

[Providing floor area bonus incentives for the provision of certain public benefits.]

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3 **Ordinance amending the Planning Code by adding Sections 318 through 318.6 to**
4 **encourage the development of comprehensive community plans that provide floor area**
5 **bonus incentives for the provision by housing projects of certain public benefits for the**
6 **City, including affordable housing, open space, community serving space, and PDR**
7 **space, and, until the development of plans for specific neighborhoods, to impose a**
8 **program on housing projects receiving a floor area bonus requiring the provision of**
9 **public benefits, and amending Sections 123 and 207 to except housing projects**
10 **receiving a floor area bonus under this ordinance from the density limits of the**
11 **Planning Code.**

12 Note: Additions are *single-underline italics Times New Roman*;
13 deletions are ~~*strikethrough italics Times New Roman*~~. Section 2 is
entirely new.

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

15 Section 1. San Francisco Planning Code Sections 123 and 207 are hereby amended
16 as follows:

17 **SEC. 123. MAXIMUM FLOOR AREA RATIO.**

18 (a) The limits upon the floor area ratio of buildings, as defined by this Code, shall be
19 as stated in this Section and Sections 124 through 128. The maximum floor area ratio for any
20 building or development shall be equal to the sum of the basic floor area ratio for the district,
21 as set forth in Section 124, plus any premiums and floor area transfers which are applicable to
22 such building or development under Sections 125, 127 and 128, and as restricted by the
23 provisions of Sections 123(c) and (d) and 124(b) and (j).

1 (b) No building or structure or part thereof shall be permitted to exceed, except as
2 stated in Sections 172 and 188 of this Code, the floor area ratio limits herein set forth for the
3 district in which it is located.

4 (c) The amount of TDR that may be transferred to a development lot, as allowed by
5 Section 128, is limited as follows:

6 (1) The gross floor area of a structure on a lot in the C-3-O and C-3-O (SD)
7 Districts may not exceed a floor area ratio of 18 to 1;

8 (2) The gross floor area of a structure on a lot in the C-3-R, C-3-G and C-3-S
9 Districts may not exceed a floor area ratio that is 1-½ times the basic floor area limit for the
10 district as provided in Section 124. This section shall not apply to the C-3-S (SU) District.

11 (d) The gross floor area of a structure on a lot on which is or has been located a
12 Significant or Contributory Building may not exceed the basic floor area ratio limits stated in
13 Section 124 except as provided in Section 128(c)(2).

14 (e) The limits upon the floor area ratio of buildings as stated in this Section and Sections
15 124 through 128 shall not apply to a building receiving a floor area ratio bonus under Sections 318
16 through 318.6.

17 **SEC. 207. DENSITY OF DWELLING UNITS IN R DISTRICTS.**

18 The density of dwelling units permitted in the various R Districts shall be as set forth in
19 Sections 207.1, 207.2, 207.5, ~~and 209.1,~~ and 318 through 318.6 of this Code. The term “dwelling
20 unit” is defined in Section 102.7 of this Code.

21 Section 2. The San Francisco Planning Code is hereby amended by adding Sections
22 318-318.6, to read as follows:

23 **SEC. 318. PUBLIC BENEFIT INCENTIVE ZONING PROGRAM.**

24 Sections 318.1 through 318.6 set forth the requirements and procedures for the Public
25 Benefit Incentive Zoning Program (Program).

1 **SEC. 318.1. PURPOSE AND INTENT.**

2 Where the City rezones property or otherwise authorizes floor area for housing projects
3 exceeding the basic floor area prescribed by the current zoning, it not only confers increased
4 value on the property, but also draws new residents to the City. Therefore, the Planning
5 Department should develop and the Planning Commission and Board of Supervisors should
6 approve comprehensive neighborhood plans to identify the infrastructure and community
7 amenities needed to support this increased density and to ensure that these essential
8 components of building good neighborhoods are provided through the development process.
9 The Planning Department is urged to initiate and complete such comprehensive neighborhood
10 plans as quickly as possible, and in accordance with sound planning principles and full
11 community participation.

