

1 [Administrative, Planning Codes - Ellis Act Displaced Emergency Assistance Ordinance]

2  
3 **Ordinance amending the Administrative and Planning Codes to provide a preference in**  
4 **occupying units or receiving assistance under all affordable housing programs**  
5 **administered or funded by the City, including all former San Francisco Redevelopment**  
6 **Agency affordable housing programs administered or funded by the City, to certain**  
7 **tenants being evicted under the Ellis Act, California Government Code, Section 7060 et**  
8 **seq.; and making environmental findings, and findings of consistency with the General**  
9 **Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this  
20 ordinance comply with the California Environmental Quality Act (California Public Resources  
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
22 Supervisors in File No. 130968 and is incorporated herein by reference.

23 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
4 Amendments will serve the public necessity, convenience, and welfare for the reasons set  
5 forth in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such  
6 reasons herein by reference. A copy of Planning Commission Resolution No. \_\_\_\_\_ is on  
7 file with the Board of Supervisors in File No. \_\_\_\_\_.

8  
9 Section 2. The Administrative Code is hereby amended by revising Sections 24.8 and  
10 37.6, to read as follows:

11 **SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS**  
12 **FOR CERTIFICATE OF PREFERENCE HOLDERS AND DISPLACED TENANTS.**

13 This Section shall apply to all programs related to the provision of affordable housing,  
14 unless specified otherwise. To the extent permitted by law, the Mayor's Office of Housing *and*  
15 Community Development ("MOHCD") or its successor shall give, or require project sponsors or  
16 their successors in interest funded through MOHCD to give, preference in occupying units or  
17 receiving assistance under all City affordable housing programs, including all former San  
18 Francisco Redevelopment Agency affordable housing programs administered or funded by the City,  
19 first to Residential Certificate of Preference Holders under the San Francisco Redevelopment  
20 Agency's Property Owner and Occupant Preference Program, as reprinted September 11,  
21 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No.  
22 080521, who meet all of the qualifications for the unit or assistance; and second to any Displaced  
23 Tenant, as defined herein, who meets all of the qualifications for the unit or assistance, provided that  
24 the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may  
25 apply the preference to existing, currently-occupied developments only for three years from the date the

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

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

23 For purposes of this Section, “Displaced Tenant” shall mean any tenant residing in San  
24 Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to  
25 withdraw the tenant’s unit from the rental market pursuant to the Ellis Act, cited above, and the

1 corresponding provisions of the Rent Ordinance, cited above, and, who, as of the date of receipt of the  
2 notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least  
3 ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life  
4 threatening illness as certified by his or her primary care physician. MOHCD shall establish a process  
5 for a tenant to verify his or her status as a “Displaced Tenant,” which, at a minimum, shall require a  
6 tenant to show: (i) the landlord filed with the Rent Board a notice of intent to withdraw the tenant’s unit  
7 from the rental market; (ii) the tenant meets the ten or five year residency requirement stated above;  
8 and (iii) the tenant either: (A) is listed on the notice of withdrawal; (B) is listed on the lease for the unit  
9 in question; or (C) has other evidence sufficient to establish, in MOHCD’s reasonable discretion, that  
10 he or she has lived in the unit for the required five or ten year period, as applicable. If at any time prior  
11 to moving out of his or her unit, a tenant’s landlord rescinds the notice of withdrawal from the rental  
12 market, such tenant shall no longer qualify as a “Displaced Tenant”. Additionally, if a person disputes  
13 a MOHCD determination that he or she does not qualify as a “Displaced Tenant” under this Section,  
14 such person shall have the right to a hearing conducted by a Rent Board Administrative Law Judge (as  
15 defined in Administrative Code Section 37.2(f)), with MOHCD as the responding party.

16 The Board of Supervisors shall hold a hearing on the status of this ~~Section~~<sup>legislation</sup>  
17 within 2 years of the effective date of ~~Ordinance 232-08~~<sup>this legislation</sup> to assess its impact, or at  
18 such time as the ~~Mayor's Office of Housing~~<sup>MOHCD</sup> certifies to the Board of Supervisors that, in  
19 any one fiscal year, the percent of Residential Certificate of Preference holders obtaining an  
20 affordable housing unit by taking advantage of the applicable preferences in this  
21 ~~Section~~<sup>legislation</sup> in all of the City's affordable housing programs combined exceeds 50% of  
22 the total number of units made available through the City's affordable housing programs in  
23 that year.

