

1 [Planning, Administrative, Building Codes - Inclusionary Housing Program Updates and
2 Reductions; Development Impact Fee Reductions]

3 **Ordinance amending the Planning Code to: 1) reduce Inclusionary Affordable Housing**
4 **Program requirements for projects of 25 units or more; 2) delete Inclusionary**
5 **Affordable Housing Program requirements for projects under 25 units; 3) allow all**
6 **projects to dedicate land to the City as an alternative to payment of the Inclusionary**
7 **Affordable Housing Program fee; 4) adopt a process for projects to request a**
8 **modification to conditions of approval related to Inclusionary Affordable Housing**
9 **Program requirements; 5) delete certain Article 4 affordable housing and development**
10 **impact fees; and 6) adopt conforming amendments to various sections of the Planning**
11 **Code; amending the Building Code to reduce Planning Code Article 4 development**
12 **impact fees and allow deferral of payment of such fees; and amending the**
13 **Administrative Code to adopt conforming amendments to the requirements of the**
14 **Citywide Affordable Housing Fund; affirming the Planning Department's determination**
15 **under the California Environmental Quality Act; making public necessity, convenience,**
16 **and welfare findings under Planning Code, Section 302; and making findings of**
17 **consistency with the General Plan, and the eight priority policies of Planning Code,**
18 **Section 101.1.**

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

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

1 Section 1. Land Use and Environmental Findings.

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. 260538 and is incorporated herein by reference. The Board affirms
6 this determination.

7 (b) On June 18, 2026, the Planning Commission, in Resolution No.21923, adopted
8 findings that the actions contemplated in this ordinance are consistent, on balance, with the
9 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board
10 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
11 Board of Supervisors in File No.260538, and is incorporated herein by reference.

12 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
13 amendments will serve the public necessity, convenience, and welfare for the reasons set
14 forth in Planning Commission Resolution No. 21923, and the Board adopts such reasons as
15 its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
16 No. 260538 and is incorporated herein by reference.

17
18 Section 2. Additional Findings.

19 (a) San Francisco’s Inclusionary Affordable Housing Program is intended to help
20 address the demonstrated need for affordable housing in San Francisco. As rents and sales
21 prices for housing outpace what is affordable to the typical San Francisco family, the City
22 faces a continuing shortage of affordable housing for all but households with the highest
23 incomes. The California Association of Realtor’s “California Housing Affordability Update,” for
24 the fourth quarter of 2025, reported that the median home price in San Francisco was
25 \$1,800,000, requiring a minimum qualifying income of \$441,200 to purchase such a home.

1 San Francisco's median home prices are over twice the State of California's median of
2 \$650,000, and over four times the national median home price of \$414,900. The majority of
3 market-rate homes for sale in San Francisco are priced out of the reach of low- and moderate-
4 income households.

5 (b) San Francisco is facing a shortage of all types of housing. To meet San
6 Francisco's share of the regional need for housing between 2023-2031, the City must
7 accommodate over 82,000 units, including 46,598 units for extremely low-, very low-, low- and
8 moderate-income households. The Inclusionary Housing Program is an important part of the
9 City's overall strategy for providing affordable housing to very low-, low-, moderate-, and
10 middle-income households, and as of 2025, has created more than 3,600 units since its
11 inception. But the success of the Inclusionary Housing Program is contingent on the overall
12 feasibility of residential development. For that reason, Planning Code Section 415.10 requires
13 periodic review of the program's requirements.

14 (c) From December 2025 through April 2026, consistent with Planning Code Section
15 415.10, the Controller and the Affordable Housing Technical Advisory Committee (TAC) met
16 to conduct and review the feasibility of the City's inclusionary affordable housing obligations.
17 The Controller and the TAC studied five condominium prototypes and five rental apartment
18 prototypes, and considered key economic parameters, such as: interest rates, capitalization
19 rates, land prices, construction costs, use of the State Density Bonus law, rents, and sale
20 prices.

21 (d) The Controller and TAC found that none of the development prototypes studied
22 were financially feasible at the current inclusionary housing rates in the Planning Code. Most
23 prototypes studied had significant negative land value, indicating that the prototype would not
24 be financially feasible, even setting aside the cost of land. The prototypes, which were studied
25 because they represent the types of residential development that are common in San

1 Francisco, account for a majority of the housing production in San Francisco. The finding that
2 these 10 prototypes are not feasible suggests that residential development is, broadly
3 speaking, not financially feasible under current economic conditions at current inclusionary
4 housing rates.

5 (e) Economic conditions that render residential development infeasible threaten
6 several important policy priorities of the City, including the expansion of the City's housing
7 supply, the production of inclusionary affordable housing units, as well as the creation of jobs
8 and growth in tax revenue.

9 (f) On April 30, 2026 the Controller submitted a report to the Board of Supervisors that
10 summarizes the residential development feasibility analysis and the recommendations
11 developed by the Controller, with TAC agreement, between December 2025 and April 2026.
12 The report recommended that the City's inclusionary housing on-site rates be reduced from
13 the current interim rates of 12% - 15% to 5%, and for the fee and off-site rate be reduced from
14 the current interim rates of 20% - 20.5% to 10%, provided that the City concurrently
15 establishes a long-term source of stable funding for the production of affordable housing.

16 (g) The City's inclusionary housing requirements are an important policy lever, that, if
17 optimized, can facilitate robust and ongoing production of both market rate housing and
18 inclusionary housing. The Controller and the TAC found that the current interim citywide rates
19 directly contribute to the economic infeasibility of residential development. By reducing the
20 rates in line with the Controller and TAC's recommendation, the City will stimulate residential
21 development, increase production of inclusionary affordable housing, create jobs, and grow
22 tax revenue.

23 (h) By reducing the inclusionary housing obligation and development impact fee costs
24 of new projects, as well as projects with complete development applications, the City will
25 incentivize projects to advance into the construction phase, and swiftly provide much needed

1 market rate and below market rate housing.

2 (i) To further the financial feasibility of residential development, this ordinance deletes
3 certain Planning Code requirements for area-specific inclusionary housing fees: Market and
4 Octavia Area Plan and Upper Market Neighborhood Commercial District Affordable Housing
5 Fee (Planning Code Section 416 et seq.); Eastern Neighborhoods Area Plan Affordable
6 Housing Requirement (Section 417 et seq.); Housing Requirements for Residential
7 Development Projects in the UMU Zoning Districts of the Eastern Neighborhoods (Section
8 419 et seq.); Van Ness & Market Affordable Housing Fee (Section 424 et seq.); and
9 Divisadero Street NCT Affordable Housing Fee and Requirements (Section 428 et seq.), while
10 maintaining a higher inclusionary percentage in some locations. However, as the need for
11 affordable housing generated by new development is still unmet, the City finds there is a
12 continued need to expend area-specific inclusionary housing fees that the City previously
13 collected, as further described in the City's FY 2026-35 Capital Expenditure Plan, a copy of
14 which is on file with the Clerk of the Board of Supervisors in File No. 250233. Though the
15 Inclusionary Affordable Housing Program is not subject to the requirements of the Mitigation
16 Fee Act, California Government Code Sections 66000 et seq., nothing in this ordinance alters
17 the Board's previous findings regarding the purpose, need, and reasonable relationship
18 between the use of the fee and need for affordable housing, and the construction of new
19 market rate housing, including but not limited to the findings in Ordinance Nos. 76-16 (File No.
20 160255), 298-08 (File No. 081153); and 72-08 (File No. 071157). No funds were collected
21 under the Divisadero Street NCT Affordable Housing Fee and Requirements (Section 428 et
22 seq.).

23 (j) To further the financial feasibility of residential development, this ordinance also
24 deletes some area-specific fees for the provision of infrastructure and community facilities:
25 Van Ness & Market Neighborhood Infrastructure Fee (Section 424.5.) and the Van Ness &

1 Market Community Facilities Fee and Fund (Section 425 et seq.). However, the City finds that
2 the need for neighborhood infrastructure and community facilities generated by new
3 development in these areas is still unmet. Because the City has not collected sufficient funds
4 to develop these facilities and infrastructure, as further described in the City’s FY 2026-35
5 Capital Expenditure Plan, a copy of which is on file with the Clerk of the Board of Supervisors
6 in File No. 250233, there is a continued need to expend funds previously collected for these
7 purposes. Nothing in this ordinance alters the Board’s previous findings regarding the
8 purpose, need, and reasonable relationship between the use of these fees for infrastructure
9 and facilities and new development, including but not limited to the findings in Ordinance Nos.
10 50-15 (File No. 150149), and 193-23 (File No. 230764).

11 (k) This ordinance does not establish, increase, or impose a fee within the meaning on
12 Government Code Section 66001(a).

13 (l) On June 17, 2026, the Building Inspection Commission considered this ordinance at
14 a duly noticed public hearing pursuant to Charter Section 4.121 and Building Code Section
15 104A.2.11.2. A copy of a letter from the Secretary of the Building Inspection Commission
16 regarding the Commission’s recommendation is on file with the Clerk of the Board of
17 Supervisors in File No. 260538.

18 (m) No local findings are required under California Health and Safety Code Section
19 17958.7 for the amendments to the Building Code found in Section 8 because those
20 amendments do not regulate materials or manner of construction or repair, and instead relate
21 in their entirety to administrative procedures for implementing the code, which are expressly
22 excluded from the definition of a “building standard” by California Health and Safety Code
23 Section 18909(c).

24
25 Section 3. Articles 1 and 4 of the Planning Code are hereby amended by revising

1 Sections 102 and 401 to read as follows:

2
3 **SEC. 102. DEFINITIONS.**

4 * * * *

5 **D**

6 * * * *

7 **Development Application.** Any application for a land use authorization or entitlement,
8 whether discretionary or ministerial, including but not limited to a Project Authorization,
9 Conditional Use, Variance, Large Project Authorization, HOME-SF Project Authorization,
10 authorization pursuant to Article 3 of the Planning Code, or for any other authorization of a
11 development project required to be approved by the Planning Department, Zoning
12 Administrator, Historic Preservation Commission, or Planning Commission, that has been
13 deemed complete by the Planning Department and includes any information necessary to
14 conduct environmental review, determine Planning Code compliance, and conformity with the
15 General Plan. Unless otherwise set forth in a valid development agreement, for projects approved
16 pursuant to Administrative Code Chapter 56, Development Application shall mean an individual
17 building’s design review application, or if no design review application is required, then the first site or
18 building permit application for an individual building.

19 * * * *

20 **F**

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22 **Family.** Family shall mean Household, as defined in this Section 102.

23 **Final Approval.** Final Approval or Finally Approved shall mean (1) approval by the
24 Department’s issuance of a Planning Approval Letter; (2) approval of a project’s first Development
25 Application by the Commission, unless such approval is appealed; (3) if a project only requires a

1 building permit, Planning approval of the first site or building permit, unless such permit is appealed;
2 or (4) if the Commission approval or first site or building permit is appealed, then the final decision
3 upholding the Development Application, or first site or building permit, on the appeal by the relevant
4 City Board or Commission. For development projects with multiple buildings, including projects
5 approved pursuant to Administrative Code Chapter 56, Final Approval shall mean the Department’s
6 approval of a first site or building permit application for each building. Final Approval, or Finally
7 Approved, shall not include any modification of an approval pursuant to Section 415.10(e).

8 “**First Certificate of Occupancy.**” Either a temporary Certificate of Occupancy or a Certificate
9 of Final Completion and Occupancy under Building Code Section 109A, whichever is issued first.

10 **Fleet Charging.** Automotive Use, Non-Retail that provides electricity to electric motor
11 vehicles through one or more Electric Vehicle Charging Stations that are dedicated or
12 reserved for private parties pursuant to contract or other agreement and are not available to
13 the general public. Fleet Charging is not allowed as an accessory use to any other principal
14 use. Parcel Delivery Service activity, including unloading, sorting, and/or reloading
15 merchandise for deliveries, is prohibited as part of a Fleet Charging use.

16 * * * *

17 **P**

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19 **Plan Dimensions.** The linear horizontal dimensions of a building or structure, at a
20 given level, between the outside surfaces of its exterior walls. The “length” of a building or
21 structure is the greatest plan dimension parallel to an exterior wall or walls and is equivalent to
22 the horizontal dimension of the corresponding elevation of the building or structure at that
23 level. The “diagonal dimension” of a building or structure is the plan dimension between the
24 two most separated points on the exterior walls.

25 **Planning Approval Letter.** Written documentation from the Planning Department verifying the

1 Department’s determination that a project with a complete Development Application may apply for a
2 site or building permit.

3 **Planning Commission (Commission).** The San Francisco Planning Commission.

4 * * * *

5
6 **SEC. 401. DEFINITIONS.**

7 In addition to the specific definitions set forth in Section 102 and elsewhere in this
8 Article 4, the following definitions shall govern interpretation of this Article:

9 **A**

10 * * * *

11 “Affordable to a household.” ~~shall mean a~~ A purchase price that a household can afford
12 to pay based on an annual payment for all housing costs, as defined in the Procedures Manual
13 ~~in California Code of Regulations (“CCR”) Title 25, Section 6920~~, as amended from time to time,
14 of 33% percent of the combined household annual gross income, assuming a down payment
15 recommended by ~~the Mayor’s Office of Housing~~ MOHCD in the Procedures Manual, and
16 available financing, or a rent that does not exceed 30% percent of a household’s combined
17 annual gross income. Where applicable, the purchase price or rent may be adjusted to reflect
18 the absence or existence of a parking space(s), subject to the Department’s policy on
19 ~~unbundled~~ parking for affordable housing units as specified in the Procedures Manual and
20 amended from time to time.

21 “Affordable to Qualifying Households.”

22 (A) With respect to Owned Units, the ~~average~~ purchase price on the initial sale
23 of all Owned Units in a housing project shall not exceed the allowable ~~average~~ purchase price.
24 Each unit shall be sold:

- 25 (i) Only to first-time homebuyer households, as defined in this Section;

1 (ii) Only to households with an annual gross income equal to or less than
2 the qualifying income limits ~~for a household of moderate income~~, adjusted for household size,
3 except for the exceptions set forth in Section 415.8(a)(4)(C), (D), and (E);

4 (iii) Only to households that meet the household size requirements, as
5 defined in the Procedures Manual;

6 (iv) On the initial sale, at or below the maximum purchase price, as
7 defined in this Section;

8 (v) On subsequent sales at or below the prices to be determined
9 according to the formula specified in the Procedures Manual in place at the time of the
10 purchase of the Owned Unit, as amended from time to time, such that the units remain
11 affordable for the life of the project. The formula in the Procedures Manual shall permit the
12 seller to include certain allowable capital improvements in the new maximum purchase price.
13 ~~The formula shall include a per unit cap on capital improvements of 10% of the resale price in order to~~
14 ~~maintain affordability. Special Assessments shall be added to the resale price at an uncapped rate.~~
15 Capital improvement requests shall be evaluated by ~~the Mayor's Office of Housing~~ MOHCD
16 according to the ~~formula policies~~ specified in the Procedures Manual.

17 (B) With respect to Rental Units, the ~~average~~ annual rent shall not exceed the allowable
18 ~~average~~ annual rent. Each unit shall be rented:

19 (i) Only to households with an annual gross income equal to or less than
20 qualifying limits ~~for a household of lower income~~ adjusted for household size, as defined in this
21 Section, except for the exceptions set forth in Section 415.8(a)(4)(A) and (B);

22 (ii) Only to households that meet the household size requirements, as
23 defined in the Procedures Manual;

24 (iii) At or less than the maximum annual rent according to policies specified
25 in the Procedures Manual.

1 “Allowable ~~average~~ purchase price.” A price for all Owned Units ~~of the size indicated below~~
 2 that ~~are~~ is affordable to a household of median income as defined in this Section, adjusted for
 3 the household size indicated below as of the date of the close of escrow, except for Single
 4 Room Occupancy units and Group Housing units that are less than 350 square feet (both as
 5 defined in Section 102), which shall be 75% of the maximum purchase price level for studio
 6 units, and, where applicable, adjusted to reflect the Department’s policy on ~~unbundled~~ parking
 7 for affordable housing units as specified in the Procedures Manual and amended from time to
 8 time.;

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

17 “Allowable ~~average~~ annual rent.” Annual rent for a Rental Unit ~~of the size indicated below~~
 18 that is 30% of the annual gross income of a ~~household~~ Household of low income as defined in
 19 this Section 401, adjusted for the household size indicated below except for Single Room
 20 Occupancy units and Group Housing units that are less than 350 square feet (both as defined
 21 in Section 102), which shall be 75% of the maximum rent level for studio units, and, where
 22 applicable, adjusted to reflect the Department’s policy on ~~unbundled~~ parking for affordable
 23 housing units as specified in the Procedures Manual and amended from time to time.;

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

7
8 At no time can a rent increase, or can multiple rent increases within one year, exceed
9 the percentage change in Maximum Monthly Rent levels as published by MOHCD from the
10 previous calendar year to the current calendar year.

11 *“Alternative.” A method of compliance with Section 415.1 et seq., which shall include payment*
12 *of the Affordable Housing fee, the provision of Affordable Units On-site, the dedication of land to the*
13 *City, or the provision of Affordable Units Off-site.*

14 “Area Median Income” or “AMI.” The unadjusted median income levels *published by*
15 *MOHCD* derived *in part* from the Department of Housing and Urban Development (“HUD”) on
16 an annual basis for the San Francisco area, adjusted solely for household size, but not high
17 housing cost area.

18 “Annual gross income.” Gross income as defined in ~~*CCR*~~ *Title 25 of the California Code*
19 *of Regulations*, Section 6914, as amended from time to time; *provided however that MOHCD may*
20 *develop and apply a different definition to promote consistency with other regulatory requirements ;*
21 ~~*except that MOHCD may, in order to promote consistency with the procedures of the San Francisco*~~
22 ~~*Redevelopment Agency, develop an asset test that differs from the State definition*~~ if it publishes that
23 test in the Procedures Manual.

24 “Annual net income.” Net income as defined in Title 25 of the California Code of
25 Regulations, Section 6916.

1 "Area Plan Impact Fee." ~~shall mean a~~ A development impact fee collected by the City to
2 mitigate impacts of new development in the Area Plans of the San Francisco General Plan,
3 under Article 4 of the Planning Code.

4 ~~"Average annual rent." The total annual rent for the calendar year charged by a housing~~
5 ~~project for all Rental Units in the project of an equal number of bedrooms divided by the total number~~
6 ~~of Affordable Units in the project with that number of bedrooms.~~

7 ~~"Average purchase price." The purchase price for all Owned Units in an affordable housing~~
8 ~~project of an equal number of bedrooms divided by the total number of Affordable Units in the project~~
9 ~~with that number of bedrooms.~~

10 * * * *

11 **D**

12 "Dedicated." Legally transferred to the City and County of San Francisco, including all
13 relevant legal documentation, at no cost to the City.

14 "Dedicated site." The portion of site proposed to be legally transferred at no cost to the
15 City and County of San Francisco under the requirements of this section.

16 "Designated affordable housing zones." For the purposes of implementing the Eastern
17 Neighborhoods Community Improvements Fund, shall mean the Mission Street NCT defined
18 in Section 754.

19 "Designated Child Care Unit." As defined in Section 102.

20 "Development Application." ~~As defined in Section 102. shall mean any application for a~~
21 ~~building permit, site permit, Conditional Use, Variance, Large Project Authorization, or any~~
22 ~~application pursuant to Planning Code Sections 309, 309.1, or 322 or any application to the Planning~~
23 ~~Department for ministerial approval pursuant to state law, including but not limited to California~~
24 ~~Government Code Sections 65913.4, 65650 et seq., or 65912.100 et seq.~~

25 * * * *

1 "Director of Transportation." The Director of Transportation of the MTA or ~~his or her~~ their
2 designee(s).

3 * * * *

4 **F**

5 "Final Approval." As defined in Section 102.~~For the purposes of this Section 401 shall mean (1)~~
6 ~~approval of a project's first Development Application, unless such approval is appealed; or (2) if a~~
7 ~~project only requires a building permit, planning approval of the first site or building permit, unless~~
8 ~~such permit is appealed; or (3) if the first Development Application or first site or building permit is~~
9 ~~appealed, then the final decision upholding the Development Application, or first site or building~~
10 ~~permit, on the appeal by the relevant City Board or Commission~~

11 "First Certificate of Occupancy." As defined in Section 102.~~Either a temporary Certificate of~~
12 ~~Occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building~~
13 ~~Code Section 109A, whichever is issued first.~~

14 "First ~~construction document~~ Construction Document." As defined in Section 107A.13.1 of
15 the San Francisco Building Code.

16 "First-time homebuyer household." At a minimum, shall be a household in which no
17 member of the qualifying household may have owned any interest in a dwelling unit for a
18 three-year period prior to applying to qualify for purchase of a unit restricted as affordable
19 under the Inclusionary Housing Program. The Procedures Manual may contain additional
20 requirements as necessary.