12 This Program shall allow increased residential density in certain specified areas of the
13 City on an interim basis. As the City adopts comprehensive neighborhood plans for the
14 specified areas, this Program shall no longer apply to that area and the comprehensive
15 neighborhood plan shall supersede this Program.

16 Until the Planning Commission and Board of Supervisors adopt comprehensive
17 neighborhood plans for each neighborhood, this Program establishes standards for public
18 benefits to mitigate the impacts from the City’s approval of rezoning, special use districts,
19 PUDs, or variances that increase housing density. The Program requires housing projects to
20 provide public benefits to the City in exchange for the City’s approval of increased floor area.
21 As a condition of the floor area bonus, the housing project must provide affordable housing
22 and may provide open space, community serving space, and production, distribution, and
23 repair space (PDR) in amounts reasonably related to the impacts from the additional housing
24 floor area.

25 **SEC. 318.2. FINDINGS.**

1 The Housing Element of the City's General Plan declares that affordable housing, open
2 space, community serving space, and production, distribution, and repair (PDR) space are
3 necessary to make neighborhoods healthy for families, culturally diverse, and livable for a
4 wide range of ages, particularly children and seniors. Many neighborhoods in which
5 increased housing density is proposed are located in industrial and commercial areas that
6 lack these services and infrastructure. The residents occupying the additional space increase
7 the demand in the City for these services and infrastructure. It is therefore the policy of the
8 City that a housing developer receiving economic benefits from a floor area bonus should also
9 provide public benefits to mitigate the impacts of the additional housing.

10 (a) Affordable Housing. Development of new market-rate housing makes it possible
11 for new residents to move to the City. These new residents place demands on services
12 provided by both public and private sectors. Some of the public and private sector employees
13 needed to meet the needs of the new residents earn incomes only adequate to pay for
14 affordable housing. Because affordable housing is in short supply within the City, such
15 employees may be forced to live in less than adequate housing within the City, pay a
16 disproportionate share of their incomes to live in adequate housing within the City, or
17 commute ever increasing distances to their jobs from housing located outside the City. These
18 circumstances harm the City's ability to attain goals in the City's General Plan and strain the
19 City's ability to accept and service new market-rate housing development.

20 The development of affordable housing on the same site as market-rate housing
21 increases social and economic integration of housing in the City and provides corresponding
22 social and economic benefits to the City. The additional affordable housing provided under
23 this Program will contribute to a healthy job and housing balance. And the addition of
24 affordable housing close to employment centers will enhance the City's economy by reducing
25 commuting and labor costs.

1 The findings of Planning Code Section 313.2 for the Jobs-Housing Linkage Program,
2 Planning Code Sections 313 *et seq.*, relating to the shortage of affordable housing, the low
3 vacancy rate of housing affordable to persons of lower and moderate income, and the
4 decrease in construction of affordable housing in the City, and the findings of Planning Code
5 Section 315.2 relating to inclusionary housing are hereby readopted.

6 (b) Publicly Accessible Open Space. New residents occupying housing made
7 possible by a floor area bonus increase the density of neighborhoods. This higher density
8 increases the demand for public open space, parks, recreation facilities, public vistas,
9 sunlight, and publicly accessible places where people can relate to nature and history. This
10 Program allows housing developers receiving a floor area bonus to provide a part of the open
11 space and recreation facilities required to serve the new residents.

12 (c) Community Serving Space. New residents occupying housing made possible by
13 a floor area bonus increase the density of neighborhoods. This higher density increases the
14 demand for community serving space for the provision of social, health, economic, legal, and
15 cultural services to the new residents. This Program allows housing developers receiving a
16 floor area bonus to provide a part of the community serving space required to serve the new
17 residents.

