

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

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

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

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

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

23 (a) Under Planning Code Section 302, the Board of Supervisors finds that this
24 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
25 Planning Commission Resolution No. 17410 recommending the approval of this Zoning Map

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

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

9 (c) In accordance with the actions contemplated herein, this Board adopted Motion
10 No.17407, concerning findings pursuant to the California Environmental Quality Act (California
11 Public Resources Code sections 21000 et seq.). A copy of said Motion is on file with the
12 Clerk of the Board of Supervisors in File No. _____ and is incorporated by reference
13 herein.

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

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

18 *This Section shall apply to all programs related to the provision of affordable housing, unless*
19 *specified otherwise. To the extent permitted by law, the Mayor's Office of Housing or its successor*
20 *shall give or require project sponsors or their successors in interest funded through MOH to give,*
21 *preference in occupying units or receiving assistance under all City affordable housing programs first*
22 *to Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner*
23 *and Occupant Preference Program who meet all of the qualifications for the unit or assistance. The*

24
25

1 Mayor's Office of Housing shall develop procedures and amend its regulations within 90 days of the
2 effective date of this legislation to implement the requirements of this Section.

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

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

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

19 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a
20 category two fund to receive any prior legally binding obligations any grants, gifts, bequests
21 from private sources for the purposes sited in section (b), any monies repaid to the City as a
22 result of loans made by City to developers to assist in the development of affordable housing,
23 any repayments of monies to City where the City is beneficiary under a promissory note which
24
25

1 was acquired as a result of City's housing affordability assistance, any repayments of loans
2 made from this fund and any monies otherwise appropriated to the fund.

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

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

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

18 (b) Deposits to Fund.

19
20 1. Base Deposit. The City shall appropriate \$5,000,000.00 from the General
21 Fund into the HOPE SF Fund for fiscal year 2007-2008. In subsequent years, it
22 shall be City policy to appropriate the same base amount to the HOPE SF Fund,
23 as well as the additional deposits described in subsection (b)(2), below.

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

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

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

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

15 D. Payroll tax revenues derived from the City's Payroll Expense Tax
16 Ordinance (Article 12-A of the City Business and Tax Regulations Code);

17
18 (c) Use of Fund.

19
20 1. The fund shall be used exclusively for the purpose of providing financial
21 assistance to the San Francisco Housing Authority and housing developers,
22 where the contribution of monies from the fund to a specific eligible HOPE SF
23 Project described in clause (2) below will be accompanied by an agreement as
24 to the affordability of some or all units in such HOPE SF Project for persons and
25

1 families of very-low, low and moderate income as defined by the United States
2 Department of Housing and Urban Development. Such affordability shall be
3 maintained for a period of not less than the greater of 50 years or the useful life
4 of the project.

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

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

14 B. Administrative costs required to oversee the program;

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

17 D. Other activities associated with the development of any HOPE SF
18 Project, subject to the adopted rules and regulations described in
19 paragraph (d) below.
20

21 3. Grants, Bequests, and Other Sources. The Controller shall also cause the
22 following to be deposited in the HOPE SF Fund; any and all grants, gifts, or
23 bequests from private sources for the purposes cited above; any monies repaid
24

1 to the City as a result of loans made by City to developers from monies in the
2 HOPE SF Fund to assist in the development of replacement public housing
3 and/or affordable housing associated with the replacement of public housing;
4 any repayments of monies to City where the City is beneficiary under a
5 promissory note which was acquired as a result of the City's housing
6 affordability assistance from monies in the HOPE SF Fund; and any monies
7 otherwise allocated to the fund, all to the extent such monies are not required to
8 be deposited in other funds or applied to other purposes.

9 (d) Administration of Fund. The fund shall be administered by the Mayor's
10 Office of Housing. The Director of the Mayor's Office of Housing shall
11 promulgate such rules and regulations as he or she may deem appropriate to
12 carry out the provisions of the fund. Such rules and regulations shall be
13 developed in consultation with any appropriate agencies or organizations with
14 which the Director, or his or her designee, may choose to consult. The rules and
15 regulations shall be subject to a public hearing and approved by resolution of the
16 Board of Supervisors. The Mayor's Office of Housing shall develop procedures such
17 that, for all projects funded by the HOPE SF Fund, the Mayor's Office of Housing
18 requires the project sponsor or its successor in interest to give preference in occupying
19 units first to any current occupants of a housing development receiving Funds, and
20 second to Certificate of Preference Holders under the San Francisco Redevelopment
21 Agency's Property Owner and Occupant Preference Program who meet all of the
22 qualifications for the unit. The Mayor's Office of Housing shall develop procedures and
23 amend its regulations within 90 days of the effective date of this legislation to implement
24 the preference described in this Section.
25