21 **G**

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23 **H**

24 "Hope SF Project Area." ~~shall mean an~~ An area owned by or previously owned by the
25 San Francisco Housing Authority that is currently undergoing, or planned to undergo

1 redevelopment, whereby existing affordable dwelling units will be replaced, new affordable
2 housing units will be constructed, and market-rate units may be constructed as a means to
3 cross-subsidize newly needed infrastructure and affordable units. Hope SF Project Area shall
4 include the Hunters View project, which is located within the Hunters View Special Use
5 District, the Potrero Terrace and Annex Project, which includes Assessor's Block 4367, Lots
6 004 and 004A; Block 4220A, Lot 001, Block 4222, Lot 001; and Block 4223, Lot 001; and the
7 Sunnydale/Velasco Project, which includes Assessor's Block 6310, Lot 001; Block 6311, Lot
8 001; Block 6312, Lot 001; Block 6313, Lot 001; Block 6314, Lot 001; and Block 6315, Lot 001.

9 "Household." Any person or persons who reside or intend to reside in the same
10 ~~h~~Housing unit.

11 "Household of low income:" or "low-income household." For purposes of Section 415 et
12 seq., a household whose combined annual gross income for all members does not exceed ~~55~~
13 ~~percent~~ 65% of AMI for a Rental Unit and 100% of AMI for an Owned Unit.

14 ~~"Household of median income." For purposes of Section 415 et seq., a household whose~~
15 ~~combined annual gross income for all members does not exceed 90 percent of AMI.~~

16 "Household of moderate income:" or "moderate-income household." For purposes of
17 Section 415 et seq., a household whose combined annual gross income for all members does
18 not exceed ~~110 percent~~ 90% of AMI for a Rental Unit and 120% of AMI for an Owned Unit.

19 "Housing developer." Any business entity building housing units which receives a
20 payment from a sponsor for use in the construction of the housing units. A housing developer
21 may be

- 22 (a) the same business entity as the sponsor,
- 23 (b) an entity in which the sponsor is a partner, joint ~~venturer~~ venture, or
24 stockholder, or
- 25 (c) an entity in which the sponsor has no control or ownership.

1 “Housing ~~Project~~project.” Any development which includes a Residential Use as defined
2 in Section 102 of this Code, including but not limited to Dwellings, Group Housing, Single
3 Room Occupancy Units, independent living units, and other forms of development which are
4 intended to provide long-term housing to individuals and households. “Housing ~~P~~project” shall
5 not include that portion of a development that qualifies as an Institutional Use under the
6 Planning Code. “Housing ~~P~~project” for purposes of the Inclusionary Housing Program shall
7 also include the development of Live/Work ~~u~~Units as defined by Section 102. “Housing
8 ~~P~~project” for purposes of the Inclusionary Housing Program shall mean all phases or
9 elements of a multi-phase or multiple lot residential development.

10 “Housing unit” or “unit.” A residential use in a Housing project. For the purposes of the
11 Inclusionary Affordable Housing Program, Planning Code Section 415 et seq., and
12 corresponding definitions in this Section 401, the use of the word “unit” will also mean
13 bedrooms where a Group Housing or other Housing project is measured by number of
14 bedrooms.

15 I
16 * * * *
17 L

18 “Life of the project.” The time during which the development authorized by the *Planning*
19 Department or Commission, or any modification of such development, remains in existence in
20 or upon the subject property and thereby confers benefit upon the subject property.

21 ~~“Low income.” For purposes of this Article, up to 80% of median family income for the San~~
22 ~~Francisco PMSA, as calculated and adjusted by the United States Department of Housing and Urban~~
23 ~~Development (HUD) on an annual basis, except that as applied to housing-related purposes such as the~~
24 ~~construction of affordable housing and the provision of rental subsidies with funds from the SOMA~~
25 ~~Stabilization Fund established in Section 418.7, it shall mean up to 60% of median family income for~~

1 ~~the San Francisco PMSA, as calculated and adjusted by HUD on an annual basis.~~

2 **M**

3 * * * *

4 “Market rate housing” or “market rate units.” Housing or residential units constructed in
5 the principal project that is not subject to sales or rental restrictions.

6 “Maximum annual rent.” The maximum rent that a housing developer may charge any
7 tenant occupying an affordable unit for the calendar year. The maximum annual rent for an
8 affordable housing unit ~~of the size indicated below~~ shall be no more than 30% of the annual
9 gross income for a ~~household of low income~~ Household as defined in this Section, as adjusted for
10 ~~the household size indicated below~~, except in the case of Single Room Occupancy units and
11 Group Housing units that are less than 350 square feet (both as defined in Section 102),
12 which shall be 75% of the maximum rent level for studio units, as of the first date of the
13 tenancy according to the Procedures Manual.

14

<i>Number of Bedrooms (or, for live/work units square 15 foot equivalency)</i>	<i>Number of Persons in Household</i>
<i>0 (Less than 600 square feet)</i>	<i>1</i>
<i>1 (601 to 850 square feet)</i>	<i>2</i>
<i>2 (851 to 1,100 square feet)</i>	<i>3</i>
<i>3 (1,101 to 1,300 square feet)</i>	<i>4</i>
<i>4 (More than 1,300 square feet)</i>	<i>5</i>

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23 At no time can a rent increase, or can multiple rent increases within one year, exceed
24 the percentage change in Maximum Monthly Rent levels as published by MOHCD from the
25 previous calendar year to the current calendar year in accordance with the Procedures Manual.

1 “Maximum purchase price.” The maximum purchase price for an Owned Unit, ~~of the size~~
 2 ~~indicated below~~ except in the case of Single Room Occupancy Dwelling Units ~~units and Group~~
 3 ~~Housing units~~ that are less than 350 square feet (both as defined in Section 102), which shall
 4 be 75% of the maximum purchase price level for studio units, that is affordable to a household
 5 of moderate income, adjusted for ~~the~~ household size ~~indicated below~~, assuming an annual
 6 payment for all housing costs of 33% ~~percent~~ of the combined household annual gross income,
 7 a down payment recommended by MOHCD and set forth in the Procedures Manual, ~~and~~
 8 ~~available financing:~~

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

18 “Mayor’s Office of Housing” or “MOH.” The Mayor’s Office of Housing and Community
 19 Development or its successor.

20 “Medical and Health Services.” An economic activity category under the TIDF that
 21 includes, but is not limited to, Hospital use and Social Service and Philanthropic Facility uses.

22 ~~“Middle Income Household.” Except as used in Section 415 et seq., a household whose~~
 23 ~~combined annual gross income for all members is between 120 percent and 150 percent of the local~~
 24 ~~median income for the City and County of San Francisco, as calculated by the Mayor’s Office of~~
 25 ~~Housing using data from the United States Department of Housing and Urban Development (HUD)~~

1 ~~and adjusted for household size or, if data from HUD is unavailable, as calculated by the Mayor's~~
2 ~~Office of Housing using other publicly available and credible data and adjusted for household size.~~

3 ~~“MOH.” The Mayor’s Office of Housing, or the Mayor’s Office of Housing and Community~~
4 ~~Development, or its successor.~~

5 “MOHCD.” The Mayor’s Office of Housing and Community Development, or its
6 successor.

7 “MTA.” The Municipal Transportation Agency, or its successor.

8 “Municipal Railway” ~~or~~ “MUNI.” The public transit system owned by the City and
9 under the jurisdiction of the MTA.

10 “Museum.” A permanent institution open to the public, which acquires, conserves,
11 researches, communicates and exhibits the heritage of humanity or the environment.

12 **N**

13 * * * *

14 **O**

15 “Off-site Unit.” A unit Affordable to Qualifying Households constructed pursuant to this
16 Article on a site other than the site of the Principal Project. ~~If a Housing Project is constructed in~~
17 ~~multiple phases or consists of multiple buildings, Affordable Units may be constructed in one building~~
18 ~~or phase.~~

19 “On-site Unit.” A unit Affordable to Qualifying Households constructed pursuant to this
20 Article on the site of the ~~principal project~~ Principal Project. ~~If a Housing Project is constructed in~~
21 ~~multiple phases or consists of multiple buildings, Affordable Units shall be distributed proportionally~~
22 ~~throughout the building or phase.~~

23 “Owned Unit.” A unit Affordable to Qualifying Households that is a condominium, stock
24 cooperative, tenancy in common, community apartment, or ~~detached~~ single-family home. The
25 Owner or Owners of an Owned Unit must occupy the unit as their primary residence. An

1 Owned Unit shall not be Group Housing, as defined in Section 102.

2 “Owner.” The record owner of the fee or a vendee in possession.

3 “Owner Occupied.” A qualified-income owner lives in the affordable unit as ~~his or her~~
4 their principal residence and resides in the unit for a minimum period of time set forth in the
5 Procedures Manual.

6 “Ownership Housing Project” or “Ownership Project.” A residential housing project in which
7 units are designed and intended to be sold and conveyed to occupants rather than rented, such that
8 each purchaser obtains legal title to the dwelling unit, or in the case of a stock cooperative or
9 community apartment project, a legally recognized ownership interest conferring the right to occupy a
10 specific dwelling unit. Ownership Housing Projects include, but are not limited to, projects consisting
11 of condominiums, stock cooperatives, tenancies in common, community apartments, townhomes, or
12 single-family homes. Ownership Housing Projects include all of the units in a housing development
13 including Affordable Units and Market Rate Housing.

14
15 **P**

16 “Pipeline Project.” A project that has submitted a Development Application that the
17 Department has determined to be complete, but has not been issued a First Construction Document.

18 “Principal ~~p~~Project.” A housing development on which a requirement to provide
19 affordable housing units is imposed.

20 “Principal site.” The total site proposed for development, including the portion of site
21 proposed to be legally transferred to the City and County of San Francisco.

22 “Procedures Manual.” The City and County of San Francisco Inclusionary Affordable
23 Housing Program Monitoring Procedures Manual issued by ~~the Mayor’s Office of Housing and~~
24 ~~Community Development~~ MOHCD, as amended from time to time.

25 “Program” or “Inclusionary Housing Program.” The Inclusionary Affordable Housing

1 Program as detailed in Sections 415.1 et seq. 417.

2 **Q**

3 * * * *

4 **R**

5 “Rent” or “rental.” The total charges for rent, utilities, and related housing services to
6 each household occupying an affordable unit according to policies outlined in the Procedures
7 Manual.

8 “Rental Housing Project” or “Rental Project.” A housing project consisting solely of units
9 owned by a single entity and rented to individual tenants. Rental Housing Projects include all of the
10 units in a housing development including Affordable and Market Rate Housing.

11 “Rental Unit.” A unit Affordable to Qualifying Households that is not a condominium,
12 tenancy in common, stock cooperative, or community apartment.

13 “Replacement of use.” The total amount of Gross Floor Area, as defined in Section 102
14 of this Code, to be demolished and reconstructed by a development project. For purposes of
15 calculating any impact fees, credits, or waivers under Article 4, if the Gross Floor Area to be
16 demolished has no legally established use, the replacement of use shall consider the last
17 legal use.

18 * * * *

19 **S**

20 ~~“Section 6932.” Section 6932 of Title 25 of the California Code of Regulations as such section~~
21 ~~applies to the County of San Francisco.~~

22 ~~“Significant increase in residential development potential” shall mean, for purposes of Charter~~
23 ~~Section 16.110(h) and the implementation of the Inclusionary Affordable Housing Program, for areas~~
24 ~~subject to a change in zoning enacted after November 6, 2012 that affects 40 or more acres or greater~~
25 ~~and results in a significant increase in residential development potential, where the area is not also~~

1 ~~encompassed by a Special Use District adopted after November 6, 2012:~~

2 ~~(a) a 20% or greater increase in developable residential gross floor area, as measured~~
3 ~~by a change in height limits, Floor Area Ratio limits, or use, over prior zoning, or~~

4 ~~(b) a change in use permitting Residential Uses (either as a principally permitted use or~~
5 ~~with a Conditional Use authorization) where Residential Uses were not previously principally~~
6 ~~permitted or permitted with a Conditional Use authorization, or~~

7 ~~(c) For parcels with an existing residential development capacity of 10 units or greater,~~
8 ~~the lesser of~~

9 ~~1. a 50% or greater increase in residential densities over prior zoning, or,~~
10 ~~2. an increase in density of at least 15 additional units over the number of units~~
11 ~~allowed under prior zoning.~~

12 ~~3. For the purposes of determining residential development capacity, the~~
13 ~~Planning Department shall use unit sizes and efficiency ratios typical (or the subject area at the time of~~
14 ~~the rezoning.~~

15 ~~This definition was adopted by the Board of Supervisors in Motion M13-097 and may only be~~
16 ~~amended under Charter Section 16.110(h)(1)(B)(iv).~~

17 ~~“Small Family Daycare Home.”~~ A Small Family Daycare Home is defined by California
18 Health & Safety Code Section 1596.78(c), as amended from time to time.

19 * * * *

20 **W**

21 “Waiver Agreement.” An agreement acceptable in form and substance to the City
22 Attorney and the ~~Planning~~ Department under which the City agrees to waive all or a portion of
23 the Community Improvements Impact Fee.

24
25 Section 4. Article 4 of the Planning Code is hereby amended by revising Sections

1 413.6, 414A.6, 415 (including 415.1, 415.2, 415.3, 415.4, 415.6, 415.7, 415.8, 415.9, and
2 415.10), 424.5, 425.4, and 436, and deleting Sections 415A, 415B, 416, 417, 419, 424.1 to
3 424.4, 425.1 to 425.3, and 428, to read as follows:
4

5 **SEC. 413. JOBS-HOUSING LINKAGE PROGRAM; HOUSING REQUIREMENTS**
6 **FOR LARGE-SCALE DEVELOPMENT PROJECTS.**

7 Sections 413.1 through 413.11, hereafter referred to as Section 413.1 et seq., set forth
8 the requirements and procedures for the Jobs-Housing Linkage Program. The effective date
9 of these requirements shall be either March 28, 1996, which is the date that the requirements
10 originally became effective, or the date a subsequent modification, if any, became effective.

11 * * * *

12 **SEC. 413.6. COMPLIANCE BY LAND DEDICATION.**

13 (a) **Controls.** Projects may satisfy all or a portion of the requirements of Section 413.1
14 et seq. via dedication of land to the City for the purpose of constructing units Affordable to
15 Qualifying Households. Projects may receive a credit against such requirements up to the
16 value of the land donated, calculated pursuant to subsection (b) below.

17 (b) **Requirements.**

18 (1) The value of the dedicated land shall be determined by the Director of
19 Property pursuant to Chapter 23 of the Administrative Code, but shall not exceed the actual
20 cost of acquisition by the project sponsor of the dedicated land in an arm's length transaction.
21 Prior to issuance by DBI of the ~~first site or building permit~~ First Construction Document for a
22 development project subject to Section 413.1 et seq. the sponsor shall submit to the
23 Department, with a copy to MOHCD and the Director of Property, documentation sufficient to
24 substantiate the actual cost of acquisition by the sponsor in an arm's length transaction of any
25 land to be dedicated by the sponsor to the City, and any additional information that would

1 impact the value of the land.

2 (2) Projects are subject to the requirements of Section 415.7(a)(1), (2), and (4)-
3 (9). ~~419.5(a)(2)(A) and (C)-(J).~~

4

5 **SEC. 414A.6. OPTION TO PROVIDE SMALL FAMILY CHILD CARE HOME IN LIEU**
6 **OF FEE.**

7 (a) Election to Provide Designated Child Care Units in Lieu of Residential Child Care
8 Impact Fee. Consistent with the timing to elect the option to provide On- or Off-site Units
9 under Section 415.5(~~ge~~), the sponsor of a development project subject to the requirements of
10 Sections 414A.1 et seq., may elect to fulfill all or a portion of the Residential Child Care
11 Impact Fee requirement by creating one or more Designated Child Care Units in the project,
12 as follows:

13 * * * *

14

15 **SEC. 415. HOUSING REQUIREMENTS FOR RESIDENTIAL AND LIVE/WORK**
16 **DEVELOPMENT PROJECTS.**

17 Sections 415.1 through 415.11, hereafter Section 415.1 *et seq.*, set forth the
18 requirements and procedures for the Inclusionary Affordable Housing Program (“Program” or
19 “Inclusionary Housing Program”).

20 The Planning Department and MOHCD shall periodically publish a Procedures Manual
21 containing procedures for monitoring and enforcement of the policies and procedures for
22 implementation of this Program. The Procedures Manual must be made available on the
23 Department’s web site. The Procedures Manual shall not be amended, except for an annual
24 update of the affordability housing guidelines, which reflect updated income limits, prices, and
25 rents, without approval of the Commission or as otherwise specified herein.

1 The Procedures Manual in effect at the time of initial purchase or initial rental of an
2 Affordable Unit shall govern the regulation of that unit until it is sold or re-rented unless an
3 owner or current tenant chooses to be governed by all ~~of the more up-to-date~~ provisions of the
4 then-current Procedures Manual. In that case, the owner or tenant must agree to be governed
5 by the totality of the new regulations – an owner or tenant may not pick some provisions from
6 the Procedures Manual in effect at the time of initial purchase or initial rental and some in
7 effect in the then-current Procedures Manual. If the owner or tenant chooses to be governed
8 by the then-current Procedures Manual, the owner or tenant ~~he or she~~ shall sign an agreement
9 with the City to that effect, and the Department and MOHCD shall apply all of the rules and
10 regulations in the then-current Procedures Manual to the unit.

11
12 **SEC. 415.1. FINDINGS.**

13 **Affordable Housing.** The findings in former Planning Code Section 315.2 of the
14 Inclusionary Affordable Housing Ordinance are hereby readopted and updated as follows:

15 (a) Affordable housing is a paramount statewide concern. ~~In 1980,~~ The California
16 Legislature declared in Government Code Section 65580:

17 (1) The availability of housing is of vital statewide importance, and the early
18 attainment of decent housing and a suitable living environment for every California family is a
19 priority of the highest order.

20 (2) The early attainment of this goal requires the cooperative participation of
21 government and the private sector in an effort to expand housing opportunities and
22 accommodate the housing needs of Californians of all economic levels.

23 (3) The provision of housing affordable to low-and moderate-income
24 households requires the cooperation of all levels of government.

25 (4) Local and state governments have a responsibility to use the powers vested

1 in them to facilitate the improvement and development of housing to make adequate provision
2 for the housing needs of all economic segments of the community.

3 (b) The Legislature further stated in Government Code Section 65581 that:

4 It is the intent of the Legislature in enacting this article:

5 (1) To assure that counties and cities recognize their responsibilities in
6 contributing to the attainment of the state housing goal.

7 (2) To assure that counties and cities will prepare and implement housing
8 elements which will move toward attainment of the state housing goal.

9 (3) To recognize that each locality is best capable of determining what efforts
10 are required to contribute to the attainment of the state housing goal.

11 (c) The California Legislature requires each local government agency to develop a
12 comprehensive long-term general plan establishing policies for future development. As
13 specified in the Government Code (at Sections 65300, 65302(c), and 65583(c)), the plan must
14 (1) “encourage the development of a variety of types of housing for all income levels, including
15 multifamily rental housing”; (2) “[a]ssist in the development of adequate housing to meet the
16 needs of low- and moderate-income households”; and (3) “conserve and improve the
17 condition of the existing affordable housing stock, which may include addressing ways to
18 mitigate the loss of dwelling units demolished by public or private action.”

19 (d) The Board of Supervisors adopted San Francisco’s General Plan 2022 Housing
20 Element Update in January 2023~~March 2015~~, and the California Housing and Community
21 Development Department certified it on February 1, 2023~~May 29, 2015~~. The Housing Element
22 states that San Francisco’s share of the regional housing need for years ~~2015~~ 2023 through
23 2030 ~~2022~~ includes ~~10,873~~ 32,881 housing units for extremely low, very-low and low-income
24 households and ~~5,460~~ 49,188 units for moderate and above-moderate ~~middle~~-income
25 households, and a total production of ~~28,870~~ 82,069 net new units, with almost 60% to be

1 affordable for very-low, low- and moderate/~~middle~~-income San Franciscans. The amendments to
2 the Inclusionary Housing Program found in Board File No. 260538 implement policies in the 2022
3 Housing Element Update to assess Inclusionary Housing Program requirements, including rates, tiers,
4 and density incentives, based on the Controller’s Office triennial study of financial feasibility.

