

1 [Planning Code - Applying Inclusionary Housing Requirements to Group Housing]

2

3 **Ordinance amending the Planning Code to clarify that the Inclusionary Affordable**  
4 **Housing Program applies to housing projects, as defined, including group housing**  
5 **projects; affirming the Planning Department’s determination under the California**  
6 **Environmental Quality Act; and making findings, including findings of consistency with**  
7 **the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

8

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

12

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

14

15 Section 1. Environmental, Planning Code, and General Plan Findings.

16

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

21

(b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
22 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
23 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board  
24 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
25 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

1 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code  
2 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
3 in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates such reasons  
4 herein by reference.

5  
6 Section 2. General Findings.

7 (a) The Board of Supervisors finds that the Inclusionary Affordable Housing  
8 Program (“Inclusionary Program”), adopted in 2002 by Ordinance No. 37-02, was originally  
9 intended to apply and has always applied to group housing projects. Ordinance No. 37-02  
10 provided that the Inclusionary Program applied to all applications for “housing projects” filed  
11 on or after June 18, 2001. The definition of “Housing project” in Ordinance No. 37-02 states  
12 that it includes a broad variety of developments “which are intended to provide long-term  
13 housing to individuals and households.” The 2002 definition specifically included group  
14 housing, among other forms of housing. The definition of “Housing project” currently found in  
15 Planning Code Section 401 has not changed in any material respect since the adoption of  
16 Ordinance No. 37-02. It continues to specifically include group housing. The Board finds that  
17 the definition of “Housing project” specifically includes group housing in a broad definition of  
18 housing to insure that all types of developments that are intended to provide long-term  
19 housing to individuals and households are subject to the requirements of the Inclusionary  
20 Program.

21 (b) The Board has learned that, at some point since the adoption of the Inclusionary  
22 Program, the Planning Department began to disregard the specific reference to group housing  
23 as a “Housing project” subject to the Inclusionary Program. It is the Board’s understanding  
24 that in reaching this conclusion the Department relied on language in the Inclusionary  
25 Program that sets a threshold of application to “10 or more units.” The Department concluded

1 that group housing is not measured in “units” and is not comprised of “dwelling units” as  
2 defined in the Planning Code. The Inclusionary Housing ordinance, however, does not use  
3 the Planning Code definition of “Dwelling Unit” that excludes group housing, but rather refers  
4 broadly to “dwelling units” as defined in the San Francisco Housing Code. That definition can  
5 include group housing that meets certain requirements. The Department’s interpretation was  
6 never formalized in a written Zoning Administrator determination under Planning Code Section  
7 307 that could have been appealed to the Board of Appeals. Thus, neither the Board nor the  
8 public were aware of the Department’s unofficial policy to exclude group housing projects from  
9 the application of the Inclusionary Program.

10 (c) To reiterate the original intent of Ordinance 37-02, the Board of Supervisors  
11 adopts this ordinance to specifically require the Planning Department and Department of  
12 Building Inspection to follow the original intent and the express language of the Planning Code  
13 to apply the Inclusionary Program to group housing and all other forms of housing intended to  
14 provide long-term housing to individuals and households.

15  
16 Section 3. The Planning Code is hereby amended by revising Section 401 to read as  
17 follows:

18 **SEC. 401. DEFINITIONS.**

19 In addition to the specific definitions set forth elsewhere in this Article, the following  
20 definitions shall govern interpretation of this Article:

21 \* \* \* \*

22 "Allowable average purchase price." A price for all affordable owned units of the size  
23 indicated below that are affordable to a household of median income as defined in this  
24 Section, adjusted for the household size indicated below as of the date of the close of escrow,  
25 except for Single Room Occupancy units and Group Housing (both as defined in Section

1 102890.88), which shall be 75% of the maximum purchase price level for studio units, and,  
 2 where applicable, adjusted to reflect the Department's policy on unbundled parking for  
 3 affordable housing units as specified in the Procedures Manual and amended from time to  
 4 time:

<i>Number of Bedrooms (or, for live/work units square foot equivalency)</i>	<i>Number of Persons in Household</i>
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

