

1 [Planning Code - Affordable Housing Bonus Programs]

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3 **Ordinance amending the Planning Code to create the Affordable Housing Bonus**
4 **Programs, consisting of the Local Affordable Housing Bonus Program, the 100 Percent**
5 **Affordable Housing Bonus Program, the Analyzed State Density Bonus Program, and**
6 **the Individually Requested State Density Bonus Program, to provide for development**
7 **bonuses and zoning modifications for affordable housing, in compliance with, and**
8 **above those required by the State Density Bonus Law, Government Code, Section**
9 **65915, et seq.; to establish the procedures in which the Local Affordable Housing**
10 **Bonus Program and the 100 Percent Affordable Housing Bonus Program shall be**
11 **reviewed and approved; adding a fee for applications under the Program; and**
12 **amending the Planning Code to exempt projects from the height limits specified in the**
13 **Planning Code and the Zoning Maps; and affirming the Planning Department’s**
14 **determination under the California Environmental Quality Act; and making findings of**
15 **consistency with the General Plan, and the eight priority policies of Planning Code,**
16 **Section 101.1.**

17 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
20 **Board amendment additions** are in double-underlined Arial font.
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

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

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1 Section 1.

2 (a) The Planning Department has determined that the actions contemplated in this
3 ordinance comply with the California Environmental Quality Act (California Public Resources
4 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
5 Supervisors in File No. 150969 and is incorporated herein by reference. The Board affirms
6 this determination.

7 (b) On February 25, 2016, and June 30, 2016, the Planning Commission, in Resolution
8 Nos. 19578 and 19686 adopted findings that the actions contemplated in this ordinance are
9 consistent, on balance, with the City's General Plan and eight priority policies of Planning
10 Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution
11 is on file with the Clerk of the Board of Supervisors in File No. 150969, and is incorporated
12 herein by reference.

13 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
14 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
15 in Planning Commission Resolution Nos. 19578 and 19686, and the Board incorporates such
16 reasons herein by reference.

17 Section 2. The Planning Code is hereby amended by adding Section 206 through
18 206.8 to read as follows:

19 **SEC. 206. THE AFFORDABLE HOUSING BONUS PROGRAMS.**

20 *This section shall be known as the Affordable Housing Bonus Programs, which includes the*
21 *Local Affordable Housing Bonus Program, the 100 Percent Affordable Housing Bonus Program, the*
22 *Analyzed State Density Bonus Program and the Individually Requested State Density Bonus Program.*

23 **SEC. 206.1. PURPOSE AND FINDINGS.**

24 *(a) The purpose of the Affordable Housing Bonus Programs is to facilitate the development and*
25 *construction of affordable housing in San Francisco. Affordable housing is of paramount statewide*

1 concern, and the California State legislature has declared that local and state governments have a
2 responsibility to use the powers vested in them to facilitate the improvement and development of
3 housing to make adequate provision for the housing needs of all economic segments of the community.
4 The State Legislature has found that local governments must encourage the development of a variety of
5 types of housing for all income levels, including multifamily rental housing and assist in the
6 development of adequate housing to meet the needs of low- and moderate-income households.

7 (b) Affordable housing is an especially paramount concern in San Francisco. San Francisco
8 has one of the highest housing costs in the nation, but San Francisco's economy and culture rely on a
9 diverse workforce at all income levels. It is the policy of the Board of Supervisors to provide housing
10 to these workers and ensure that they pay a proportionate share of their incomes to live in adequate
11 housing and to not commute ever-increasing distances to their jobs. The Association of Bay Area
12 Governments determined that San Francisco's share of the Regional Housing Need for January 2015
13 to June 2022 was provision of 28,870 new housing units, with 6,234 (or 21.6%) as very low, 4,639 (or
14 16.1%) as low, and 5,460 (or 18.9%) as moderate income units.

15 (c) This Board of Supervisors, and the voters in San Francisco, have long recognized the need
16 for the production of affordable housing. The voters, or this Board have adopted measures such as the
17 establishment of the mandatory Inclusionary Affordable Housing Ordinance in Planning Code section
18 415; the San Francisco Housing Trust Fund, adopted in 2012, which established a fund to create,
19 support and rehabilitate affordable housing, and set aside \$20 million in its first year, with increasing
20 allocations to reach \$50 million a year for affordable housing; the adoption of Proposition K in 2014
21 which established as City policy that the City, by 2020, will help construct or rehabilitate at least
22 30,000 homes, with more than 50% of the housing affordable for middle-income households, and at
23 least 33% as affordable for low-and moderate income households; and the multiple programs that rely
24 on Federal, State and local funding sources as identified in the Mayor's Office of Housing and
25 Community Development Comprehensive Plan.

1 (d) Historically, in the United States and San Francisco, affordable housing requires high
2 levels of public subsidy, including public investment and reliance on public dollars. Costs to subsidize
3 an affordable housing unit vary greatly depending on a number of factors, such as household income of
4 the residents, the type of housing, and the cost to acquire land acquisition. Currently, MOHCD
5 estimates that the level of subsidy for an affordable housing units is approximately \$250,000 per unit.
6 Given this high cost per unit, San Francisco can only meet its affordable housing goals through a
7 combination of increased public dollars dedicated to affordable housing and other tools that do not
8 rely on public money.

9 (e) Development bonuses are a long standing zoning tool that enable cities to encourage
10 private development projects to provide public benefits including affordable housing. By offering
11 increased development potential, a project sponsor can offset the expenses necessary to provide
12 additional public benefits. In 1979, the State of California adopted the Density Bonus Law,
13 Government Code section 65915 et seq, which requires that density bonuses and other concessions and
14 incentives be offered to projects that provide a minimum amount of on-site affordable housing.

15 (f) In recognition of the City's affordable housing goals, including the need to produce more
16 affordable housing without need for public subsidies, the Planning Department contracted with David
17 Baker Architects and Seifel Consulting to determine a menu of zoning modifications and development
18 bonuses that could offset a private developer's costs of providing various levels of additional on-site
19 affordable housing. David Baker Architects and Seifel Consulting analyzed various parcels in San
20 Francisco, to determine the conditions in which a zoning accommodation would be necessary to
21 achieve additional density. The analysis modeled various zoning districts and lot size configurations,
22 consistent with current market conditions and the City's stated policy goals, including to achieve a mix
23 of unit types, including larger units that can accommodate larger households. These reports are on file
24 in Board of Supervisors File No. 150969.

1 (g) Based on the results of the studies, the Department developed four programs set forth in
2 this Section 206, the Affordable Housing Bonus Programs, which provide options by which developers
3 can include affordable units on-site in exchange for increased density and other zoning or design
4 modifications. These programs are the Local Affordable Housing Bonus Program, the 100 Percent
5 Affordable Housing Bonus Program, the Analyzed State Density Bonus Program and the Individually
6 Requested Bonus Program.

7 (h) The goal of the Local Affordable Housing Program is to increase affordable housing
8 production, especially housing affordable to Middle Income households. Housing for Middle Income
9 Households in San Francisco is necessary to stabilize San Francisco’s households and families, ensure
10 income and household diversity in the long term population of San Francisco, and reduce
11 transportation impacts of middle income households working in San Francisco. Middle Income
12 households do not traditionally benefit from public subsidies.

13 (i) The 100 Percent Affordable Housing Bonus Program provides additional incentives for
14 developers of 100% affordable housing projects, thereby reducing the overall cost of such
15 developments on a per unit basis.

16 (j) The Affordable Housing Bonus Program also establishes a clear local process for all
17 projects seeking the density bonuses guaranteed through the State Density Bonus Law. The State
18 Analyzed Program provides an expedited process for projects that comply with a pre-determined menu
19 of incentives, concessions and waivers of development standards that the Department, in consultation
20 with David Baker Architects and Seifel Consulting can appropriately respond to neighborhood context
21 without causing adverse impacts on public health and safety, and provide affordable units through the
22 City’s already-established Inclusionary Housing Program. Projects requesting density or concessions,
23 incentives and waivers outside of the City’s preferred menu may seek a density bonus consistent with
24 State law in the Individually Requested Density Bonus Program.

1 (k) San Francisco's small business community is an integral part of San Francisco's
2 neighborhood commercial corridors, local economy, and rich culture. San Francisco is
3 committed to maintaining small businesses in its neighborhoods. For this reason, the
4 Affordable Housing Bonus Program acknowledges the need for general assistance and
5 support for any business that might be impacted. Developments using the Affordable Housing
6 Bonus Program will generally produce additional commercial spaces which may enhance
7 existing commercial corridors. The Office of Economic and Workforce Development, in
8 coordination with the Office of Small Business, currently coordinate on referrals to and
9 deployment of a range of services to small businesses including but not limited to; small
10 business consulting, lease negotiation assistance, small business loans, ADA Certified
11 Access Specialists (CASp) inspection services, legacy business registry, façade improvement
12 assistance, commercial corridor management, grants and assessments, relocation and broker
13 services for production, distribution and repair (PDR) businesses, business permit assistance,
14 and coordination with city agencies.

15 (l) In fiscal year 2016 - 2017 the Mayor's Office of Economic and Workforce
16 Development and Office of Small Business will initiate and coordinate the implementation of a
17 citywide small business retention and relocation program. This program will provide additional
18 small business consulting and case management, real estate readiness assessment,
19 relocation assistance, broker services, real estate acquisition assistance, succession
20 planning, legacy business grants and technical assistance, and restaurant sector permit
21 coordination and assistance.

22 **SEC. 206.2 DEFINITIONS.**

23 *This Section applies to Sections 206 through 206.8. The definitions of Section 102 and the*
24 *definitions in Section 401 for "Area Median Income" or "AMI," "First Construction Document,"*
25 *"Housing Project," "Life of the Project," "MOHCD," "On-site Unit," "Off-site Unit," "Principal*

1 Project,” and “Procedures Manual,” shall generally apply. For purposes of this Section 206 et seq.,
2 the following definitions shall apply, and shall prevail if there is a conflict with other sections of the
3 Planning Code.

4 “100 Percent Affordable Housing Project” shall be a project where all of the dwelling units
5 with the exception of the manager’s unit are “Affordable Units” as that term is defined in section
6 406(b).

7 “Affordable to a Household of Lower, Very Low, or Moderate Income shall mean, at a
8 minimum (1) a maximum purchase price that is affordable to a Household of Lower, Very Low, or
9 Moderate Income, adjusted for the household size, assuming an annual payment for all housing costs of
10 33 percent of the combined household annual gross income, a down payment recommended by the
11 Mayor’s Office of Housing and Community Development and set forth in the Procedures Manual, and
12 available financing; and (2) an affordable rent as defined in Section 50053 of the Health and Safety
13 Code sufficient to ensure continued affordability of all very low and low-income rental units that
14 qualified the applicant for the award of the density bonus for 55 years or a longer period of time if
15 required by the construction or mortgage financing assistance program, mortgage insurance program,
16 or rental subsidy program.

17 “Affordable to a Household of Middle Income” shall mean, at a minimum, (1) a maximum
18 purchase price that is affordable to a Household of Middle Income at 140% of Area Median Income,
19 adjusted for the household size, assuming an annual payment for all housing costs of 33 percent of the
20 combined household annual gross income, a down payment recommended by the Mayor’s Office of
21 Housing and Community Development and set forth in the Procedures Manual, and available
22 financing; and (2) the maximum annual rent for an affordable housing unit shall be no more than 30%
23 of the annual gross income for a Household of Middle Income at an Area Median Income of 120%, as
24 adjusted for the household size, as of the first date of the tenancy.