18 (d) PDR Space. New residents occupying housing made possible by a floor area
19 bonus require an employment base that balances new job growth with preservation of existing
20 jobs, the preservation of existing, locally-owned businesses, and diversity of business types.
21 Priority Policy 5 of the San Francisco General Plan calls for maintaining a diverse economic
22 base by protecting the City's industrial and service sectors from displacement, and by
23 enhancing future opportunities for resident employment and ownership in these sectors. To
24 achieve these policies, this Program allows housing developers receiving a floor area bonus
25 to provide a part of the PDR space necessary to serve the new residents.

1 **SEC. 318.3. DEFINITIONS.**

2 The following definitions shall govern this Program:

3 (1) "Affordable to a household" shall mean a purchase price that a household can
4 afford to pay based on an annual payment for all housing costs, as defined in California Code
5 of Regulations (CCR) Title 25, Section 6920, as amended from time to time, of 33 percent of
6 the combined household annual net income, assuming a 10 percent down payment, and
7 available financing, or a rent that does not exceed 30 percent of a household's combined
8 annual net income.

9 (2) "Affordable to qualifying households" shall mean:

10 (A) With respect to owned bonus affordable units, the average purchase
11 price on the initial sale of all owned bonus affordable units in a housing project shall not
12 exceed the allowable average purchase price. Each unit shall be sold:

13 (i) Only to households with an annual net income equal to or less than the
14 qualifying limits for a household of median income, adjusted for household size as set forth in
15 CCR Title 25, Section 6932, as amended from time to time;

16 (ii) On the initial sale, at or below the maximum purchase price; and

17 (iii) On subsequent sales at or below the prices to be determined by the
18 Director in the Conditions of Approval or Notice of Special Restrictions according to the
19 formula specified in the Procedures Manual, as amended from time to time, such that the
20 units remain affordable to qualifying households.

21 (B) With respect to rental bonus affordable units, the average annual rent,
22 including the cost of utilities paid by the tenant according to the HUD utility allowance
23 established by the San Francisco Housing Authority, shall not exceed the allowable average
24 annual rent. Each unit shall be rented:.

1 (i) Only to households with an annual net income equal to or less than the
2 qualifying limits for a household of low income as defined in this Section;

3 (ii) At or less than the maximum annual rent.

4 (3) "Allowable average purchase price" shall mean a price for all owned bonus
5 affordable units of the size indicated below that is affordable to moderate income households
6 as defined in this Section, adjusted for the household size indicated below as set forth in CCR
7 Title 25, Section 6932, as amended from time to time, as of the date of the close of escrow:

8	Number of Bedrooms	Number of Persons in Household
9	0 (Less than 600 square feet)	1
10	1 (601 to 850 square feet)	2
11	2 (851 to 1100 square feet)	3
12	3 (1101 to 1300 square feet)	4
13	4 (More than 1300 square feet)	5

14 (4) "Allowable average annual rent" shall mean annual rent for a rental bonus
15 affordable unit of the size indicated below that is affordable to lower income households,
16 adjusted for the household size indicated below as set forth in CCR Title 25, Section 6932, as
17 amended from time to time:

18	Number of Bedrooms	Number of Persons in Household
19	0 (Less than 600 square feet)	1
20	1 (601 to 850 square feet)	2
21	2 (851 to 1100 square feet)	3
22	3 (1101 to 1300 square feet)	4
23	4 (More than 1300 square feet)	5

24 (5) "Annual net income" shall mean net income as defined in CCR Title 25, Section
25 6916, as amended from time to time.

1 (6) "Average annual rent" shall mean the total annual rent for the calendar year
2 charged by a housing project for all rental bonus affordable units in the project of an equal
3 number of bedrooms divided by the total number of bonus affordable units in the project with
4 that number of bedrooms.

5 (7) "Average purchase price" shall mean the purchase price for all owned bonus
6 affordable units of an equal number of bedrooms divided by the total number of bonus
7 affordable units in the project with that number of bedrooms.

8 (8) "Bonus affordable unit" shall mean a dwelling unit constructed in floor area
9 bonus space under this Ordinance.