5
6 **SEC. 415.2. DEFINITIONS.**

7 See Sections 102 and 401 of this *Article Code*.

8 ~~“Ownership Housing Project” shall mean a housing project consisting solely of units that are~~
9 ~~condominiums, stock cooperatives, community apartments, or detached single-family homes.~~

10 ~~Ownership Housing Projects include all of the units in a housing development including Affordable~~
11 ~~Units and Market Rate Housing.~~

12 ~~“Rental Housing Project” shall mean a housing project consisting solely of units owned by a~~
13 ~~single entity and rented to individual tenants. Rental Housing Projects include all of the units in a~~
14 ~~housing development including Affordable and Market Rate Housing.~~

15
16 **SEC. 415.3. APPLICATION.**

17 (a) Notwithstanding any other provision to the contrary in this Code, Section 415.1 et
18 seq. shall apply to any housing project that consists of ~~10~~ 25 or more units where an individual
19 project or a phased project is to be undertaken and where the total undertaking comprises a
20 project with ~~10~~ 25 or more units, even if the development is on separate but adjacent lots. This
21 provision also applies to housing projects that require~~s~~ Commission approval of replacement
22 housing destroyed by earthquake, fire, or natural disaster only where the destroyed housing
23 included units restricted under the Inclusionary Affordable Housing Program or the City’s
24 predecessor inclusionary housing policy, condominium conversion requirements, or other
25 affordable housing program.

1 ~~(b) Except as provided in subsection (3) below, any development project that has submitted a~~
2 ~~complete Environmental Evaluation application prior to January 12, 2016 shall comply with the~~
3 ~~Affordable Housing Fee requirements, the on-site affordable housing requirements or the off-site~~
4 ~~affordable housing requirements, and all other provisions of Section 415.1 et seq., as applicable, in~~
5 ~~effect on January 12, 2016. For development projects that have submitted a complete Environmental~~
6 ~~Evaluation application on or after January 1, 2013, the requirements set forth in Planning Code~~
7 ~~Sections 415.5, 415.6, and 415.7 shall apply to certain development projects consisting of 25 dwelling~~
8 ~~units or more during a limited period of time as follows.~~

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

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

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

17 ~~(C) Any development project that has submitted a complete Environmental~~
18 ~~Evaluation application on or prior to January 12, 2016 shall provide affordable units in the amount of~~
19 ~~14.5% of the number of units constructed on-site.~~

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

23 ~~(E) Notwithstanding the provisions set forth in subsections (b)(1)(A), (B) and~~
24 ~~(C) of this Section 415.3, if a development project is located in a UMU Zoning District or in the South~~
25 ~~of Market Youth and Family Zoning District, and is eligible and elects to provide on-site units pursuant~~

1 ~~to Section 415.5(g), such development project shall comply with the on-site requirements applicable~~
2 ~~within such Zoning Districts, as they existed on January 12, 2016, plus the following additional~~
3 ~~amounts of on-site affordable units: (i) if the development project has submitted a complete~~
4 ~~Environmental Evaluation application prior to January 1, 2014, the Project Sponsor shall provide~~
5 ~~additional affordable units in the amount of 1% of the number of units constructed on-site; (ii) if the~~
6 ~~development project has submitted a complete Environmental Evaluation application prior to January~~
7 ~~1, 2015, the Project Sponsor shall provide additional affordable units in the amount of 1.5% of the~~
8 ~~number of units constructed on-site; or (iii) if the development project has submitted a complete~~
9 ~~Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall~~
10 ~~provide additional affordable units in the amount of 2% of the number of units constructed on-site.~~

11 ~~(F) Any development project that has submitted a complete Environmental~~
12 ~~Evaluation application on or before January 12, 2016 and seeks to utilize a density bonus under State~~
13 ~~Law shall use its best efforts to provide on-site affordable units in the amount of 25% of the number of~~
14 ~~units constructed on-site and shall consult with the Planning Department about how to achieve this~~
15 ~~amount of inclusionary affordable housing. An applicant seeking a density bonus under the provisions~~
16 ~~of State Law shall provide reasonable documentation to establish eligibility for a requested density~~
17 ~~bonus, incentives or concessions, and waivers or reductions of development standards.~~

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

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

24 ~~(B) Any development project that has submitted a complete Environmental~~
25 ~~Evaluation application prior to January 1, 2015, shall pay a fee or provide off-site housing in an~~

1 ~~amount equivalent to 27.5% of the number of units constructed on-site.~~

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

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

8 ~~(E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and~~
9 ~~(C) of this Section 415.3, for development projects proposing buildings over 120 feet in height, as~~
10 ~~measured under the requirements set forth in the Planning Code, except for buildings up to 130 feet in~~
11 ~~height located both within a special use district and within a height and bulk district that allows a~~
12 ~~maximum building height of 130 feet, such development projects shall pay a fee or provide off-site~~
13 ~~housing in an amount equivalent to 30% of the number of units constructed on-site. Any buildings up to~~
14 ~~130 feet in height located both within a special use district and within a height and bulk district that~~
15 ~~allows a maximum building height of 130 feet shall comply with the provisions of subsections (b)(2)(A),~~
16 ~~(B) and (C) of this Section 415.3 during the limited periods of time set forth therein.~~

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

1 ~~additional land dedication or off-site affordable units, in an amount equivalent to 5% of the number of~~
2 ~~units constructed on-site; (ii) if the development project has submitted a complete Environmental~~
3 ~~Evaluation application prior to January 1, 2015, the Project Sponsor shall pay an additional fee, or~~
4 ~~provide additional land dedication or off-site affordable units, in an amount equivalent to 7.5% of the~~
5 ~~number of units constructed on-site; or (iii) if the development project has submitted a complete~~
6 ~~Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall pay~~
7 ~~an additional fee, or provide additional land dedication or off-site affordable units, in an amount~~
8 ~~equivalent to 10% of the number of units constructed on-site. Notwithstanding the foregoing, a~~
9 ~~development project shall not pay a fee or provide off-site units in a total amount greater than the~~
10 ~~equivalent of 30% of the number of units constructed on-site.~~

11 ~~(G) Any development project consisting of 25 dwelling units or more that has~~
12 ~~submitted a complete Environmental Evaluation application on or prior to January 12, 2016, and~~
13 ~~elects to provide off-site affordable housing, may provide off-site affordable housing by acquiring an~~
14 ~~existing building to fulfill all or part of the requirements set forth in this Section 415.3 and in Section~~
15 ~~415.7 with an equivalent amount of units as specified in this Section 415.3(b)(2), as reviewed and~~
16 ~~approved by the Mayor's Office of Housing and Community Development and consistent with the~~
17 ~~parameters of its Small Sites Acquisition and Rehabilitation Program, in conformance with the income~~
18 ~~limits for the Small Sites Program.~~

19 ~~(3) During the limited period of time in which the provisions of Section 415.3(b) apply,~~
20 ~~the following provisions shall apply:~~

21 ~~(A) For any housing development that is located in an area with a specific~~
22 ~~affordable housing requirement set forth in an Area Plan or a Special Use District, or in any other~~
23 ~~section of the Code such as Section 419, with the exception of the UMU Zoning District or in the South~~
24 ~~of Market Youth and Family Zoning District, the higher of the affordable housing requirement set forth~~
25 ~~in such Area Plan or Special Use District or in Section 415.3(b) shall apply;~~

1 (B) ~~Development projects that are within the Central SoMa Special Use~~
2 ~~District; that are designated as Central SoMa Development Tier A, B, or C, as defined in Section~~
3 ~~423.2; and that submitted a complete Environmental Evaluation application prior to January 12, 2016~~
4 ~~shall be subject to the affordable housing requirements set forth in Sections 415.5, 415.6, and 415.7~~
5 ~~that apply to projects that submitted a complete Environmental Evaluation Application on or after~~
6 ~~January 13, 2016 and before December 31, 2017; and~~

7 (C) ~~Any affordable housing impact fee paid pursuant to an Area Plan or Special~~
8 ~~Use District shall be counted as part of the calculation of the inclusionary housing requirements~~
9 ~~contained in Planning Code Sections 415.1 et seq. In the Divisadero Street NCT, the provisions of~~
10 ~~Section 415.3(b) shall not apply to certain sites, as set forth in the Divisadero Street NCT Affordable~~
11 ~~Housing Fee And Requirements, Planning Code Sections 428.1 et seq.~~

12 (4) ~~Any development project that constructs on-site or off-site affordable housing units~~
13 ~~as set forth in subsection (b) of this Section 415.3 shall diligently pursue completion of such units.~~

14 (A) ~~In the event the project has not been approved, which shall mean approval~~
15 ~~following any administrative appeal to the relevant City board, on or before December 7, 2018, the~~
16 ~~development project shall comply with the inclusionary affordable housing requirements set forth in~~
17 ~~Sections 415.5, 415.6, and 415.7, as applicable. Such deadline shall be extended in the event of any~~
18 ~~litigation seeking to invalidate the City's approval of such project, for the duration of the litigation.~~

19 (B) ~~In the event the project has been approved on or before December 7, 2018,~~
20 ~~but the project sponsor does not procure a building permit or site permit for construction of the~~
21 ~~affordable housing units within 18 months of the project's approval, or by December 7, 2018,~~
22 ~~whichever is later, the development project shall comply with the inclusionary affordable housing~~
23 ~~requirements set forth in Section 415.5, 415.6, and 415.7 as applicable. Such deadline shall be~~
24 ~~extended in the event of any litigation seeking to invalidate the City's approval of such project, for the~~
25 ~~duration of the litigation. For purposes of this subsection (B), the date of approval shall be the date of~~

1 ~~any administrative appeal to the relevant City board.~~

2 ~~(c) The new inclusionary affordable housing requirements contained in Sections 415.5, 415.6,~~
3 ~~and 415.7, as well as the provisions contained in Section 415.3(b), shall not apply to (1) any mixed use~~
4 ~~project that is located in a special use district for which a height limit increase has been approved by~~
5 ~~the voters prior to January 12, 2016 to satisfy the requirements of Administrative Code Section 61.5.1,~~
6 ~~or (2) any mixed use project that has entered into a development agreement or other similar binding~~
7 ~~agreement with the City on or before January 12, 2016, or (3) any housing development project that~~
8 ~~has procured a final first discretionary development entitlement approval, which shall mean approval~~
9 ~~following any administrative appeal to the relevant City board, on or before January 12, 2016. The~~
10 ~~inclusionary housing requirements for these projects shall be those requirements contained in the~~
11 ~~projects' existing approvals.~~

12 ~~(d) Notwithstanding the provisions set forth in Section 415.3(b), or the inclusionary affordable~~
13 ~~housing requirements contained in Sections 415.5, 415.6, and 415.7, such requirements shall not apply~~
14 ~~to any project, consisting of 25 dwelling units or more, that has not submitted a complete~~
15 ~~Environmental Evaluation Application on or before January 12, 2016, if the project is located within~~
16 ~~the Eastern Neighborhoods Mission Planning Area, the North of Market Residential Special Use~~
17 ~~District Subarea 1 or Subarea 2, or the SOMA Neighborhood Commercial Transit District, because~~
18 ~~inclusionary affordable housing levels for those areas will be addressed in forthcoming area plan~~
19 ~~processes or an equivalent community planning process. Until such planning processes are complete~~
20 ~~and new inclusionary housing requirements for projects in those areas are adopted, projects consisting~~
21 ~~of 25 units or more shall (1) pay a fee or provide off-site housing in an amount equivalent to 30% if the~~
22 ~~Principal Project is a Rental Housing Project, or 33% if the Proposed Project is an Ownership~~
23 ~~Housing Project, or (2) provide Affordable Units in the amount of 25% of the number of units~~
24 ~~constructed on-site in a Rental Housing Project, or 27% of the number of units constructed on-site in~~
25 ~~an Ownership Housing Project. For Rental Housing Projects, 15% of the on-site Affordable Units shall~~

1 ~~be affordable to low income households, 5% shall be affordable to moderate-income households and~~
2 ~~5% shall be affordable to middle-income households. For Ownership Housing Projects, 15% of the on-~~
3 ~~site Affordable Units shall be affordable to low income households, 6% shall be affordable to~~
4 ~~moderate-income households and 6% shall be affordable to middle-income households.~~

5 ~~(e) The City may continue to enter into development agreements or other similar binding~~
6 ~~agreements for projects that provide inclusionary affordable housing at levels that may be different~~
7 ~~from the levels set forth in Sections 415.1 et seq.~~

8 ~~(f)(b)~~ Section 415.1 et seq., the Inclusionary Housing Program, shall not apply to:

9 (1) That portion of a housing project located on property owned by the United
10 States or any of its agencies or leased by the United States or any of its agencies, for a period
11 in excess of 50 years, with the exception of such property not used exclusively for a
12 governmental purpose;

13 (2) That portion of a housing project located on property owned by the State of
14 California or any of its agencies, with the exception of such property not used exclusively for a
15 governmental or educational purpose; or

16 (3) That portion of a housing project located on property under the jurisdiction of
17 the San Francisco Office of Community Investment and Infrastructure or the Port of San
18 Francisco where the application of Section 415.1 et seq. is prohibited by California or local
19 law.

20 (4) A ~~100% affordable~~ housing project in which 100% of the residential units satisfy
21 the requirements under Section 406(b)(1)(A)-(C), excluding a unit reserved for the manager of the
22 project. rents are controlled or regulated by any government unit, agency or authority, excepting those
23 unsubsidized and/or unassisted units which are insured by the United States Department of Housing
24 and Urban Development. The project sponsor shall obtain a certification from MOHCD Mayor's
25 Office of Housing and Community Development must representing to the Planning Commission or

1 Planning Department that the project ~~meets~~ satisfies this requirement, subject to the following:-

2 (A) **Affordability Restrictions.** If a Housing Project ~~project sponsor takes~~
3 ~~advantage~~ satisfies the requirements of this ~~Subsection~~ subsection (b)(4), ~~all of~~ the rules and
4 regulations of the relevant programs or recorded documents guaranteeing the affordability of
5 the units shall govern the units and the requirements of this Program shall not apply.

6 (B) **Conditions.** In order to qualify for this provision, the project sponsor
7 ~~must~~ shall record an NSR against the property that provides that, in the event of foreclosure or
8 for any other reason, the project no longer qualifies as a project meeting the requirements of
9 ~~S~~subsection (b)(4) the project will either:

10 (i) pay the Affordable Housing Fee plus interest from the date the
11 project received its ~~first~~ First Certificate of Occupancy ~~construction document for the project~~ if no
12 affordable units were ever provided or, if affordable units were provided and occupied, then
13 the Affordable Housing Fee with no interest is due on the date the units were no longer
14 occupied by qualifying households; or

15 (ii) provide the required number of on-site affordable units
16 required by this Section 415.1 et seq. at time of original project approval and subject that those
17 units ~~shall be subject~~ to all ~~of the~~ requirements of this Program.

18 (C) **Recordation.** In the event that there is a foreclosure or other event
19 triggering the requirements of ~~Subsection~~ subsection (b)(4)(B) above, the project sponsor shall
20 record a new NSR specifying the manner in which it complies with this Program, including but
21 not limited to any specific units restricted as affordable under (B)(ii). The new NSR shall
22 provide that the units must comply with all of the requirements of this Program.

23 (5) A Student Housing project that meets all of the following criteria:

24 (A) The building or space conversion does not result in loss or
25 conversion of existing housing, including but not limited to rental housing and dwelling units;

1 (B) An institutional master plan (IMP) pursuant to Section 304.5, when
2 required, is on file with the Planning Department prior to the issuance of any building permit or
3 alteration permit in connection with the creation of the Student Housing project, and, in
4 addition to the requirements of Section 304.5, such IMP shall describe:

- 5 (i) to the extent such information is available, the type and location
6 of housing used by its students;
- 7 (ii) any plans for the provision of Student Housing;
- 8 (iii) the Educational Institution's need for student housing to
9 support its program; and
- 10 (iv) the percentage of its students, on an average annual basis,
11 that receive some form of need-based assistance.

12 ~~(C) MOHCD is authorized to monitor the Student Housing program described~~
13 ~~in this subsection (f)(5) and shall develop a monitoring form. An annual monitoring fee of \$792 per~~
14 ~~building exempted from the Inclusionary Housing Program pursuant to this Section 415.3(f)(5) shall be~~
15 ~~paid to MOHCD by the owner of the real property or the Post-Secondary Educational Institution or~~
16 ~~Religious Institutions, as defined in Section 102 of this Code. Beginning with the setting of fees for~~
17 ~~fiscal year 2018-2019, the Controller shall annually adjust the base monitoring fee amount referenced~~
18 ~~in this subsection (f)(5)(C) without further action by the Board of Supervisors, to reflect changes in the~~
19 ~~two-year average Consumer Price Index (CPI) change for the San Francisco/San Jose Primary~~
20 ~~Metropolitan Area (PMSA). This process shall occur as follows:~~

- 21 ~~(i) No later than April 15 of each year, MOHCD shall submit the current~~
22 ~~monitoring fee to the Controller, who shall apply the CPI adjustment to produce a new monitoring fee~~
23 ~~for the fiscal year beginning July 1. No later than May 15 of each year, the Controller shall file a~~
24 ~~report with the Board of Supervisors reporting the new monitoring fee and certifying that the fees to be~~
25 ~~collected will produce sufficient revenue to support the costs of providing the services for which the fee~~

1 ~~is charged and will not produce revenue that exceeds the costs of providing the services for which the~~
2 ~~fee is paid.~~

3 ~~(ii) No later than July 1 of each year, MOHCD will publish on its~~
4 ~~website the current monitoring fee amount inclusive of the annual adjustment, and also make the fee~~
5 ~~amount available upon request at MOHCD's main office.~~

6 ~~(D) The owner of the real property and each Post-Secondary Educational~~
7 ~~Institution or Institutions shall agree to submit annual documentation to MOHCD and the Planning~~
8 ~~Department, along with the annual monitoring fee, on or before December 31 of each year, which~~
9 ~~addresses the following:~~

10 ~~(i) Evidence that the Post-Secondary Educational Institution continues~~
11 ~~to own or otherwise control the Student Housing project under a master lease or other contractual~~
12 ~~agreement with at least a two-year term, including a certificate from the owner of the real property and~~
13 ~~the Post-Secondary Educational Institution attaching a true and complete copy of the master lease or~~
14 ~~other contractual agreement (financial information may be redacted to the extent permitted by law) and~~
15 ~~certifying that the lease or contract has not otherwise been amended or terminated; and~~

16 ~~(ii) Evidence, on an average annualized basis, of the percentage of~~
17 ~~students in good standing enrolled at least half-time or more in the Post-Secondary Educational~~
18 ~~Institution or Institutions who are occupying the beds or accessory living space in the Student Housing~~
19 ~~project; and~~

20 ~~(iii) The owner of the real property records a Notice of Special~~
21 ~~Restrictions (NSR) against fee title to the real property on which the Student Housing is located that~~
22 ~~states the following:~~

23 ~~a. The Post-Secondary Educational Institution, or the owner of~~
24 ~~the real property on its behalf, must file a statement with the Department if it intends to terminate the~~
25 ~~Student Housing project at least 60 days before it terminates such use (“statement of termination”);~~

1 ~~b. The Student Housing project becomes subject to the~~
2 ~~Inclusionary Housing Ordinance requirements applicable to Housing Projects other than Qualified~~
3 ~~Housing Projects if (1) a Post-Secondary Educational Institution files a statement of termination with~~
4 ~~the Department and another Post-Secondary Educational Institution or Institutions have not been~~
5 ~~substituted or obligated to meet the requirements of this subsection (f)(5)3; or (2) the owner of the real~~
6 ~~property or the Post-Secondary Educational Institution fails to file a statement of termination and fails~~
7 ~~to meet the requirements for a Student Housing project, then within not more than one year of a Notice~~
8 ~~Of Violation issued by the Planning Department;~~

9 ~~c. If units in a Student Housing project become subject to the~~
10 ~~Inclusionary Housing Ordinance then the owner of those units shall (1) pay the Affordable Housing~~
11 ~~Fee plus interest from the date the project received its first construction document for the project if~~
12 ~~there is no evidence the project ever qualified as Student Housing or, if Student Housing was provided~~
13 ~~and occupied, then the Affordable Housing Fee with no interest is due on the date the units were no~~
14 ~~longer occupied by qualifying households and interest would accrue from that date if the fee is not~~
15 ~~paid; or (2) provide the required number of on-site affordable units required at time of original project~~
16 ~~approval and that those units shall be subject to all of the requirements of this Program. In this event,~~
17 ~~the owner of the real property shall record a new NSR providing that the designated units must comply~~
18 ~~with all of the requirements of this Program.~~

19 ~~d. The Post-Secondary Educational Institution is required to~~
20 ~~report annually as required in subsection (f)(5)(D)3 above;~~

21 ~~e. The City may commence legal action against the owner and/or~~
22 ~~Post-Secondary Educational Institution to enforce the NSR and the terms of Article 4 of the Planning~~
23 ~~Code and Planning Code Section 415 et seq. if it determines that the project no longer meets the~~
24 ~~requirements for a Student Housing project; and~~

25 ~~f. The Student Housing project may be inspected by any duly~~

1 ~~authorized City employee to determine its status as a Student Housing project and its compliance with~~
2 ~~the requirements of this Code at any time upon at least 24 hours' prior notice to the owner of the real~~
3 ~~property or to the master lessee.~~

4
5 **SEC. 415.4. IMPOSITION OF REQUIREMENTS AND POST-APPROVAL PROJECT**
6 **MODIFICATIONS.**

7 (a) **Determination of Requirements.** The Department shall determine the applicability
8 of Section 415.1 et seq. to any development project requiring a ~~first construction document~~ First
9 Construction Document and, if Section 415.1 et seq. is applicable, shall impose any such
10 requirements as a condition of approval for issuance of the ~~first construction document~~ First
11 Construction Document. The project sponsor shall supply any information necessary to assist
12 the Department in this determination. Unless otherwise required by state law, and except as
13 provided in Section 415.4(g), a development project shall comply with the requirements of this Section
14 415.1 et seq. in effect on the date the Development Application is deemed complete. Except as provided
15 in Section 415.10(e), Pipeline Projects that receive a renewal or extension more than three years from
16 the date of Final Approval, shall comply with the requirements of Section 415.1 et seq in effect on the
17 date the project sponsor submits a complete Development Application for the extension or renewal
18 request.

