

1 [Amending the Planning Code to provide that specified departments may delegate  
2 responsibilities under the Jobs-Housing Linkage Program and the Child Care Fee.]

3 **Ordinance amending Section 313.1 of the Planning Code to authorize the Planning**  
4 **Department, the Mayor’s Office of Housing and the Department of Building Inspection**  
5 **to delegate responsibilities under the Jobs-Housing Linkage Program, and amending**  
6 **Section 314.1 of the Planning Code to authorize the Planning Department to delegate**  
7 **responsibilities under the Child Care Fee.**

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

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

13 Section 1. The San Francisco Planning Code is hereby amended by amending  
14 Section 313.1, to read as follows:

15 **SEC. 313.1. DEFINITIONS.**

16 The following definitions shall govern interpretation of this ordinance:

17 (1) “Affordable housing project” shall mean a housing project containing units  
18 constructed to satisfy the requirements of Sections 313.5 or 313.7 of this ordinance or  
19 receiving funds from the Citywide Affordable Housing Fund under Section 313.12.

20 (2) “Affordable to a household” shall mean a purchase price that a household  
21 can afford to pay based on an annual payment for all housing costs of 33 percent of the  
22 combined household annual net income, a 10 percent down payment, and available financing,  
23 or a rent that a household can afford to pay based on an annual payment for all housing costs  
24 of 30 percent of the combined annual net income.

25 (3) “Affordable to qualifying households” shall mean:

1 (A) With respect to owned units, the average purchase price on the initial  
2 sale of all affordable owned units in an affordable housing project shall not exceed the  
3 allowable average purchase price. Each unit shall be sold:

4 (i) Only to households with an annual net income equal to or less than that  
5 of a household of moderate income; and

6 (ii) At or below the maximum purchase price.

7 (B) With respect to rental units in an affordable housing project, the average  
8 annual rent shall not exceed the allowable average annual rent. Each unit shall be rented:

9 (i) Only to households with an annual net income equal to or less than that  
10 of a household of lower income;

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

12 (4) "Allowable average purchase price" shall mean:

13 (A) For all affordable one-bedroom units in a housing project, a price  
14 affordable to a two- person household of median income as set forth in Title 25 of the  
15 California Code of Regulations Section 6932 ("Section 6932") on January 1st of that year;

16 (B) For all affordable two-bedroom units in a housing project, a price  
17 affordable to a three-person household of median income as set forth in Section 6932 on  
18 January 1st of that year;

19 (C) For all affordable three-bedroom units in a housing project, a price  
20 affordable to a four- person household of median income as set forth in Section 6932 on  
21 January 1st of that year;

22 (D) For all affordable four-bedroom units in a housing project, a price  
23 affordable to a five- person household of median income as set forth in Section 6932 on  
24 January 1st of that year.

25 (5) "Allowable average annual rent" shall mean:

1 (A) For all affordable one-bedroom units in a housing project, 18 percent of  
2 the median income for a household of two persons as set forth in Section 6932 on January 1st  
3 of that year;

4 (B) For all affordable two-bedroom units in a housing project, 18 percent of  
5 the median income for a household of three persons as set forth in Section 6932 on January  
6 1st of that year;

7 (C) For all affordable three-bedroom units in a housing project, 18 percent of  
8 the median income for a household of four persons as set forth in Section 6932 on January  
9 1st of that year;

10 (D) For all affordable four-bedroom units in a housing project, 18 percent of  
11 the median income for a household of five persons as set forth in Section 6932 on January 1st  
12 of that year.

13 (6) "Annual net income" shall mean net income as defined in Title 25 of the  
14 California Code of Regulations Section 6916.

15 (7) "Average annual rent" shall mean the total annual rent for the calendar  
16 year charged by a housing project for all affordable rental units in the project of an equal  
17 number of bedrooms divided by the total number of affordable units in the project with that  
18 number of bedrooms.

19 (8) "Average purchase price" shall mean the purchase price for all affordable  
20 owned units in an affordable housing project of an equal number of bedrooms divided by the  
21 total number of affordable units in the project with that number of bedrooms.

22 (9) "City" shall mean the City and County of San Francisco.

23 (10) "Community apartment" shall be defined in San Francisco Subdivision  
24 Code Section 1308(b).

25 (11) "Condominium" shall be as defined in California Civil Code Section 783.

1 (12) "DBI" shall mean the Department of Building Inspection or the Department  
2 of Building Inspection's designee, including other City agencies or departments.