1 "Base Density" is lot area divided by the maximum lot area per unit permitted under existing
2 density regulations (e.g 1 unit per 200, 400, 600, 800, or 1000 square feet of lot area). Calculations
3 that result in a decimal point of 0.5 and above are rounded to the next whole number. In the Fillmore
4 Neighborhood Commercial Transit District and the Divisadero Neighborhood Commercial Transit
5 District, "Base Density" shall mean 1 unit per 600 square feet of lot area.

6 "Density Bonus" means a density increase over the Maximum Allowable Residential Density
7 granted pursuant to Government Code Section 65915 and Section 206 et seq.

8 "Density Bonus Units" means those market rate dwelling units granted pursuant to the
9 provisions of this Section 206.3, 206.5 and 206.6 that exceed the otherwise Maximum Allowable
10 Residential Density for the development site.

11 "Development standard" shall mean a site or construction condition, including, but not limited
12 to, a height limitation, a setback requirement, a floor area ratio, an onsite open space requirement, or
13 an accessory parking ratio that applies to a residential development pursuant to any ordinance,
14 general plan element, specific plan, charter, or other local condition, law, policy, resolution or
15 regulation.

16 "Household of Middle Income" shall mean a household whose combined annual gross income
17 for all members does not exceed 140% of AMI to qualify for ownership housing and 120% of AMI to
18 qualify for rental housing.

19 "Inclusionary Units" shall mean on-site income-restricted residential units provided within a
20 development that meet the requirements of the Inclusionary Affordable Housing Program, Planning
21 Code Section 415 et seq.

22 "Lower, Very Low, or Moderate Income" means annual income of a household that does not
23 exceed the maximum income limits for the income category, as adjusted for household size, applicable
24 to San Francisco, as published and periodically updated by the State Department of Housing and
25 Community Development pursuant to Sections 50079.5, 50105, or 50093 of the California Health and

1 Safety Code. Very low income is currently defined in California Health and Safety Code section
2 50105 as 50% of area median income. Lower Income is currently defined in California Health and
3 Safety Code section 50079.5 as 80% of area median income. Moderate Income is currently defined in
4 California Health and Safety Code section 50093 as 120% of area median income.

5 "Maximum Allowable Residential Density" means the maximum number of dwelling units per
6 square foot of lot area in zoning districts that have such a measurement, or, in zoning districts without
7 such a density measurement, the maximum number of dwelling units that could be developed on a
8 property while also meeting all other applicable Planning Code requirements and design guidelines,
9 and without obtaining an exception, modification, variance, or waiver from the Zoning Administrator
10 or Planning Commission for any Planning Code requirement.

11 "Middle Income Unit" shall mean a residential unit affordable to a Household of Middle
12 Income.

13 "Qualifying Resident" means senior citizens or other persons eligible to reside in a Senior
14 Citizen Housing Development.

15 "Regulatory Agreement" means a recorded and legally binding agreement between an applicant
16 and the City to ensure that the requirements of this Chapter are satisfied. The Regulatory Agreement,
17 among other things, shall establish: the number of Restricted Affordable Units, their size, location,
18 terms and conditions of affordability, and production schedule.

19 "Restricted Affordable Unit" means a dwelling unit within a Housing Project which will be
20 Affordable to Very Low, Lower or Moderate Income Households, as defined in this Section 206.2 for a
21 minimum of 55 years. Restricted Affordable Units shall meet all of the requirements of Government
22 Code 65915, except that Restricted Affordable Units that are ownership units shall not be restricted
23 using an equity sharing agreement."

24 "Senior Citizen Housing Development" has the meaning in California Civil Code section 51.3.

25 **SEC. 206.3. LOCAL AFFORDABLE HOUSING BONUS PROGRAM.**

1 (a) Purpose. This Section sets forth the Local Affordable Housing Bonus Program. The Local
2 Affordable Housing Bonus Program or “Local Program” provides benefits to project sponsors of
3 housing projects that set aside a total of 30% of residential units onsite at below market rate rent or
4 sales price, including a percentage of units affordable to low and moderate income households
5 consistent with Section 415, the Inclusionary Housing Program, and the remaining percentage
6 affordable to a Household of Middle Income. The purpose of the Local Affordable Housing Bonus
7 Program is to expand the number of Inclusionary Units produced in San Francisco and provide
8 housing opportunities to a wider range of incomes than traditional affordable housing programs, which
9 typically provide housing only for very low, low or moderate income households. The Local Program
10 allows market-rate projects to match the City’s shared Proposition K housing goals that 50% of new
11 housing constructed or rehabilitated in the City by 2020 be within the reach of working middle class
12 San Franciscans, and at least 33% affordable for low and moderate income households.

13 (b) Applicability. A Local Affordable Housing Bonus Project or “Local Project” under this
14 Section 206.3 shall be a project that:

15 (1) contains three or more residential units, as defined in Section 102, not including any
16 Group Housing as defined in Section 102, efficiency dwelling units with reduced square footage
17 defined in Section 318, and Density Bonus Units permitted through this Section 206.3, or any other
18 density bonus;

19 (2) is located in any zoning district that: (A) is not designated as an RH-1 or RH-2
20 Zoning Districts; and (B) establishes a maximum dwelling unit density through a ratio of number of
21 units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named Neighborhood
22 Commercial, Chinatown Mixed Use Districts, and SoMa Mixed Use Districts; but only if the SoMa
23 Mixed Use District has a density measured by a maximum number of dwelling units per square foot of
24 lot area; (C) is in the Fillmore Neighborhood Commercial Transit District and Divisadero
25 Neighborhood Commercial Transit District; and (D) is not in the North of Market Residential Special

1 Use District, Planning Code Section 249.5 until the Affordable Housing Incentive Study is completed at
2 which time the Board will review whether the North of Market Residential Special Use District should
3 continue to be excluded from this Program. The Study will explore opportunities to support and
4 encourage the provision of housing at the low, moderate, and middle income range in neighborhoods
5 where density controls have been eliminated. The goal of this analysis is to incentivize increased
6 affordable housing production levels at deeper and wider ranges of AMI and larger unit sizes in these
7 areas through 100% affordable housing development as well as below market rate units within market
8 rate developments; and,

9 (3) is not seeking and receiving a density or development bonus under the provisions of
10 California Government Code Section 65915 et seq, Planning Code Section 207, Section 124(f), Section
11 202.2(f), 304, or any other State or local program that provides development bonuses;

12 (4) includes at least 135% of the Base Density as calculated under Planning Code
13 Section 206.5;

14 (5) in Neighborhood Commercial Districts is not a project that involves merging lots
15 that result in more than 125 feet in lot frontage for projects located; and

16 (6) consists only of new construction, and excluding any project that includes an
17 addition to an existing structure.

18 (c) **Local Affordable Housing Bonus Project Eligibility Requirements.** To receive the
19 development bonuses granted under this Section, a Local Project must meet all of the following
20 requirements:

21 (1) Comply with the Inclusionary Affordable Housing Program, Section 415 of this
22 Code, by providing the applicable number of units on-site under Section 415.6. For projects not subject
23 to the Inclusionary Affordable Housing Program, the applicable number of on-site units under this
24 section shall be zero. If the Dial Alternative currently proposed in an ordinance in Board of
25 Supervisors File No. 150911 is adopted and permits a project sponsor to provide more Inclusionary

1 Units at higher AMIs than currently required (referred to as “dialing up”), a project sponsor may dial
2 up and meet the requirements of this subsection (D). If the Dial Alternative of the Inclusionary
3 Affordable Housing Program is ever amended to allow a project sponsor to provide fewer Inclusionary
4 Units at lower AMIs than currently required (referred to as “dialing down”), then a Project cannot
5 qualify for this Section 206.5 if it elects to dial down;

6 (2) Provide an additional percentage of affordable units in the Local Project as Middle
7 Income Units, as defined herein, such that the total percentage of Inclusionary Units and Middle
8 Income Units equals 30%. The Middle Income Units shall be restricted for the Life of the Project and
9 shall comply with all of the requirements of the Procedures Manual authorized in Section 415. As
10 provided for in subsection (e), the Planning Department and MOHCD shall amend the Procedures
11 Manual to provide policies and procedures for the implementation, including monitoring and
12 enforcement, of the Middle Income units;

13 (3) Demonstrate to the satisfaction of the Environmental Review Officer that the Local
14 Project does not:

15 (A) cause a substantial adverse change in the significance of an historic
16 resource as defined by California Code of Regulations, Title 14, Section 15064.5,

17 (B) create new shadow in a manner that substantially affects outdoor recreation
18 facilities or other public areas; and

19 (C) alter wind in a manner that substantially affects public areas;

20 (4) Inclusive of Inclusionary Units and Middle Income Units, provides either (A) a
21 minimum unit mix of at least 40% of all units as two bedroom units or larger; or (B) any unit mix such
22 that 50% of all bedrooms within the Local Project are provided in units with more than one bedroom.
23 Local Projects are not eligible to modify this requirement under Planning Code Section 303, 328, or
24 any other provision of this Code; and,

1 ~~(5) Provides replacement units for any units demolished or removed that are~~
2 ~~subject to the San Francisco Rent Stabilization and Arbitration Ordinance, San Francisco~~
3 ~~Administrative Code Section 37, or are units qualifying for replacement as units being~~
4 ~~occupied by households of Low or Very Low Income, consistent with the requirements of~~
5 ~~Government Code section 65915(c)(3).~~

6 (5) Does not demolish, remove or convert any residential units.

7 (6) Includes at the ground floor level active uses, as defined in Section 145.1, at
8 the same square footages as any neighborhood commercial uses demolished or removed,
9 unless the Planning Commission has granted an exception under Section 303(s)(G).

10 (d) **Development Bonuses.** Any Local Project shall, at the project sponsor's request, receive
11 any or all of the following:

12 (1) **Form based density.** Notwithstanding any zoning designation to the contrary,
13 density of a Local Project shall not be limited by lot area but rather by the applicable requirements and
14 limitations set forth elsewhere in this Code. Such requirements and limitations include, but are not
15 limited to, height, including any additional height allowed by subsection (d)(2), Bulk, Setbacks,
16 Required Open Space, Exposure and unit mix as well as applicable design guidelines, elements and
17 area plans of the General Plan and design review, including consistency with the Affordable Housing
18 Bonus Program Design Guidelines, referenced in Section 328, as determined by the Planning
19 Department.

20 (2) **Height.** Up to 20 additional feet above the height authorized for the Local Project
21 under the Height Map of the Zoning Map. This additional height may only be used to provide up to two
22 additional 10-foot stories to the project, or one additional story of no more than 10 feet in height.
23 Building features exempted from height controls under Planning Code Section 260(b) shall be
24 measured from the roof level of the highest story provided under this section.