19 (b) **Compliance Through Payment of Fee or an Alternative.** A project sponsor may either pay
20 the fee pursuant to Section 415.5 (Affordable Housing Fee), or choose to comply by electing to comply
21 with an Alternative in Section 415.6 (On-site Alternative), or Section 415.7 (Land Dedication/Off-site
22 Alternative) as set forth in Section 415.5(e). **Notice to Development Fee Collection Unit of**
23 **Requirements.** After the Department has made its final determination regarding the application of the
24 affordable housing requirements to a development project pursuant to Section 415.1 et seq., it shall
25 immediately notify the Development Fee Collection Unit at DBI in addition to the other information

1 *required by Section 402(b) of this Article.*

2 *(c) The City may enter into development agreements or other similar binding agreements for*
3 *projects that provide inclusionary affordable housing at levels that may be different from the levels set*
4 *forth in Section 415.1 et seq.*

5 *(d) If a Housing Project is located in an area with an additional or specific affordable housing*
6 *requirement, such as those set forth in a Special Use District or elsewhere in this Code, the additional*
7 *or specific inclusionary housing requirement shall apply.*

8 *(ee) **Timing of Payment of Affordable Housing Fee or Project Sponsor's Selection of***
9 ***Alternative.** If the project sponsor elects to pay the Affordable Housing Fee set forth in Section 415.5,*
10 *the project sponsor shall pay the fee prior* ~~*Prior*~~ *to issuance of* ~~*first*~~ *the First Certificate of*
11 *Occupancy.* ~~*construction document for a development project subject to the requirements of Section*~~
12 ~~*415.1 et seq., the sponsor of the development project shall pay the Affordable Housing Fee set forth in*~~
13 ~~*Section 415.5, or shall select one of the options listed in Section 415.5(f).*~~ *The Director of DBI shall*
14 *notify MOHCD when the project requests issuance of a First Certificate of Occupancy, and shall deny*
15 *all Certificates of Occupancy until the subject project has complied with the requirements of 415.1 et*
16 *seq.*

17 ~~*(d) **Department Notice to Development Fee Collection Unit of Sponsor's Choice.** After the*~~
18 ~~*sponsor has filled out a Declaration of Intent and, if necessary, an Affidavit of Eligibility for an*~~
19 ~~*Alternative to the Affordable Housing Fee indicating how it will fulfill the affordable housing*~~
20 ~~*requirements of Section 415.1 et seq., the Department shall immediately notify the Development Fee*~~
21 ~~*Collection Unit at DBI of the sponsor's choice.*~~

22 ~~*(e) **Development Fee Collection Unit Notice to Department Prior to Issuance of the First***~~
23 ~~***Certificate of Occupancy.** The Development Fee Collection Unit at DBI shall provide notice in writing*~~
24 ~~*or electronically to the Department prior to issuing the first Certificate of Occupancy for any*~~
25 ~~*development project subject to Section 415.1 et seq. that has elected to fulfill all or part of its*~~

1 ~~requirement with an option other than payment of the Affordable Housing Fee. If the Department~~
2 ~~notifies the Unit at such time that the sponsor has not satisfied the requirements, the Director of DBI~~
3 ~~shall deny any and all Certificates of Occupancy until the subject project is brought into compliance~~
4 ~~with the requirements of Section 415.1 et seq.~~

5 (f) **Process for Revisions of Determination of Program Requirements.** In the event
6 that the Department or the Commission takes action affecting any development project
7 subject to Section 415.1 et seq. and such action is subsequently modified, superseded,
8 vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action,
9 the procedures of Section 402(c) shall be followed.

10 ~~(g) The Planning Department shall note the existence of any units provided under Section~~
11 ~~415.6 in a Housing Development Project on a publicly accessible website.~~

12 (g) **Requested Modifications After Final Approval.** The purpose of this Section 415.4(g) is to
13 provide for the efficient review of requests to modify conditions of approval, conditions on a project
14 permit, and/or Notice of Special Restrictions, related to requirements under Section 415.1 et seq., for
15 projects that have been Finally Approved. Project sponsors may modify the number of residential units
16 or Gross Floor Area of a project, change the selected Alternative, or modify whether the project is an
17 Ownership Housing Project or a Rental Housing Project (change in tenure), as set forth below. The
18 Commission may delegate review and approval of a request for modification to the Planning Director
19 or their designee.

20 (1) **Modifications to Number of Residential Units or Gross Floor Area.** Unless
21 otherwise required by state law, projects that modify the total Gross Floor Area or number of
22 residential units by more than 20%, exclusive of any additional density, incentive, concession, or
23 waiver under the State Density Bonus Law, Government Code Section 65915 et seq., shall comply with
24 the requirements of this Section 415.1 et seq. in effect on the date the project sponsor submits a
25 complete Development Application for the modified project.

1 (2) Modifications to Selected Alternative or Tenure Prior to First Certificate of
2 Occupancy. If a project has been Finally Approved, but has not received a First Certificate of
3 Occupancy, the project may modify the approved Alternative or the approved project tenure, if such
4 request is consistent with the following:

5 (A) A project may modify the selected Alternative from the Affordable Housing
6 Fee to the On-site Alternative, or may modify the approved project tenure prior to the issuance of the
7 architectural addendum or issuance of the building permit, whichever occurs first.

8 (B) A project may only modify the elected Alternative from the On-site
9 Alternative to the Affordable Housing Fee if such modification is requested prior to MOHCD's
10 commencement of marketing of the On-site Units to prospective tenants or buyers under Section
11 415.6(d).

12 (C) Acceptance by the City of land transferred under Section 415.7(a) shall be
13 final.

14 (3) Modifications to the Selected Alternative or Tenure After Issuance of a First
15 Certificate of Occupancy. After issuance of a First Certificate of Occupancy, a project with On-site
16 Affordable Units may modify the elected Alternative consistent with the following requirements:

17 (A) Projects may convert from a Rental Housing Project to an Ownership
18 Housing Project, or an Ownership Housing Project to a Rental Housing Project, only in accordance
19 with the requirements and procedures in the Procedures Manual.

20 (B) A project with On-site Affordable Units subject to Section 415.6 may modify
21 from the On-site Alternative to payment of the Affordable Housing Fee if the Project meets all the
22 following:

23 (i) The On-site Affordable Units are vacant and have never been
24 occupied.

25 (ii) The On-site Affordable Units are not required under state law.

1 (iii) The project sponsor has either (a) marketed the units in accordance
2 with the Procedures Manual, has exhausted the applicant list, and there are no interested or qualified
3 applicants; or (b) has never marketed the units.

4 (C) Projects that convert from the On-site Alternative to the Affordable Housing
5 Fee must pay the fee within 60-days from the date the request is approved by the Department. Any
6 Affordable Housing Fees paid after the required timeline in Section 415.5 due to a modification from
7 the On-site Alternative to the Affordable Housing Fee pursuant to this subsection (g)(3) shall be subject
8 to penalties and interest, as applicable.

9 **(4) Modification Process.**

10 (A) If the Commission has delegated its authority to the Department to review
11 and approve requests for modifications consistent with this Section 415.4(g) or Section 415.10(e), the
12 modifications shall be reviewed and approved by the Director, and the Commission shall not hold a
13 public hearing for discretionary review.

14 (B) The Commission or Director shall deny a request for modification under
15 this Section 415.4(g) if the modified project will no longer comply with applicable Planning Code or
16 state law requirements, including but not limited to Planning Code Sections 206.6, 206.10, 317.2, and
17 415.1 et seq.

18 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

19 ~~The fees set forth in this Section 415.5 will be reviewed when the City completes an Economic~~
20 ~~Feasibility Study.~~ Except as provided in Section 415.5(~~g~~), all development projects subject to
21 this Program shall be required to pay an Affordable Housing Fee subject to the following
22 requirements:

23 (a) **Timing of Fee Payments.** The fee shall be paid to DBI for deposit into the
24 Citywide Affordable Housing Fund at the time required by Section 402(d).

25 (b) **Amount of Fee.** The amount of the fee that may be paid by the project sponsor

1 subject to this Program shall be determined by ~~MOHCD-Planning using~~ *utilizing* the following
2 factors:

3 (1) The number of units equivalent to the applicable off-site percentage of the
4 number of units in the Principal Project, as specified in subsections (A) and (B) below.

5 (A) Except as otherwise specified in subsection (b)(1)(B), the applicable
6 percentage shall be 10%.

7 (B) The applicable percentage shall be 15% in the following areas or districts:

8 (i) Mission Area Plan (See San Francisco General Plan, Eastern
9 Neighborhoods Area Plan, Map I);

10 (ii) North of Market Residential Special Use District (Section 249.5);

11 (iii) SoMa Neighborhood Commercial Transit District (Section 753);

12 (iv) South of Market Youth and Family Special Use District (Section
13 249.38);

14 (v) Urban Mixed Use (UMU) District (Section 838); and

15 (vi) Western SoMa Special Use District (Section 249.39).

16 ~~(A) For housing development projects consisting of 10 units or more, but less~~
17 ~~than 25 units, the applicable percentage shall be 20%.~~

18 ~~(B) For development projects consisting of 25 units or more, the applicable~~
19 ~~percentage shall be 33% if such units are Owned Units.~~

20 ~~(C) For development projects consisting of 25 units or more, the applicable~~
21 ~~percentage shall be 30% if the development project is a Rental Housing Project. In the event a Rental~~
22 ~~Housing Project becomes an Ownership Housing Project, the Project Sponsor shall either (A)~~
23 ~~reimburse the City the proportional amount of the Inclusionary Affordable Housing Fee, which would~~
24 ~~be equivalent to the current Inclusionary Affordable Housing Fee requirement for Ownership Housing~~
25 ~~Projects, or (B) provide additional on-site or off-site Affordable Units equivalent to the current~~

1 ~~inclusionary requirements for Ownership Housing Units, apportioned among the required number of~~
2 ~~units at various income levels in compliance with the requirements in effect at the time of conversion.~~
3 ~~Any additional Affordable Units provided on-site or off-site shall comply with Section 415 and the~~
4 ~~Procedures Manual.~~

5 (2) The affordability gap, using data on MOHCD's cost of construction of
6 affordable residential housing. ~~No later than January 31, 2018, the Controller, with the support of~~
7 ~~consultants as necessary, and in consultation with the Inclusionary Housing Technical Advisory~~
8 ~~Committee (TAC) established in Planning Code Section 415.10, shall conduct a study to develop an~~
9 ~~appropriate methodology for calculating, indexing, and applying the appropriate amount of the~~
10 ~~Inclusionary Affordable Housing Fee. To support the Controller's study, and annually thereafter,~~
11 ~~MOHCD shall provide the following documentation: (1) schedules of sources and uses of funds and~~
12 ~~independent auditor's reports ("Cost Certifications") for all MOHCD-funded developments completed~~
13 ~~within three years of the date of reporting to the Controller; and, (2) for any MOHCD-funded~~
14 ~~development that commenced construction within three years of the reporting date to the Controller but~~
15 ~~for which no Cost Certification is yet complete, the sources and uses of funds approved by MOHCD~~
16 ~~and the construction lender as of the date of the development's construction loan closing. Cost~~
17 ~~Certifications completed in years prior to the year of reporting to the Controller may be increased or~~
18 ~~decreased by the applicable annual Construction Cost Index percentage(s) for residential construction~~
19 ~~for San Francisco reported in the Engineering News Record. MOHCD, together with the Controller~~
20 ~~and TAC, shall evaluate the cost to construct data, including actual and appraised land costs, state~~
21 ~~and/or federal public subsidies available to MOHCD-funded projects, and determine MOHCD's~~
22 ~~average costs. Following completion of this study, the Board of Supervisors, in its sole and absolute~~
23 ~~discretion, and within the legal allowances of the Residential Nexus Analysis, will review the analyses,~~
24 ~~methodology, fee application, and the proposed fee schedule; and may consider adopting legislation to~~
25 ~~revise the Inclusionary Affordable Housing fees. The method of calculating, indexing, and applying the~~

1 *fee shall be published in the Procedures Manual. The Department and MOHCD shall update the fee*
2 *methodology and technical report every three years, with analysis from the Technical Advisory*
3 *Committee, in order to ensure that the affordability gap remains current, consistent with the*
4 *requirements set forth below in Section 415.5(b)(3) and Section 415.10.*

5 (3) **Annual Fee Update.** For all housing developments, no later than January 1
6 of each year, MOHCD shall adjust the fee based on the cost of constructing affordable
7 housing, including development and land acquisition costs. MOHCD shall provide the
8 Planning Department, DBI, and the Controller with current information on the adjustment to
9 the fee so that it can be included in the Planning Department's and DBI's website notice of the
10 fee adjustments and the Controller's Citywide Development Fee and Development Impact
11 Requirements Report described in Section 409(a). *The method of indexing shall be published in*
12 *the Procedures Manual.*

13 (4) ~~**Specific Geographic Areas.** For any housing development that is located in an area~~
14 ~~with a specific affordable housing requirement set forth in a Special Use District, or in any other~~
15 ~~section of the Code such as Section 419, the higher affordable housing requirement shall apply.~~

16 (5) ~~The applicable amount of the inclusionary housing fee shall be determined based~~
17 ~~upon the date that the project sponsor has submitted a complete Environmental Evaluation application.~~
18 ~~In the event the project sponsor does not procure a building permit or site permit for construction of~~
19 ~~the principal project within 30 months of the project's approval, the development project shall comply~~
20 ~~with the inclusionary affordable housing requirements applicable thereafter at the time when the~~
21 ~~project sponsor does proceed with pursuing a building permit. Such time period shall be extended in~~
22 ~~the event of any litigation seeking to invalidate the City's approval of such project, for the duration of~~
23 ~~the litigation.~~

24 (6) ~~The fee shall be imposed on any additional units or square footage authorized and~~
25 ~~developed under California Government Code Sections 65915 et seq.~~

1 ~~(7) If the principal project has resulted in demolition of affordable housing units that~~
2 ~~are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons~~
3 ~~and families of moderate-, low- or very low-income, or housing that is subject to any form of rent or~~
4 ~~price control through a public entity's valid exercise of its police power and determined to be~~
5 ~~affordable housing, the project sponsor shall comply with Section 317.2.~~

6 ~~(e) **Notice to Development Fee Collection Unit of Amount Owed.** Prior to issuance of the first~~
7 ~~construction document for a development project subject to Section 415.5, the Planning Department~~
8 ~~shall notify the Development Fee Collection Unit at DBI electronically or in writing of its calculation~~
9 ~~of the amount of the fee owed.~~

10 ~~(d)(c)~~ **Lien Proceedings.** If, for any reason, the Affordable Housing Fee imposed
11 pursuant to Section 415.5 remains unpaid following issuance of the ~~first~~First Certificate of
12 Occupancy ~~for the Residential Use~~, the Development Fee Collection Unit at DBI shall institute
13 lien proceedings to make the entire unpaid balance of the fee, plus interest and any deferral
14 surcharge, a lien against all parcels used for the development project in accordance with
15 Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code.

16 ~~(e) If a housing project is located in an Area Plan with an additional or specific affordable~~
17 ~~housing requirements such as those set forth in a special use district or Sections 416, 417, and 419 or~~
18 ~~elsewhere in this code, the higher housing requirement shall apply.~~

19 ~~(f)(d)~~ **Use of Fees.** All monies contributed pursuant to the Inclusionary Affordable
20 Housing Program shall be deposited in the Citywide Affordable Housing Fund ("Fund"),
21 established in Administrative Code Section 10.100-49, ~~except as specified below~~. MOHCD shall
22 use the funds collected under this Section 415.5 in the following manner:

23 (1) Except as provided in subsection (2) below, the funds collected under this
24 Section shall be used to:

25 (A) increase the supply of housing Affordable to Qualifying Households

1 subject to the conditions of this Section; ~~and~~

2 (B) provide assistance to low- and moderate-income homebuyers; and

3 (C) pay the expenses of MOHCD in connection with monitoring and
4 administering compliance with the requirements of the Program. MOHCD is authorized to use
5 funds in an amount not to exceed \$200,000 every 5 years to ~~conduct follow-up studies under~~
6 ~~Section 415.9(e) and to~~ update the ~~a~~Affordable ~~h~~Housing ~~f~~Fee amounts as described above in
7 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated
8 through the annual budget process or supplemental appropriation for MOHCD.

9 (D) ~~Funds from this fee collected from projects within the Central SoMa Special~~
10 ~~Use District shall be accounted for separately and expended only within the area bounded by Market~~
11 ~~Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue.~~

12 (2) **“Small Sites Funds.”**

13 (A) **Designation of Funds.** MOHCD shall designate and separately
14 account for 10% of all fees that it receives under Section 415.1 et seq. that are deposited into
15 the Fund, ~~excluding fees that are geographically targeted such as those referred to in Sections~~
16 ~~249.78(e)(1), 415.5(b)(1), and 827(b)(1),~~ to support acquisition and rehabilitation of Small Sites
17 (“Small Sites Funds”). When the total amount of fees paid to the City under Section 415.1 et
18 seq. ~~totals~~ is less than \$10 million over the preceding 12-month period, MOHCD is authorized
19 to temporarily divert funds from the Small Sites Funds for other purposes. MOHCD shall keep
20 track of the diverted funds, however, such that when the amount of fees paid to the City under
21 Section 415.1 et seq. meets or exceeds \$10 million over the preceding 12-month period,
22 MOHCD shall commit all of the previously diverted funds and 10% of any new funds to the
23 Small Sites Funds.

24 (B) **Use of Small Sites Funds.** The funds shall be used exclusively to
25 acquire or rehabilitate “Small Sites” defined as properties consisting of 2-25 units. ~~Units~~

1 supported by monies from the fund shall be designated as housing affordable to qualified households
2 for the life of the project. Properties supported by the Small Sites Funds must be:

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

4 (ii) vacant properties that were formerly rental properties as long as
5 those properties have been vacant for a minimum of two years prior to the effective date of this
6 legislation;

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

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

11 ~~(C)~~ **Initial Funds.** If, within 18 months from April 23, 2009, MOHCD dedicates
12 an initial one-time contribution of other eligible funds to be used initially as Small Sites Funds,
13 MOHCD may use the equivalent amount of Small Sites Funds received from fees for other purposes
14 permitted by the Citywide Affordable Housing Fund until the amount of the initial one-time
15 contribution is reached.

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

19 ~~(E)~~(D) **Intent.** In establishing guidelines for Small Sites Funds, the Board
20 of Supervisors does not intend to preclude MOHCD from expending other eligible sources of
21 funding on Small Sites as described in this Section 415.5.

22 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD
23 requires the project sponsor or its successor in interest to give preference as provided in
24 Administrative Code Chapter 47.