3 (13) "Department" shall mean the Planning Department or the Planning  
4 Department's designee, including the Mayor's Office of Housing and other City agencies or  
5 departments.

6 (14) "Entertainment development project" shall mean any new construction,  
7 addition, extension, conversion, or enlargement, or combination thereof, of an existing  
8 structure which includes any gross square feet of entertainment use.

9 (15) "Entertainment use" shall mean space within a structure or portion thereof  
10 intended or primarily suitable for the operation of a nighttime entertainment use as defined in  
11 San Francisco Planning Code Section 102.17, a movie theater use as defined in San  
12 Francisco Planning Code Sections 790.64 and 890.64, an adult theater use as defined in San  
13 Francisco Planning Code Section 191, any other entertainment use as defined in San  
14 Francisco Planning Code Sections 790.38 and 890.37, and, notwithstanding San Francisco  
15 Planning Code Section 790.38, an amusement game arcade (mechanical amusement  
16 devices) use as defined in San Francisco Planning Code Sections 790.4 and 890.4. Under  
17 this ordinance, "entertainment use" shall include all office and other uses accessory to the  
18 entertainment use, but excluding retail uses and office uses not accessory to the  
19 entertainment use.

20 (16) "First certificate of occupancy" shall mean either a temporary certificate of  
21 occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco  
22 Building Code Section 109, whichever is issued first.

23 (17) "Hotel development project" shall mean any new construction, addition,  
24 extension, conversion, or enlargement, or combination thereof, of an existing structure which  
25 includes any gross square feet of hotel use.

1           (18) "Hotel use" shall mean space within a structure or portion thereof  
2 intended or primarily suitable for rooms, or suites of two or more rooms, each of which may or  
3 may not feature a bathroom and cooking facility or kitchenette and is designed to be occupied  
4 by a visitor or visitors to the City who pays for accommodations on a daily or weekly basis but  
5 who do not remain for more than 31 consecutive days. Under this ordinance, "hotel use" shall  
6 include all office and other uses accessory to the renting of guest rooms, but excluding retail  
7 uses and office uses not accessory to the hotel use.

8           (19) "Household" shall mean any person or persons who reside or intend to  
9 reside in the same housing unit.

10           (20) "Household of lower income" shall mean a household composed of one  
11 or more persons with a combined annual net income for all adult members which does not  
12 exceed the qualifying limit for a lower-income family of a size equivalent to the number of  
13 persons residing in such household, as set forth for the County of San Francisco in Title 25 of  
14 the California Code of Regulations Section 6932.

15           (21) "Household of median income" shall mean a household composed of one  
16 or more persons with a combined annual net income for all adult members which does not  
17 exceed the qualifying limit for a median-income family of a size equivalent to the number of  
18 persons residing in such household, as set forth for the County of San Francisco in Title 25 of  
19 the California Code of Regulations Section 6932.

20           (22) "Household of moderate income" shall mean a household composed of  
21 one or more persons with a combined annual net income for all adult members which does  
22 not exceed the qualifying limit for a moderate-income family of a size equivalent to the number  
23 of persons residing in such household, as set forth for the County of San Francisco in Title 25  
24 of the California Code of Regulations Section 6932.

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1           (23) “Housing developer” shall mean any business entity building housing  
2 units which receives a payment from a sponsor for use in the construction of the housing  
3 units. A housing developer may be (a) the same business entity as the sponsor, (b) an entity  
4 in which the sponsor is a partner, joint venturor, or stockholder, or (c) an entity in which the  
5 sponsor has no control or ownership.

6           (24) “Housing unit” or “unit” shall mean a dwelling unit as defined in San  
7 Francisco Housing Code Section 401.

8           (25) “Interim Guidelines” shall mean the Office Housing Production Program  
9 Interim Guidelines adopted by the City Planning Commission on January 26, 1982, as  
10 amended.

11           (26) “Maximum annual rent” shall mean the maximum rent that a housing  
12 developer may charge any tenant occupying an affordable unit for the calendar year. The  
13 maximum annual rent shall be 30 percent of the annual income for a lower-income household  
14 as set forth in Section 6932 on January 1st of each year for the following household sizes:

- 15           (A) For all one-bedroom units, for a household of two persons;
- 16           (B) For all two-bedroom units, for a household of three persons;
- 17           (C) For all three-bedroom units, for a household of four persons;
- 18           (D) For all four-bedroom units, for a household of five persons.