1           The Board of Supervisors shall hold a hearing to assess the impact of the Displaced Tenant  
2 preference within one year of the effective date of the ordinance creating the Displaced Tenant  
3 preference.

4  
5           **SEC. 37.6. POWERS AND DUTIES.**

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

10           \* \* \* \*

11           (o) As provided by Administrative Code Section 24.8, utilize Administrative Law Judges to  
12 hear and decide petitions from persons who dispute the Mayor’s Office of Housing and Community  
13 Development’s determination that such person does not qualify as a “Displaced Tenant” (as defined in  
14 Administrative Code Section 24.8).

15  
16           Section 3. The Administrative Code is hereby amended by revising Sections 10.100-  
17 110, 10.100-370, and 43.3.4 to read as follows:

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 cited in subsection (b), any monies repaid to the City as  
22 a result of loans made by the City to developers to assist in the development of affordable  
23 housing, any repayments of monies to the City where the City is beneficiary under a  
24 promissory note which was acquired as a result of the City's housing affordability assistance,  
25

1 any repayments of loans made from this fund and any monies otherwise appropriated to the  
2 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 and Community Development ("MOHCD") shall develop procedures and amend its  
9 regulations such that, for all projects funded by this fund, it requires the project sponsor or its  
10 successor in interest to give preference in occupying units or receiving assistance first to  
11 Residential Certificate of Preference Holders under the San Francisco Redevelopment  
12 Agency's Property Owner and Occupant Preference Program, as reprinted September 11,  
13 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521,  
14 who meet all of the qualifications for the unit or assistance; and second to any Displaced Tenant,  
15 as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or  
16 assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a  
17 Displaced Tenant may apply the preference to existing, currently-occupied developments only for three  
18 years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board  
19 ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the  
20 Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the  
21 San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code  
22 Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments  
23 going through the initial occupancy process only for six years from the date the landlord filed with the  
24 Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis  
25 Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new

1 residential development going through the initial occupancy process, the Displaced Tenant preference  
2 shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's  
3 preference shall still apply even if such Displaced Tenant declines a unit offered through application of  
4 the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced  
5 Tenant's preference terminates. ~~The Mayor's Office of Housing shall develop procedures and amend~~  
6 its regulations within 90 days of the effective date of this legislation to implement the requirements of  
7 this Section.

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

15  
16  
17 **SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.**

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

21 \* \* \* \*

22 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of  
23 Housing and Community Development ("MOHCD"). The Director of MOHCD~~the Mayor's Office of~~  
24 ~~Housing~~ shall promulgate such rules and regulations as he or she may deem appropriate to  
25 carry out the provisions of the fund. Such rules and regulations shall be developed in

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



1 ~~obtained using the preference, such Displaced Tenant’s preference terminates.~~~~The Mayor’s Office of~~  
2 ~~Housing and Community Development shall develop procedures and amend its regulations within 90~~  
3 ~~days of the effective date of this legislation to implement the preference described in this Section.~~

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

11  
12 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

13 Following payment of costs of issuance, 85 percent of the bond proceeds will be used  
14 for the development of affordable rental housing through the development account described  
15 in the regulations, and 15 percent of the bond proceeds will be used for downpayment  
16 assistance for low and moderate income first-time homebuyers through the downpayment  
17 assistance loan account described in the program regulations; including all legally permissible  
18 administrative costs related to the program. The Mayor's Office of Housing and Community  
19 Development (“MOHCD”) shall develop procedures and amend its regulations such that, for all  
20 projects funded by this affordable housing and home ownership bond program, including  
21 multifamily rental projects and down payment assistance to individual households, it requires  
22 the project sponsor or its successor in interest to give preference in occupying units or  
23 receiving assistance first to Residential Certificate of Preference Holders under the San  
24 Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as  
25 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the