1 (3) Ground Floor Ceiling Height. *In addition to the permitted height allowed under*
2 *(d)(2), Local Projects with active uses on the ground floor as defined in Section 145.1(b)(2) shall*
3 *receive up to a maximum of 5 additional feet in height above the height limit, in addition to the*
4 *additional 20 feet granted in subsection (2) above. However, the additional 5 feet may only be applied*
5 *at the ground floor to provide a 14-foot (floor to ceiling) ceiling height for nonresidential uses, and to*
6 *allow walk-up dwelling units to be consistent with the Ground Floor Residential Design Guidelines.*
7 *This additional 5 feet shall not be granted to projects that already receive such a height increase under*
8 *Planning Code Section 263.20.*

9 (4) Zoning Modifications. *Local Affordable Housing Bonus Projects may select up to*
10 *three of the following zoning modifications:*

11 (A) Rear yard: *The required rear yard per Section 134 or any applicable*
12 *special use district may be reduced to no less than 20 percent of the lot depth, or 15 feet, whichever is*
13 *greater. Corner properties may provide 20 percent of the lot area at the interior corner of the property*
14 *to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area*
15 *is a minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing*
16 *midblock open space, if any, formed by the rear yards of adjacent properties.*

17 (B) Dwelling Unit Exposure: *The dwelling unit exposure requirements of*
18 *Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that*
19 *is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in*
20 *every horizontal dimension at each subsequent floor.*

21 (C) Off-Street Loading: *Off-street loading spaces per Section 152 shall not be*
22 *required.*

23 (D) Automobile Parking: *Up to a 75% reduction in the residential and*
24 *commercial parking requirements in Section 151 or any applicable special use district.*

1 (E) Open Space: Up to a 5% reduction in common open space if provided
2 under Section 135 or any applicable special use district.

3 (F) Additional Open Space: Up to an additional 5% reduction in common open
4 space if provided under Section 135 or any applicable special use district, beyond the 5% provided in
5 subsection (E) above.

6 (G) Inner Courts as Open Space: In order for an inner court to qualify as
7 useable common open space, Section 135(g)(2) requires it to be at least 20 feet in every horizontal
8 dimension, and for the height of the walls and projections above the court on at least three sides (or 75
9 percent of the perimeter, whichever is greater) to be no higher than one foot for each foot that such
10 point is horizontally distant from the opposite side of the clear space in the court. Local Affordable
11 Housing Bonus Projects may instead provide an inner court that is at least 25 feet in every horizontal
12 dimension, with no restriction on the heights of adjacent walls. All area within such an inner court
13 shall qualify as common open space under Section 135.

14 (e) Implementation.

15 (1) Application. The following procedures shall govern the processing of a request for
16 a project to qualify under the Local Program.

17 (A) An application to participate in the Local Program shall be submitted with
18 the first application for approval of a Housing Project and processed concurrently with all other
19 applications required for the Housing Project. The application shall be submitted on a form prescribed
20 by the City and shall include at least the following information:

21 (i) A full plan set, including a site plan, elevations, sections and floor
22 plans, showing total number of units, number of and location of Inclusionary Units, and Middle Income
23 Units; and a draft Regulatory Agreement;

24 (ii) ~~The number of dwelling units which are on the property, or if~~
25 ~~the dwelling units have been vacated or demolished in the five year period preceding the~~

1 application, have been and which were subject to a recorded covenant, ordinance, or law that
2 restricts rents to levels affordable to persons and families of lower or very low income; subject
3 to any other form of rent or price control through the City or other public entity's valid exercise
4 of its police power; or occupied by lower or very low income households; and

5 ~~_____ (iii) If the property includes a parcel or parcels in which dwelling~~
6 ~~units under subsection (ii) are located or were located in the five year period preceding the~~
7 ~~application, the type and size of those units, and the incomes of the persons or families~~
8 ~~occupying those units.~~

9 ~~(iv) The requested development bonuses and/or zoning modifications~~
10 ~~from those listed in subsection (d).~~

11 ~~(B) Documentation that the applicant has provided written notification to all~~
12 ~~existing commercial or residential tenants that the applicant intends to develop the property pursuant~~
13 ~~to this section. Any affected commercial tenants shall be given priority processing similar to the~~
14 ~~Department's Community Business Priority Processing Program, as adopted by the San Francisco~~
15 ~~Commission on February 12, 2015 under Resolution Number 19323, to support relocation of such~~
16 ~~business in concert with access to relevant local business support programs.~~

17 ~~(2) **Procedures Manual.** The Planning Department and MOHCD shall amend the~~
18 ~~Procedures Manual, authorized in Section 415, to include policies and procedures for the~~
19 ~~implementation, including monitoring and enforcement, of the Middle Income units. As an amendment~~
20 ~~to the Procedures Manual, such policies and procedures are subject to review and approval by the~~
21 ~~Planning Commission under Section 415. Amendments to the Procedures Manual shall include a~~
22 ~~requirement that project sponsors complete a market survey of the area before marketing Middle~~
23 ~~Income Units. All affordable units that are affordable to households between 120 and 140% of AMI~~
24 ~~must be marketed at a price that is at least 20% less than the current market rate for that unit size and~~
25 ~~neighborhood, in addition to any other applicable Program requirements.~~

1 (3) Notice and Hearing. Local Projects shall comply with Section 328 306 for review
2 and approval.

3 (4) Controls. Local Projects shall be governed by the conditional use procedures
4 of Section 303. comply with Section 328. Notwithstanding any other provision of this Code, no
5 conditional use authorization shall be required for a Local Project unless such conditional use
6 requirement was adopted by the voters.

7 (5) Regulatory Agreements. Recipients of a Density Bonus, Incentive, Concession,
8 waiver, or modification shall enter into a Regulatory Agreement with the City, as follows.

9 (A) The terms of the agreement shall be acceptable in form and content to the Planning
10 Director, the Director of MOHCD, and the City Attorney. The Planning Director shall have the
11 authority to execute such agreements.

12 (B) Following execution of the agreement by all parties, the completed Density Bonus
13 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and
14 recorded on the Housing Project.

15 (C) The approval and recordation of the Regulatory Agreement shall take place prior to
16 the issuance of the First Construction Document. The Regulatory Agreement shall be binding to all
17 future owners and successors in interest.

18 (D) The Regulatory Agreement shall be consistent with the guidelines of the City's
19 Inclusionary Housing Program and shall include at a minimum the following:

20 (i) The total number of dwelling units approved for the Housing Project,
21 including the number of Restricted Affordable Units, Inclusionary Units, Middle Income Units or
22 other restricted units;

23 (ii) A description of the household income group to be accommodated by the
24 Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent or
25 Affordable Sales Price. The project sponsor must commit to completing a market survey of the area

1 before marketing Middle Income Units. All affordable units that are affordable to households between
2 120 and 140% of AMI must be marketed at a price that is at least 20% less than the current market
3 rate for that unit size and neighborhood, in addition to any other applicable Program requirements;

4 (iii) The location, dwelling unit sizes (in square feet), and number of bedrooms
5 of the Restricted Affordable Units;

6 (iv) Term of use restrictions for Restricted Affordable Units of at least 55 years
7 for Moderate Income units and at least 55 years for Low and Very Low units;

8 (v) A schedule for completion and occupancy of Restricted Affordable Units;

9 (vi) A description of any Concession, Incentive, waiver, or modification, if any,
10 being provided by the City;

11 (vii) A description of remedies for breach of the agreement (the City may
12 identify tenants or qualified purchasers as third party beneficiaries under the agreement); and

13 (viii) Other provisions to ensure implementation and compliance with this
14 Section.

15 **SEC. 206.4. THE 100 PERCENT AFFORDABLE HOUSING BONUS PROGRAM.**

16 (a) Purpose and Findings. This Section 206.4 describes the 100 Percent Affordable Housing
17 Bonus Program, or “100 Percent Affordable Housing Program”. In addition to the purposes
18 described in section 206.1, the purpose of the 100 Percent Affordable Housing Program is to facilitate
19 the construction and development of projects in which all of the residential units are affordable to Low
20 and Very-Low Income Households. Projects pursuing a development bonus under this 100 Percent
21 Affordable Program would exceed the City’s shared Proposition K housing goals that 50% of new
22 housing constructed or rehabilitated in the City by 2020 be within the reach of working middle class
23 San Franciscans, and at least 33% affordable for low and moderate income households.

24 (b) Applicability. A 100 Percent Affordable Housing Bonus Project under this Section 206.4
25 shall be a Housing Project that:

1 (1) contains three or more Residential Units, as defined in Section 102, not including
2 Density Bonus Units permitted through this Section 206 through a density bonus;

3 (2) is located in any zoning district that:

4 (A) is not designated as an RH-1 or RH-2 Zoning District; and

5 (B) allows Residential Uses;

6 (3) is not seeking and receiving a density or development bonus under the provisions of
7 California Government Code Section 65915 et seq., Planning Code Sections 207, 124(f), 304, 803.8 or
8 any other state or local program that provides development bonuses; and

9 (4) meets the definition of a “100 Percent Affordable Housing Project” in Section
10 206.2.

11 (5) demonstrates to the satisfaction of the Environmental Review Officer that the
12 Project does not:

13 (A) cause a substantial adverse change in the significance of an historic
14 resource as defined by California Code of Regulations, Title 14, Section 15064.5,

15 (B) create new shadow in a manner that substantially affects outdoor recreation
16 facilities or other public areas; and

17 (C) alter wind in a manner that substantially affects public areas; and

18 (6) does not demolish, remove or convert any residential units.

19 (c) **Development Bonuses.** A 100 Percent Affordable Housing Bonus Project shall, at the
20 project sponsor’s request, receive any or all of the following:

21 (1) **Priority Processing.** 100 Percent Affordable Housing Bonus Projects shall receive
22 Priority Processing.

23 (2) **Form based density.** Notwithstanding any zoning designation to the contrary,
24 density of the 100 Percent Affordable Housing Bonus Project shall not be limited by lot area but rather
25 by the applicable requirements and limitations set forth elsewhere in this Code. Such requirements and

1 limitations include, but are not limited to, height, including any additional height allowed by subsection
2 (c)(2) herein, Bulk, Setbacks, Open Space, Exposure and unit mix as well as applicable design
3 guidelines, elements and area plans of the General Plan and design review, including consistency with
4 the Affordable Housing Bonus Program Design Guidelines, referenced in Section 328, as determined
5 by the Planning Department.

6 (3) **Height.** 100 Percent Affordable Housing Bonus Projects shall be allowed up to 30
7 additional feet, not including allowed exceptions per Section 260(b), above the property's height
8 district limit in order to provide three additional stories of residential use. This additional height may
9 only be used to provide up to three additional 10-foot stories to the project, or one additional story of
10 not more than 10 feet in height

11 (4) **Ground Floor Ceiling Height.** In addition to the permitted height allowed under
12 subsection (c)(3), 100 Percent Affordable Housing Bonus Projects with active ground floors as defined
13 in Section 145.1(b)(2) shall receive one additional foot of height, up to a maximum of an additional five
14 feet at the ground floor, exclusively to provide a minimum 14-foot (floor to ceiling) ground floor ceiling
15 height.

16 (5) **Zoning Modifications.** 100 Percent Affordable Housing Bonus Projects may select
17 any or all of the following zoning modifications:

18 (A) **Rear Yard:** the required rear yard per Section 134 or any applicable
19 special use district may be reduced to no less than 20% of the lot depth or 15 feet, whichever is greater.
20 Corner properties may provide 20% of the lot area at the interior corner of the property to meet the
21 minimum rear yard requirement, provided that each horizontal dimension of the open area is a
22 minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing midblock
23 open space, if any, formed by the rear yards of adjacent properties.

24 (B) **Dwelling Unit Exposure:** The dwelling unit exposure requirements of
25 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that

1 is no less than 15 feet in every horizontal dimension, and such open area is not required to expand in
2 every horizontal dimension at each subsequent floor.

3 (C) **Off Street Loading:** No off-street loading spaces under Section 152.