10 (9) "Community serving space" shall mean a non retail use which includes
11 executive, technical, management, clerical, administrative, and programmatic support for
12 nonprofit organizations, including, but not limited to, social service, childcare, health, arts,
13 educational, and other uses which benefit the City's residential and business population.

14 (10) "Comprehensive community plan" shall mean a plan that:

15 (A) is developed by the Planning Department and approved as an ordinance
16 amending the Planning Code;

17 (B) identifies the infrastructure and community amenities needed to support
18 increased density in a neighborhood and ensures that such infrastructure and community
19 amenities are provided before approving increases in density; and

20 (C) requires housing developers to provide certain public benefits as a condition of
21 receiving a floor area ratio bonus, including affordable housing, open space, community
22 serving space, and PDR space.

23 (11) "Conditions of Approval" shall mean a set of written conditions imposed by the
24 Planning Commission or Board of Supervisors to which a project applicant agrees to adhere
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1 and fulfill when it receives a conditional use permit for the construction of bonus affordable
2 units under to this Program.

3 (12) "Director" shall mean the Director of City Planning or his or her designee,
4 including other City agencies or departments.

5 (13) "Floor area" shall mean gross floor area as defined in Section 102.9 of this
6 Code, except that "floor area" shall include accessory dwelling units or other residential uses
7 as defined in Section 204.4 of this Code and accessory above-ground off-street parking and
8 loading as defined in Section 204.5 of this Code.

9 (14) "Floor area bonus " shall mean a floor area increase over the floor area ratio
10 base. The floor area of off-site dwelling units required under Section 315.5 of this Code shall
11 not be considered in determining the floor area bonus

12 (15) "Floor area ratio base" shall mean the maximum gross floor area of a housing
13 project allowed by (i) the density conversion below, or (ii) the applicable height, bulk, setback,
14 rear yard, and side yard limits and Sections 123-128 of this Code, including accessory
15 dwelling units or other residential uses as defined in Section 204.4 of this Code and accessory
16 above-ground off-street parking and loading as defined in Section 204.5 of this Code,
17 whichever is less, before any rezoning, special use district, PUD, or variance approved as part
18 of the housing project. For residential development subject to the density limits of Sections
19 207.4, 207.5, and 209.1 of this Code, the floor area ratio (FAR) base shall be as follows:

20 For density of 1 unit for every 200 square feet of lot area, FAR 5.4

21 For density of 1 unit for every 400 square feet of lot area, FAR 3.1

22 For density of 1 unit for every 600 square feet of lot area, FAR 2.3

23 For density of 1 unit for every 800 square feet of lot area, FAR 2.0

24 The floor area ratio base shall exclude publicly accessible open space, community
25 serving space, or PDR space approved under this Program.

1 (16) "Household" shall mean any person or persons who reside or intend to reside in
2 the same housing unit.

3 (17) "Household of low income" shall mean a household whose combined annual
4 gross income for all members does not exceed sixty (60) percent of median income for the
5 San Francisco Primary Metropolitan Statistical Area, as calculated by the United States
6 Department of Housing and Urban Development (HUD) and adjusted for household size.

7 (18) "Household of median income" shall mean a household whose combined annual
8 gross income for all members does not exceed one hundred (100) percent of the median
9 income for the San Francisco Primary Metropolitan Statistical Area, as calculated by the
10 United States Department of Housing and Urban Development (HUD) and adjusted for
11 household size.

12 (19) "Housing project" shall mean construction projects consisting of 10 or more
13 dwelling units or a site area larger than 10,000 square feet subject to this Program.