1
2 Section 2. The San Francisco Planning Code is hereby amended by amending
3 Sections 313.12, 315.4, 315.5, and 315.6 to read as follows:

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

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

16
17 The Fund shall be administered and expended by the Director of the Mayor's Office of
18 Housing, who shall have the authority to pre-scribe rules and regulations governing the Fund
19 which are consistent with this ordinance. No portion of the Fund may be used, by way of loan
20 or otherwise, to pay any administrative, general overhead, or similar expense of any entity,
21 except that \$10,000 from the Fund shall be allocated by the Director within six months
22 following the effective date of this ordinance to pay consultants for conducting research
23 necessary to support the "Jobs Housing Nexus Analysis," prepared by Keyser Marston
24 Associates, Inc., and dated June 1997.

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

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

5 (a) Number of Units:

6 (1)

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

10 (B) Buildings 120 feet in height and under or buildings of over 120 feet in height that do not
11 meet the criteria in subsection (C) below: Except as provided in Subsection (C) below, the
12 Planning Department shall require for housing projects covered by Section 315.3(a)(1), as a
13 condition of Planning Department approval of a project's building permit, and by Section
14 315.3(a)(2), (3) and (4), as a Condition of Approval of a conditional use or planned unit
15 development permit or as a condition of Planning Department approval of a live/work project,
16 that 15 percent of all units constructed on the project site shall be affordable to qualifying
17 households so that a project applicant must construct .15 times the total number of units
18 produced in the principal project beginning with the construction of the fifth unit. If the total
19 number of units is not a whole number, the project applicant shall round up to the nearest
20 whole number for any portion of .5 or above.

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

1 (C) Buildings of over 120 feet in height. Except as provided in subsection (A) above, the
2 requirements of this Subsection shall apply to any project that is over 120 feet in height and
3 does not require a Zoning Map amendment or Planning Code text amendment related to its
4 project approvals which (i) results in a net increase in the number of permissible residential
5 units, or (ii) results in a material increase in the net permissible residential square footage as
6 defined in Section 315.3(b)(2) or has not received or will not receive a zoning map
7 amendment or Planning Code text amendment as part of an Area Plan adopted after January
8 1, 2006 which (i) results in a net increase in the number of permissible residential units, or (ii)
9 results in a material increase in the net permissible residential square footage as defined in
10 Section 315.3(b)(2). The Planning Department shall require for housing projects covered by
11 this Subsection and Section 315.3(a)(1), as a condition of Planning Department approval of a
12 project's building permit, or by this Subsection and by Section 315.3(a)(2), (3) and (4), as a
13 Condition of Approval of a conditional use or planned unit development permit or as a
14 condition of Planning Department approval of a live/work project, that 12 percent of all units
15 constructed on the project site shall be affordable to qualifying households so that a project
16 applicant must construct .12 times the total number of units produced in the principal project
17 beginning with the construction of the fifth unit. If the total number of units is not a whole
18 number, the project applicant shall round up to the nearest whole number for any portion of .5
19 or above. Consistent with the conclusions of the Mayor's Office of Housing study authorized in
20 Section 315.8(e), the Mayor's Office of Housing shall recommend and the Board of
21 Supervisors shall consider whether the requirements of this Subsection for buildings of over
22 120 feet in height shall continue or expire after approximately five years.
23 The Planning Department shall provide written notice by mail to the project applicant of the
24 number of affordable units which shall be required within 30 days of approval by the Planning
25

1 Department or Planning Commission. This notice shall also be sent to project applicants who
2 elect to pay an in-lieu fee.

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

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

13 (c) Type of Housing: The type of affordable housing needed in San Francisco is documented
14 in the City's Consolidated Plan and the Residence Element of the General Plan. In general,
15 affordable units constructed under this Section 315.4 shall be comparable in number of
16 bedrooms, exterior appearance and overall quality of construction to market rate units in the
17 principal project. The Notice of Special Restrictions or Conditions of Approval shall include a
18 specific number of units at specified unit sizes for affordable units. The square footage of
19 affordable units and interior features in affordable units do not need to be same as or
20 equivalent to those in market rate units in the principal project, so long as they are of good
21 quality and are consistent with then-current standards for new housing. Where applicable,
22 parking shall be offered to the affordable units subject to the terms and conditions of the
23 Department's policy on unbundled parking for affordable housing units as specified in the
24 Procedures Manual and amended from time to time. Unless provided otherwise by the
25

1 Mayor's Office of Housing in writing, if the units in the market rate portion of the development
2 are ownership units, then the affordable units shall be ownership units and if the market rate
3 units are rental units, then the affordable units shall be rental units.