1 Board in File No. 080521, who meet all of the qualifications for the unit or assistance; and  
2 second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the  
3 qualifications for the unit or assistance, provided that the following limitations shall apply to the  
4 Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-  
5 occupied developments only for three years from the date the landlord filed with the Residential Rent  
6 Stabilization and Arbitration Board (“Rent Board”) a notice of intent to withdraw the tenant’s unit  
7 from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and  
8 the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance  
9 (“Rent Ordinance”), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may  
10 apply the preference to new developments going through the initial occupancy process only for six  
11 years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant’s  
12 unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of  
13 the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy  
14 process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such  
15 development. The Displaced Tenant’s preference shall still apply even if such Displaced Tenant  
16 declines a unit offered through application of the preference, but upon accepting and occupying a unit  
17 obtained using the preference, such Displaced Tenant’s preference terminates. ~~The Mayor’s Office of~~  
18 ~~Housing shall develop procedures and amend its regulations within 90 days of the effective date of this~~  
19 ~~legislation to implement the requirements of this Section.~~

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

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

3  
4 Section 4. The Planning Code is hereby amended by revising Sections 413.10, 415.5,  
5 415.6 and 415.7 to read as follows:

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

7 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to  
8 Section 413.9 shall be deposited in the special fund maintained by the Controller called the  
9 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated  
10 in accordance with law to be used solely to increase the supply of housing affordable to  
11 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing  
12 and Community Development ("MOHCD")~~MOH~~ shall develop procedures such that, for all  
13 projects funded by the Citywide Affordable Housing Fund, MOHCD requires the project  
14 sponsor or its successor in interest to give preference in occupying units first to Residential  
15 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property  
16 Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
17 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the  
18 qualifications for the unit; and second to any Displaced Tenant, as defined in Administrative Code  
19 Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following  
20 limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the  
21 preference to existing, currently-occupied developments only for three years from the date the landlord  
22 filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to  
23 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government  
24 Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization  
25 and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;

1 (ii) a Displaced Tenant may apply the preference to new developments going through the initial  
2 occupancy process only for six years from the date the landlord filed with the Rent Board a notice of  
3 intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and  
4 the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development  
5 going through the initial occupancy process, the Displaced Tenant preference shall apply only to  
6 twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still  
7 apply even if such Displaced Tenant declines a unit offered through application of the preference, but  
8 upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's  
9 preference terminates.~~The Mayor's Office of Housing shall develop procedures and amend its~~  
10 ~~regulations within 90 days of the effective date of this legislation to implement the requirements of this~~  
11 ~~Section.~~

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

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

23  
24 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

25 \* \* \* \*

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

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

7 (~~Aa~~) increase the supply of housing affordable to qualifying households subject  
8 to the conditions of this Section; and

9 (~~Bb~~) provide assistance to low and moderate income homebuyers; and

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

18 (2) "Small Sites Funds."

19 (A) Designation of Funds. MOHCD shall designate and separately account for  
20 10% percent of all fees that it receives under Section 415.1et seq., excluding fees that are  
21 geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to support  
22 acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall continue to  
23 divert 10 percent of all fees for this purpose until the Small Sites Funds reach a total of \$15  
24 million at which point, MOHCD will stop designating funds for this purpose. At such time as  
25 designated Small Sites Funds are expended and dip below \$15 million, MOHCD shall start

1 designating funds again for this purpose, such that at no time the Small Sites Funds shall  
2 exceed \$15 million. When the total amount of fees paid to the City under Section 415.1 et seq.  
3 totals less than \$10 million over the preceding 12 month period, MOHCD is authorized to  
4 temporarily divert funds from the Small Sites Fund for other purposes. MOHCD must keep  
5 track of the diverted funds, however, such that when the amount of fees paid to the City under  
6 Section 415.1 et seq. meets or exceeds \$10 million over the preceding 12 month period,  
7 MOHCD shall commit all of the previously diverted funds and 10 percent of any new funds,  
8 subject to the cap above, to the Small Sites Fund.

9 (B) Use of Small Sites Funds. The funds shall be used exclusively to acquire or  
10 rehabilitate "Small Sites" defined as properties consisting of less than 25 units. Units  
11 supported by monies from the fund shall be designated as housing affordable to qualifying  
12 households as defined in Section 415.1 for no less than 55 years. Properties supported by the  
13 Small Sites Funds must be either

14 (i) rental properties that will be maintained as rental properties;

15 (ii) vacant properties that were formerly rental properties as long as those  
16 properties have been vacant for a minimum of two years prior to the effective date of this  
17 legislation,

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

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

22 (C) Initial Funds. If, within 18 months from the date of adoption of this ordinance,  
23 MOHCD dedicates an initial one-time contribution of other eligible funds to be used initially as  
24 Small Sites Funds, MOHCD may use the equivalent amount of Small Sites Funds received  
25

1 from fees for other purposes permitted by the Citywide Affordable Housing Fund until the  
2 amount of the initial one-time contribution is reached.