14 (20) "Maximum annual rent" shall mean the maximum rent that a housing developer
15 may charge any tenant occupying a bonus affordable unit for the calendar year. The
16 maximum annual rent for a bonus affordable housing unit of the size indicated below shall be
17 no more than 30 percent of the annual net income for a household of low income as defined in
18 this Section, as adjusted for the household size indicated below as set forth in CCR Title 25,
19 Section 6932, as amended from time to time, as of the first date of the tenancy:

20	Number of Bedrooms	Number of Persons in Household
21	0 (Less than 600 square feet)	1
22	1 (601 to 850 square feet)	2
23	2 (851 to 1100 square feet)	3
24	3 (1101 to 1300 square feet)	4
25	4 (More than 1300 square feet)	5

1 (21) "Maximum purchase price" shall mean the maximum purchase price for an
2 owned bonus affordable unit of the size indicated below that is affordable to a household of
3 median income, adjusted for the household size indicated below, as set forth in CCR Title 25,
4 Section 6932, as amended from time to time, as of the date of the close of escrow, assuming
5 an annual payment for all housing costs of 33 percent of the combined household annual net
6 income, a 10 percent down payment, and available financing:

7	Number of Bedrooms	Number of Persons in Household
8	0 (Less than 600 square feet)	1
9	1 (601 to 850 square feet)	2
10	2 (851 to 1100 square feet)	3
11	3 (1101 to 1300 square feet)	4
12	4 (More than 1300 square feet)	5

13 (22) "Notice of Special Restrictions" shall mean a document recorded with the San
14 Francisco Recorder's Office for any bonus affordable unit subject to this Program detailing the
15 sale and resale or rental restrictions and any restrictions on purchaser or tenant income levels
16 included as a Condition of Approval of the housing project, and identifying restrictions on use
17 of publicly accessible open space, community serving space, and PDR space under this
18 Program.

19 (23) "Owned unit" shall mean a bonus affordable unit affordable to qualifying
20 households which is a condominium, stock cooperative, or community apartment. The owner
21 or owners of an owned unit must occupy the unit as their primary residence.

22 (24) "Owner" shall mean the record owner of the fee or a vendee in possession.

23 (25) "Procedures Manual" shall mean the City and County of San Francisco
24 Affordable Housing Monitoring Procedures Manual issued by the San Francisco Department
25 of City Planning, as amended.

1 (26) "Program" shall mean the Public Benefits Floor Area Bonus Program.

2 (27) "Project applicant" shall mean an applicant for a building permit or a site permit
3 or an applicant for a conditional use permit or planned unit development permit, seeking
4 approval from the Planning Commission for construction of a housing project subject to this
5 Program, and the applicant's successors and assigns.

6 (28) "Proposition J" shall mean Proposition J in the March 2004 San Francisco
7 election, entitled "Incentives to Build Below-Market-Rate Housing."

8 (29) "PDR" shall mean production, distribution, and repair uses and shall be limited
9 to the uses defined in Section 890.54(a) of this Code.

10 (30) "Publicly accessible open space" shall mean an outdoor area or areas designed
11 for recreation or landscape, including courtyards, parks and plazas. All open space provided
12 as a condition of approval of a floor area bonus shall be publicly accessible.

13 (31) "Rent" or "rental" shall mean the total charges for rent, utilities, and related
14 housing services to each household occupying a bonus affordable unit.

15 (32) "Rental unit" shall mean a bonus affordable unit affordable to qualifying
16 households that is not a condominium, stock cooperative, or community apartment.

17 (33) "Section 6932" shall mean Section 6932 of Title 25 of the California Code of
18 Regulations as such section applies to the County of San Francisco.

19 **SEC. 318.4. APPLICATION.**

20 (a) This Program shall apply to housing projects which:

21 (1) consist of 10 or more dwelling units or the site is larger than 10,000 square feet;

22 (2) are located in all zoning districts except RH-1, RH-1D, RH-1S, RH-2, RH-3, RM-
23 1, RM-2, NC-1, NC-2 Districts, and the Neighborhood Commercial Districts established in
24 Section 710-729.5, and 780.1-781.8 of this Code;

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1 (3) at the time the project applicant files the first building or conditional use permit
2 application, elect to apply for a floor area bonus under this Program and expressly waive any
3 right to seek a density bonus under the programs set out in Sections 249.16, 249.17, 249.20,
4 and 249.24 of this Code, Section 65915 of the California Government Code, and Proposition
5 J, if enacted; and