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

25

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

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

17 (e) Alternatives: The project sponsor may elect to satisfy the requirements of Section 315.4
18 by one of the alternatives specified in this Section. The project sponsor has the choice
19 between the alternatives and the Planning Commission may not require a specific alternative.
20 The project sponsor must elect an alternative before it receives project approvals from the
21 Planning Commission or Planning Department and that alternative will be a condition of
22 project approval. Notwithstanding the foregoing, if a project sponsor elects an alternative other
23 than the on-site alternative, the project sponsor still has the option to choose the on-site
24 alternative up to the issuance of the first site or building permit. If a project sponsor fails to
25

1 elect an alternative before project approval by the Planning Commission or Planning
2 Department, the provisions of Section 315.4 shall apply. The alternatives are as follows:

3 (1) Constructing units affordable to qualifying households at an alternative site within the City
4 and County of San Francisco pursuant to the requirements of Section 315.5.

5 (2) Paying an in lieu fee to the Mayor's Office of Housing pursuant to the requirements of
6 Section 315.6.

7 (3) Any combination of construction of on-site units as provided in Section 315.4, off-site
8 units as provided in Section 315.5, or payment of an in lieu fee as provided in Section 315.6,
9 provided that the project applicant constructs or pays the fee at the appropriate percentage or
10 fee level required for that option.

11 (4) Using California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds under the
12 requirements of Section 315.5(g).

13 (f) Benefits: If the project applicant elects to satisfy the inclusionary housing requirements
14 through the production of on-site inclusionary housing in this Section 315.4, the project
15 applicant shall at his or her option, be eligible to receive a refund of the following fees: a
16 conditional use or other fee required by Planning Code Section 352, if applicable; an
17 environmental review fee required by Administrative Code Section 31.46B, if applicable; a
18 building permit fee required by the Building Code and by Planning Code Section 355 for the
19 portion of the housing project that is affordable. The project applicant shall pay the building
20 fee for the portion of the project that is market-rate.

21 The Controller shall refund fees from any appropriated funds to the project applicant on
22 application by the project applicant. The application must include a copy of the certificate of
23 occupancy for all units affordable to a qualifying household required by the Inclusionary

24
25

1 Affordable Housing Program. It is the policy of the Board of Supervisors to appropriate money
2 for this purpose from the General Fund.

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

4
5 If the project applicant elects, pursuant to Section 315.4(e), that the project applicant
6 will build off-site units to satisfy the requirements of this Program, the project applicant shall
7 meet the following requirements:

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

10 (1)

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

14 (B) Buildings of 120 feet and under in height or buildings of over
15 120 feet in height that do not meet the criteria in subsection (C)
16 below: Except as provided in Subsection (A), the for projects
17 described in Section 315.3(a)(1), (2), (3), and (4) 20 percent so
18 that a project applicant must construct .20 times the total number
19 of units produced in the principal project beginning with the
20 construction of the fifth unit. If the total number of units is not a
21 whole number, the project applicant shall round up to the nearest
22 whole number for any portion of .5 or above. The Planning
23 Department shall provide written notice by mail to the project
24

25

1 applicant of the number of affordable units which shall be required
2 within 30 days of approval by the Planning Department or Planning
3 Commission. This notice shall also be sent to project applicants
4 who elect to pay an in-lieu fee.

5 (C) Buildings of over 120 feet in height. Except as provided in
6 subsection (A) above, the requirements of this Subsection shall
7 apply to any project that is over 120 feet in height and does not
8 require a Zoning Map amendment or Planning Code text
9 amendment related to its project approvals which (i) results in a
10 net increase in the number of permissible residential units, or (ii)
11 results in a material increase in the net permissible residential
12 square footage as defined in Section 315.3(b)(2); or has not
13 received or will not receive a zoning map amendment or Planning
14 Code text amendment as part of an Area Plan adopted after
15 January 1, 2006 which (i) results in a net increase in the number of
16 permissible residential units, or (ii) results in a material increase in
17 the net permissible residential square footage as defined in
18 Section 315.3(b)(2). The Planning Department shall require for
19 housing projects covered by this Subsection and Section
20 315.3(a)(1), as a condition of Planning Department approval of a
21 project's building permit, or by this Subsection and by Section
22 315.3(a)(2), (3) and (4), as a Condition of Approval of a conditional
23 use or planned unit development permit or as a condition of
24 Planning Department approval of a live/work project, that 17
25