4 (D) **Automobile Parking:** Up to a 100% reduction in the minimum off-street
5 residential and commercial automobile parking requirement under Article 1.5 of this Code.

6 (E) **Open Space:** Up to a 10% reduction in common open space requirements if
7 required by Section 135, but no less than 36 square feet of open space per unit.

8 (F) **Inner Courts as Open Space:** In order for an inner court to qualify as
9 useable common open space, Section 135(g)(2) requires it to be at least 20 feet in every horizontal
10 dimension, and for the height of the walls and projections above the court on at least three sides (or 75
11 percent of the perimeter, whichever is greater) to be no higher than one foot for each foot that such
12 point is horizontally distant from the opposite side of the clear space in the court. 100% Affordable
13 Housing Bonus Projects may instead provide an inner court that is at least 25 feet in every horizontal
14 dimension, with no restriction on the heights of adjacent walls. All area within such an inner court
15 shall qualify as common open space under Section 135.

16 (d) **Implementation.**

17 (1) **Application.** The following procedures shall govern the processing of a request for
18 a project to qualify as under the 100 Percent Affordable Housing Bonus Program.

19 (A) An application to participate in the 100 Percent Affordable Housing Bonus
20 Program shall be submitted with the first application for approval of a Housing Project and processed
21 concurrently with all other applications required for the Housing Project. The application shall be
22 submitted on a form prescribed by the City and shall include at least the following information:

23 (i) A full plan set including a site plan, elevations, sections and floor
24 plans, showing total number of units, unit sizes and planned affordability levels and any applicable
25 funding sources;

1 (ii) The requested development bonuses from those listed in subsection
2 (c); and,

3 (iii) Unit size and distribution of multi-bedroom units.

4 (B) Documentation that the applicant has provided written notification to all
5 existing commercial or residential tenants that the applicant intends to develop the property pursuant
6 to this section. Any affected commercial tenants shall be given priority processing similar to the
7 Department's Community Business Priority Processing Program, as adopted by the San Francisco
8 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
9 business in concert with access to relevant local business support programs. In no case may an
10 applicant receive a site permit or any demolition permit prior to 18 months from the date of
11 written notification required by this subsection.

12 (2) Conditions. Entitlements of 100 Percent Affordable Housing Bonus Projects
13 approved under this Section shall be valid for 10 years from the date of Planning Commission or
14 Planning Department approval.

15 (3) Notice and Hearing. 100 Percent Affordable Housing Bonus Projects shall comply
16 with Section 328 for review and approval.

17 (4) Controls. Notwithstanding any other provision of this Code, no conditional use
18 authorization shall be required for a 100 Percent Affordable Housing Bonus Project, unless such
19 conditional use requirement was adopted by the voters.

20 **206.5. STATE RESIDENTIAL DENSITY BONUS PROGRAM: ANALYZED**

21 (a) Purpose: Sections 206.5, 206.6, and 206.7 shall be referred to as the San Francisco State
22 Residential Density Bonus Program or the State Density Bonus Program. First, the Analyzed State
23 Density Bonus Program in Section 206.5 offers an expedited process for projects that seek a density
24 bonus that is consistent with the pre-vetted menu of incentives, concessions and waivers that the
25 Planning Department and its consultants have already determined are feasible, result in actual cost

1 reductions, and do not have specific adverse impacts upon public health and safety of the physical
2 environment. Second the Individually Requested State Density Bonus Program in Section 206.6 details
3 the review, analysis and approval process for any project seeking a density bonus that is consistent
4 with State Law, but is not consistent with the requirements for the Analyzed State Density Bonus
5 Program established in Section 206.5. Third, Sections 206.7, describes density bonuses available
6 under the State code for the provision of childcare facilities.

7 This Section 206.5 implements the Analyzed State Density Bonus Program or “Analyzed State
8 Program.” The Analyzed State Program offers an expedited process for projects that seek a density
9 bonus that is consistent with, among other requirements set forth below, the pre-vetted menu of
10 incentives, waiver and concessions.

11 **(b) Applicability:**

12 (1) A Housing Project that meets all of the requirements of this subsection (b)(1) or is a
13 Senior Housing Project meeting the criteria of (b)(2) shall be an Analyzed State Density Bonus Project
14 or an “Analyzed Project” for purposes of Section 206 et seq. A Housing Project that does not meet all
15 of the requirements of this subsection (b), but seeks a density bonus under State law may apply for a
16 density bonus under Section 206.6 as an Individually Requested State Density Bonus Project. To
17 qualify for the Analyzed State Density Bonus Program a Housing Project must meet all of the
18 following:

19 (A) contain five or more residential units, as defined in Section 102, not
20 including any Group Housing as defined in Section 102, efficiency dwelling units with reduced square
21 footage defined in Section 318, and Density Bonus Units permitted through this Section 206.5 or other
22 density program;

23 (B) is not seeking and receiving a density or development bonus under Section
24 207; the Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent Affordable Housing
25

1 Bonus Program, Section 206.4; or any other local or State density bonus program that provides
2 development bonuses;

3 (C) for projects located in Neighborhood Commercial Districts is not seeking to
4 merge lots that result in more than 125 in lot frontage on any one street;

5 (D) is located in any zoning district that: (i) is not designated as an RH-1 or
6 RH-2 Zoning District; (ii) establishes a maximum dwelling unit density through a ratio of number of
7 units to lot area, including but not limited to, RH-3, RM, RC, C-2, Neighborhood Commercial, Named
8 Neighborhood Commercial, Chinatown Mixed Use Districts, and SoMa Mixed Use Districts, but only if
9 the SoMa Mixed Use District has a density measured by a maximum number of dwelling units per
10 square foot of lot area; (iii) is in the Fillmore Neighborhood Commercial Transit District and
11 Divisadero Neighborhood Commercial Transit District; and (D) is not in the North of Market
12 Residential Special Use District, Planning Code Section 249.5 until the Affordable Housing Incentive
13 Study is completed at which time the Board will review whether the North of Market Residential
14 Special Use District should continue to be excluded from this Program. The Study will explore
15 opportunities to support and encourage the provision of housing at the low, moderate, and middle
16 income range in neighborhoods where density controls have been eliminated. The goal of this analysis
17 is to incentivize increased affordable housing production levels at deeper and wider ranges of AMI and
18 larger unit sizes in these areas through 100% affordable housing development as well as below market
19 rate units within market rate developments; and

20 (E) is providing all Inclusionary Units as On-site Units under Section 415.6. If
21 the Dial Alternative currently proposed in an ordinance in Board of Supervisors File No. 150911 is
22 adopted and permits a project sponsor to provide more Inclusionary Units at higher AMIs than
23 currently required (referred to as “dialing up”), a project sponsor may dial up and meet the
24 requirements of this subsection (D). If the Dial Alternative of the Inclusionary Affordable Housing
25 Program is ever amended to allow a project sponsor to provide fewer Inclusionary Units at lower AMIs

1 than currently required (referred to as “dialing down”), then a Project cannot qualify for this Section
2 206.5 if it elects to dial down;

3 (F) includes a minimum of nine foot ceilings on all residential floors;

4 (G) is seeking only Concessions or Incentives set forth in subsection (c)(4);

5 (H) is seeking height increases only in the form of a waiver as described in
6 subsection (c)(5); and,

7 (I) Does not demolish, remove, or convert any residential units. ~~provides~~
8 replacement units for any units demolished or removed that are subject to the San Francisco
9 Residential Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code
10 Section 37, or are units qualifying for replacement as units being occupied by households of
11 low or very low income, consistent with the requirements of Government Code section
12 65915(c)(3).

13 (2) A Senior Housing Project, as defined in Section 102, may qualify as an Analyzed
14 State Density Bonus Project if it follows all of the procedures and conditions set forth in Planning Code
15 Section 202.2(f).

16 (c) **Development Bonuses.** All Analyzed State Law Density Bonus Projects shall receive, at the
17 project sponsor’s written request, any or all of the following:

18 (1) **Priority Processing.** Analyzed Projects that provide 30% or more of Units as On-
19 site Inclusionary Housing Units or Restricted Affordable Units that meet all of the requirements of for
20 an Inclusionary Housing Unit shall receive Priority Processing.

21 (2) **Density Bonus.** Analyzed Projects that provide On-site Inclusionary Housing Units
22 or Restricted Affordable Units that meet all of the requirements of for an Inclusionary Housing Unit
23 shall receive a density bonus as described in Table 206.5 A as follows:

24 Table 206.5A

25 Density Bonus Summary – Analyzed

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Restricted Affordable Units or Category</u>	<u>Minimum Percentage of Restricted Affordable Units</u>	<u>Percentage of Density Bonus Granted</u>	<u>Additional Bonus for Each 1% Increase In Restricted Affordable Units</u>	<u>Percentage of Restricted Units Required for Maximum 35% Density Bonus</u>
<u>Very Low Income</u>	<u>5%</u>	<u>20%</u>	<u>2.50%</u>	<u>11%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>1.50%</u>	<u>20%</u>
<u>Moderate Income</u>	<u>10%</u>	<u>5%</u>	<u>1%</u>	<u>40%</u>
<u>Senior Citizen Housing, as defined in § 102, and meeting the requirements of § 202.2(f).</u>	<u>100%</u>	<u>50%</u>	<u>-----</u>	<u>-----</u>

Note: A density bonus may be selected from more than one category, up to a maximum of 35% of the Maximum Allowable Residential Density.

In calculating density bonuses under this subsection 206.5(c)(2) the following shall apply:

(A) When calculating the number of permitted Density Bonus Units or Restricted Affordable Units, any fractions of units shall be rounded to the next highest number. Analyzed Density Bonus Program projects must include the minimum percentage of Restricted Affordable Units identified in Column B of Table 206.5A for at least one income category, but may combine density bonuses from more than one income category, up to a maximum of 35% of the Maximum Allowable Residential Density.

(B) An applicant may elect to receive a Density Bonus that is less than the amount permitted by this Section; however, the City shall not be required to similarly reduce the number of Restricted Affordable Units required to be dedicated pursuant to this Section and Government Code Section 65915(b).

1 Notes: 1. Concessions or Incentives may be selected from only one category (very low, lower, or
2 moderate) 2. Common Interest Development is defined in California Civil Code Section 4100.

3 (4) **Menu of Concessions and Incentives:** In submitting a request for Concessions or
4 Incentives, an applicant for an Analyzed State Density Bonus Project may request the specific
5 Concessions and Incentives set forth below. The Planning Department, based on Department research
6 and a Residential Density Bonus Study prepared by David Baker Architects, Seifel Consulting, and the
7 San Francisco Planning Department dated August 2015, on file with the Clerk of the Board of
8 Supervisors in File No. 150969, has determined that the following Concessions and Incentives are
9 generally consistent with Government Code Section 65915(d) because, in general, they: are required
10 in order to provide for affordable housing costs; will not be deemed by the Department to have a
11 specific adverse impact as defined in Government Code Section 65915(d); and are not contrary to State
12 or Federal law.

13 (A) **Rear yard:** the required rear yard per Section 134 or any applicable special
14 use district may be reduced to no less than 20% of the lot depth, or 15 feet, whichever is greater.
15 Corner properties may provide 20% of the lot area at the interior corner of the property to meet the
16 minimum rear yard requirement, provided that each horizontal dimension of the open area is a
17 minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing midblock
18 open space, if any, formed by the rear yards of adjacent properties.