25 ~~(4)~~ Pursuant to Section 249.78(e)(1), all monies contributed pursuant to the

1 ~~Inclusionary Affordable Housing Program and collected within the Central SoMa Special Use District~~
2 ~~shall be paid into the Citywide Affordable Housing Fund, but the funds shall be separately accounted~~
3 ~~for. Such funds shall be expended within the area bounded by Market Street, the Embarcadero, King~~
4 ~~Street, Division Street, and South Van Ness Avenue.~~

5 ~~(g)~~ **Alternatives to Payment of Affordable Housing Fee.**

6 (1) ~~Eligibility:~~ A project sponsor must pay the Affordable Housing Fee unless it
7 chooses to meet the requirements of the Program through an Alternative provided in Section
8 415.6 (On-site Alternative) or Section 415.7 (Land Dedication/Off-site Alternative) ~~this subsection (g).~~
9 The project sponsor may satisfy the requirements of the Program through a combination of
10 Alternatives, provided that the project sponsor constructs, dedicates, or pays the fee at the appropriate
11 percentage or fee level required for that option. ~~choose one of the following Alternatives:~~

12 ~~(A) Alternative #1: On-Site Units. Project sponsors may elect to construct units~~
13 ~~Affordable to Qualifying Households on-site of the Principal Project pursuant to the requirements of~~
14 ~~Section 415.6.~~

15 ~~(B) Alternative #2: Off-Site Units. Project sponsors may elect to construct units~~
16 ~~Affordable to Qualifying Households at an alternative site within the City and County of San Francisco~~
17 ~~pursuant to the requirements of Section 415.7.~~

18 ~~(C) Alternative #3: Small Sites. Qualifying project sponsors may elect to fund~~
19 ~~buildings as set forth in Section 415.7-1.~~

20 ~~(D) Alternative #4: Combination. Project sponsors may elect any combination~~
21 ~~of payment of the Affordable Housing Fee as provided in Section 415.5, construction of on-site units as~~
22 ~~provided in Section 415.6, or construction of off-site units as provided in Section 415.7, provided that~~
23 ~~the project applicant constructs or pays the fee at the appropriate percentage or fee level required for~~
24 ~~that option. Development Projects that are providing on-site units under Section 415.6 and that qualify~~
25 ~~for and receive additional density under California Government Code Sections 65915 et seq. shall use~~

1 ~~Alternative #4 to pay the Affordable Housing Fee on any additional units or square footage authorized~~
2 ~~under Section 65915.~~

3 (2) A project sponsor who elects to satisfy Section 415.1 et seq. by choosing
4 ~~through one of the alternatives described~~ an Alternative set forth in Section 415.6 or
5 415.7~~415.5(g)(1)~~, must provide written notice of their election 30 days prior to project approval
6 by the ~~Planning~~ Commission or Department, as applicable. The ~~Planning~~ Commission or the
7 Department may not require a project sponsor to select a specific Alternative. The Alternative
8 will be a condition of project approval and recorded against the property in a Notice of Special
9 Restrictions.

10 ~~(3) **Modification of Elected Alternative.** Except as specified below, after project~~
11 ~~approval, any proposed change in the alternative elected by a project sponsor under Section~~
12 ~~415.5(g)(1), or any proposed change from an Ownership Project to a Rental Project, or from a Rental~~
13 ~~Project to an Ownership Project, shall require public notice for a hearing and approval from the~~
14 ~~Planning Commission to amend the conditions of approval. Public notice shall be as required by the~~
15 ~~original entitlement.~~

16 ~~(4) Notwithstanding subsection (g)(3), if such modification is requested prior to~~
17 ~~issuance of a first construction document, the Zoning Administrator or the Zoning Administrator's~~
18 ~~designee may modify conditions of approval to allow a project that had elected to pay the Affordable~~
19 ~~Housing Fee to change from an Ownership Project to a Rental Project or a Rental Project to an~~
20 ~~Ownership Project, or to allow a project that had elected to pay the Affordable Housing Fee to provide~~
21 ~~on-site units under Section 415.6.~~

22 ~~(5) If a project sponsor requests a modification to its conditions of approval for the sole~~
23 ~~purpose of complying with this Section 415.5(g)(3), the Planning Commission shall be limited to~~
24 ~~considering issues related to Section 415 et seq. in considering the request for modification. The~~
25 ~~Planning Commission shall approve such modification if it finds all of the following:~~

1 (A) ~~The project sponsor complied with the applicable requirements for~~
2 ~~modification set forth in the Procedures Manual including protections for current occupants, if any, of~~
3 ~~Rental Units or Owned Units;~~

4 (B) ~~The modification will not result in a delay in marketing any On-Site Units at~~
5 ~~the same time as the market-rate housing in the project;~~

6 (C) ~~If a Rental Housing Project was granted a density bonus pursuant to Section~~
7 ~~206, the change from a Rental Housing Project to an Ownership Housing Project provides On-Site~~
8 ~~Units in an amount such that the Ownership Housing Project qualifies for the same density bonus,~~
9 ~~waivers, and/or incentives and concessions that were granted to the Rental Housing Project;~~

10 (D) ~~If a Rental Housing Project is converting to an Ownership Housing Project,~~
11 ~~the amount of Affordable Housing Fee or number of On-Site Units complies with Section 415.6(a)(7);~~

12 (E) ~~For projects that chose to provide On-site or Off-site units and seek a~~
13 ~~modification of the conditions of approval to pay the Affordable Housing Fee prior to the issuance of~~
14 ~~the first construction permit, the project sponsor shall pay the Affordable Housing Fee equivalent to the~~
15 ~~loss of On-site or Off-site Affordable Housing units that were approved in the original conditions of~~
16 ~~approval; and~~

17 (F) ~~For projects that chose to provide On-site or Off-site units and seek a~~
18 ~~modification of the conditions of approval to pay the Affordable Housing Fee after the issuance of the~~
19 ~~first construction document, the project sponsor or its successor shall pay the Affordable Housing Fee~~
20 ~~equivalent to the loss of On-site or Off-site Affordable Housing units that were approved in the original~~
21 ~~conditions of approval, plus interest and any applicable penalties provided for under this Code.~~

22
23 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

24 If a project sponsor elects to provide ~~on-site~~ On-site units pursuant to Section 415.5(~~ge~~),
25 the development project shall meet the following requirements:

1 (a) **Number of Units.** The number of units constructed on-site shall be as follows:

2 ~~(1) For housing development projects consisting of 10 dwelling units or more, but less~~
3 ~~than 25 dwelling units, the number of affordable units constructed on-site shall generally be 12% of all~~
4 ~~units constructed on the project site. The affordable units shall all be affordable to low-income~~
5 ~~households. Owned Units shall be affordable to households earning up to 100% of Area Median~~
6 ~~Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units shall be~~
7 ~~affordable to households earning up to 65% of Area Median Income, with an affordable rent set at 55%~~
8 ~~of Area Median Income or less.~~

9 (2) For any Ownership Housing Project ~~consisting of 25 or more units~~, the
10 number of Affordable Units constructed on-site shall ~~generally be 20%~~ 5% of all units
11 constructed on the project site. A minimum of ~~10%~~ 4% of the units shall be affordable to low-
12 income households, ~~and 1%~~ 5% of the units shall be affordable to moderate-income
13 households, ~~and 5% of the units shall be affordable to middle-income households. In no case shall~~
14 ~~the total number of Affordable Units required exceed the number required as determined by the~~
15 ~~application of the applicable on-site requirement rate to the total project units.~~ Owned Units for low-
16 income households shall have an affordable purchase price set at 80% of Area Median
17 Income or less, with households earning up to 100% of Area Median Income eligible to apply
18 for low-income units. Owned Units for moderate-income households shall have an affordable
19 purchase price set at ~~105~~ 100% of Area Median Income or less, with households earning ~~from~~
20 ~~95% more than 100% and up to~~ 120% of Area Median Income eligible to apply for moderate-
21 income units. ~~Owned Units for middle-income households shall have an affordable purchase price set~~
22 ~~at 130% of Area Median Income or less, with households earning from 120% to 150% of Area Median~~
23 ~~Income eligible to apply for middle-income units. For any Affordable Units with purchase prices set at~~
24 ~~130% of Area Median Income, the units shall have a minimum occupancy of two persons. This unit~~
25 ~~requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery~~

1 ~~Procedures Manual no later than February 26, 2018.~~ MOHCD may reduce Area Median Income
2 pricing and the minimum income required for eligibility in each ownership category.

3 (32) For any Rental Housing Project ~~consisting of 25 or more units,~~ the number of
4 Affordable Units constructed on-site shall ~~generally~~ be ~~18%~~ 5% of all units constructed on the
5 project site, with a minimum of ~~10%~~ 4% of the units affordable to low-income households, ~~4%~~
6 and 1% of the units affordable to moderate-income households, ~~and 4% of the units affordable to~~
7 ~~middle-income households. In no case shall the total number of Affordable Units required exceed the~~
8 ~~number required as determined by the application of the applicable on-site requirement rate to the total~~
9 ~~project units.~~ Rental Units for low-income households shall have an affordable rent set at 55%
10 of Area Median Income or less, with households earning up to 65% of Area Median Income
11 eligible to apply for low-income units. Rental Units for moderate-income households shall
12 have an affordable rent set at 80% of Area Median Income or less, with households earning
13 ~~from 65% up~~ to 90% of Area Median Income eligible to apply for moderate-income units. ~~Rental~~
14 ~~Units for middle-income households shall have an affordable rent set at 110% of Area Median Income~~
15 ~~or less, with households earning from 90% to 130% of Area Median Income eligible to apply for~~
16 ~~middle-income units. For any Affordable Units with rental rates set at 110% of Area Median Income,~~
17 ~~the units shall have a minimum occupancy of two persons. This unit requirement shall be outlined~~
18 ~~within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than~~
19 ~~February 26, 2018.~~ MOHCD may reduce Area Median Income pricing and the minimum income
20 required for eligibility in each rental category, and may apply the income eligibility ranges set forth
21 in this subsection (a)(2) to previously approved Rental Units.

22 (4)(3) Notwithstanding the foregoing Area Median Income limits for Rental Units
23 and Owned Units, the maximum affordable rents or sales price shall be no higher than 20%
24 below market rents or sales prices for the neighborhood within which the project is located,
25 which shall be defined as within one mile of the project site. ~~in accordance with the American~~

1 ~~Community Survey Neighborhood Profile Boundaries Map.~~ MOHCD shall adjust the allowable
2 rents and sales prices, ~~and the eligible households for such units,~~ accordingly, and consistent with
3 the Procedures Manual, and such potential readjustment shall be a condition of approval upon
4 project entitlement. The City shall periodically review the updated data on neighborhood rents
5 and sales prices ~~on an annual basis.~~

6 (4) Method of Calculation. The on-site inclusionary requirement shall be calculated by
7 applying the on-site rate to the total number of Residential Units in the project, or for projects seeking
8 approval under California Government Code Section 65915, by applying the On-site rate to the total
9 number of Residential Units in the base project prior to any bonus units allowed. If the total number of
10 units is not a whole number, the project sponsor shall round up to the nearest whole number for any
11 portion that is .5 or above. In no case shall the total number of Affordable Units required exceed the
12 number required as determined by the application of the applicable On-site rate to the total project
13 units. If rounding each of the AMI levels results in more Affordable Units than required, the number
14 with the lowest remainder will not be rounded up. If the rounding of each of the AMI levels results in
15 fewer Affordable Units than required, then the number of with the highest remainder shall be rounded
16 up.

17 ~~(5) Starting on January 1, 2018, and no later than January 1 of each year thereafter,~~
18 ~~MOHCD shall increase the percentage of units required on-site for projects consisting of 10–24 units,~~
19 ~~as set forth in Section 415.6(a)(1), by increments of 0.5% each year, until such requirement is 15%.~~
20 ~~For all development projects with 25 or more units, the required on-site affordable ownership housing~~
21 ~~to satisfy this Section 415.6 shall increase by 1% annually for two consecutive years starting January~~
22 ~~1, 2018. The increase shall be apportioned to units affordable to low income households, as defined~~
23 ~~above in subsection 415.6(a)(3). Starting January 1, 2020, the increase to on-site housing~~
24 ~~developments with 25 or more units shall increase by 0.5% annually, with such increases allocated~~
25 ~~equally to moderate and middle income households, as defined above in subsection 415.6(a)(3). The~~

1 ~~total on-site inclusionary affordable housing requirement shall not exceed 26% for Ownership Housing~~
2 ~~Projects or 24% for Rental Housing Projects, and the increases shall cease at such time as these limits~~
3 ~~are reached. MOHCD shall provide the Planning Department, DBI, and the Controller with~~
4 ~~information on the adjustment to the on-site percentage so that it can be included in the Planning~~
5 ~~Department's and DBI's website notice of the fee adjustments and the Controller's Citywide~~
6 ~~Development Fee and Development Impact Requirements Report described in Section 409(a).~~

7 ~~(6) The Department shall require as a condition of Department approval of a project's~~
8 ~~building permit, or as a condition of approval of a Conditional Use Authorization or Planned Unit~~
9 ~~Development or as a condition of Department approval of a live/work project, that 12%, 18%, or 20%,~~
10 ~~as applicable, or such percentage that has been adjusted annually by MOHCD, of all units constructed~~
11 ~~on the project site shall be Affordable to Qualifying Households so that a project sponsor must~~
12 ~~construct .12, .18, or .20 times, or such current number as adjusted annually by MOHCD, as~~
13 ~~applicable, the total number of units produced in the Principal Project. If the total number of units is~~
14 ~~not a whole number, the project sponsor shall round up to the nearest whole number for any portion of~~
15 ~~.5 or above. In no case shall the total number of Affordable Units required exceed the number required~~
16 ~~as determined by the application of the applicable on-site requirement rate to the total project units.~~

17 ~~(7) A project seeking to convert from a Rental Housing Project to an Ownership~~
18 ~~Housing Project, or from an Ownership Housing Project to a Rental Housing Project, shall require~~
19 ~~public notice for a hearing and approval from the Planning Commission to amend the conditions of~~
20 ~~approval for the Principal Project.~~

21 ~~(8) In the event that a Rental Housing Project converts to an Ownership Housing~~
22 ~~Project, the project sponsor shall either (A) reimburse the City the proportional amount of the~~
23 ~~inclusionary affordable housing fee, which would be equivalent to the then-current inclusionary~~
24 ~~affordable fee requirement for Ownership Housing Projects, or (B) provide additional on-site or off-~~
25 ~~site Affordable Units equivalent to the then-current inclusionary requirements for Ownership Housing~~

1 ~~Projects, apportioned among the required number of units at various income levels in compliance with~~
2 ~~the requirements in effect at the time of conversion.~~

3 ~~(9) Notwithstanding subsection 415.6(a)(10) below, Affordable Units in Rental Housing~~
4 ~~Projects shall be Rental Units, and Affordable Units in Ownership Housing Projects shall be Owned~~
5 ~~Units. In the event an Ownership Housing Project converts to a Rental Housing Project, or more than~~
6 ~~50% of the total units in the Principal Project operate as a Rental Housing Project, on-site Affordable~~
7 ~~Units shall be offered as Rental Units. Affordable Units may only be sold as Owned Units if more than~~
8 ~~50% of the units in the building shall be sold to unaffiliated third party homebuyers and are operated~~
9 ~~as an Ownership Housing Project.~~

10 ~~(10) A development project consisting of multiple buildings may include both a Rental~~
11 ~~Housing Project and an Ownership Housing Project with written notice to the Department and~~
12 ~~MOHCD, at least 30 days prior to approval of the project by the Planning Commission or the Planning~~
13 ~~Department.~~

14 (5) **Mixed Tenure Projects.** If a project complying with this Section 415.1 et seq. by
15 providing On-site Units under this Section 415.6 will provide both Rental Units and Ownership Units
16 (a “Mixed-Tenure Project”), the Mixed-Tenure Project shall satisfy the following minimum
17 requirements:

18 (A) If more than 50% of the total units within the Mixed-Tenure Project are
19 Rental Units, all Affordable Units shall be Rental Units. If more than 50% of the total units within the
20 Mixed-Tenure Project are sold to unaffiliated third-party homebuyers for Owner occupancy, all
21 Affordable Units shall be Owned Units.

22 (B) Leasing of residential units within a Mixed-Tenure Project shall comply with
23 applicable requirements published (and as amended or updated from time to time) by the Federal
24 National Mortgage Association (known as Fannie Mae), Federal Home Loan Mortgage Corporation
25 (known as Freddie Mac), and/or the Federal Housing Financing Agency (FHFA), including, but not

1 limited to investor ownership and owner-occupancy thresholds. Any leasing of units within a Mixed-
2 Tenure Project shall not inhibit (1) mortgage financing eligibility for buyers and/or homeowners,
3 including, but not limited to Qualified Households, under Fannie Mae, Freddie Mac, and/or FHFA, or
4 (2) the purchase, sale, or refinancing of any ownership units, including Owned Units.

5 (C) To protect the eligibility of Owned Units for conventional mortgage
6 financing, project sponsors or owners of units proposed for leasing, as applicable, in a Mixed Tenure
7 Project shall demonstrate to MOHCD and the Department that the project satisfies the applicable
8 condominium eligibility requirements published by the Federal National Mortgage Association,
9 Federal Home Loan Mortgage Corporation, and/or the Federal Housing Financing Agency, or any
10 successor agency, prior to marketing such units.

11 (D) MOHCD and the Department are authorized to adopt any rules and/or
12 regulations for the approval of Mixed-Tenure Projects.

13 ~~(H) **Specific Geographic Areas.** For any housing development that is located in an~~
14 ~~area with a specific affordable housing requirement set forth in a Special Use District or in any other~~
15 ~~section of the Code such as Section 419, the higher housing requirement shall apply. The Planning~~
16 ~~Department, in consultation with the Controller, shall undertake a study of areas greater than five~~
17 ~~acres in size, where an Area Plan, Special Use District, or other re-zoning is being considered for~~
18 ~~adoption or has been adopted after January 1, 2015, to determine whether a higher on-site~~
19 ~~inclusionary affordable housing requirement is feasible on sites that have received a 20% or greater~~
20 ~~increase in developable residential gross floor area or a 35% or greater increase in residential density~~
21 ~~over prior zoning, and shall submit such information to the Planning Commission and Board of~~
22 ~~Supervisors.~~

23 ~~(I) If the Principal Project has resulted in demolition, conversion, or removal of~~
24 ~~affordable housing units that are subject to a recorded covenant, ordinance, or law that restricts rents~~
25 ~~to levels affordable to persons and families of moderate-, low- or very low-income, or housing that is~~

1 ~~subject to any form of rent or price control through a public entity's valid exercise of its police power~~
2 ~~and determined to be affordable housing, the Commission or the Department shall require that the~~
3 ~~project sponsor replace the number of Affordable Units removed with units of a comparable number of~~
4 ~~bedrooms and sales prices or rents, in addition to compliance with the requirements set forth in this~~
5 ~~Section.~~

6 ~~(13) The applicable amount of the percentage required for the on-site housing units~~
7 ~~shall be determined based upon the date that the project sponsor has submitted a complete~~
8 ~~Environmental Evaluation application. Any development project that constructs on-site affordable~~
9 ~~housing units as set forth in this Section 415.6 shall diligently pursue completion of such units. In the~~
10 ~~event the project sponsor does not procure a building permit or site permit for construction of the~~
11 ~~Principal Project within 30 months of the project's approval, the development project shall comply~~
12 ~~with the inclusionary affordable housing requirements applicable thereafter at the time when the~~
13 ~~project sponsor procures a building permit. Such deadline shall be extended in the event of any~~
14 ~~litigation seeking to invalidate the City's approval of such project, for the duration of the litigation.~~

15 **(6) Affordable Units Provided Consistent with State or Federal Law.**

16 (A) Any On-site Units provided through this Section 415.6 may be used to
17 qualify for a density bonus under California Government Code Section 65915 or any of the Affordable
18 Housing Bonus Programs contained in Planning Code Section 206 et seq. An applicant seeking a
19 density bonus under any State Law shall provide reasonable documentation to establish eligibility for
20 the requested density bonus, incentive or concession, or waiver or reduction of development standards,
21 as provided for under that law.

22 (B) On-site Units provided through this Section 415.6 may be used to satisfy or
23 partially satisfy requirements for deed-restricted units required by Planning Code Section 317.2, or any
24 state or local streamlining program that requires the provision of on-site affordable units, including,
25 but not limited to, Government Code Sections 65913.4, 65912.100 et seq., and 65658. To qualify as an

1 Inclusionary Unit through both this Section 415.6 and under any state law or Section 317.2, such unit
2 shall meet the requirements of Section 415.1 et seq.~~(b) Any On-site units provided through this Section~~
3 ~~415.6 may be used to qualify for a density bonus under California Government Code Section 65915,~~
4 ~~any ordinance implementing Government Code Section 65915, or one of the Affordable Housing Bonus~~
5 ~~Programs contained in Planning Code Section 206 et seq. An applicant seeking a density bonus under~~
6 ~~State Law shall provide reasonable documentation to establish eligibility for a requested density bonus,~~
7 ~~incentive or concession, and waiver or reduction of development standards, as provided for under State~~
8 ~~Law and as consistent with the process and procedures detailed in a locally adopted ordinance~~
9 ~~implementing the State Law.~~

10 ~~(c) Beginning in January 2018, the Planning Department shall prepare an annual report to the~~
11 ~~Planning Commission about the number of density bonus projects under California Government Code~~
12 ~~Section 65915, the number of density bonus units, and the types of concessions and incentives and~~
13 ~~waivers provided to each density bonus project.~~

14 ~~(d) In the event the project sponsor is eligible for and elects to receive additional density under~~
15 ~~California Government Code Section 65915, the Sponsor shall pay the Affordable Housing Fee on any~~
16 ~~additional units or square footage authorized under that section in accordance with the provisions in~~
17 ~~Section 415.5(g)(1)(D).~~

18 ~~(e)~~**(b) Timing of Construction.** On-site affordable housing required by this Section
19 415.6 shall be constructed, completed, and ready for occupancy, ~~and marketed~~ no later than
20 the market rate units in the Principal Project. Affordable Rental Units shall be marketed
21 concurrently with Market Rate Rental Units. Affordable Owned Units shall comply with the presale and
22 marketing requirements set forth in the Procedures Manual, as amended from time to time. A project
23 shall not receive its ~~first certificate of occupancy~~ First Certificate of Occupancy until MOHCD has
24 approved the marketing plan.