1 percent of all units constructed on the project site shall be
2 affordable to qualifying households so that a project applicant must
3 construct .17 times the total number of units produced in the
4 principal project beginning with the construction of the fifth unit. If
5 the total number of units is not a whole number, the project
6 applicant shall round up to the nearest whole number for any
7 portion of .5 or above. Consistent with the conclusions of the
8 Mayor's Office of Housing study authorized in Section 315.8(e),
9 the Mayor's Office of Housing shall recommend and the Board of
10 Supervisors shall consider whether the requirements of this
11 Subsection for buildings of over 120 feet in height shall continue or
12 expire after approximately five years. The Planning Department
13 shall provide written notice by mail to the project applicant of the
14 number of affordable units which shall be required within 30 days
15 of approval by the Planning Department or Planning Commission.
16 This notice shall also be sent to project applicants who elect to pay
17 an in-lieu fee.

18 (b) Timing of Construction: The project applicant shall insure that the off-site
19 units are constructed, completed, and ready for occupancy no later than the
20 market rate units in the principal project.

21 (c) Location of off-site housing: The project applicant must insure that off-site
22 units are located within one mile of the principal project.
23
24
25

1 (d) Type of Housing: The type of affordable housing needed in San Francisco
2 is documented in the City's Consolidated Plan and the Residence Element of
3 the General Plan. New affordable rental housing and ownership housing
4 affordable to households earning less than the median income is greatly needed
5 in San Francisco. The Planning Department shall develop Quality Standards for
6 Off-Site Affordable Housing Units and recommend such standards to the
7 Planning Commission for adoption as part of the Procedures Manual. All off-site
8 units constructed under this Section must be provided as rental housing for the
9 life of the project or, if they are ownership units, must be affordable to
10 households earning no more than 80 percent of the median income for the City
11 and County of San Francisco. Nothing in this section shall limit a developer from
12 meeting the requirements of this Section through the construction of units in a
13 limited equity or land trust form of ownership if such units otherwise meet all of
14 the requirements for off-site housing. In general, affordable units constructed
15 under this Section 315.5 shall be comparable in number of bedrooms, exterior
16 appearance and overall quality of construction to market rate units in the
17 principal project. The total square footage of the off-site affordable units
18 constructed under this Section 315.5 shall be no less than the calculation of the
19 total square footage of the on-site market-rate units in the principal project
20 multiplied by the relevant on-site percentage requirement for the project
21 specified in Section 315.4. The Notice of Special Restrictions or Conditions of
22 Approval shall include a specific number of units at specified unit sizes -
23 including number of bedrooms and minimum square footage - for affordable
24 units. The interior features in affordable units need not be the same as or
25

1 equivalent to those in market rate units in the principal project, so long as they
 2 are consistent with the Planning Department's Quality Standards for Off-Site
 3 Affordable Housing Units found in the Procedures Manual. Where applicable,
 4 parking shall be offered to the affordable units subject to the terms and
 5 conditions of the Department's policy on unbundled parking for affordable
 6 housing units as specified in the Procedures Manual and amended from time to
 7 time. If the residential units in the principal project are live/work units which do
 8 not contain bedrooms or are other types of units which do not contain bedrooms
 9 separated from the living space, the off-site units shall be comparable in size
 10 according to the following equivalency calculation between live/work and units
 11 with bedrooms:

12 TABLE INSET:
 13

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

1 (e) Marketing the Units: They Mayor's Office of Housing shall be responsible
2 for overseeing and monitoring the marketing of affordable units under this
3 Section. In general, the marketing requirements and procedures shall be
4 contained in the Procedures Manual as amended from time to time and shall
5 apply to the affordable units in the project. The Mayor's Office of Housing may
6 develop occupancy standards for units of different bedroom sizes in the
7 Procedures Manual in order to promote an efficient allocation of affordable units.
8 The Mayor's Office of Housing may require in the Procedures Manual that
9 prospective purchasers complete homebuyer education training or fulfill other
10 requirements. The Mayor's Office of Housing shall develop a list of minimum
11 qualifications for marketing firms that market affordable units under this
12 ordinance, referred to the Procedures Manual as Below Market Rate (BMR
13 units). Within three months from the effective date of this legislation, the Mayor's
14 Office of Housing shall recommend to the Planning Commission that these
15 minimum qualifications be published in the Procedures Manual such that, upon
16 approval of the qualifications by the Planning Commission, no developer
17 marketing units under the Inclusionary Housing Program shall be able to market
18 BMR units except through a firm meeting all of the minimum qualifications. For
19 purposes of this ordinance, any developer that has not yet submitted a
20 marketing plan to the Mayor's Office of Housing by the date of Planning
21 Commission approval of the qualifications shall be required to comply with this
22 section. The Notice of Special Restrictions or Conditions of Approval shall
23 specify that the marketing requirements and procedures contained in the
24
25