19 (B) **Dwelling Unit Exposure:** the dwelling unit exposure requirements of
20 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that
21 is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in
22 every horizontal dimension at each subsequent floor.

23 (C) **Off-Street Loading:** off-street loading spaces under Section 152 shall not
24 be required.

1 (D) **Parking:** up to a 50% reduction in the residential and commercial parking
2 requirement, per Section 151 or any applicable special use district.

3 (E) **Open Space:** up to a 5% reduction in required common open space per
4 Section 135, or any applicable special use district.

5 (F) **Additional Open Space:** up to an additional 5% reduction in required
6 common open space per Section 135 or any applicable special use district, beyond the 5% provided in
7 subsection (E) above.

8 (5) **Waiver or Modification of Height Limits.** Analyzed Projects may request a waiver
9 of the applicable height restrictions if the applicable height limitation will have the effect of physically
10 precluding the construction of a Housing Project at the densities or with the Concessions or Incentives
11 permitted by this subsection (c)(4). Analyzed Projects may receive a height bonus as of right of up to
12 twenty feet or two stories, excluding exceptions permitted per Section 260(b), if the applicant
13 demonstrates that it qualifies for a height waiver through the following formula:

14 **Step one: Calculate Base Density and Bonus Density Limits**

15 Calculate Base Density (BD), as defined in Section 206.2.

16 Bonus Density Limit (BD): ED multiplied by 1.XX where XX is the density bonus
17 requested per Section 206.5 of this Code (e.g. 7%, 23%, 35%), not to exceed 1.35, the maximum density
18 bonus available by this Section.

19 **Step two: Calculate Permitted Envelope (PE).** Buildable envelope available under
20 existing height and bulk controls.

21 PE equals lot area multiplied by permitted lot coverage, where lot coverage equals .75,
22 or .8 if the developer elects to request a rear yard modification under Section 206.5(c)(4)(A), multiplied
23 by existing height limit (measured in number of stories), minus one story for projects in districts where
24 non-residential uses are required on the ground floor, and minus any square footage subject to bulk
25 limitations (for parcels that do not have an X bulk designation).

1 **Step three: Calculate Bonus Envelope (BE)** Residential envelope necessary to
2 accommodate additional density (“Bonus envelope” or “BE”)

3 BE equals Bonus Density multiplied by 1,000 gross square feet

4 **Step four: Calculate Additional Residential Floors.** Determine the number of stories
5 required to accommodate bonus:

6 (A) If BE is less than or equal to PE, the project is not awarded height under
7 this subsection (c)(5).

8 (B) If BE is greater than PE, the project is awarded height, as follows:

9 (i) If BE minus PE is less than the lot area multiplied by 0.75, project is
10 allowed 1 extra story; total gross square footage of building not to exceed BE;

11 (ii) If BE minus PE is greater than the lot area multiplied by 0.75 (i.e. if
12 the difference is greater than one story), project is allowed two extra stories; total gross square footage
13 of building not to exceed BE.

14 (d) **Application.** An application for an Analyzed State Density Bonus Project under this
15 Section 206.5 shall be submitted with the first application for approval of a Housing Project and shall
16 be processed concurrently with all other applications required for the Housing Project. The
17 application shall be on a form prescribed by the City and, in addition to any information required for
18 other applications, shall include the following information:

19 (1) A description of the proposed Housing Project, including the total number of
20 dwelling units, Restricted Affordable Units, and Density Bonus Units proposed;

21 (2) Any zoning district designation, Base Density, assessor's parcel number(s) of the
22 project site, and a description of any Density Bonus, Concession or Incentive, or waiver requested;

23 (3) A list of the requested Concessions and Incentives from Section 206.5(c)(4);

24 (4) If a waiver or modification of height is requested under Section 206.5(c)(5), a
25 calculation demonstrating how the project qualifies for such waiver under the formula;

1 (5) A full plan set including site plan, elevations, sections, and floor plans, number of
2 market-rate units, Restricted Affordable Units, and Density Bonus units within the proposed Housing
3 Project. The location of all units must be approved by the Planning Department before the issuance of
4 the building permit;

5 (6) Level of affordability of the Restricted Affordable Units and a draft Regulatory
6 Agreement;

7 ~~(7) The number of rental dwelling units which are on the property, or if the~~
8 ~~dwelling units have been vacated or demolished in the five year period preceding the~~
9 ~~application, have been and which were subject to a recorded covenant, ordinance, or law that~~
10 ~~restricts rents to levels affordable to persons and families of lower or very low income; subject~~
11 ~~to any other form of rent or price control through the City or other public entity's valid exercise~~
12 ~~of its police power; or occupied by lower or very low income households; and~~

13 ~~—— (8) If the property includes a parcel or parcels in which dwelling units under~~
14 ~~subsection (7) are located or were located in the five year period preceding the application,~~
15 ~~the type and size of those units, and the incomes of the persons or families occupying those~~
16 ~~units.~~

17 (9Z) Documentation that the applicant has provided written notification to all existing
18 commercial or residential tenants that the applicant intends to develop the property pursuant to this
19 section. Any affected commercial tenants shall be given priority processing similar to the
20 Department's Community Business Priority Processing Program, as adopted by the San Francisco
21 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
22 business in concert with access to relevant local business support programs. In no case may a
23 project receive a site permit or any demolition permit prior to 18 months from the date of
24 written notification required by this Section 206.5(d)(7).
25

1 (e) **Review Procedures.** An application for an Analyzed State Density Bonus Project, shall be
2 acted upon concurrently with the application for other permits related to the Housing Project.

3 (1) Before approving an application for an Analyzed Project, the Planning Department
4 or Commission shall make written findings that the Housing Project is qualified as an Analyzed State
5 Density Bonus Project.

6 (2) The review procedures for an Analyzed Project, including notice, hearings, and
7 appeal, shall be the procedures applicable to the Housing Project regardless of whether it is applying
8 for a State Density Bonus under this Section 206.5. However, any notice shall specify that the Housing
9 Project is seeking a Development Bonus and shall provide a description of the Development Bonuses
10 requested. Analyzed Projects shall also be reviewed for consistency with the Affordable Housing Bonus
11 Program Design Guidelines.

12 (f) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession, waiver, or
13 modification shall enter into a Regulatory Agreement with the City, as follows.

14 (1) The terms of the agreement shall be acceptable in form and content to the
15 Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director shall have
16 the authority to execute such agreements.

17 (2) Following execution of the agreement by all parties, the completed Density
18 Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and
19 recorded on the Housing Project.

20 (3) The approval and recordation of the Regulatory Agreement shall take place
21 prior to the issuance of the First Construction Document. The Regulatory Agreement shall be binding
22 to all future owners and successors in interest.

23 (4) The Regulatory Agreement shall be consistent with the guidelines of the
24 City's Inclusionary Housing Program and shall include at a minimum the following:
25

1 (A) The total number of dwelling units approved for the Housing Project,
2 including the number of Restricted Affordable Units, Inclusionary Units, Middle Income Units or other
3 restricted units;

4 (B) A description of the household income group to be accommodated by
5 the Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent
6 or Affordable Sales Price;

7 (C) The location, dwelling unit sizes (in square feet), and number of
8 bedrooms of the Restricted Affordable Units;

9 (D) Term of use restrictions for Restricted Affordable Units of at least 55
10 years for Moderate Income units and at least 55 years for Low and Very Low units;

11 (E) A schedule for completion and occupancy of Restricted Affordable
12 Units;

13 (F) A description of any Concession, Incentive, waiver, or modification,
14 if any, being provided by the City;

15 (G) A description of remedies for breach of the agreement (the City may
16 identify tenants or qualified purchasers as third party beneficiaries under the agreement); and

17 (H) Other provisions to ensure implementation and compliance with this
18 Section.

19 **SEC. 206.6. STATE DENSITY BONUS PROGRAM: INDIVIDUALLY REQUESTED.**

20 (a) Purpose and Findings: This Section 206.6 details the review, analysis and approval
21 process for any project seeking a density bonus that is consistent with State Law, Government Code
22 section 65915 et seq., but is not consistent with the pre-vetted menu of concessions, incentives or
23 waivers, or other requirements established in Section 206.5 as analyzed by the Planning Department in
24 coordination with David Baker and Seifel Consulting, and shall be known as the Individually Requested
25 State Density Bonus Program.

.....

1 California State Density Bonus Law allows a housing developer to request parking ratios not to
2 exceed the ratios set forth in Government Code section 65915(p)(1), which may further be reduced as
3 an incentive or concession. Because in most cases San Francisco regulates parking by dwelling unit as
4 described in Article 1.5 of this Code, the minimum parking ratios set forth in the Government Code are
5 greater than those allowed in San Francisco. Given that San Francisco’s parking ratios are already
6 less than the State ratios, the City finds that the State’s minimum parking ratio requirement does not
7 apply.

8 (b) **Applicability.** A Housing Project that does not meet any one or more of the criteria of
9 Section 206.5(b) under the Analyzed State Density Bonus Program, but meets the following
10 requirements, may apply for a Development Bonus under this Section 206.6 as an “Individually
11 Requested State Density Bonus Project” or “Individually Requested Project” if it meets all of the
12 following criteria:

13 (1) contains five or more residential units, as defined in Section 102;

14 (2) is not seeking and receiving a density or development bonus under Section 207; the
15 Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent Affordable Housing Bonus
16 Program, Section 206.4; Section 304, or any other local or state bonus program that provides
17 development bonuses.

18 (3) provides Restricted Affordable Housing Units, including but not limited to
19 Inclusionary Housing Units, at minimum levels as provided in Table 206.6A; and,

20 (4) provides replacement units for any units demolished or removed that are subject to
21 the San Francisco Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code
22 Section 37, or are units qualifying for replacement as units being occupied by households of low or
23 very low income, consistent with the requirements of Government Code section 65915(c)(3).

24 (5) Is in any zoning district except for RH-1 or RH-2, unless the Code permits the
25 development of a project of 5 units or more on a site or sites.
.....

1 (C) Each Housing Project is entitled to only one Density Bonus, which shall be
2 selected by the applicant based on the percentage of Very Low Income Restricted Affordable Units,
3 Lower Income Restricted Affordable Units, or Moderate Income Restricted Affordable Units, or the
4 Housing Project's status as a Senior Citizen Housing Development. Density bonuses from more than
5 one category may not be combined. In no case shall a Housing Project be entitled to a Density Bonus
6 of more than thirty-five percent (35%), unless it is a Senior Housing Project meeting the requirements
7 of Section 202.2(f).

8 (D) The Density Bonus Units shall not be included when determining the
9 number of Restricted Affordable Units required to qualify for a Density Bonus. Density bonuses shall
10 be calculated as a percentage of the Maximum Allowable Residential Density.

11 (E) Any Restricted Affordable Unit provided pursuant to the on-site
12 requirements of the Inclusionary Affordable Housing Program, Section 415 et seq., shall be included
13 when determining the number of Restricted Affordable Units required to qualify for a Development
14 Bonus under this Section 206.6. The payment of the Affordable Housing Fee shall not qualify for a
15 Development Bonus under this Section. The provision of Off-site Units shall not qualify the Principal
16 Project for a Density Bonus under this Section; however an Off-site Unit may qualify as a Restricted
17 Affordable Unit to obtain a density bonus for the Off-site Project.

18 (F) In accordance with state law, neither the granting of a Concession,
19 Incentive, waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in and of
20 itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

21 (G) No additional Density Bonus shall be authorized for a Senior Citizen
22 Development beyond the Density Bonus authorized by subsection (1) of this Section.

