordable Housing Requirement (Section 417)
- Housing Requirements for Residential Development Projects in the UMU Zoning Districts of the Eastern Neighborhoods and the Land Dedication Alternative in the UMU District, Mission NCT and Central SOMA Special Use District (Section 419)
- Van Ness and Market Affordable Housing and Neighborhood Infrastructure Fee and Program (Section 424.1-424.4)
- Divisadero Street Neighborhood Commercial Transit District Affordable Housing Fee and Requirements (Section 428, with a minor amendment to Section 759)

The ordinance would reduce the affordable housing requirements in HOME-SF (Section 206.3) in proportion to the citywide reductions.

**Development Impact Fees.**

The ordinance would delete the Van Ness and Market Residential Special Use District Infrastructure Fee in Planning Code 424.5. Money from that fee already deposited in the Van Ness and Market Residential SUD Infrastructure Fund (Planning Code 424.5) would continue to be spent as provided in Section 424.5, but no additional money would be collected. The fund would be dissolved when all current funds are expended. The ordinance also deletes the Van Ness and Market Community Facilities Fee and Fund (Planning Code section 425). There is no money in that fund.

The ordinance would reduce all impact fees, except for Inclusionary Program fees, for residential and commercial projects by 67%. The ordinance would set forth procedures for a previously approved project to request a reduced assessment, although fees already paid would not be refunded. Projects approved through a development agreement would be eligible for the reductions.

**Conforming Amendments:**

The ordinance would update the land dedication provisions in the following sections to reflect that land dedication would be allowed citywide:

- Housing Choice-San Francisco (Sections 206.10)

- SF Municipal Transportation Agency Non-Contiguous SUD (Section 249.22)
- Van Ness and Market Residential SUD (Section 249.33)
- Soma Youth and Family SUD (Section 249.38)
- Central SOMA SUD (Section 249.78)
- Large Project Authorizations (Section 329)
- Well-Resourced Neighborhoods Inclusionary Housing Ordinance Waiver and Additional Inclusionary Housing Options (Section 436).

The ordinance would make conforming amendments to certain cross-references found in Sections 414A.6, 207, and 343.

**Modifications to Approved Projects' Affordable Housing Requirements.**

The ordinance would create an administrative process for approved projects to request modifications to conditions of approval in order to reduce their Inclusionary Program requirements to the new reduced rates, provided that the project has not been issued a first construction document. (The Planning Commission would need to delegate its authority to modify conditions of approval to the Planning Director). The Director of Planning would also be authorized to modify conditions of approval to allow projects to extend the time to obtain a site permit. Projects approved under a development agreement would be eligible to seek a modification under the administrative process.

If a project is modified to increase in size by more than 20% or does not obtain a first construction document within three years of final approval, the Project would be subject to the rates in effect at the time a new application was approved.

**Building Code Amendments**

The ordinance would amend the Building Code to allow all projects citywide to defer payment of 85% of all fees until issuance of a first certificate of occupancy.

**Administrative Code Amendments**

The ordinance would amend the Administrative Code to require the Inclusionary Housing Technical Advisory Committee to convene no later than April 1, 2029 and every 36 months thereafter, and produce its next triennial feasibility analysis by September 1, 2029, and every 36 months thereafter. In addition, the ordinance would amend the Citywide Affordable Housing Fund to require that any previously deposited monies that were required to be separately accounted for be spent consistently with the priorities adopted for those separate accounts.

Background Information

Consistent with Planning Code section 415.10, from January to April 2026, the Controller and the Inclusionary Housing Technical Advisory Committee (TAC) met to review the impact of the City's inclusionary housing obligations on the feasibility of residential development. The Controller and the TAC studied key economic parameters including interest rates, capitalization rate, land prices, construction costs, use of the state density bonus, and rents and sales prices for both rental and condominium projects, finding that the current rates directly contributed to the economic infeasibility of residential development in San Francisco. The Controller issued a Technical Advisory Committee Report on April 30, 2026.

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