19           (27) “Maximum purchase price” shall mean the maximum purchase price that  
20 a household of moderate income can afford to pay for an owned unit based on an annual  
21 payment for all housing costs of 33 percent of the combined household annual net income, a  
22 10 percent down payment, and available financing, for the following household sizes:

- 23           (A) For all one-bedroom units, for a household of two persons;
- 24           (B) For all two-bedroom units, for a household of three persons;
- 25           (C) For all three-bedroom units, for a household of four persons;

1 (D) For all four-bedroom units, for a household of five persons.

2 (28) "MOH" shall mean the Mayor's Office of Housing or the designee of the  
3 Mayor's Office of Housing, including the director of any agency designated by the Mayor as a  
4 successor to the Mayor's Office of Housing.

5 (29) "Net addition of gross square feet of entertainment space" shall mean  
6 gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by,  
7 or primarily serving, entertainment use, less the gross floor area in any structure demolished  
8 or rehabilitated as part of the proposed entertainment development project that was used  
9 primarily and continuously for entertainment, hotel, office, research and development, or retail  
10 use and was not accessory to any use other than entertainment, hotel, office, research and  
11 development, or retail use, for five years prior to Planning Commission approval of an  
12 entertainment development project subject to this Section, or for the life of the structure  
13 demolished or rehabilitated, whichever is shorter, so long as such space was subject to this  
14 ordinance or the Interim Guidelines.

15 (30) "Net addition of gross square feet of hotel space" shall mean gross floor  
16 area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily  
17 serving, hotel use, less the gross floor area in any structure demolished or rehabilitated as  
18 part of the proposed hotel development project that was used primarily and continuously for  
19 entertainment, hotel, office, research and development, or retail use and was not accessory to  
20 any use other than entertainment, hotel, office, research and development, or retail use, for  
21 five years prior to Planning Commission approval of a hotel development project subject to  
22 this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter, so  
23 long as such space was subject to this ordinance or the Interim Guidelines.

24 (31) "Net addition of gross square feet of office space" shall mean gross floor  
25 area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily

1 serving, office use, less the gross floor area in any structure demolished or rehabilitated as  
2 part of the proposed office development project that was used primarily and continuously for  
3 entertainment, hotel, office, research and development, or retail use and was not accessory to  
4 any use other than entertainment, hotel, office, research and development, or retail use for  
5 five years prior to Planning Commission approval of an office development project subject to  
6 this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

7 (32) "Net addition of gross square feet of research and development space"  
8 shall mean gross floor area as defined in San Francisco Planning Code Section 102.9 to be  
9 occupied by, or primarily serving, research and development use, less the gross floor area in  
10 any structure demolished or rehabilitated as part of the proposed research and development  
11 project that was used primarily and continuously for entertainment, hotel, office, research and  
12 development, or retail use and was not accessory to any use other than entertainment, hotel,  
13 office, research and development, or retail use, for five years prior to Planning Commission  
14 approval of a research and development project subject to this Section, or for the life of the  
15 structure demolished or rehabilitated, whichever is shorter.

16 (33) "Net addition of gross square feet of retail space" shall mean gross floor  
17 area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily  
18 serving, retail use, less the gross floor area in any structure demolished or rehabilitated as  
19 part of the proposed retail development project that was used primarily and continuously for  
20 entertainment, hotel, office, research and development, or retail use and was not accessory to  
21 any use other than entertainment, hotel, office, research and development, or retail use, for  
22 five years prior to Planning Commission approval of a retail development project subject to  
23 this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

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1           (34) "Office development project" shall mean any new construction, addition,  
2 extension, conversion, or enlargement, or combination thereof, of an existing structure which  
3 includes any gross square feet of office use.

4           (35)(A) "Office use" shall mean space within a structure or portion thereof  
5 intended or primarily suitable for occupancy by persons or entities which perform, provide for  
6 their own benefit, or provide to others at that location services including, but not limited to, the  
7 following:

8           Professional, banking; insurance; management; consulting; technical; sales; and  
9 design; and the non-accessory office functions of manufacturing and warehousing  
10 businesses; all uses encompassed within the definition of "office" at Section 219 of this Code;  
11 multimedia, software development, web design, electronic commerce, information technology  
12 and other computer based technology; all uses encompassed within the definition of  
13 "administrative services" at Section 790.106 or Section 890.106 of this Code; all "business or  
14 professional services" as proscribed at Section 890.108 of this Code excepting only those  
15 uses which are limited to the Chinatown Mixed Use District; all "business services," as  
16 described at Section 890.11 of this Code which are conducted in space designated for office  
17 use under the San Francisco Building Code and which are not excluded pursuant to  
18 Subsection B below.