23 (H) Certain other types of development activities are specifically eligible for a
24 development bonuses pursuant to State law, including land donation under Government Code Section
25 65915(g), condominium conversions under Government Code section 65915.5 and qualifying mobile

1 home parks under Government Code section 65915(b)(1)(C). Such projects shall be considered
 2 Individually Requested State Density Bonus Projects.

3 (2) **Concessions and Incentives.** This Section includes provisions for providing
 4 Concessions or Incentives pursuant to Government Code Section 65915 et seq, as set forth in Table
 5 206.6B. For purposes of this Section 206.6, Concessions and Incentives as used interchangeably shall
 6 mean such regulatory concessions as specified in Government Code Section 65915(k) to include:

7 (A) A reduction of site Development Standards or architectural design
 8 requirements which exceed the minimum applicable building standards approved by the State
 9 Building Standards Commission pursuant to Part 2.5 (commencing with Section 18901) of Division 13
 10 of the Health and Safety Code, including, but not limited to, a reduction in setback, coverage, and/or
 11 parking requirements which result in identifiable, financially sufficient and actual cost reductions;

12 (B) Allowing mixed use development in conjunction with the proposed
 13 residential development, if nonresidential land uses will reduce the cost of the residential project and
 14 the nonresidential land uses are compatible with the residential project and existing or planned
 15 development in the area where the Housing Project will be located; and

16 (C) Other regulatory incentives or concessions proposed by the developer or the
 17 City that result in identifiable, financially sufficient, and actual cost reductions.

18 Table 206.6B

19 Concessions and Incentives Summary – Individually Requested Project

<u>Target Group</u>	<u>Restricted Affordable Units</u>		
<u>Very Low Income</u>	<u>5%</u>	<u>10%</u>	<u>15%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Moderate Income (Common Interest Development)</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Maximum Incentive(s)/Concession(s)</u>	<u>1</u>	<u>2</u>	<u>3</u>

24 Notes: 1. Concessions or Incentives may be selected from only one category (very low, lower, or
 25 moderate). 2. Common Interest Development is defined in California Civil Code Section 4100.

1 **(3) Request for Concessions and Incentives.** In submitting a request for Concessions
2 or Incentives that are not specified in Section 206.5(c)(4), an applicant for an Individually Requested
3 Density Bonus Project must provide documentation described in subsection (d) below in its application.
4 The Planning Commission shall hold a hearing and shall approve the Concession or Incentive
5 requested unless it makes written findings, based on substantial evidence that:

6 (A) The Concession or Incentive is not required in order to provide for
7 affordable housing costs, as defined in Section 50052.5 of the California Health and Safety Code, or for
8 rents for the Restricted Affordable Units to be as specified in this Section 206.6; or

9 (B) The Concession or Incentive would have a specific adverse impact, as
10 defined in Government Code Section 65589.5(d)(2) upon public health and safety or the physical
11 environment or any real property that is listed in the California Register of Historical Resources and
12 for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact
13 without rendering the Housing Project unaffordable to low- and moderate-income households.

14 (C) The Concession or Incentive would be contrary to state or federal law.

15 **(4) Waiver or Modification.** An applicant may apply for a waiver or modification of
16 Development Standards that will have the effect of physically precluding the construction of a Housing
17 Project at the densities or with the Concessions or Incentives permitted by this Section 206.6. The
18 Planning Commission will not grant a waiver or modification under this Section unless it is necessary
19 to achieve the additional density or the Concessions or Incentives permitted by this Section 206.6. The
20 developer must submit sufficient information as determined by the Planning Department demonstrating
21 that Development Standards that are requested to be waived or modified will have the effect of
22 physically precluding the construction of a Housing Project meeting the criteria of this Section 206.6 at
23 the densities or with the Concessions or Incentives permitted. The Planning Commission shall hold a
24 hearing to determine if the project sponsor has demonstrated that the waiver is necessary. The
25 Planning Commission may deny a waiver if it finds on the basis of substantial evidence that:

1 (A) It is not required to permit the construction of a Housing Project meeting the
2 density permitted or with the Concessions and Incentives permitted under this Section 206.6;

3 (B) The Waiver is not required in order to provide for affordable housing costs,
4 as defined in Section 50052.5 of the California Health and Safety Code, or for rents for the Restricted
5 Affordable Units to be as specified in this Section 206.6;

6 (C) The Waiver would have a specific adverse impact, as defined in Government
7 Code Section 65589.5(d)(2) upon public health and safety or the physical environment or any real
8 property that is listed in the California Register of Historical Resources and for which there is no
9 feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the
10 Housing Project unaffordable to low- and moderate-income households; or,

11 (D) The Waiver would be contrary to state or federal law.

12 (5) Nothing in this Section shall be construed to require the provision of direct financial
13 incentives for the Project, including the provision of publicly owned land by the City or the waiver of
14 fees or dedication requirements.

15 (d) **Application.** An application for a Density Bonus, Incentive, Concession, or waiver under
16 this Section 206.6 shall be submitted with the first application for approval of a Housing Project and
17 shall be processed concurrently with all other applications required for the Housing Project. The
18 application shall be on a form prescribed by the City and, in addition to any information required for
19 other applications, shall include the following information:

20 (1) A description of the proposed Project, and a full plan set, including a site plan,
21 elevations, section and floor plans, with the total number and location of dwelling units, Restricted
22 Affordable Units, and Density Bonus Units proposed;

23 (2) A plan set sufficient for the Planning Department to determine the project site's
24 Maximum Allowable Residential Density. The project sponsor shall submit plans for a base project
25 that demonstrates a Code complying project on the Housing Project site without use of a modification,

1 Conditional Use Authorization, Variance, Planned Unit Development, or other exception from the
2 Planning Code. Such plans shall include similar detail to the proposed Housing Project. The project
3 sponsor shall demonstrate that site constraints do not limit the Maximum Allowable Residential Density
4 for the base project in practice. If the project sponsor cannot make such a showing, the Zoning
5 Administrator shall determine whether the Maximum Allowable Residential Density shall be adjusted
6 for purposes of this Section.

7 (3) The zoning district designations, Maximum Allowable Residential Density,
8 assessor's parcel number(s) of the project site, and a description of any Density Bonus, Concession or
9 Incentive, or waiver requested;

10 (4) If a Concession or Incentive is requested that is not included within the menu of
11 Incentives/Concessions set forth in subsection 206.5(c), a submittal including financial information or
12 other information providing evidence that the requested Concessions and Incentives result in
13 identifiable, financially sufficient, and actual cost reductions required in order to provide for
14 affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the
15 Restricted Affordable Units to be provided as required under this Program. The cost of reviewing any
16 required financial information, including, but not limited to, the cost to the City of hiring a consultant
17 to review the financial data, shall be borne by the applicant. The financial information shall include all
18 of the following items:

19 (A) The actual cost reduction achieved through the Concession or Incentive;

20 (B) Evidence that the cost reduction allows the applicant to provide affordable
21 rents or affordable sales prices; and

22 (C) Any other information requested by the Planning Director. The Planning
23 Director may require any financial information including information regarding capital costs, equity
24 investment, debt service, projected revenues, operating expenses, and such other information as is
25 required to evaluate the financial information;

1 (5) If a waiver or modification is requested, a submittal containing the following
2 information. The cost of reviewing any required information supporting the request for a waiver,
3 including, but not limited to, the cost to the City of hiring a consultant to review the architectural
4 information, shall be borne by the applicant.

5 (A) Why the Development Standard would physically preclude the construction
6 of the Development with the Density Bonus, Incentives, and Concessions requested.

7 (B) Any other information requested by the Planning Director as is required to
8 evaluate the request;

9 (6) Level of affordability of the Restricted Affordable Units and a draft Regulatory
10 Agreement;

11 (7) The number of residential units which are on the property, or if the residential units
12 have been vacated or demolished in the five year period preceding the application, have been and
13 which were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to
14 persons and families of lower or very low income; subject to any other form of rent or price control
15 through the City or other public entity's valid exercise of its police power; or occupied by lower or very
16 low income households;

17 (8) If the property includes a parcel or parcels in which dwelling units under (6) are
18 located or were located in the five year period preceding the application, the type and size of those
19 units, the incomes of the persons or families occupying those units.

20 (9) Documentation that the applicant has provided written notification to all existing
21 commercial or residential tenants that the applicant intends to develop the property pursuant to this
22 section. Any affected commercial tenants shall be given priority processing similar to the
23 Department's Community Business Priority Processing Program, as adopted by the San Francisco
24 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
25 business in concert with access to relevant local business support programs.

1 (10) If a Density Bonus or Concession is requested for a land donation under
2 Government Code Section 65915(g), the application shall show the location of the land to be dedicated,
3 provide proof of site control, and provide evidence that all of the requirements and each of the findings
4 included in Government Code Section 65915(g) can be made;

5 (11) If a density bonus or Concession is requested for a Child Care Facility under
6 Section 206.7, the application shall show the location and square footage of the child care facilities
7 and provide evidence that all of the requirements and each of the findings included in Government
8 Code Section 65915(h) can be made;

9 (12) If a Density Bonus or Concession is requested for a condominium conversion, the
10 applicant shall provide evidence that all of the requirements found in Government Code Section
11 65915.5 can be met.

12 (e) **Review Procedures.** An application for a Density Bonus, Incentive, Concession, or waiver
13 shall be acted upon concurrently with the application other permits related to the Housing Project.

14 (1) Before approving an application for a Density Bonus, Incentive, Concession, or
15 waiver, for any Individually Requested Density Bonus Project, the Planning Commission shall make the
16 following findings as applicable.

17 (A) The Housing Project is eligible for the Affordable Housing Bonus Program.

18 (B) The Housing Project has demonstrated that any Concessions or Incentives
19 are required in order to provide for affordable housing costs, as defined in Section 50052.5 of the
20 California Health and Safety Code, or for rents for the targeted units, based upon the financial analysis
21 and documentation provided.

22 (C) If a waiver or modification is requested, a finding that the Development
23 Standards for which the waiver is requested would have the effect of physically precluding the
24 construction of the Housing Project with the Density Bonus or Concessions and Incentives permitted.

1 (D) If the Density Bonus is based all or in part on donation of land, a finding
2 that all the requirements included in Government Code Section 65915(g) have been met.

3 (E) If the Density Bonus, Concession or Incentive is based all or in part on the
4 inclusion of a Child Care Facility, a finding that all the requirements included in Government Code
5 Section 65915(h) have been met.

6 (F) If the Concession or Incentive includes mixed-use development, a finding
7 that all the requirements included in Government Code Section 65915(k)(2) have been met.

8 (2) If the findings required by subsection (a) of this Section cannot be made, the
9 Planning Commission may deny an application for a Concession, Incentive, waiver or modification
10 only if it makes one of the following written findings, supported by substantial evidence:

11 (A) The Concession, Incentive, waiver or modification is not required to provide
12 for the affordability levels required for Restricted Affordable Units;

13 (B) The Concession, Incentive, waiver or modification would have a specific,
14 adverse impact upon public health or safety or the physical environment or on real property listed in
15 the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate
16 or avoid the specific adverse impact without rendering the Housing Project unaffordable to Low and
17 Moderate Income households. For the purpose of this subsection, "specific adverse impact" means a
18 significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public
19 health or safety standards, policies, or conditions as they existed on the date that the application for the
20 Housing Project was deemed complete; or

21 (C) The Concession, Incentive, waiver or modification is contrary to state or
22 federal law.

