

BOARD of SUPERVISORS



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September 19, 2018

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On September 18, 2018, Mayor Breed introduced the following legislation:

**File No. 180911**

**Ordinance amending the Planning Code to modify the date by which projects that are eligible for the temporary inclusionary housing requirements must obtain a building or site permit; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
Scott Sanchez, Zoning Administrator  
Lisa Gibson, Environmental Review Officer  
AnMarie Rodgers, Director of Citywide Planning  
Laura Lynch, Environmental Planning  
Joy Navarrete, Environmental Planning

1 [Planning Code - Inclusionary Housing Ordinance]

2  
3 **Ordinance amending the Planning Code to modify the date by which projects that are**  
4 **eligible for the temporary inclusionary housing requirements must obtain a building or**  
5 **site permit; affirming the Planning Department's determination under the California**  
6 **Environmental Quality Act; making findings of public necessity, convenience, and**  
7 **welfare under Planning Code, Section 302; and making findings of consistency with the**  
8 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

17 Section 1.

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

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

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

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

8 Section 2. The Planning Code is hereby amended by revising Section 415, to read as  
9 follows:

10 Section 415.3 Application.

11 \* \* \* \*

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

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

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

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

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

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

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

24 (F) Any development project that has submitted a complete  
25 Environmental Evaluation application on or before January 12, 2016 and seeks to utilize a

1 density bonus under State Law shall use its best efforts to provide on-site affordable units in  
2 the amount of 25% of the number of units constructed on-site and shall consult with the  
3 Planning Department about how to achieve this amount of inclusionary affordable housing. An  
4 applicant seeking a density bonus under the provisions of State Law shall provide reasonable  
5 documentation to establish eligibility for a requested density bonus, incentives or concessions,  
6 and waivers or reductions of development standards.

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

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

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

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

21 (D) Any development project that submits an Environmental Evaluation  
22 application after January 12, 2016 shall comply with the requirements set forth in Sections  
23 415.5, 415.6, and 415.7, as applicable.

24 (E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B)  
25 and (C) of this Section 415.3, for development projects proposing buildings over 120 feet in

1 height, as measured under the requirements set forth in the Planning Code, except for  
2 buildings up to 130 feet in height located both within a special use district and within a height  
3 and bulk district that allows a maximum building height of 130 feet, such development projects  
4 shall pay a fee or provide off-site housing in an amount equivalent to 30% of the number of  
5 units constructed on-site. Any buildings up to 130 feet in height located both within a special  
6 use district and within a height and bulk district that allows a maximum building height of 130  
7 feet shall comply with the provisions of subsections (b)(2)(A), (B) and (C) of this Section 415.3  
8 during the limited periods of time set forth therein.

9 (F) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B)  
10 and (C) of this Section 415.3, if a development project is located in a UMU Zoning District or  
11 in the South of Market Youth and Family Zoning District, and pays the Affordable Housing Fee  
12 or elects to provide off-site affordable housing pursuant to Section 415.5(g), or elects to  
13 comply with a land dedication alternative, such development project shall comply with the fee,  
14 off-site or land dedication requirements applicable within such Zoning Districts, as they  
15 existed on January 12, 2016, plus the following additional amounts for the Affordable Housing  
16 Fee or for land dedication or off-site affordable units: (i) if the development project has  
17 submitted a complete Environmental Evaluation application prior to January 1, 2014, the  
18 Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site  
19 affordable units, in an amount equivalent to 5% of the number of units constructed on-site; (ii)  
20 if the development project has submitted a complete Environmental Evaluation application  
21 prior to January 1, 2015, the Project Sponsor shall pay an additional fee, or provide additional  
22 land dedication or off-site affordable units, in an amount equivalent to 7.5% of the number of  
23 units constructed on-site; or (iii) if the development project has submitted a complete  
24 Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor  
25 shall pay an additional fee, or provide additional land dedication or off-site affordable units, in



1 an amount equivalent to 10% of the number of units constructed on-site. Notwithstanding the  
2 foregoing, a development project shall not pay a fee or provide off-site units in a total amount  
3 greater than the equivalent of 30% of the number of units constructed on-site.