25 ~~(f)~~ **Type of Housing Affordable Unit Designation Standards.** Except for Housing Projects

1 consisting of more than 20% of total units as Affordable Units, Affordable Units constructed under this
2 Section 415.6 shall comply with the following requirements:

3 (1) **Equivalency of Units.** ~~In general, Affordable Units constructed required under~~
4 ~~this Section 415.6 shall be comparable in number of bedrooms, exterior appearance, and overall~~
5 ~~quality of construction to market rate units in the Principal Project. A Notice of Special Restrictions~~
6 ~~shall be recorded prior to issuance of the architectural addendum to the Site Permit for the project or~~
7 ~~building permit for the project, whichever is earlier and shall specify the number, location, and sizes~~
8 ~~for all Affordable Units required under this subsection (f). The Affordable Units shall be evenly~~
9 ~~distributed throughout the building. For buildings over 120 feet in height, as measured under the~~
10 ~~requirements set forth in the Planning Code, the Affordable Units may be distributed throughout the~~
11 ~~lower 2/3 of the building, as measured by the number of residential floors comply with the following~~
12 ~~equivalency criteria:~~

13 (A) Reflect the Principal Project's unit mix, calculated by multiplying the
14 number of each unit type by the required On-site percentage.

15 (B) Be evenly distributed throughout the building. For the purposes of this
16 subsection (B), "evenly distributed" shall mean that the Affordable Units are distributed proportionally
17 throughout the Principal Project based on the total units per floor. For buildings over 120 feet in
18 height, as measured under the requirements set forth in this Code, the Affordable Units may be evenly
19 distributed throughout the lower 2/3 of the building, as measured by the number of residential floors.
20 For buildings at or under 120 feet in height, the Affordable Units must be evenly distributed throughout
21 the residential floors of the entire building.

22 (C) Be proportional in the number of bedrooms and bathrooms, and be
23 comparable in exterior appearance and overall quality of construction to the market rate units in the
24 Principal Project. An Affordable Unit shall include at least one private bathroom.

25 (D) The ~~I~~interior features ~~in Affordable Units~~ should be generally the same

1 as those of the market rate units in the Principal Project, but need not be the same make,
2 model or type of such item as long as they are of good and new quality and are consistent
3 with then-current standards for new housing.

4 (E) If the Principal Project is required to provide a mix of income levels, the
5 income levels shall be proportionally distributed throughout all of the unit types. The Zoning
6 Administrator shall provide the methodology for compliance with this subsection.

7 (F) Where applicable, parking shall be offered to the Affordable Units
8 subject to the terms and conditions of the Department’s policy on *unbundled* parking for
9 affordable housing units as specified in the Procedures Manual and amended from time to
10 time.

11 (G) If a Housing Project is constructed in multiple phases or consists of multiple
12 buildings, On-site Affordable Units shall be distributed proportionally throughout the buildings or
13 phases.

14 (2) **Minimum Size of Affordable Units.** The Affordable Units are not required
15 to be the same size as the market rate units. For buildings over 120 feet in height, as
16 measured under the requirements set forth in the Planning Code, the average size of the unit
17 type may be calculated for the lower 2/3 of the building, as measured by the number of
18 residential floors. All units shall be no smaller than the minimum unit sizes set forth by the
19 California Tax Credit Allocation Committee as of May 16, 2017 as indicated in the table below,
20 and no smaller than 300 square feet for studios.

21

Unit Type	Minimum Unit Size in Square Feet
One-bedroom	450
Two-bedroom	700
Three-bedroom	900

22
23
24
25

Four-bedroom	1,000
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The total residential floor area devoted to the affordable units shall not be less than the applicable percentage applied to the total residential floor area of the Principal Project, provided that a 10% variation in floor area is permitted.

~~(g)~~ **Marketing the Units.** MOHCD shall be responsible for overseeing and monitoring the marketing of Affordable Units by the Project Sponsor under this Section 415.6. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the Affordable Units in the project. MOHCD may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of Affordable Units. MOHCD may require in the Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other requirements. MOHCD shall develop a list of minimum qualifications for marketing firms that market Affordable Units under Section 415.6 *et seq.*, referred to in the Procedures Manual as Below Market Rate (BMR units). Developers marketing Affordable Units under Section 415.6 shall market the Affordable Units through a marketing firm meeting all of the minimum qualifications. The Notice of Special Restrictions or conditions of approval shall specify that the marketing requirements and procedures contained in the Procedures Manual as amended from time to time, shall apply to the Affordable Units in the project.

(1) **Notice of Special Restrictions.** The Notice of Special Restrictions (“NSR”) required pursuant to this Section 415.6 shall be completed and recorded by the project sponsor ~~no later than~~ prior to the issuance of the architectural addendum for the site permit, ~~or the building permit, whichever is earlier, and in all events not less than~~ and at least 12 months prior to the ~~issuance of the First Certificate of Occupancy.~~ first certificate of occupancy. The NSR shall specify the unit number, location, square footage, and AMI level for each Affordable Unit required under this Section 415.6.

1 (2) **Pricing Determination.** The project sponsor shall submit a request for a
2 pricing determination from MOHCD at least 8 months prior to issuance of a First Certificate of
3 Occupancy. ~~first certificate of occupancy.~~

4 (3) **Timeline for Construction.** After the project has been Finally Approved
5 ~~approved by the Planning Commission or Department,~~ the project sponsor ~~must~~ shall respond submit
6 ~~an update~~ to the Department and MOHCD's Construction Survey, which includes an estimated
7 timeline for the construction of the project, within 30 days of receipt of such survey. The estimated
8 construction timeline must assume the requirements of subsections (~~gd~~)(1) and (~~gd~~)(2) above.
9 Failure to finalize the NSR or initiate marketing within the time frames set forth in this Section
10 415.6(~~gd~~), or to submit an estimated construction timeline will be deemed a violation of the
11 Planning Code subject to enforcement and penalties.

12 (4) **Lottery.** At the initial offering of Affordable Units in a housing project and
13 when Affordable Units become available for re-sale or re-rent in any housing project subject to
14 this Program after the initial offering, MOHCD must require the use of a public lottery
15 approved by MOHCD to select purchasers or tenants.

16 (5) **Preferences.** MOHCD shall create a lottery system that gives preference
17 according to the provisions of Administrative Code Chapter 47. MOHCD shall ~~propose create~~
18 policies and procedures for implementing these preferences. ~~to the Planning Commission for~~
19 ~~inclusion as an addendum to the Procedures Manual.~~ In accordance with Administrative Code Chapter
20 47, MOHCD shall provide an annual report on implementation of this subsection (d)(5). Otherwise, it
21 is the policy of the City to treat all households equally in allocating affordable units under this
22 Program.

23 (~~he~~) **Use of Subsidies.**

24 (1) **Generally Prohibited.** Individual affordable units constructed under Section
25 415.6 as part of an on-site project shall not have received development subsidies from any

1 Federal, State, or local program established for the purpose of providing affordable housing.
2 Units that have received such development subsidies shall not be counted to satisfy any
3 affordable housing requirement.

4 (2) **Exceptions:** Notwithstanding subsection (e)(1), subsidies may be used to:

5 (A) ~~Notwithstanding subsection (h)(1), subsidies may be used to~~ deepen the
6 affordability of an affordable unit beyond the level of affordability required by this Program with
7 the express written permission of MOHCD; or:

8 (B) ~~CDLAC and TCAC. Notwithstanding the provisions of subsection subsection~~
9 ~~415.6(h)(1) and (h)(2)(A) above, a project may use California Debt Limit Allocation Committee~~
10 ~~(CDLAC) tax-exempt bond financing, 4% tax credits under the Tax Credit Allocation Committee~~
11 ~~(TCAC), and tax credits allocated under the TCAC guidelines to help fund its obligations under Section~~
12 ~~415.1 et seq. as long as the project provides at least one of the following: (i) 20% of the units as~~
13 ~~affordable to households at 50% of Area Median Income for on-site housing; (ii) 10% of the units as~~
14 ~~affordable to households at 50% of Area Median Income and 30% of the units as affordable to~~
15 ~~households at 60% of Area Median Income for on-site housing; or (iii) provide~~ the same number of
16 ~~on-site affordable units~~ On-site Affordable Units as required by the applicable ~~on-site~~ On-site
17 affordable housing requirement in this Section 415.1 et seq. ~~or any temporary reduction as set~~
18 ~~forth in Sections 415A et seq. or 415B et seq., plus an additional number of on-site affordable units~~
19 On-site Affordable Units equal to 25% of the number of required applicable on-site affordable units
20 On-site Affordable Units, as affordable Affordable to households Households at or below 80% of
21 Area Median Income. The income table to be used for such projects when the units are
22 priced at 50%, 60%, or 80% of Area Median Income is the income table used by MOHCD for
23 the Inclusionary Affordable Housing Program, ~~not that used by TCAC or CDLAC~~. Except as
24 provided in this subsection ~~(h)(2)(B)~~, all Affordable Units ~~units~~ provided under this Section
25 must meet all of the requirements of Section 415.1 et seq. and the Procedures Manual for on-

1 site housing.

2 ~~(3) **Reporting.** MOHCD shall monitor state and federal funding for 100% affordable~~
3 ~~housing projects, awards made by TCAC and CDLAC to 100% affordable housing projects in San~~
4 ~~Francisco, and any changes to the regulations of TCAC and CDLAC. MOHCD shall provide to the~~
5 ~~Inclusionary Housing Technical Advisory Committee, established in Administrative Code Chapter 5~~
6 ~~Article XXIX, a written report of projects approved under Section 415.6(h)(2)(B), 100% affordable~~
7 ~~housing projects applying for tax exempt bond financing under CDLAC and tax credits under TCAC,~~
8 ~~and challenges for 100% affordable housing projects to obtain an award from CDLAC and TCAC.~~

9 ~~(j) **Benefits.** If the project sponsor elects to satisfy the affordable housing requirements through~~
10 ~~the production of on-site affordable housing in this Section 415.6, the project sponsor shall be eligible~~
11 ~~to receive a refund for only that portion of the housing project which is affordable for the following~~
12 ~~fees: a Conditional Use authorization or other fee required by Section 352 of this Code, if applicable;~~
13 ~~an environmental review fee required by Administrative Code Section 31.22, if applicable; a building~~
14 ~~permit fee required by Section 355 of this Code for the portion of the housing project that is affordable.~~
15 ~~The project sponsor shall pay the building fee for the portion of the project that is market rate. An~~
16 ~~application for a refund must be made within six months from the issuance of the first certificate of~~
17 ~~occupancy.~~

18 ~~The Controller shall refund fees from any appropriated funds to the project sponsor on~~
19 ~~application by the project sponsor. The application must include a copy of the Certificate of Occupancy~~
20 ~~for all units affordable to a qualifying household required by the Inclusionary Housing Program. It is~~
21 ~~the policy of the Board of Supervisors to appropriate money for this purpose from the General Fund.~~

22 ~~(f) **Public Notice.** The Planning Department shall note the existence of any Affordable~~
23 ~~Units provided under this Section 415.6 on a publicly-accessible website.~~

24
25 **SEC. 415.7. LAND DEDICATION AND OFF-SITE ALTERNATIVES TO THE**

1 **AFFORDABLE HOUSING FEE ALTERNATIVE.**

2 A project sponsor may elect to satisfy the requirements of Section 415.1 et seq. by dedicating
3 land for affordable housing to the City, or by providing Affordable Off-site Units as set forth below.

4 (a) **Land Dedication Alternative.** A project sponsor may dedicate a parcel of land to the City
5 and County of San Francisco for the purpose of constructing units Affordable to Qualifying
6 Households. To meet the requirements of this Alternative, the developer must convey title to land in fee
7 simple absolute to the City according to the Procedures Manual, provided the dedicated site is deemed
8 of equivalent or greater value to the Principal Site per those procedures, and is in line with the
9 following requirements:

10 (1) The dedicated site will result in a total amount of Affordable Units of not less than
11 70 units, as determined by MOHCD. MOHCD may approve and accept dedicated sites which result in
12 fewer units, but no less than the number of units set forth in subsection (a)(3), at its sole discretion.

13 (2) The dedicated site is located within one mile of the Principal Project, except that for
14 Principal Projects located in one of the areas listed in Section 415.7(a)(3), or in a Well-Resourced
15 Neighborhood as defined in Section 436, the dedicated site may be located within one mile of the
16 Principal Project or anywhere within that area.

17 (3) The dedicated site will result in a total number of Affordable Units as follows:

18 (A) Except as otherwise specified in subsection (a)(3)(B), equivalent to or
19 greater than 10% of the units that will be provided on the Principal Site;

20 (B) Equivalent to or greater than 15% of the units that will be provided on the
21 Principal Site if the Principal Site is in the following areas or districts:

22 (i) Mission Area Plan (See San Francisco General Plan, Eastern
23 Neighborhoods Area Plan, Map 1);

24 (ii) SoMa Neighborhood Commercial Transit District (Section 753);

25 (iii) North of Market Residential Special Use District (Section 249.5);

1 (iv) South of Market Youth and Family Special Use District (Section
2 249.38);

3 (v) Urban Mixed Use (UMU) District (See Section 838);

4 (vi) Western SoMa Special Use District (Section 249.39) and

5 (vii) Central South of Market (Central SOMA) Special Use District
6 (Section 249.78).

7 (4) The dedicated site is deemed suitable by MOHCD based on size, configuration,
8 physical characteristics, physical and environmental constraints, access, location, adjacent use, and
9 other relevant planning criteria.

10 (5) The dedicated site includes infrastructure necessary to serve the Affordable Units,
11 including sewer, utilities, water, light, street access, and sidewalks.

12 (6) The developer must submit full environmental clearance, including any required
13 remediation, for the dedicated site before the land can be considered for conveyance, and before a first
14 site or building permit may be conferred upon the Principal Project.

15 (7) The City may accept dedicated sites that vary from the minimum threshold, provided
16 such a dedication is deemed generally equivalent to the original requirement by MOHCD.

17 (8) The City may accept dedicated sites that meet the above requirements in accordance
18 with the Procedures Manual, in combination with fees or On-site Units, provided such a combination is
19 deemed generally equivalent by MOHCD to the original requirement.

20 (9) The project applicant has a letter from MOHCD verifying acceptance of the
21 dedicated site before the project is Finally Approved, which shall be used to verify land dedication as a
22 condition of approval.

23 (b) Off-Site Affordable Housing Alternative. Project Sponsors may elect to construct units
24 Affordable to Qualifying Households at an alternative location within the City and County of San
25 Francisco pursuant to this Section 415.7(b). If the project sponsor elects pursuant to Section

1 415.5(~~ge~~) to provide ~~off-site units~~ Off-site Units to satisfy the requirements of Sections 415.1 et
2 seq., the project sponsor shall notify the ~~Planning~~ Department and MOHCD of its intent prior to
3 ~~Final Approval.~~approval of the project by the Planning Commission or Department. The ~~Planning~~
4 Department and MOHCD shall provide an evaluation of the project's compliance with this
5 Section 415.7 prior to ~~Final Approval.~~ approval by the Planning Commission or Planning
6 ~~Department.~~The development project shall meet the following requirements:

7 (a1) **Number of Units.** The number of units constructed off-site shall be as
8 follows:

9 (A) Except as otherwise specified in subsection (b)(1)(B), the applicable
10 percentage shall be 10%.

11 (B) The applicable percentage shall be 15% in the following areas or districts:

12 (i) Mission Area Plan (See San Francisco General Plan, Eastern
13 Neighborhoods Area Plan, Map 1);

14 (ii) SoMa Neighborhood Commercial Transit District (Section 753);

15 (iii) North of Market Residential Special Use District (Section 249.5);

16 (iv) South of Market Youth and Family Special Use District (Section
17 249.38);

18 (v) Urban Mixed Use (UMU) District (See Section 838); and

19 (vi) Western SoMa Special Use District (Section 249.39).

20 (1) ~~For any housing development that is located in an area or Special Use~~
21 ~~District with a specific affordable housing requirement, or in any other Planning Code provision, such~~
22 ~~as Section 419, the higher off-site housing requirement shall apply.~~

23 (2) ~~For housing development projects consisting of 10 units or more but less~~
24 ~~than 25 units, the number of Affordable Units constructed off-site shall be 20%, so that a project~~
25 ~~applicant shall construct .20 times the total number of units produced in the Principal Project. If the~~

1 ~~total number of units is not a whole number, the project applicant shall round up to the nearest whole~~
2 ~~number for any portion of .5 or above. In no case shall the total number of Affordable Units required~~
3 ~~exceed the number required as determined by the application of the applicable off-site requirement rate~~
4 ~~to the total project units. Owned Units shall be affordable to households earning up to 100% of Area~~
5 ~~Median Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units~~
6 ~~shall be affordable to households earning up to 65% of Area Median Income, with an affordable rent~~
7 ~~set at 55% of Area Median Income or less.~~

8 (32) For any Ownership Housing Project not listed in an area or district set
9 forth in subsection (b)(1)(B), consisting of 25 or more units, the number of Affordable Units
10 constructed off-site shall be 33% of all units constructed on the project site, with a minimum of 8%
11 18% of the units shall be affordable to low-income households, 8% and 2% of the units shall be
12 affordable to moderate-income households, and 7% of the units affordable to middle-income
13 households. For any Ownership Housing Project in an area or district listed in subsection (b)(1)(B), a
14 minimum of 12% of the units shall be affordable to low-income households and 3% of the units shall be
15 affordable to moderate-income households. In no case shall the total number of Affordable Units
16 required exceed the number required as determined by the application of the applicable off-
17 site requirement rate to the total project units. Owned Units for low-income households shall
18 have an affordable purchase price set at 80% of Area Median Income or less, with
19 households earning up to 100% of Area Median Income eligible to apply for low-income units.
20 Owned Units for moderate-income households shall have an affordable purchase price set at
21 ~~105~~100% of Area Median Income or less, with households earning from 95% to 120% of Area
22 Median Income eligible to apply for moderate-income units. ~~Owned Units for middle-income~~
23 ~~households shall have an affordable purchase price set at 130% of Area Median Income or less, with~~
24 ~~households earning from 120% to 150% of Area Median Income eligible to apply for middle-income~~
25 ~~units. For any Affordable Units with purchase prices set at 100% of Area Median Income or above, the~~

1 ~~units shall have a minimum occupancy of two persons. This unit requirement shall be outlined within~~
2 ~~the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than February 26,~~
3 ~~2018.~~ MOHCD may reduce Area Median Income pricing and the minimum income required for
4 eligibility in each rental category.

5 (43) For any Rental Housing Project not listed in an area or district set forth in
6 subsection (b)(1)(B), consisting of 25 or more Rental Units, the number of affordable units constructed
7 off-site shall generally be 30% of all units constructed on the project site, with a minimum of 18% 8%
8 of the units shall be affordable to low-income households, ~~6%~~ and 2% of the units shall be
9 affordable to moderate-income households, ~~and 6% of the units affordable to middle-income~~
10 ~~households.~~ For any Rental Housing Project in an area or district listed in subsection (b)(1)(B), a
11 minimum of 12% of the units shall be affordable to low-income households and 3% of the units shall be
12 affordable to moderate-income households. In no case shall the total number of affordable units
13 required exceed the number required as determined by the application of the applicable off-
14 site requirement rate to the total project units. Rental Units for low-income households shall
15 have an affordable rent set at 55% of Area Median Income or less, with households earning
16 up to 65% of Area Median Income eligible to apply for low-income units. Rental Units for
17 moderate-income households shall have an affordable rent set at 80% of Area Median
18 Income or less, with households earning ~~from 65%~~ up to 90% of Area Median Income eligible
19 to apply for moderate-income units. ~~Rental Units for middle-income households shall have an~~
20 ~~affordable rent set at 110% of Area Median Income or less, with households earning from 90% to~~
21 ~~130% of Area Median Income eligible to apply for middle-income units. For any affordable units with~~
22 ~~rental rates set at 100% of Area Median Income or above, the units shall have a minimum occupancy of~~
23 ~~two persons. This unit requirement shall be outlined within the Mayor's Office of Housing Preferences~~
24 ~~and Lottery Procedures Manual no later than 6 months following the effective date of the Ordinance~~
25 ~~contained in Board of Supervisors File No. 161351.~~ MOHCD may reduce Area Median Income

1 pricing and the minimum income required for eligibility in each rental category, and may apply
2 the income eligibility ranges set forth in this subsection (b)(3) to previously approved Off-site Rental
3 Units. MOHCD shall set forth in the Procedures Manual the administration of rental units within this
4 range.