23 (3) The review procedures for an Individually Requested Density Bonus Project,
24 including notice, hearings, and appeal, shall be the procedures applicable to the Housing Project
25 regardless of whether it is applying for a State Density Bonus under this Section 206.6. However, any

1 notice shall specify that the Housing Project is seeking a Development Bonus and shall provide a
2 description of the development bonuses requested. Individually Requested Projects shall also be
3 reviewed for consistency with the Affordable Housing Bonus Program Design Guidelines.

4 (4) In accordance with state law, neither the granting of a Concession, Incentive,
5 waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in and of itself, to
6 require a general plan amendment, zoning change, variance, or other discretionary approval.

7 (f) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession, waiver, or
8 modification shall enter into a Regulatory Agreement with the City, as follows.

9 (1) The terms of the agreement shall be acceptable in form and content to the Planning
10 Director, the Director of MOHCD, and the City Attorney. The Planning Director shall have the
11 authority to execute such agreements.

12 (2) Following execution of the agreement by all parties, the completed Density Bonus
13 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and
14 recorded on the Housing Project.

15 (3) The approval and recordation of the Regulatory Agreement shall take place prior to
16 the issuance of the First Construction Document. The Regulatory Agreement shall be binding to all
17 future owners and successors in interest.

18 (4) The Regulatory Agreement shall be consistent with the guidelines of the City's
19 Inclusionary Housing Program and shall include at a minimum the following:

20 (A) The total number of dwelling units approved for the Housing Project,
21 including the number of Restricted Affordable Units, Inclusionary Units, Middle Income Units or
22 other restricted units;

23 (B) A description of the household income group to be accommodated by the
24 Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent or
25 Affordable Sales Price;

1 (C) The location, dwelling unit sizes (in square feet), and number of bedrooms
2 of the Restricted Affordable Units;

3 (D) Term of use restrictions for Restricted Affordable Units of at least 55 years
4 for Moderate Income units and at least 55 years for Low and Very Low units;

5 (E) A schedule for completion and occupancy of Restricted Affordable Units;

6 (F) A description of any Concession, Incentive, waiver, or modification, if any,
7 being provided by the City;

8 (G) A description of remedies for breach of the agreement (the City may identify
9 tenants or qualified purchasers as third party beneficiaries under the agreement); and

10 (H) Other provisions to ensure implementation and compliance with this
11 Section.

12 **SEC. 206.7. CHILD CARE FACILITIES.**

13 (a) For purposes of this Section 206.7, "Child Care Facility" means a child day care facility
14 other than a family day care home, including, but not limited to, infant centers, preschools, extended
15 day care facilities, and school age child care centers

16 (b) When an applicant proposes to construct a Housing Project that is eligible for a Density
17 Bonus under Section 206.6 and includes a Child Care Facility that will be located on the premises of,
18 as part of, or adjacent to, the Housing Project, all of the provisions of this Section 206.7 shall apply
19 and all of the provisions of Section 206.6 shall apply, except as specifically provided in this Section
20 206.7.

21 (c) When an applicant proposes to construct a Housing Project that is eligible for a Density
22 Bonus under Section 206.6 and includes a Child Care Facility that will be located on the premises of,
23 as part of, or adjacent to, the Housing Project, the City shall grant either:

24 (1) An additional density bonus that is an amount of square feet of residential space
25 that is equal to or greater than the square footage of the Child Care Facility; or

1 (2) An additional Concession or Incentive that contributes significantly to the economic
2 feasibility of the construction of the Child Care Facility.

3 (d) The City shall require, as a condition of approving the Housing Project, that the following
4 occur:

5 (1) The Child Care Facility shall remain in operation for a period of time that is as long
6 as or longer than the period of time during which the Affordable Units are required to remain
7 affordable. In the event the childcare operations cease to exist, the Zoning Administrator may approve
8 in writing an alternative community service use for the child care facility.

9 (2) Of the children who attend the Child Care Facility, the children of Very Low, Lower
10 and Moderate Income households shall equal a percentage that is equal to or greater than the
11 percentage of Restricted Affordable Units in the Housing Project that are required for Very Low,
12 Lower and Moderate Income households pursuant to Section 206.6.

13 (e) Notwithstanding subsections (a) and (b) above, the City shall not be required to provide a
14 density bonus or a Concession or Incentive for a child care facility if it finds, based upon substantial
15 evidence, that the community has adequate child care facilities.

16 **SEC. 206.8. AFFORDABLE HOUSING BONUS PROGRAM EVALUATION.**

17 (a) Within one year from the effective date of Section 206 and following, the Planning
18 Department shall provide an informational presentation to the Planning Commission, and any other
19 City agency at their request, presenting an overview of all projects that request or receive development
20 bonuses under the Local Affordable Housing Bonus Program, the 100 Percent Affordable Housing
21 Bonus Program and the Analyzed and Individually Requested State Density Bonus Program (“the
22 Bonus Programs”).

23 (b) Annual Reporting. The Planning Department shall include information on projects which
24 request and receive development bonuses under the Bonus Programs in any relevant Department

1 publications regarding the development of housing in San Francisco, including, but not limited to, the
2 Quarterly Pipeline Report, the Housing Inventory and the Housing Balance Report.

3 - (c) Data Report. The Planning Department, in coordination with MOHCD, shall prepare a
4 Data Report reviewing the Bonus Programs every five years, beginning five years from the Effective
5 Date of Section 206 and following. This report shall include, but not be limited to, information on the:

6 - (1) number of projects utilizing the Bonus Programs;

7 - (2) number of units approved and constructed under the Bonus Programs and the AMI
8 levels of such units;

9 - (3) number of additional affordable units in excess of that otherwise required by Section
10 415;

11 - (4) geographic distribution of projects, including the total number of units in each
12 project, utilizing the Bonus Programs;

13 - (5) number of larger unit types, including the number of 3 bedroom units;

14 - (6) square feet of units by bedroom count;

15 - (7) number of projects with 9 or fewer units that participate; and

16 - (8) Number of appeals of projects in the Program and stated reason for appeal.

17 (d) Program Evaluation and Update:

18 (1) Purpose and Contents. In coordination with the Data Report, the Department shall
19 prepare a Program Evaluation and Update. The Program Evaluation and Update shall include an
20 analysis of the Bonus Programs effectiveness as it relates to City policy goals including, but not limited
21 to Proposition K (2014) and the Housing Element. The Program Evaluation and Update shall include
22 a review of all of the following:

23 (A) Target income levels for the Local Affordable Housing Bonus Program in
24 relation to market values and assessed affordable housing needs.

1 (B) Feasibility of the Local Affordable Housing Bonus Program, in relations to
2 housing policy goals, program production, and current market conditions.

3 (C) Requested and granted concessions and incentives, including consideration
4 of whether the menu of zoning modification or concessions and incentives set forth in Section
5 206.3(d)(4), 206.4(c)(5) and 206.5(c)(4) respond to the needs of projects seeking approvals under the
6 Bonus Programs; consideration of whether the elected zoning modifications or incentives and
7 concessions result in a residential project that responds to the surrounding neighborhood context; and
8 review and recommendation for additions or modifications to the list of zoning modifications or
9 concessions and incentives in 206.3(d)(4), 206.4(c)(5) and 206.5(c)(4).

10 (D) Geography and neighborhood specific considerations. Review and analysis
11 of where Bonus Program projects are proposed and approved, including an analysis of land values,
12 zoning, height controls and neighborhood support.

13 (E) Review of the process for considering projects under the Program, including
14 a review of Section 328, the appeal process, Section 303(s) and other relevant process
15 considerations.

16 (F) Review and recommendations for additional provisions regarding the
17 protection of neighborhood-serving small businesses, including feasibility of providing
18 relocation assistance and requiring rights of first refusal to displaced tenants.

19 (2) Public Hearing: The Program Evaluation and Update shall be prepared no less
20 than every five years, beginning five years from the Effective Date of this Ordinance, and may be
21 completed as a series of reports and in coordination with ongoing monitoring of affordable housing
22 policies, or feasibility analyses. The Planning Commission shall hold a hearing on the Program
23 Evaluation and Update and any recommendations for modification to any of the Bonus Programs.

1 Section 3. The Planning Code is hereby amended by adding Sections 328, to read as
2 follows:

3 **SEC. 328. LOCAL AND 100 PERCENT AFFORDABLE HOUSING BONUS PROJECT**
4 **AUTHORIZATION**

5 *(a) Purpose. The purpose of this Section is to ensure that all Local and 100 Percent*
6 *Affordable Housing Bonus projects under Section ~~206.3~~ or 206.4 are reviewed in coordination with*
7 *priority processing available for certain projects with greater levels of affordable housing. While most*
8 *projects in the Program will likely be somewhat larger than their surroundings in order to facilitate*
9 *higher levels of affordable housing, the Planning Commission and Department shall ensure that each*
10 *project is consistent with the Affordable Housing Bonus Design Guidelines and any other applicable*
11 *design guidelines, as adopted and periodically amended by the Planning Commission, so that projects*
12 *respond to their surrounding context, while still meeting the City's affordable housing goals.*

13 *(b) Applicability. This section applies to all qualifying Local and 100 Percent Affordable*
14 *Housing Bonus Projects that meet the requirements described in Planning Code Sections ~~206.3~~ or*
15 *206.4.*

16 *(c) Planning Commission Design Review: The Planning Commission shall review and*
17 *evaluate all physical aspects of a Local or 100 Percent Affordable Housing Bonus Project at a public*
18 *hearing. The Planning Commission recognizes that most qualifying projects will need to be larger in*
19 *height and mass than surrounding buildings in order to achieve the Affordable Housing Bonus*
20 *Program's affordable housing goals. However, the Planning Commission may, consistent with the*
21 *Affordable Housing Bonus Program Design Guidelines, and any other applicable design guidelines,*
22 *and upon recommendation from the Planning Director, make minor modifications to a project to*
23 *reduce the impacts of such differences in scale.*

24 *Additionally, as set forth in subsection (d) below, the Planning Commission may grant minor*
25 *exceptions to the provisions of this Code. However, such exceptions should only be granted to allow*

1 building mass to appropriately shift to respond to surrounding context, and only when such
2 modifications do not substantially reduce or increase the overall building envelope permitted by the
3 Program under Section ~~206.3~~ or 206.4. All modifications and exceptions should be consistent with the
4 Affordable Housing Bonus Program Design Guidelines and any other applicable design guidelines. In
5 case of a conflict with other applicable design guidelines, the Affordable Housing Bonus Program
6 Design Guidelines shall prevail.

7 The Planning Commission may require these or other modifications or conditions, or
8 disapprove a project, in order to achieve the objectives and policies of the Affordable Housing Bonus
9 Program or the purposes of this Code. This review shall limited to design issues including the
10 following:

11 (1) whether the bulk and massing of the building is consistent with the Affordable
12 Housing Bonus Design Guidelines.

13 (2) whether building design elements including, but not limited to architectural
14 treatments, façade design, and building materials, are consistent with the Affordable Housing Bonus
15 Program Design Guidelines and any other applicable design guidelines.

16 (3) whether the design of lower floors, including building setback areas, commercial
17 space, townhouses, entries, utilities, and parking and loading access is consistent with the Affordable
18 Housing Bonus Program Design Guidelines, and any other applicable design guidelines.

19 (4) whether the required streetscape and other public improvements such as tree
20 planting, street furniture, and lighting are consistent with the Better Streets Plan, and any other
21 applicable design guidelines.