4 (G) Any development project consisting of 25 dwelling units or more that  
5 has submitted a complete Environmental Evaluation application on or prior to January 12,  
6 2016, and elects to provide off-site affordable housing, may provide off-site affordable housing  
7 by acquiring an existing building to fulfill all or part of the requirements set forth in this Section  
8 415.3 and in Section 415.7 with an equivalent amount of units as specified in this Section  
9 415.3(b)(2), as reviewed and approved by the Mayor's Office of Housing and Community  
10 Development and consistent with the parameters of its Small Sites Acquisition and  
11 Rehabilitation Program, in conformance with the income limits for the Small Sites Program.

12 (3) During the limited period of time in which the provisions of Section 415.3(b)  
13 apply, for any housing development that is located in an area with a specific affordable  
14 housing requirement set forth in an Area Plan or a Special Use District, or in any other section  
15 of the Code such as Section 419, with the exception of the UMU Zoning District or in the  
16 South of Market Youth and Family Zoning District, the higher of the affordable housing  
17 requirement set forth in such Area Plan or Special Use District or in Section 415.3(b) shall  
18 apply. Any affordable housing impact fee paid pursuant to an Area Plan or Special Use  
19 District shall be counted as part of the calculation of the inclusionary housing requirements  
20 contained in Planning Code Sections 415.1 et seq.

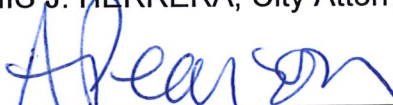
21 (4) Any development project that constructs on-site or off-site affordable  
22 housing units as set forth in subsection (b) of this Section 415.3 shall diligently pursue  
23 completion of such units. In the event the project sponsor does not procure a building permit  
24 or site permit for construction of the affordable housing units within 30 months of the project's  
25 approval by the Planning Commission or Planning Department, which shall mean approval following

1 any administrative appeal to the relevant City board, or by December 7, 2018, whichever is later,  
2 the development project shall comply with the inclusionary affordable housing requirements  
3 set forth in Sections 415.5, 415.6, and 415.7, as applicable. Such deadline shall be extended  
4 in the event of any litigation seeking to invalidate the City's approval of such project, for the  
5 duration of the litigation.

6 Section 3. Effective Date. This ordinance shall become effective 30 days after  
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
9 of Supervisors overrides the Mayor's veto of the ordinance.

10 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
14 additions, and Board amendment deletions in accordance with the "Note" that appears under  
15 the official title of the ordinance.

16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18 By:   
19 Audrey Williams Pearson  
20 Deputy City Attorney

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24  
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## **LEGISLATIVE DIGEST**

[Planning Code - Inclusionary Housing Ordinance]

**Ordinance amending the Planning Code to modify the date by which projects that are eligible for the temporary inclusionary housing requirements must obtain a building or site permit; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

### Existing Law

Generally, residential development projects of ten units or more must comply with the inclusionary housing requirements set forth in Planning Code section 415. Projects must pay a fee, or set aside a percentage of units, either on-site or off-site, as affordable to low, moderate, or middle income households. Projects of 25 units or more that have filed environmental applications between January 1, 2013 and January 12, 2016 qualify for the inclusionary housing requirements set forth in the temporary provisions of the Inclusionary Housing Ordinance, Planning Code section 415.3(b) if they secure a site or building permit on or before December 7, 2018.

### Amendments to Current Law

This ordinance would modify the date by which projects of 25 units or more that have filed environmental evaluation applications between January 1, 2013 and January 12, 2016 must secure a site or building permit in order to qualify for the temporary provisions in Planning Code section 415.3(b). Under the ordinance, such projects must secure a site or building permit within 30 months from the date that the project is approved, including any appeal to an administrative body or City board, or by December 7, 2018, whichever is later.

### Background Information

The Inclusionary Housing Ordinance was amended in ordinance 76-16. Generally, ordinance 76-16 increased the required inclusionary housing amounts. That ordinance also included temporary provisions setting forth different inclusionary housing requirements for projects that had filed environmental evaluations applications between January 1, 2013 and January 12, 2016, but had not yet been approved.

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