5 ~~(5) In the event that a Rental Housing project converts to an Ownership Housing~~
6 ~~project, the Project Sponsor shall either (A) reimburse the City the proportional amount of the~~
7 ~~Inclusionary Affordable Housing Fee, which would be equivalent to the then-current Inclusionary~~
8 ~~Affordable Housing Fee requirement for Ownership Housing Projects, or (B) provide additional on-site~~
9 ~~or off-site Affordable Units equivalent to the then-current inclusionary requirements for Ownership~~
10 ~~Housing Projects, apportioned among the required number of units at various income levels in~~
11 ~~compliance with the requirements in effect at the time of conversion.~~

12 ~~(6) The applicable amount of the percentage required for the off-site housing units~~
13 ~~shall be determined based upon the date that the project sponsor has submitted a complete~~
14 ~~Environmental Evaluation application. Any development project that constructs off-site affordable~~
15 ~~housing units as set forth in this Section 415.6 shall diligently pursue completion of such units. In the~~
16 ~~event the project sponsor does not procure a building permit or site permit for construction of the~~
17 ~~principal project or the off-site affordable housing project within 30 months of the project's approval,~~
18 ~~the development project shall comply with the inclusionary affordable housing requirements applicable~~
19 ~~thereafter at the time when the project sponsor procures a building permit. Such deadline shall be~~
20 ~~extended in the event of any litigation seeking to invalidate the City's approval of the principal project~~
21 ~~or off-site affordable housing project for the duration of the litigation.~~

22 ~~(7) If the principal project or the off-site project has resulted in demolition of affordable~~
23 ~~housing units that are subject to a recorded covenant, ordinance, or law that restricts rents to levels~~
24 ~~affordable to persons and families of moderate-, low- or very low-income, or housing that is subject to~~
25 ~~any form of rent or price control through a public entity's valid exercise of its police power and~~

1 ~~determined to be affordable housing, the project sponsor shall comply with Section 317.2.~~

2 (b4) **Timing of Construction.** The project sponsor shall ensure that the ~~off-site~~
3 ~~units~~ Off-site Units are constructed, completed, ready for occupancy, and marketed no later
4 than the market rate units in the principal project. In no case shall the Principal Project receive
5 its ~~f~~First ~~e~~Certificate of ~~o~~Occupancy until the off-site project has received its ~~f~~First ~~e~~Certificate
6 of ~~o~~Occupancy. If a Housing Project is constructed in multiple phases or consists of multiple
7 buildings, Off-site Units shall be constructed prior to or concurrently with the first building or phase
8 that contains market rate units.

9 (e5) **Location of ~~off-site~~ Off-Site housing.**

10 (1) ~~Except as specified in subsection (ii) below, the off-site units~~ Off-site Units
11 shall be located within one mile of the ~~principal project~~ Principal Project. If the Principal Project is
12 located in an area or district listed in 415.7(b)(1)(B), or in a Well-Resourced Area as defined in Section
13 436, Off-site Units may be located within one mile of the Principal Project or anywhere within that
14 area or district.

15 (2) ~~Projects within the Central SoMa SUD must be located within the area~~
16 ~~bounded by Market Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue.~~

17 (d6) **Type of Housing.** Nothing in this Section shall limit a project sponsor from
18 meeting the requirements of this Section 415.7 through the construction of units in a limited
19 equity or land trust form of ownership if such units otherwise meet all of the requirements for
20 Off-site housing Units. ~~In general, affordable units constructed or otherwise provided under this~~
21 ~~Section shall be comparable in number of bedrooms, exterior appearance and overall quality of~~
22 ~~construction to market rate units in the principal project.~~ The total square footage of the off-site
23 affordable units constructed or otherwise provided under this Section shall be no less than the
24 calculation of the total square footage of the on-site market-rate units in the principal project
25 multiplied by the relevant on-site percentage requirement for the project specified in this

1 Section. The Notice of Special Restrictions or conditions of approval shall include a specific
 2 number of units at specified unit sizes – including number of bedrooms and minimum square
 3 footage – for affordable units. The interior features in affordable units should generally be the
 4 same as those of the market rate units in the principal project but need not be the same make,
 5 model, or type of such item as long as they are of new and good quality and are consistent
 6 with then-current standards for new housing and so long as they are consistent with the
 7 “Quality Standards for Off-Site Affordable Housing Units” found in the Procedures Manual.
 8 Where applicable, parking shall be offered to the affordable units subject to the terms and
 9 conditions of the Department’s policy on unbundled parking for affordable housing units as
 10 specified in the Procedures Manual and amended from time to time. *If the residential units in the*
 11 *principal project are live/work units which do not contain bedrooms or are other types of units which*
 12 *do not contain bedrooms separated from the living space, the off-site units shall be comparable in size*
 13 *according to the following equivalency calculation between live/work and units with bedrooms:*

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

22 (e7) **Marketing the Units.** The Project Sponsor shall submit a proposed
 23 marketing plan to MOHCD to begin marketing the Affordable Units at least six months prior to
 24 the beginning of marketing for any unit in the Principal Project. MOHCD shall approve the
 25 marketing plan for the Affordable Units prior to the Project Sponsor marketing any unit in the

1 Principal Project. Failure to comply shall be deemed a violation of the Planning Code subject
2 to enforcement and penalties as set forth in Section 415.9. MOHCD shall be responsible for
3 overseeing and monitoring the marketing of Affordable Units under this Section 415.7. In
4 general, the marketing requirements and procedures shall be contained in the Procedures
5 Manual as amended from time to time and shall apply to the Affordable Units in the project.
6 MOHCD may develop occupancy standards for units of different bedroom sizes in the
7 Procedures Manual in order to promote an efficient allocation of Affordable Units. MOHCD
8 may require in the Procedures Manual that prospective purchasers complete homebuyer
9 education training or fulfill other requirements. MOHCD shall develop a list of minimum
10 qualifications for marketing firms that market Affordable Units under Section 415.1 et seq.,
11 referred to in the Procedures Manual as Below Market Rate (BMR units). No project sponsor
12 marketing units under the Program shall be able to market BMR units except through a firm
13 meeting all of the minimum qualifications. The Notice of Special Restrictions or conditions of
14 approval shall specify that the marketing requirements and procedures contained in the
15 Procedures Manual as amended from time to time, shall apply to the Affordable Units in the
16 project.

17 (~~1A~~) **Lottery:** At the initial offering of affordable units in a housing project
18 and when Affordable Units become available for resale or re-lease in any housing project
19 subject to this Program after the initial offering, MOHCD must require the use of a public
20 lottery approved by MOHCD to select purchasers or tenants.

21 (~~2B~~) **Preferences:** MOHCD shall create a lottery system that gives
22 preference according to the provisions of Administrative Code Chapter 47. MOHCD shall
23 ~~propose create~~ policies and procedures for implementing these preferences. In accordance with
24 Administrative Code Chapter 47, MOHCD shall provide an annual report on implementation of this
25 subsection (b)(7)(B). ~~to the Planning Commission for inclusion in the Procedures Manual.~~ Otherwise,

1 it is the policy of the City to treat all households equally in allocating affordable units under this
2 Program.

3 ~~(f) Individual affordable units constructed as part of a larger off-site project under this Section
4 415.7 shall not receive development subsidies from any Federal, State or local program established for
5 the purpose of providing affordable housing, and shall not be counted to satisfy any affordable housing
6 requirement for the off-site development. Other units in the same off-site project may receive such
7 subsidies. In addition, subsidies may be used, only with the express written permission by MOHCD, to
8 deepen the affordability of an affordable unit beyond the level of affordability required by this
9 Program.~~

10 ~~(g) Notwithstanding the provisions of Section 415.7(f) above, a project may use California
11 Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% credits under the Tax
12 Credit Allocation Committee (TCAC) to help fund its obligations under this ordinance as long as the
13 project provides at least 60% of the off-site affordable units as affordable at 55% of area median
14 income and the balance of the off-site affordable units using these funds at affordability rates that
15 comply with the requirements of TCAC, CDLAC, and this Section 415. The income table to be used for
16 such projects when the units are priced at 55% of area median income is the income table used by
17 MOHCD for the Inclusionary Housing Program, not that used by TCAC or CDLAC. Except as
18 provided in this subsection (g), all units provided under this Section 415.7 must meet all of the
19 requirements of the Inclusionary Affordable Housing Program and the Procedures Manual for off-site
20 housing.~~

21 **~~SEC. 415.7-1. SMALL SITES AFFORDABLE HOUSING ALTERNATIVE.~~**

22 ~~A project sponsor of a principal project comprised of 24 or fewer residential units may elect
23 under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement by designating its
24 payment of the Affordable Housing Fee due under Section 415.5 for a Small Sites program that
25 MOHCD shall establish for this purpose. Affordable Housing Fees designated for this program shall~~

1 ~~not be considered part of the designated funds specified by Section 415.5(f). MOHCD shall expend the~~
2 ~~program funds from a principal project on a Small Sites Project that meets the requirements set forth in~~
3 ~~Section 415.5(f)(2)(B) and that is within the same neighborhood as the principal project. The~~
4 ~~neighborhood of the principal project shall be determined by the Planning Department's Neighborhood~~
5 ~~Groups Map. If MOHCD is unable to identify and apply the fee to a qualifying Small Sites Project~~
6 ~~within the same neighborhood as the principal project within two years of the payment of the fee, such~~
7 ~~fee shall be released into the Affordable Housing Fund to fund other qualifying Small Sites Projects in~~
8 ~~San Francisco.~~

9 **SEC. 415.8. DURATION AND MONITORING OF AFFORDABILITY.**

10 (a) For any units permitted under the Program:

11 (1) All units constructed pursuant to Sections 415.6 (On-site Affordable Housing
12 Alternative) and 415.7 (Off-site Affordable Housing Alternative) must be owner-occupied, as
13 defined in the Procedures Manual, in the case of Owned Units, or occupied by qualified
14 households in the case of Rental Units.

15 (2) Units shall not remain vacant for a period exceeding 60 days without the
16 written consent of MOHCD in accordance with the Procedures Manual.

17 (3) All units constructed pursuant to Sections 415.6 and 415.7 must remain
18 Affordable to Qualifying Households for the life of the project.

19 (4) The income levels specified in the Notice of Special Restrictions and/or
20 conditions of approval for the project shall be the required income percentages for the life of
21 the project. Notwithstanding the foregoing sentence, if approved by MOHCD and as provided
22 in the Procedures Manual, an exception to the required income percentage may be made in
23 the following cases:

24 (A) a rental unit that converts to an Owned Unit with Qualifying Income
25 up to a maximum of 150% of AMI and a sales price established pursuant to Section

1 415.8(b)(5);

2 (B) where there is an existing tenant who has undergone re-certification
3 as defined in the Procedures Manual, the existing tenant's household income may increase
4 up to a maximum of 200% of AMI;

5 (C) new Owned Units where the project sponsor has used good faith
6 efforts to secure a contract with a qualified buyer but is unable to secure such a contract in a
7 timely manner from the initiation of marketing;

8 (D) resale Owned Units where the owner has used good faith efforts to
9 secure a contract with a qualified buyer but is unable to secure a buyer contract at a
10 maximum resale price specified by MOHCD in a timely manner;

11 (E) the Qualifying Income level for new or resale Owned Units may be
12 set at 20% above the income level stated in the Notice of Special Restrictions or conditions of
13 approval; or

14 (F) resale Owned Units where the owner has requested an adjustment to
15 the maximum income limit stated in the existing Notice of Special Restrictions or other
16 document establishing affordability requirements for the unit and/or has requested an increase
17 to the Qualifying Income level, pursuant to subsection (b)(9).

18 (5) The Commission or the Department shall require all housing projects subject
19 to Section 415.1 et seq. to record a Notice of Special Restrictions in the official records of the
20 City and County of San Francisco. The Notice of Special Restrictions must incorporate the
21 affordability restrictions, *including the requirements of Section 415.8. All projects described in*
22 *Section 415.3(a) must incorporate all of the requirements of this Section 415.8 into the Notice for*
23 *Special Restrictions, including any provisions required to be in the conditions of approval for housing*
24 *projects described in Section 415.3(a). These Section 415.3(a) projects which are housing projects that*
25 *go through the conditional use or planned unit development process shall have conditions of approval.*

1 The conditions of approval shall specify that project applicants shall adhere to the marketing,
2 monitoring, and enforcement procedures outlined in the Procedures Manual, as amended
3 from time to time, in effect at the time of project approval. ~~The Commission shall file the~~
4 ~~Procedures Manual in the case file for each project requiring inclusionary housing pursuant to this~~
5 ~~Program.~~ The Procedures Manual will be referenced in the Notice of Special Restrictions for
6 each project.

7 (b) For any units permitted to be Owned Units under the Program, ~~the~~ MOHCD shall:

8 (1) Establish and implement a process for reselling an affordable unit in the
9 Procedures Manual.

10 (2) Provide that owners may not change title on the unit without review and
11 approval by MOHCD and according to guidelines published in the Procedures Manual, as
12 amended from time to time.

13 (3) Provide that owners must comply with refinancing procedures and
14 limitations as published in the Procedures Manual, as amended from time to time.

15 (4) Provide that, in order to retain all units restricted as affordable under this
16 Program within the City's affordable housing stock, the specific procedures for passing an
17 affordable unit through inheritance are contained in the Procedures Manual. All transfers
18 through inheritance must be reviewed and approved by MOHCD and, in all cases, the heir
19 must acknowledge and agree to the provisions of the Program. The following households may
20 inherit the ability to occupy a unit restricted under this Program: (i) a spouse or registered
21 domestic partner, regardless of income; or (ii) a child of the owner if the child is a qualifying
22 household for the unit. If the heir qualifies under one of these categories, the heir must occupy
23 the unit or the heir must market and sell the unit at the restricted price through a public lottery
24 process and retain the proceeds from the sale. If the heir does not qualify to occupy the unit,
25 the heir must market and sell the unit at the restricted price to a qualified buyer through a

1 public lottery process. The heir would retain the proceeds of such sale.

2 (5) Require that affordable Rental Units permitted by the Commission to be
3 converted to Owned Units satisfy the requirements of the Procedures Manual, as amended
4 from time to time, including that the units shall be sold at restricted sales prices to households
5 meeting the income qualifications specified in the Notice of Special Restrictions or conditions
6 of approval, with a right of first refusal for the occupant(s) of such units at the time of
7 conversion. If the current tenant qualifies for and purchases the unit, the unit shall be sold at a
8 sales price corresponding to the affordability level required for the unit as a Rental Unit as
9 specified in the Notice of Special Restrictions or conditions of approval, with a maximum
10 allowable Qualifying Income level up to 150% of AMI. If the unit is sold to a buyer who is not a
11 current tenant, the sales price shall correspond to the affordability level required for the unit as
12 an Owned Unit as specified in the Notice of Special Restrictions or conditions of approval.
13 Upon conversion to ownership, the units are subject to the resale and other restrictions of this
14 Program for the life of the project, as defined in the Notice of Special Restrictions or
15 conditions of approval for the Project.

16 (6) For Owned Units approved pursuant to Section~~s~~ 415.6 ~~or 415.7~~, the Notice of
17 Special Restrictions or conditions of approval will include provisions restricting resale prices
18 and purchaser income levels according to the formula specified in the Procedures Manual, as
19 amended from time to time. All amenities and parking spaces that were purchased with the
20 initial sale of the Owned Unit must be sold with the Owned Unit upon resale and shall be
21 included in the resale price. In the event subordination of the Affordability Conditions
22 contained in a recorded Notice of Special Restrictions may be necessary to ensure the project
23 applicant's receipt of adequate construction and/or permanent financing for the project, or to
24 enable first-time home buyers to qualify for mortgages, the project applicant may follow the
25 procedures for subordination of affordability restrictions as described in the Principal Project's

1 conditions of approval or in the Procedures Manual. A release following foreclosure or other
2 transfer in lieu of foreclosure may be authorized if required as a condition to financing
3 pursuant to the procedures set forth in the Procedures Manual.

4 (7) Purchasers of Affordable Units shall secure the obligations contained in the
5 Notice of Special Restrictions or conditions of approval by executing and delivering to the City
6 a promissory note secured by a deed of trust encumbering the applicable affordable unit as
7 described in the Procedures Manual or by an alternative means if so provided for in the
8 Procedures Manual, as amended from time to time.

9 (8) **Procedures for Units Unable to Resell.** The Board of Supervisors finds
10 that certain requirements of this Program and the Procedures Manual may create hardship for
11 owners of Affordable Units restricted under this Program. However, the Board also recognizes
12 that the requirements of this Program are important to preserve the long-term affordability of
13 units restricted under the Program. In order to allow some relief for owners of Affordable Units
14 during a time of economic downturn, but to provide the maximum protection for the long-term
15 affordability of the units, the Board directs MOHCD to analyze the following issues and, if it
16 deems appropriate, to propose amendments to the Procedures Manual to address the issues:

17 (A) **Waiver of Resale Requirements and Maximum Qualifying**
18 **Income Level for New Buyers of Resale BMR Units.** The Board recognizes that the risk to
19 low- and moderate-income homeowners during times of economic downturn can increase the
20 risk of default and foreclosure of units restricted under this Program. The Board directs
21 MOHCD to study ways to reduce such risks in the below market rate unit context and, if it
22 deems appropriate, to make recommendations to the *Planning* Commission to amend the
23 Procedures Manual to allow MOHCD discretion, in certain limited circumstances, to waive
24 requirements for owners of Affordable Units who have used good faith efforts to secure a
25 contract with a qualified buyer but are unable to resell their unit in a timely manner. Such

1 amendments to the Procedures Manual may include, but are not limited to, authorizing
2 MOHCD to make one or more allowances for owners of Affordable Units unable to resell,
3 such as: (i) a one-time waiver of the first-time homebuyer rule for the purchasing household;
4 (ii) a one-time waiver of qualifying household size requirements for the purchasing household;
5 (iii) a one-time waiver of owner occupancy rules to allow a temporary rental; (iv) a one-time
6 modification of the asset test for the new buyer household; and (v) allowing MOHCD
7 discretion to increase the Qualifying Income level for the unit by up to 20% above the
8 maximum income limit currently allowed by the Use Restrictions for the unit but at no time
9 higher than 150% of AMI. MOHCD and the Commission shall set forth criteria for granting
10 such allowances such as establishing a minimum time that the units must have been
11 advertised by MOHCD without selling; establishing criteria related to unusual economic or
12 personal circumstances of the owner; providing a maximum percentage for the increase
13 above the maximum income limit currently allowed; providing that the increase may only be
14 granted on a one-time basis; and requiring the owner to clearly establish that the BMR unit is
15 being resold at the maximum resale price specified in the Procedures Manual, as amended
16 from time to time.

17 **(B) Waiver of Maximum Qualifying Income Level for New Buyers of**
18 **Initial Sale BMR Units.** The Board of Supervisors recognizes that the current Program
19 provides that the income of a new buyer of a below market rate household cannot exceed the
20 maximum income stated in the Planning Approval or Notice of Special Restrictions for the
21 BMR Unit. Due to less desirable developments or geographic areas, a project sponsor is
22 sometimes unable to find a buyer for a BMR Unit within the maximum income stated in the
23 Planning Approval or Notice of Special Restrictions for the unit. This situation makes it
24 difficult, if not impossible, for certain current owners of below market rate units to resell their
25 units. In order to minimize this situation, the Board of Supervisors directs MOHCD to study

1 ways to address this issue and, if it deems appropriate, to make recommendations to the
2 *Planning* Commission to amend the Procedures Manual to allow MOHCD to assist project
3 sponsors who have used good faith efforts as determined by MOHCD to secure a contract
4 with a qualified buyer but who are unable to secure such a contract in a timely manner from
5 the initiation of marketing. Such amendments may include allowing MOHCD discretion to
6 increase the Qualifying Income level for the unit by up to 20% above the maximum income
7 limit currently allowed by the Use Restrictions for the unit but at no time higher than 150% of
8 AMI. MOHCD and the *Planning* Commission shall establish limits to this or a similar proposal
9 such as: providing a maximum percentage for the increase above the maximum income limit
10 currently allowed; requiring that a certain period without securing a buyer would pass before
11 such an allowance would be made; and providing that the increase may only be granted on a
12 one-time basis.

13 **(9) Adjustment of Pricing and Income Limits for Owned Units Purchased**
14 **at a Price Above the Affordable Price Determined at the Time of Resale.**

15 (A) **Findings and Purposes.** The Board of Supervisors finds that the
16 requirements of this Program and the Procedures Manual may create financial hardship for
17 certain Owners of Affordable Units who could suffer a financial loss if said Owners sold their
18 units at a price in compliance with the existing Notice of Special Restrictions or other
19 affordability restrictions for the unit. However, the Board also recognizes that the requirements
20 of this Program are important to preserve the long-term affordability of units restricted under
21 the Program. To provide flexibility while protecting the long-term affordability of the Affordable
22 Units and viability of the Program, this subsection (b)(9) provides options to allow some relief
23 for Owners of Affordable Units that are re-selling at a time when the Affordable Price would be
24 lower than the price at which they originally purchased their Affordable Unit.