22 (d) **Exceptions.** As a component of the review process under this Section 328, the Planning
23 Commission may grant minor exceptions to the provisions of this Code as provided for below, in
24 addition to the development bonuses granted to the project in Section ~~206.3(d)~~ or 206.4(c). Such
25 exceptions, however, should only be granted to allow building mass to appropriately shift to respond to

1 surrounding context, and only when the Planning Commission finds that such modifications: 1) do not
2 substantially reduce or increase the overall building envelope permitted by the Program under Sections
3 206.3 or 206.4; and 2) are consistent with the Affordable Housing Bonus Design Guidelines. These
4 exceptions may include:

5 (1) Exception from residential usable open space requirements per Section 135, or any
6 applicable special use district.

7 (2) Exception from satisfaction of loading requirements per Section 152.1, or any
8 applicable special use district.

9 (3) Exception for rear yards, pursuant to the requirements of Section 134, or any
10 applicable special use district.

11 (4) Exception from dwelling unit exposure requirements of Section 140, or any
12 applicable special use district.

13 (5) Exception from satisfaction of accessory parking requirements per Section 152.1, or
14 any applicable special use district.

15 (6) Where not specified elsewhere in this Subsection (d), modification of other Code
16 requirements that could otherwise be modified as a Planned Unit Development (as set forth in Section
17 304), irrespective of the zoning district in which the property is located.

18 (e) **Required Findings.** If a ~~Local Affordable Housing Bonus Program Project or 100~~
19 Percent Affordable Housing Bonus Project otherwise requires a conditional use authorization due only
20 to 1) a specific land use, 2) use size limit, or 3) requirement adopted by the voters, then the Planning
21 Commission shall make all findings and consider all criteria required by this Code for such use or use
22 size as part of this ~~Local and~~ 100 Percent Affordable Housing Bonus Project Authorization.

23 (f) **Hearing and Decision.**

24 (1) **Hearing.** The Planning Commission shall hold a public hearing for all projects that
25 are subject to this Section.

1 (2) **Notice of Hearing.** Notice of such hearing shall be provided pursuant to the same
2 requirements for Conditional Use requests, as set forth in Section 306.3 and 306.8.

3 (3) **Director’s Recommendations on Modifications and Exceptions.** At the hearing,
4 the Planning Director shall review for the Commission key issues related to the project based on the
5 review of the project pursuant to Subsection (c) and recommend to the Commission modifications, if
6 any, to the project and conditions for approval as necessary. The Director shall also make
7 recommendations to the Commission on any proposed exceptions pursuant to Subsection (d).

8 (4) **Decision and Imposition of Conditions.** The Commission, after public hearing and,
9 after making appropriate findings, may approve, disapprove or approve subject to conditions, the
10 project and any associated requests for exception. As part of its review and decision, the Planning
11 Commission may impose additional conditions, requirements, modifications, and limitations on a
12 proposed project in order to achieve the objectives, policies, and intent of the General Plan or of this
13 Code.

14 (5) **Appeal.** The decision of the Planning Commission may be appealed to the Board of
15 Appeals by any person aggrieved within 15 days after the date of the decision by filing a written notice
16 of appeal with that body, setting forth wherein it is alleged that there was an error in the interpretation
17 of the provisions of this Code or abuse of discretion on the part of the Planning Commission.

18 (6) **Discretionary Review.** No requests for discretionary review shall be accepted by
19 the Planning Department or heard by the Planning Commission for projects subject to this Section.

20 (7) **Change of Conditions.** Once a project is approved, authorization of a change in
21 any condition previously imposed by the Planning Commission shall require approval by the Planning
22 Commission subject to the procedures set forth in this Section.

23
24 Section 4. The Planning Code is hereby amended by amending Section 303, to read
25 as follows:

1 SEC. 303. CONDITIONAL USES.

2 *****

3 (s) Local Affordable Housing Bonus Projects. The purpose of this Section is to ensure
4 that all Local Affordable Housing Bonus Projects under Section 206.3 are reviewed in
5 coordination with priority processing available for certain projects with greater levels of
6 affordable housing. While most projects in the Program will likely be somewhat larger than
7 their surroundings in order to facilitate higher levels of affordable housing, the Planning
8 Commission and Department shall ensure that each project is consistent with the Affordable
9 Housing Bonus Design Guidelines and any other applicable design guidelines, as adopted
10 and periodically amended by the Planning Commission, so that projects respond to their
11 surrounding context, while still meeting the City's affordable housing goals.

12 (1) Planning Commission Design Review: The Planning Commission shall
13 review and evaluate all physical aspects of a Local Affordable Housing Bonus Project at a
14 public hearing. The Planning Commission recognizes that most qualifying projects will need to
15 be larger in height and mass than surrounding buildings in order to achieve the Affordable
16 Housing Bonus Program's affordable housing goals. However, the Planning Commission
17 may, consistent with the Affordable Housing Bonus Program Design Guidelines, and any
18 other applicable design guidelines, and upon recommendation from the Planning Director,
19 make minor modifications to a project to reduce the impacts of such differences in scale.
20 Additionally, as set forth in subsection (2) below, the Planning Commission may grant minor
21 exceptions to the provisions of this Code. However, such exceptions should only be granted
22 to allow building mass to appropriately shift to respond to surrounding context, and only when
23 such modifications do not substantially reduce or increase the overall building envelope
24 permitted by the Program under Section 206.3. All modifications and exceptions should be
25 consistent with the Affordable Housing Bonus Program Design Guidelines and any other

1 applicable design guidelines. In case of a conflict with other applicable design guidelines, the
2 Affordable Housing Bonus Program Design Guidelines shall prevail. The Planning
3 Commission may require these or other modifications or conditions, or disapprove a project, in
4 order to achieve the objectives and policies of the Affordable Housing Bonus Program or the
5 purposes of this Code. This review shall limited to design issues including the following:

6 (A) whether the bulk and massing of the building is consistent with the
7 Affordable Housing Bonus Design Guidelines.

8 (B) whether building design elements including, but not limited to architectural
9 treatments, façade design, and building materials, are consistent with the Affordable Housing
10 Bonus Program Design Guidelines and any other applicable design guidelines.

11 (C) whether the design of lower floors, including building setback areas,
12 commercial space, townhouses, entries, utilities, and parking and loading access is consistent
13 with the Affordable Housing Bonus Program Design Guidelines, and any other applicable
14 design guidelines.

15 (D) whether the required streetscape and other public improvements such as
16 tree planting, street furniture, and lighting are consistent with the Better Streets Plan, and any
17 other applicable design guidelines.

18 (2) Exceptions. As a component of the review process under this Section 328, the
19 Planning Commission may grant minor exceptions to the provisions of this Code as provided
20 for below, in addition to the development bonuses granted to the project in Section 206.3(d).
21 Such exceptions, however, should only be granted to allow building mass to appropriately
22 shift to respond to surrounding context, and only when the Planning Commission finds that
23 such modifications: 1) do not substantially reduce or increase the overall building envelope
24 permitted by the Program under Sections 206.3; and 2) are consistent with the Affordable
25 Housing Bonus Design Guidelines. These exceptions may include:
.....

1 (A) Exception from residential usable open space requirements per Section
2 135, or any applicable special use district.

3 (B) Exception from satisfaction of loading requirements per Section 152.1, or
4 any applicable special use district.

5 (C) Exception for rear yards, pursuant to the requirements of Section 134, or
6 any applicable special use district.

7 (D) Exception from dwelling unit exposure requirements of Section 140, or any
8 applicable special use district.

9 (E) Exception from satisfaction of accessory parking requirements per Section
10 152.1, or any applicable special use district.

11 (F) Where not specified elsewhere in this Subsection (2), modification of other
12 Code requirements that could otherwise be modified as a Planned Unit Development (as set
13 forth in Section 304), irrespective of the zoning district in which the property is located.

14 (G) Exception from active ground floor use requirements under 145.1(c)(3).

15 (3) In no case may a project receive a site permit or any demolition permit prior to
16 18 months from the date of written notification required by 206.3(e)(1)(B).

17
18 Section 45. The Planning Code is hereby amended by amending Sections 250, 260,
19 and 352 to read as follows:

20 **SEC. 250. HEIGHT AND BULK DISTRICTS ESTABLISHED.**

21 (a) In order to carry out further the purposes of this Code, height and bulk districts are
22 hereby established, subject to the provisions of this Article 2.5.

23 (b) No building or structure or part thereof shall be permitted to exceed, except as
24 stated in Sections 172, ~~and~~ 188, and 206 of this Code, the height and bulk limits set forth in this
25

1 Article for the district in which it is located, including the height limits for use districts set forth
2 in Section 261.

3 * * * *

4 **SEC. 260. HEIGHT LIMITS; MEASUREMENT.**

5 (a) **Method of Measurement.** The limits upon the height of buildings and structures
6 shall be as specified on the Zoning Map, *except as permitted by Section 206*. In the measurement
7 of height ~~for purposes of such limits~~, the following rules shall be applicable:

8 * * * *

9 **SEC. 352. COMMISSION AND ZONING ADMINISTRATOR HEARING**
10 **APPLICATIONS.**

11 * * * *

12 (o) *Affordable Housing Bonus Program (Section 206 and following).* *The initial fee amount*
13 *is not to exceed 50% of the construction cost. A \$120 surcharge shall be added to the fees for a*
14 *conditional use or planned unit development to compensate the City for the costs of appeals to the*
15 *Board of Supervisors.*



<u><i>Estimated Construction Cost</i></u>	<u><i>Initial Fee</i></u>
<u><i>No construction cost, excluding extension of hours</i></u>	<u><i>\$1,012.00</i></u>
<u><i>No construction cost, extension of hours</i></u>	<u><i>\$724.00</i></u>
<u><i>Wireless Telecommunications Services (WTS)</i></u>	<u><i>\$5,061.00</i></u>
<u><i>\$1.00 to \$9,999.00</i></u>	<u><i>\$724.00</i></u>
<u><i>\$10,000.00 to \$999,999.00</i></u>	<u><i>\$724.00 plus 0.328% of cost over \$10,000.00</i></u>
<u><i>\$1,000,000.00 to \$4,999,999.00</i></u>	<u><i>\$4,033.00 plus 0.391% of cost over \$1,000,000.00</i></u>
<u><i>\$5,000,000.00 to \$9,999,999.00</i></u>	<u><i>\$19,986.00 plus 0.328% of cost over \$5,000,000.00</i></u>
<u><i>\$10,000,000.00 to \$19,999,999.00</i></u>	<u><i>\$36,701.00 plus 0.171% of cost over \$10,000,000.00</i></u>
<u><i>\$20,000,000.00 or more</i></u>	<u><i>\$54,120.00</i></u>

1 Section 56. Effective Date and Operative Effect. This ordinance shall become
2 effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance,
3 the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of
4 receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance. This
5 ordinance applies to projects that the Planning Department or Planning Commission have not
6 approved as of the effective date. For projects that have not yet submitted applications to the
7 Planning Department or other City entity, all of the provisions of the ordinance apply. The
8 Planning Department shall develop a policy to apply the provisions of this ordinance to
9 projects that have already submitted applications, but have not obtained approvals, to permit
10 such projects to amend their applications.

11
12 Section 67. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the “Note” that appears under
17 the official title of the ordinance.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 Audrey Williams Pearson
23 Deputy City Attorney

24
25
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