1 Procedures Manual as amended from time to time, shall apply to the affordable
2 units in the project.

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

13 (2) Preferences: The Mayor's Office of Housing shall create a lottery
14 system that gives preference first to Certificate of Preference Holders under
15 the San Francisco Redevelopment Agency's Property Owner and Occupant
16 Preference Program who meet the qualifications of the Program, and second to
17 people who live or work in San Francisco who meet the qualifications of the
18 Program. MOH shall propose policies and procedures for implementing
19 ~~this preference~~ these preferences to the Planning Commission for inclusion in
20 the Procedures Manual. Otherwise, it is the policy of the Board of
21 Supervisors to treat all households equally in allocating affordable units
22 under this Program.
23
24
25

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

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

13
14 **SEC. 315.6. COMPLIANCE THROUGH IN-LIEU FEE.**

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

18 (a) By paying an in-lieu fee to the Treasurer for use by the Mayor's Office of
19 Housing for the purpose of constructing at an alternate site the type of housing
20 required by Section 315.5 within the City and County of San Francisco.

21 (b) The amount of the fee which may be paid by the project applicant subject to
22 this Ordinance in-lieu of developing and providing housing required by Section
23 315.4 shall be determined by Mayor's Office of Housing ("MOH") utilizing the
24 following factors:
25

- 1 (1) The number of units required by Section 315.5 if the project applicant
2 were to elect to meet the requirements of this section by off-site housing
3 development. For the purposes of this section, the City shall calculate the
4 fee using the direct fractional result of the total number of units multiplied
5 by the percentage of off-site housing required, rather than rounding up
6 the resulting figure as required by Section 315.5(a).
- 7 (2) The affordability gap using data on the cost of construction of
8 residential housing from the "San Francisco Sensitivity Analysis
9 Summary Report: Inclusionary Housing Program" prepared by Keyser
10 Marston Associates, Inc. in August 2006 for the Maximum Annual Rent or
11 Maximum Purchase Price for the equivalent unit sizes. The Planning
12 Department and MOH shall update the technical report from time to time
13 as they deem appropriate in order to ensure that the affordability gap
14 remains current.
- 15 (3) No later than July 1 of each year, the Mayor's Office of Housing shall
16 adjust the in lieu fee payment option and provide a report on its
17 adjustment to the Board of Supervisors. MOH shall provide notice of any
18 fee adjustment on its website at least 30 days prior to the adjustment
19 taking effect. The Mayor's Office of Housing is authorized to develop an
20 appropriate methodology for indexing the fee, based on adjustments in
21 the costs of constructing housing and in the price of housing in San
22 Francisco. The method of indexing shall be published in the Procedures
23 Manual.
24
25

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

11 (d) Upon payment of the fee in full to the Treasurer and upon request of the
12 project applicant, the Treasurer shall issue a certification that the fee has been
13 paid. The project applicant shall present such certification to the Planning
14 Department, DBI and MOH prior to the issuance by DBI of the first site or
15 building permit or certificate of occupancy for any development subject to this
16 Section. Any failure of the Treasurer, DBI, or Planning Department to give any
17 notice under this Section shall not relieve a project applicant from compliance
18 with this Section. Where DBI inadvertently issues a site or building permit
19 without payment of the fee, DBI shall not issue any certificate of occupancy for
20 the project without notification from the Treasurer that the fee required by this
21 Section has been paid. The procedure set forth in this subsection is not intended
22 to preclude enforcement of the provisions of this section pursuant to any other
23 section of this Code, or other authority under the laws of the State of California.
24
25

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

20 (f) Lien Proceedings.

21 (1) A project applicant's failure to comply with the requirements of this
22 Section shall constitute cause for the City to record a lien against the
23
24
25

1 development project in the sum of the in-lieu fee required under this
2 Ordinance, as adjusted under this Section.

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

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

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

17 (h) In the event that a development project for which an in-lieu fee imposed
18 under this Section has been fully paid is demolished or converted to a use or
19 uses not subject to this ordinance prior to the expiration of its estimated useful
20 life, the City shall refund to the sponsor a portion of the amount of an in-lieu fee
21 paid. The portion of the fee refunded shall be determined on a pro rata basis
22 according to the ratio of the remaining useful life of the project at the time of
23
24
25

1 demolition or conversion in relation to its total useful life. For purposes of this
2 Ordinance, the useful life of a development project shall be 50 years.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 Susan Cleveland-Knowles
8 Deputy City Attorney
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25