6 (4) in the sole discretion of the Planning Commission and Board of Supervisors,
7 meet the objectives of the Program. The Commission and Board shall have discretion to
8 disapprove any application for a floor area bonus under this Program. In the event that the
9 Commission or the Board disapprove 100% of the floor area bonus requested by a project
10 applicant under the Program, the project applicant shall not be precluded from seeking a
11 density bonus under sections 249.16, 249.17, 249.20, and 249.24 of the Planning Code,
12 California Government Code Section 65915, or Proposition J, if enacted.

13 (b) This Program shall not apply to:

14 (1) that portion of a housing project located on property owned by the United States
15 or any of its agencies or leased by the United States or any of its agencies for a period in
16 excess of 50 years, with the exception of such property not used exclusively for a
17 governmental purpose;

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

21 (3) that portion of a housing project located on property under the jurisdiction of the
22 San Francisco Redevelopment Agency or the Port of San Francisco where the application of
23 this Program is prohibited by California or local law; or
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1 (4) any district subject to a comprehensive neighborhood plan that requires housing
2 projects to provide each of the four public benefits required under this Program in amounts
3 equal to or greater than that required by this Program.

4 **SEC. 318.5. IMPLEMENTATION.**

5 (a) To obtain a floor area bonus under this Program, a developer must obtain a
6 conditional use permit for the residential project under Section 303 of the Planning Code. The
7 Planning Commission and, in the event of an appeal of the conditional use permit, the Board
8 of Supervisors, shall have discretion to allow a floor area bonus up to but not exceeding the
9 maximum amounts permitted in this Program. The Commission and Board shall have the
10 discretion to disapprove any request for a floor area bonus on the ground that the public
11 benefits required by this Program would not mitigate the adverse impacts of the floor area
12 bonus.

13 (b) As mitigation for receiving a floor area bonus, a project applicant shall provide
14 the following public benefits:

15 (1) Bonus Affordable Units.

16 (A) For each square foot of bonus affordable units permitted by the Planning
17 Commission or Board of Supervisors, the project applicant shall be permitted square feet of
18 floor area bonus for market-rate housing in the amounts below:

Affordable to households earning % of	Rental Units	Owned Units
Median income		
Up to 50%	1.7 s.f.	
Up to 60%	1.5 s.f.	
Up to 80%		1.8 s.f.
Up to 100%		1.5 s.f.

1 (B) In no event shall the Planning Commission or Board of Supervisors allow a floor
2 area bonus that would cause any building to exceed the maximum height and bulk provisions
3 of this Code.

4 (C) If a housing project subject to this Program creates more than two bonus
5 affordable units, a minimum of 33% of the bonus affordable units shall be family sized units
6 containing at least two bedrooms, except for projects in which 100% of the units are intended
7 to be affordable to and occupied by seniors.

8 (D) Bonus affordable units shall be of comparable construction and basic interior
9 amenities as market rate units in the housing project.

10 (E) All bonus affordable units shall be on-site and distributed throughout the housing
11 project.

12 (F) The project applicant shall insure that the bonus affordable units are
13 constructed, completed, and ready for occupancy no later than the market rate units in the
14 housing project.

15 (G) The type of affordable housing needed in San Francisco is documented in the
16 City's Consolidated Plan and the Residence Element of the General Plan. In general, bonus
17 affordable units constructed under this Program shall be comparable in number of bedrooms,
18 exterior appearance and overall quality of construction to market rate units in the principal
19 project. The Conditions of Approval and Notice of Special Restrictions shall include a specific
20 number of units at specified unit sizes for bonus affordable units. In no event shall a bonus
21 affordable unit be smaller than 800 square feet, except for projects in which 100% of the units
22 are intended to be affordable to and occupied by seniors.