15 "Allowable average annual rent." Annual rent for an affordable rental unit of the size  
 16 indicated below that is 30 percent of the annual gross income of a household of low income  
 17 as defined in this Section, adjusted for the household size indicated below except for Single  
 18 Room Occupancy units *and Group Housing* (*both* as defined in Section 102890.88), which shall  
 19 be 75% of the maximum rent level for studio units, and, where applicable, adjusted to reflect  
 20 the Department's policy on unbundled parking for affordable housing units as specified in the  
 21 Procedures Manual and amended from time to time:

<i>Number of Bedrooms (or, for live/work units square foot equivalency)</i>	<i>Number of Persons in Household</i>
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0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

At no time can a rent increase, or can multiple rent increases within one year, exceed the percentage change in Maximum Monthly Rent levels as published by MOH from the previous calendar year to the current calendar year.

\* \* \* \*

"Housing project." Any development which ~~has~~ includes residential ~~units~~ use as defined in ~~the~~ Planning Code Section 102, including but not limited to Dwellings, Group Housing, Single Room Occupancy Units, independent living units, and other forms of development which are intended to provide long-term housing to individuals and households. "Housing project" shall not include that portion of a development that qualifies as an Institutional Use under the Planning Code. "Housing project" for purposes of the Inclusionary Housing Program shall also include the development of live/work units as defined by Section 102.13 of this Code. Housing project for purposes of the Inclusionary Housing Program shall mean all phases or elements of a multi-phase or multiple lot residential development.

"Housing unit" or "unit." A residential use dwelling unit in a Housing project as defined in San Francisco Housing Code Section 401. For the purposes of the Inclusionary Affordable Housing Program, Planning Code Section 415 et seq., and corresponding definitions in this Section 401, the use of the word "unit" will also mean bedrooms where a Group Housing or other Housing project is measured by number of bedrooms.

\* \* \* \*

1 "Maximum annual rent." The maximum rent that a housing developer may charge any  
 2 tenant occupying an affordable unit for the calendar year. The maximum annual rent for an  
 3 affordable housing unit, of the size indicated below shall be no more than 30 percent of the  
 4 annual gross income for a household of low income as defined in this Section, as adjusted for  
 5 the household size indicated below, except in the case of Single Room Occupancy units *and*  
 6 *Group Housing (both* as defined in Section 102890.88), which shall be 75% of the maximum rent  
 7 level for studio units, as of the first date of the tenancy:

<i>Number of Bedrooms (or, for live/work units square foot equivalency)</i>	<i>Number of Persons in Household</i>
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

17 At no time can a rent increase, or can multiple rent increases within one year, exceed  
 18 the percentage change in Maximum Monthly Rent levels as published by MOH from the  
 19 previous calendar year to the current calendar year.

20 "Maximum purchase price." The maximum purchase price for an affordable owned unit  
 21 of the size indicated below except in the case of Single Room Occupancy units *and Group*  
 22 *Housing (both* as defined in Section 102 890.88), which shall be 75% of the maximum purchase  
 23 price level for studio units, that is affordable to a household of moderate income, adjusted for  
 24 the household size indicated below, assuming an annual payment for all housing costs of 33  
 25

1 percent of the combined household annual gross income, a down payment recommended by  
2 MOH and set forth in the Procedures Manual, and available financing:

<i>Number of Bedrooms (or, for live/work units square foot equivalency)</i>	<i>Number of Persons in Household</i>
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

12 \* \* \* \*

13 Section 4. Effective Date; Applicability, and Retroactivity of Ordinance. This ordinance  
14 shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the  
15 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within  
16 ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the  
17 ordinance. This ordinance shall apply to all Housing projects as defined, including Group  
18 Housing projects, where the Department of Building Inspection issues the First Construction  
19 Document, as defined in San Francisco Building Code Section 107A.13.1, after May 19, 2015.  
20 Accordingly, this ordinance shall be retroactive to May 20, 2015.

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22 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under  
2 the official title of the ordinance.

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

6 By: \_\_\_\_\_  
7 Susan Cleveland-Knowles  
8 Deputy City Attorney

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