19           (B) Under this ordinance, "office use" shall exclude: retail uses; repair; any  
20 business characterized by the physical transfer of tangible goods to customers on the  
21 premises; wholesale shipping, receiving and storage; research and development; and design  
22 showcases or any other space intended and primarily suitable for display of goods.

23           (36) "Ordinance" shall mean San Francisco Planning Code Sections 313.1  
24 through 313.14.

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1           (37) "Owned unit" shall mean a unit affordable to qualifying households which  
2 is a condominium, stock cooperative, community apartment, or detached single-family home.  
3 The owner or owners of an owned unit must occupy the unit as their primary residence.

4           (38) "Owner" shall mean the record owner of the fee or a vendee in  
5 possession.

6           (39) "Rent" or "rental" shall mean the total charges for rent, utilities, and  
7 related housing services to each household occupying an affordable unit.

8           (40) "Rental unit" shall mean a unit affordable to qualifying households which  
9 is not a condominium, stock cooperative, or community apartment.

10          (41) "Research and Development ("R&D") project" shall mean any new  
11 construction, addition, extension, conversion, or enlargement, or combination thereof, of an  
12 existing structure which includes any gross square feet of R&D use.

13          (42) "Research and development use" shall mean space within any structure  
14 or portion thereof intended or primarily suitable for basic and applied research or systematic  
15 use of research knowledge for the production of materials, devices, systems, information or  
16 methods, including design, development and improvement of products and processing,  
17 including biotechnology, which involves the integration of natural and engineering sciences  
18 and advanced biological techniques using organisms, cells, and parts thereof for products and  
19 services, excluding laboratories which are defined as light manufacturing uses consistent with  
20 Section 226 of the Planning Code.

21          (43) "Retail development project" shall mean any new construction, addition,  
22 extension, conversion, or enlargement, or combination thereof, of an existing structure which  
23 includes any gross square feet of retail use.

24          (44) "Retail use" shall mean space within any structure or portion thereof  
25 intended or primarily suitable for occupancy by:

1 (A) Persons or entities which supply commodities to customers on the  
2 premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking  
3 businesses, and the uses defined in San Francisco Planning Code Sections 218 and 220  
4 through 225, and also including all space accessory to such retail use; and

5 (B) All space accessory to such retail use.

6 (45) "Section 6932" shall mean Section 6932 of Title 25 of the California Code  
7 of Regulations as such section applies to the County of San Francisco.

8 (46) "Sponsor" shall mean an applicant seeking approval for construction of an  
9 office development project subject to this Section, such applicants' successors and assigns,  
10 and/or any entity which controls or is under common control with such applicant.

11 (47) "Stock cooperative" shall be as defined in California Business and  
12 Professions Code Section 11003.2.

13 Section 2. The San Francisco Planning Code is hereby amended by amending  
14 Section 314.1, to read as follows:

15 **SEC. 314.1. DEFINITIONS.**

16 The following definitions shall govern interpretation of this Section:

17 (a) "Child-care facility" shall mean a child day-care facility as defined in California  
18 Health and Safety Code Section 1596.750.

19 (b) "Child care provider" shall mean a provider as defined in California Health and  
20 Safety Code Section 1596.791.

21 (c) "Commission" shall mean the City Planning Commission.

22 (d) "DBI" shall mean the Department of Building Inspection.

23 (e) "Department" shall mean the Department of City Planning or the Department of  
24 City Planning's designee, including other City agencies or departments.

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1 (f) "First certificate of occupancy" shall mean either a temporary certificate of  
2 occupancy or a Certificate of Final Completion and Occupancy, as defined in San Francisco  
3 Building Code Section 109, whichever is issued first.

4 (g) "Hotel" shall mean a building containing six or more guest rooms as defined in  
5 San Francisco Housing Code Section 401 intended or designed to be used, or which are  
6 used, rented, or hired out to be occupied, or which are occupied for sleeping purposes and  
7 dwelling purposes by guests, whether rent is paid in money, goods, or services, including  
8 motels as defined in San Francisco Housing Code Section 401.