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

6 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the Board of  
7 Supervisors does not intend to preclude MOHCD from expending other eligible sources of  
8 funding on Small Sites as described in this Section, or from allocating or expending more than  
9 \$15 million of other eligible funds on Small Sites.

10 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD requires the  
11 project sponsor or its successor in interest to give preference in occupying units first to Residential  
12 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner  
13 and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and  
14 on file with the Clerk of the Board in File No. 080521, who otherwise meet all of the requirements for a  
15 unit; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets  
16 all of the qualifications for the unit or assistance, provided that the following limitations shall apply to  
17 the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,  
18 currently-occupied developments only for three years from the date the landlord filed with the  
19 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
20 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
21 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration  
22 Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced  
23 Tenant may apply the preference to new developments going through the initial occupancy process only  
24 for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the  
25 tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding

1 provisions of the Rent Ordinance; and (iii) for any new residential development going through the  
2 initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of  
3 the units in such development. The Displaced Tenant's preference shall still apply even if such  
4 Displaced Tenant declines a unit offered through application of the preference, but upon accepting and  
5 occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.  
6 Otherwise, it is the policy of the City to treat all households equally in allocating affordable units under  
7 this Program.

8  
9 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

10 If a project sponsor is eligible and elects to provide on-site units pursuant to Section  
11 415.5(g), the development project shall meet the following requirements:

12 \* \* \* \*

13 (d) Marketing the Units: ~~MOH~~ The Mayor's Office of Housing and Community Development  
14 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable  
15 units under this Section. In general, the marketing requirements and procedures shall be  
16 contained in the Procedures Manual as amended from time to time and shall apply to the  
17 affordable units in the project. MOHCD may develop occupancy standards for units of different  
18 bedroom sizes in the Procedures Manual in order to promote an efficient allocation of  
19 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers  
20 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a  
21 list of minimum qualifications for marketing firms that market affordable units under Section  
22 415.5et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No  
23 developer marketing units under the Program shall be able to market affordable units except  
24 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or  
25 conditions of approval shall specify that the marketing requirements and procedures



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

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

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

1 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit  
2 offered through application of the preference, but upon accepting and occupying a unit obtained using  
3 the preference, such Displaced Tenant's preference terminates. MOHCD shall propose policies and  
4 procedures for implementing these preferences to the Planning Commission for inclusion in  
5 the Procedures Manual. Otherwise, it is the policy of the ~~Board of Supervisors~~ City to treat all  
6 households equally in allocating affordable units under this Program.

7

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

9 If the project sponsor is eligible and selects pursuant to Section 415.5(g) to provide off-  
10 site units to satisfy the requirements of Section 415.1et seq., the project sponsor shall notify  
11 the Planning Department and the Mayor's Office of Housing and Community Development  
12 ("MOHCD") ~~MOH~~ of its intent as early as possible. The Planning Department and MOHCD  
13 shall provide an evaluation of the project's compliance with this Section prior to approval by  
14 the Planning Commission or Planning Department. The development project shall meet the  
15 following requirements:

16 \* \* \* \*

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

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

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

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

1 (iii) for any new residential development going through the initial occupancy process, the Displaced  
2 Tenant preference shall apply only to twenty percent (20%) of the units in such development; and (C)  
3 third to people who live or work in San Francisco who meet the qualifications of the Program.  
4 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit  
5 offered through application of the preference, but upon accepting and occupying a unit obtained using  
6 the preference, such Displaced Tenant's preference terminates. MOHCD shall propose policies and  
7 procedures for implementing these preferences to the Planning Commission for inclusion in  
8 the Procedures Manual. Otherwise, it is the policy of the ~~Board of Supervisors~~City to treat all  
9 households equally in allocating affordable units under this Program.

10  
11 Section 5. Effective Date. This ordinance shall become effective 30 days after  
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
14 of Supervisors overrides the Mayor's veto of the ordinance.

15  
16 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
17 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
18 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
19 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
20 additions, and Board amendment deletions in accordance with the "Note" that appears under  
21 the official title of the ordinance.

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

3 By: \_\_\_\_\_  
4 Evan A. Gross  
5 Deputy City Attorney

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