23 (H) (i) The Conditions of Approval of a housing project constructing bonus
24 affordable units subject to this Program shall specify that project applicants shall adhere to the
25 marketing, monitoring, and enforcement procedures outlined in the Procedures Manual, as

1 amended from time to time, in effect at the time of project approval. The Planning
2 Commission shall file the Procedures Manual in the case file for each housing project subject
3 to this Program. The Planning Commission shall require all housing projects subject to this
4 Program to incorporate the Conditions of Approval of the bonus affordable units and the
5 requirements of this Section 318.5 in a Notice of Special Restrictions that shall be recorded
6 with the Recorder of the City and County of San Francisco.

7 (ii) All bonus affordable units constructed under this Program must remain
8 affordable to qualifying households for the life of the housing project, defined as 50 years from
9 the date of issuance of the first certificate of temporary occupancy. The income levels
10 specified in the Conditions of Approval and Notice of Special Restrictions for the project shall
11 be required for the 50-year life of the project.

12 (iii) Any rental bonus affordable units subject to this Program permitted by the
13 Planning Commission or Board of Supervisors to be converted to owned units must satisfy the
14 requirements of the Procedures Manual, as amended from time to time, including that the
15 units shall be sold at restricted sales prices to households meeting the income qualifications
16 specified in the Conditions of Approval and Notice of Special Restrictions, with a right of first
17 refusal for the occupant(s) of such units at the time of conversion.

18 (iv) For owned units, the Conditions of Approval shall include provisions restricting
19 resale prices and purchaser income levels according to the formula specified in the
20 Procedures Manual, as amended from time to time. In the case that subordination of the
21 affordability conditions contained in a recorded Notice of Special Restrictions may be
22 necessary to ensure the project applicant's receipt of adequate construction and/or permanent
23 financing for the project, or to enable first time home buyers to qualify for mortgages, the
24 project applicant may follow the procedures for subordination of affordability restrictions as
25 described in the project's Conditions of Approval and in the Procedures Manual. A release

1 following foreclosure or other transfer in lieu of foreclosure may be authorized if required as a
2 condition to financing pursuant to the procedures set forth in the Procedures Manual.

3 (v) Purchasers of affordable units shall secure the obligations contained in the
4 Conditions of Approval by executing and delivering to the City a promissory note secured by a
5 deed of trust encumbering the applicable bonus affordable unit as described in the
6 Procedures Manual or by an alternative means if so provided for in the Procedures Manual,
7 as amended from time to time.

8 (J) (i) The Director of the Department of Building Inspection shall not issue a
9 first certificate of occupancy for any unit in the housing project until all of the requirements of
10 this Program have been met.

11 (ii) If the Planning Commission or Planning Department determines that a project
12 applicant has failed to comply with this Section 318.5, the Procedures Manual, the Conditions
13 of Approval, or the Notice of Special Restrictions, the Planning Commission or Planning
14 Department may, until the violation is cured, (a) request that the Director of the Department of
15 Building Inspection revoke the certificate of occupancy for market rate units in the residential
16 development, (b) impose a penalty on the project applicant under Section 176(c) of this Code,
17 and/or (c) the Zoning Administrator may enforce the provisions of this Program through any
18 means provided for in Section 176 of this Code.

19 (iii) The Planning Commission or Planning Department shall notify the Mayor's
20 Office of Housing of any housing project subject to this Program, including the name of the
21 project applicant and the number and location of the affordable units, within 30 days of the
22 Planning Commission's approval of a conditional use permit application. The Mayor's Office
23 of Housing shall provide all project applicants with information concerning the City's first time
24 home-buyer assistance programs and any other related programs the Mayor's Office of
25 Housing shall deem relevant to this Program.

1 (iv) The Planning Commission shall, as part of the annual Housing Inventory, report
2 to the Board of Supervisors on the results of this Program including, but not limited to, a report
3 on the number of, location of, and project applicant for every housing project to which this
4 Program applied and the number of market rate units and the number and location of bonus
5 affordable units provided.

6 (2) Publicly Accessible Open Space.