9 (h) "Hotel use" shall mean space within a structure or portion thereof intended or  
10 primarily suitable for the operation of a hotel, including all office and other uses accessory to  
11 the renting of guest rooms, but excluding retail uses and office uses not accessory to the hotel  
12 use.

13 (i) "Household of low income" shall mean a household composed of one or more  
14 persons with a combined annual net income for all adult members which does not exceed the  
15 qualifying limit for a lower-income family of a size equivalent to the number of persons  
16 residing in such household, as set forth for the County of San Francisco in California  
17 Administrative Code Section 6932.

18 (j) "Household of moderate income" shall mean a household composed of one or  
19 more persons with a combined annual net income for all adult members which does not  
20 exceed the qualifying limit for a median-income family of a size equivalent to the number of  
21 persons residing in such household, as set forth for the County of San Francisco in California  
22 Administrative Code Section 6932.

23 (k) "Licensed child-care facility" shall mean a child-care facility which has been  
24 issued a valid license by the California Department of Social Services pursuant to California  
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1 Health and Safety Code Sections 1596.80—1596.875, 1596.95—1597.09, or 1597.30—  
2 1597.61.

3 (l) “Net addition of gross square feet of hotel space” shall mean gross floor area as  
4 defined in Planning Code Section 102.9 to be occupied by, or primarily serving, hotel use, less  
5 the gross floor area in any structure demolished or rehabilitated as part of the proposed hotel  
6 development project space used primarily and continuously for office or hotel use and not  
7 accessory to any use other than office or hotel use for five years prior to Planning  
8 Commission approval of the hotel development project subject to this Section, or for the life of  
9 the structure demolished or rehabilitated, whichever is shorter.

10 (m) “Net addition of gross square feet of office space” shall mean gross floor area as  
11 defined in Planning Code Section 102.9 to be occupied by, or primarily serving, office use,  
12 less the gross floor area in any structure demolished or rehabilitated as part of the proposed  
13 office development project space used primarily and continuously for office or hotel use and  
14 not accessory to any use other than office or hotel use for five years prior to Planning  
15 Commission approval of the office development project subject to this Section, or for the life of  
16 the structure demolished or rehabilitated, whichever is shorter.

17 (n) “Nonprofit child-care provider” shall mean a child-care provider that is an  
18 organization organized and operated for nonprofit purposes within the provisions of California  
19 Revenue and Taxation Code Sections 23701—23710, inclusive, as demonstrated by a written  
20 determination from the California Franchise Tax Board exempting the organization from taxes  
21 under Revenue and Taxation Code Section 23701.

22 (o) "Nonprofit organization" shall mean an organization organized and operated for  
23 nonprofit purposes within the provisions of California Revenue and Taxation Code Sections  
24 23701—23710, inclusive, as demonstrated by a written determination from the California  
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1 Franchise Tax Board exempting the organization from taxes under Revenue and Taxation  
2 Code Section 23701.

3 (p) "Office development project" shall mean any new construction, addition,  
4 extension, conversion or enlargement, or combination thereof, of an existing structure which  
5 includes any gross square feet of office space.

6 (q) "Office use" shall mean space within a structure or portion thereof intended or  
7 primarily suitable for occupancy by persons or entities which perform, provide for their own  
8 benefit, or provide to others at that location services including, but not limited to, the following:  
9 Professional, banking, insurance, management, consulting, technical, sales and design, or the  
10 office functions of manufacturing and warehousing businesses, but excluding retail uses;  
11 repair; any business characterized by the physical transfer of tangible goods to customers on  
12 the premises; wholesale shipping, receiving and storage; design showcases or any other  
13 space intended and primarily suitable for display of goods; and child-care facilities. This  
14 definition shall include all uses encompassed within the meaning of Planning Code Section  
15 219.

16 (r) "Retail use" shall mean space within any structure or portion thereof intended or  
17 primarily suitable for occupancy by persons or entities which supply commodities to  
18 customers on the premises including, but not limited to, stores, shops, restaurants, bars,  
19 eating and drinking businesses, and the uses defined in Planning Code Sections 218 and 220  
20 through 225, and also including all space accessory to such retail use.

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1 (s) "Sponsor" shall mean an applicant seeking approval for construction of an office  
2 or hotel development project subject to this Section and such applicant's successors and  
3 assigns.

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

7 By: DAVID A. GREENBURG  
8 Deputy City Attorney

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