7 (A) The project applicant shall be entitled to one additional square foot of floor area
8 bonus for every additional square foot of publicly accessible open space provided by the
9 project applicant.

10 (B) In no event shall the Planning Commission or Board of Supervisors allow
11 publicly accessible open space that would cause any building to exceed the maximum height
12 and bulk provisions of this Code.

13 (C) Publicly accessible open space shall be:

14 (i) designed to guarantee unobstructed and direct public accessibility and sunlight;

15 (ii) visually and functionally integrated with adjacent uses by locating the open
16 space adjacent to active ground floor uses;

17 (iii) open to the general public from 9.00 a.m. to 8.00 p.m.; and

18 (iv) designed so that the landscaping, hardscape, lighting, furniture, irrigation, and
19 maintenance complement the recreational functions of the open space.

20 (D) The restrictions on use of publicly accessible open space shall be identified in a
21 Notice of Special Restrictions recorded against the property in which any off-site publicly
22 accessible open space is provided under this Program.

23 (3) Community Serving Space.

1 (A) In zoning districts where community serving use is permitted, a project applicant
2 shall be entitled to one additional square foot of floor area bonus for every additional square
3 foot of community serving space provided by the project applicant.

4 (B) In no event shall the Planning Commission or Board of Supervisors allow
5 additional community serving space that would cause any building to exceed the maximum
6 height and bulk provisions of this Code.

7 (C) In NC-3 districts, community serving space shall be located on the second story
8 or above.

9 (D) Community serving space may be provided on-site if a minimum of 2,000 square
10 feet, or off-site in accordance with a neighborhood plan or specific plan adopted by the
11 Planning Commission and Board of Supervisors, or, if no such plan exists, within a ¼ mile
12 radius of the housing project site.

13 (E) Community serving space provided under this Program shall be used
14 exclusively for community serving for at least 50 years.

15 (F) The restrictions on use of community serving space shall be identified in a
16 Notice of Special Restrictions recorded against the property in which any off-site community
17 serving space is provided under this Program.

18 (4) PDR Space.

19 (A) In CM, M-1, and M-2 districts where PDR use is permitted, the project applicant
20 shall be entitled to one additional square foot of floor area bonus for every additional square
21 foot of PDR space provided by the project applicant.

22 (B) In no event shall the Planning Commission or Board of Supervisors allow
23 additional PDR space under this Program that would cause any building to exceed the
24 maximum height and bulk provisions of this Code.

25

1 (C) PDR space may be provided on-site if a minimum of 2,000 square feet, or off-
2 site in accordance with a neighborhood plan or specific plan adopted by the Planning
3 Commission and Board of Supervisors, or, if no such plan exists, within a ¼ mile radius of the
4 housing project site.

5 (D) PDR space provided under this Program shall be used exclusively for PDR for at
6 least 50 years.

7 (E) The restrictions on use of PDR space shall be identified in a Notice of Special
8 Restrictions recorded against the property in which any off-site PDR space is provided under
9 this Program.

10 (c) It shall be the policy of the City to urge the San Francisco Redevelopment
11 Agency to incorporate the floor area bonus and public benefits provisions of this Program in
12 any redevelopment plan approved by the Agency.

13 **SEC. 318.6. PARTIAL INVALIDITY AND SEVERABILITY.**

14 (a) If any provision of this Program or its application to any housing project or to any
15 geographical area of the City, is held invalid, the remainder of this Program, or the application
16 of such provision to other housing projects or to any other geographical areas of the City, shall
17 not be affected thereby.

18 (b) If an owner of any housing project receiving the City's approval of a floor area
19 bonus under this Program obtains a final judgment from any court awarding damages for the
20 imposition of or invalidating or enjoining the enforcement of any Condition of Approval of the
21 housing project requiring the provision of public benefits under Section 318.5(b) of this
22 Program, then the owner shall be denied any and all floor area bonus awarded under this
23 Program.
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1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 ANDREW SCHWARTZ
5 Deputy City Attorney
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