25 (B) **Authorization to Reset Pricing and Income Limits.** The Board

1 authorizes MOHCD to adjust the Affordable Price at the time of resale and to establish the
2 corresponding maximum income limit or income range for eligible Owned Units, as further
3 specified and limited in this subsection (b)(9). This authorization and adjustment procedure
4 shall be available only once per eligible Owned Unit and shall result in an Affordable Price that
5 is based on a permanent increase to the restrictions on Affordable Price and maximum
6 income limit for the Owned Unit. For the resale and any subsequent resale of the Owned Unit,
7 the Maximum Purchase Price shall be determined by MOHCD based on the new, increased
8 maximum percentage of AMI established pursuant to this subsection (b)(9).

9 (C) **Eligibility.** An Owned Unit is eligible for an increase in the Affordable
10 Price and corresponding maximum income limit or income range for the Owned Unit if: 1) the
11 Owner purchased the unit at a price above the Affordable Price at the time of resale, which
12 Affordable Price shall be determined by MOHCD based on the existing Notice of Special
13 Restrictions or other document establishing affordability requirements for the unit at the time
14 MOHCD processes the Owner's resale request; and 2) the Owner submits a resale request
15 for the unit to MOHCD ~~within three years from by December 14, 2027, the effective date of the~~
16 ~~ordinance in Board File No. 240802, enacting this subsection (b)(9).~~ The Owner is not required to
17 attempt to sell the unit prior to the adjustment described in this subsection (b)(9) to qualify for
18 said adjustment.

19 (D) **Maximum Allowable Adjustment.** For the resale of an Owned Unit
20 eligible for an adjustment under this subsection (b)(9), MOHCD may establish an adjusted
21 Affordable Price up to the original purchase price paid by the current Owner. MOHCD may
22 increase the maximum income limit or income range for the unit to reflect the adjusted
23 Affordable Price, up to a maximum of 130% AMI. In addition, once per eligible Owned Unit,
24 MOHCD may increase the maximum Qualifying Income level for the unit by up to 20% above
25 the maximum income limit or income range in the new Notice of Special Restrictions or other

1 document establishing affordability requirements for the unit, provided that the increased
2 maximum Qualifying Income level does not exceed 150% of AMI. The ultimate resale price
3 may be lower or higher than the adjusted Affordable Price. Nothing in this subsection (b)(9)
4 ensures or entitles an Owner to a resale price equal to the adjusted Affordable Price when
5 reselling their Owned Unit.

6 (E) **Procedures.**

7 (i) MOHCD shall propose policies and procedures for
8 implementing price and AMI level adjustments consistent with this subsection (b)(9) to the
9 *Planning* Commission for inclusion in the Procedures Manual.

10 (ii) MOHCD may establish an adjusted Affordable Price and
11 increase the maximum AMI level consistent with this subsection (b)(9) for the purposes of
12 processing the resale, including marketing the Affordable Unit. If approved pursuant to
13 subsections (b)(9)(E)(iii) through (vi), the increased maximum AMI level shall be established
14 for all other purposes by the recording of a new Notice of Special Restrictions upon closing
15 the resale of the Owned Unit that reflects the increased AMI level. As a condition of MOHCD's
16 approval of the adjustments under this subsection (b)(9), the Owner shall execute and
17 authorize the recordation of the new Notice of Special Restrictions in senior lien priority upon
18 closing the resale of the Owned Unit.

19 (iii) For units in principal projects that required *Planning*
20 Commission approval, the *Planning* Commission, in consultation with MOHCD, may modify
21 any original conditions of approval for the principal project related to the maximum price or
22 income levels consistent with this subsection (b)(9), including, but not limited to, modification
23 to the required terms of a Notice of Special Restrictions recorded or to be recorded against
24 the project or the Owned Unit. If the *Planning* Commission has delegated its authority to the
25 Planning Department to review and approve requests for pricing and AMI level adjustments,

1 such adjustments shall be reviewed and considered for approval by the Director of the
2 Planning Department, and the *Planning* Commission shall not hold a public hearing for
3 discretionary review.

4 (iv) For units in principal projects that required *Planning*
5 Department approval but not *Planning* Commission approval, the *Planning* Department, in
6 consultation with MOHCD, may modify any original conditions of approval for the principal
7 project related to the maximum price or income levels including but not limited to modification
8 to the required terms of a Notice of Special Restrictions recorded or to be recorded against
9 the project or the Owned Unit.

10 (v) For units in principal projects that did not require *Planning*
11 Commission or *Planning* Department approval, the *Planning* Department, in consultation with
12 MOHCD, may modify the required terms of a Notice of Special Restrictions recorded or to be
13 recorded against the project or the Owned Unit.

14 (vi) Any other City approval required prior to modifying the terms
15 of a Notice of Special Restrictions, such as amending a development agreement, shall be
16 obtained.

17 (vii) Modifications under this subsection (b)(9) shall not be subject
18 to review under any other Planning Code provision applicable to a change of use or change of
19 condition including but not limited to Sections 303(e), 309(f), or 329(f)(7).

20 (F) **Reporting.** MOHCD shall provide a report to the Inclusionary
21 Housing Technical Advisory Committee, Planning Commission, and Board of Supervisors or a
22 committee thereof after 10 adjustments are approved under this subsection (b)(9), and after
23 every tenth adjustment approved thereafter. In addition, MOHCD shall provide a report to the
24 Inclusionary Housing Technical Advisory Committee, Planning Commission, and Board of
25 Supervisors or a committee thereof ~~within twelve months from~~ by December 14, 2025 ~~the effective~~

1 ~~date of the ordinance in Board File No. 240802 enacting this subsection (b)(9)~~, and every ~~twelve~~ 12
2 months thereafter. The Board of Supervisors or a committee thereof shall hold a public
3 hearing on the first annual report; accordingly, that report must be accompanied by a draft
4 resolution for the Board to accept the report. Each report provided pursuant to this subsection
5 (F) shall include at least the following information for each approved adjustment:

- 6 (i) The location of the Affordable Unit;
- 7 (ii) The date the adjustment was approved; and
- 8 (iii) Pricing and AMI level information before and after the
9 adjustment.

10 (G) **Expiration of this Subsection and Related Subsection.** This
11 subsection (b)(9), and the related subsection (a)(4)(F), shall expire by operation of law on
12 December 14, 2028. ~~four years from the effective date of the ordinance in Board File No. 240802~~
13 ~~enacting those two subsections~~. Upon expiration of those subsections, the City Attorney is
14 authorized to cause their removal from the Planning Code, which removal may include as
15 appropriate nonsubstantive modifications in subsection lettering, numbering, punctuation, and
16 language.

17 (c) For any units permitted to be Rental Units under the Program, MOHCD shall
18 establish, and set forth in the Procedures Manual, the following:

- 19 (1) ~~r~~Restrictions on lease changes ~~and propose such restrictions to the Commission~~
20 ~~for inclusion in the Procedures Manual~~.
- 21 (2) ~~a~~Additional eligibility criteria for sub-leasing ~~and propose such restrictions to the~~
22 ~~Commission for inclusion in the Procedures Manual~~.
- 23 (3) ~~e~~Criteria for continued eligibility for occupied rental units ~~and propose such~~
24 ~~restrictions to the Commission for inclusion in the Procedures Manual~~.
- 25 (4) ~~e~~Criteria for homeownership status ~~and propose such restrictions to the~~

1 ~~Commission for inclusion in the Procedures Manual.~~

2 (5) ~~Criteria~~ for granting affordable rental households the right of first refusal in
3 purchasing an Affordable Unit that is converted from a Rental Unit to an Owned Unit ~~and~~
4 ~~propose such restrictions to the Commission for inclusion in the Procedures Manual.~~

5 (6) ~~That~~ at no time shall an annual rent increase exceed the actual allowable
6 increase for that year. ~~In cases where the rent has decreased, the tenant's rent must be decreased.~~ In
7 cases where the annual adjustments have not been applied year to year, the Project Owner
8 may not take advantage of any increases that were not applied until the Unit is vacant and re-
9 rented.

10
11 **SEC. 415.9. ENFORCEMENT PROVISIONS AND MONITORING OF PROGRAM.**

12 (a) A ~~first construction document~~ First Construction Document or ~~first~~ First Certificate of
13 Occupancy, whichever applies, shall not be issued by the Director of DBI to any unit in the
14 Principal Project until all of the affordable housing requirements of Section~~s~~ 415.1 et seq. are
15 satisfied.

16 (b) If, after issuance of the ~~first~~ First Certificate of Occupancy, the Commission or
17 Department determines that a project sponsor has failed to comply with any requirement in
18 Section 415.1 et seq. or any reporting requirements detailed in the Procedures Manual, or has
19 violated the Notice of Special Restrictions, the Commission, Department, or DBI may, until the
20 violation is cured, (1) revoke the Certificate of Occupancy for the Principal Project or required
21 Affordable Units, (2) impose a penalty on the project pursuant to Section 176(c) of this Code,
22 and/or (3) the Zoning Administrator or MOHCD may enforce the provisions of Section 415.1 et
23 seq. through any means provided for in Section 176 of this Code.

24 (c) The Department shall notify MOHCD of any housing project subject to the
25 requirements of Section 415.1 et seq., ~~including the name of the project sponsor and the number~~

1 ~~and location of the Affordable Units, within 30 days of the Department's approval of a building or site~~
2 ~~permit for the project.~~ MOHCD shall provide all project sponsors with information concerning
3 the City's first time homebuyer assistance programs and any other related programs MOHCD
4 shall deem relevant to the Inclusionary Affordable Housing Program.

5 ~~(d) The Department shall, as part of the annual Housing Inventory, report to the Board of~~
6 ~~Supervisors on the results of Section 415.1 et seq. including, but not limited to, a report on the~~
7 ~~following items:~~

8 ~~(1) The number of, location of, and project applicant for, housing projects which came~~
9 ~~before the Commission for a Conditional Use Authorization or Planned Unit Development, and the~~
10 ~~number of, location of, and project applicant for, housing projects which were subject to the~~
11 ~~requirements of Section 415.1 et seq.;~~

12 ~~(2) The number of, location of, and project sponsor for, housing projects which applied~~
13 ~~for a waiver, adjustment, or reduction from the requirements of Section 415.1 et seq. pursuant to~~
14 ~~Section 406 of this Article, and the number of, location of, and project sponsor for, housing projects~~
15 ~~which were granted such a waiver, adjustment, or reduction and, if a reduction, to what percentage;~~
16 ~~and~~

17 ~~(3) The number of, location of, and project sponsor for, every housing project to which~~
18 ~~Section 415.1 et seq. applied and the number of market rate units and the number of affordable on- and~~
19 ~~off-site units provided, including the location of all of the affordable units.~~

20 ~~(e) A study is authorized to be undertaken under the direction of MOHCD approximately every~~
21 ~~five years to update the requirements of Section 415.1 et seq. MOHCD shall make recommendations to~~
22 ~~the Board of Supervisors and the Commission regarding any legislative changes. MOHCD shall~~
23 ~~specifically evaluate the different inclusionary housing requirements for developments of over 120 feet~~
24 ~~approximately five years from the enactment of the requirement or as deemed appropriate by MOHCD.~~
25 ~~MOHCD shall coordinate this report with the five-year evaluation by the Director of Planning required~~

1 *by Section 410 of this Article.*

2 **(fd) Annual or Bi-annual Monitoring of Affordable Units.**

3 (1) MOHCD shall monitor and require occupancy certification for Owned Units
4 and Rental Units on an annual or bi-annual basis, as outlined in the Procedures Manual.

5 (2) MOHCD may require the owner of a Rental Unit, or the owner's designated
6 representative, ~~or the tenant in an affordable unit~~ to verify the income levels of the tenant in an
7 Affordable Unit on an annual or bi-annual basis, as outlined in the Procedures Manual.

8 **(e) Monitoring and Enforcement of Affordable Student Housing.**

9 (1) MOHCD is authorized to monitor the Student Housing program described in
10 Section 415.3(b)(5) and shall develop a monitoring form. An annual monitoring fee of \$792 per
11 building exempted from the Inclusionary Housing Program pursuant to this Section 415.9(e)(1) shall
12 be paid to MOHCD by the owner of the real property or the Post-Secondary Educational Institution or
13 Religious Institutions, as defined in Section 102 of this Code. Beginning with the setting of fees for
14 fiscal year 2018-2019, the Controller shall annually adjust the base monitoring fee amount referenced
15 in this subsection (e)(1) without further action by the Board of Supervisors, to reflect changes in the
16 two-year average Consumer Price Index (CPI) change for the San Francisco/San Jose Primary
17 Metropolitan Area (PMSA). This process shall occur as follows:

18 (A) No later than April 15 of each year, MOHCD shall submit the current
19 monitoring fee to the Controller, who shall apply the CPI adjustment to produce a new monitoring fee
20 for the fiscal year beginning July 1. No later than May 15 of each year, the Controller determine the
21 new monitoring fee and certify to the Board of Supervisors that the fees to be collected will produce
22 sufficient revenue to support the costs of providing the services for which the fee is charged and will
23 not produce revenue that exceeds the costs of providing the services for which the fee is paid.

24 (B) No later than July 1 of each year, MOHCD will publish on its website the
25 current monitoring fee amount inclusive of the annual adjustment, and also make the fee amount

1 available upon request at MOHCD's main office.

2 (2) The owner of the real property and each Post-Secondary Educational Institution or
3 Institutions shall agree to submit annual documentation to MOHCD and the Department, along with
4 the annual monitoring fee, on or before January 31 of each year, which addresses the following:

5 (A) Evidence that the Post- Secondary Educational Institution continues to own
6 or otherwise control the Student Housing project under a master lease or other contractual agreement
7 with at least a two-year term, including a certificate from the owner of the real property and the Post-
8 Secondary Educational Institution attaching a true and complete copy of the master lease or other
9 contractual agreement (financial information may be redacted to the extent permitted by law) and
10 certifying that the lease or contract has not otherwise been amended or terminated; and

11 (B) Evidence, on an average annualized basis, of the percentage of students in
12 good standing enrolled half-time or more in the Post-Secondary Educational Institution or Institutions
13 who are occupying the beds or accessory living space in the Student Housing project; and

14 (3) The Post-Secondary Educational Institution, or the owner of the real property on its
15 behalf, shall submit a statement that it intends to terminate the Student Housing project at least 60 days
16 before it terminates such use ("statement of termination"), and shall be subject to the following:

17 (A) The Student Housing project becomes subject to the Inclusionary Housing
18 Program requirements if (1) a Post-Secondary Educational Institution files a statement of termination
19 with the Department and another Post-Secondary Educational Institution or Institutions have not been
20 substituted or obligated to meet the requirements of Section 415.3(d)(5); or (2) the owner of the real
21 property or the Post-Secondary Educational Institution fails to file a statement of termination and fails
22 to meet the requirements for a Student Housing project within not more than one year of a Notice Of
23 Violation issued by the Department;

24 (B) If units in a Student Housing project become subject to the Inclusionary
25 Housing Program requirements then the owner of those units shall (1) pay the Affordable Housing Fee

1 plus interest from the date the project received its First Construction Document for the project if there
2 is no evidence the project ever qualified as Student Housing or, if Student Housing was provided and
3 occupied, then the Affordable Housing Fee with no interest is due on the date the units were no longer
4 occupied by qualifying households and interest would accrue from that date if the fee is not paid; or (2)
5 provide the required number of on-site affordable units required at time of original project approval
6 and that those units shall be subject to all of the requirements of this Program. In this event, the owner
7 of the real property shall record a new NSR providing that the designated units must comply with all of
8 the requirements of this Program.

9 (4) The Post-Secondary Educational Institution is required to report annually as
10 required in subsection (e)(2) above.

11 (5) The Student Housing project may be inspected by any duly authorized City employee
12 to determine its status as a Student Housing project and its compliance with the requirements of this
13 Code at any time upon at least 24 hours prior notice to the owner of the real property or to the master
14 lessee. The City may commence legal action against the owner and/or Post- Secondary Educational
15 Institution to enforce the NSR and the terms of Article 4 of the Planning Code if it determines that the
16 project no longer meets the requirements for a Student Housing project.

17
18 **SEC. 415.10. TRIENNIAL ECONOMIC FEASIBILITY ANALYSIS; REPORTING TO**
19 **BOARD OF SUPERVISORS.**

20 (a) **Findings.**

21 San Francisco continues to experience a housing crisis that requires a broad spectrum
22 of land use and financing tools to address. The 2022 Housing Element Update of the City's
23 General Plan calls for 40% of all new housing production to be affordable for lower income
24 households below 80% of area median income and 17% of new housing affordable to be built
25 for moderate/middle income households up to 120% of area median income. San Francisco's

1 inclusionary housing program, which requires housing developers to provide affordable units
2 as part of their projects, is a critical component of the City's programs to expand affordable
3 housing options. The Inclusionary Housing program is one of the City's tools for increasing
4 affordable housing dedicated to lower income San Franciscans without using public subsidies,
5 and in particular it is a useful tool for creating any affordable housing to meet the growing
6 need of moderate/~~middle~~ income households.

7 The City adopted an Inclusionary Housing ordinance in 2002 that set requirements on
8 market rate development to include affordable units at 12% of the total for the first time. As of
9 2025, the ~~The~~ inclusionary program has successfully resulted in more than ~~3,330~~ 3,600 units of
10 below-market, permanently affordable housing since its adoption. The City prepared a Nexus
11 Study in 2007 in support of the program, which was updated in 2016. The reports
12 demonstrated the necessary affordable housing in order to mitigate the impacts of market rate
13 housing. The City's inclusionary housing requirements, which have been set at various levels
14 since 2002 in response to changing economic conditions, are codified in Section 415 et seq. of
15 the Planning Code.

16 The purpose of this Section 415.10 is to provide for the ongoing study of how to set
17 inclusionary housing obligations in San Francisco at the maximum economically feasible
18 amount in market rate housing development to create housing for low and moderate/~~middle~~
19 income households, at the income levels set forth in Section 415.10(d), and with guidance
20 from the City's Nexus Study, which shall be periodically updated.

21 (b) **Triennial Economic Feasibility Analysis.** With the support of independent
22 consultants as deemed appropriate by the Controller and with advice on setting qualifications
23 and criteria for consultant selection from the Inclusionary Housing Technical Advisory
24 Committee established in Administrative Code Chapter 5, Article XXIX, the Controller, in
25 consultation with relevant City Departments and the Inclusionary Housing Technical Advisory

1 Committee, shall conduct a feasibility study of the City’s inclusionary affordable housing
2 obligations set forth in Planning Code Section 415 et seq., including but not limited to the
3 affordable housing fee and On- site and Off-site Alternatives, and shall submit a report to the
4 Board of Supervisors by September 1, 2029. ~~July 31, 2016 and by October 31 for subsequent years.~~
5 Thereafter, the Controller, in consultation with the Department and the Inclusionary Housing
6 Technical Advisory Committee, shall repeat this process at least every 36 months, or more
7 frequently as deemed necessary by the Controller in response to a significant shift in
8 economic or market conditions.

9 (c) **Elements of the Economic Feasibility Analysis.** The economic feasibility
10 analysis required by subsection (b) of this Section 415.10 shall include sensitivity analyses of
11 key economic parameters that can vary significantly over time, such as, but not limited to:
12 interest rates; capitalization rates; equity return rates; land prices; construction costs; project
13 scale, available state and federal housing finance programs including Low Income Housing
14 Tax Credits readily available for market rate housing; tax-exempt bond financing; Federal
15 Housing Administration and U.S. Department of Housing and Urban Development mortgage
16 insurance; available City or local housing finance programs, such as Enhanced Infrastructure
17 District (EIFD) and tax increments; zoning changes that increase or decrease development
18 potential; variable City exactions, including community benefit fees, capacity charges,
19 community facilities districts; the value of state density bonus, concessions and incentives
20 under California Government Code Section 65915 and any other state law that confers value
21 to development and which project sponsors may attempt to avail themselves of and public-
22 private partnership development agreements where applicable and other factors as deemed
23 reasonably relevant.

24 (d) **Report to Board of Supervisors.** The Board of Supervisors may review the
25 feasibility analyses, as well as the periodic updates to the City’s Nexus Study evaluating the

1 necessary affordable housing in order to mitigate the impacts of market rate housing. The
2 Board of Supervisors will review the feasibility analyses within three months of completion and
3 may consider legislative amendments to the City's Inclusionary Affordable Housing ~~in-lieu~~ fees,
4 On-site or Land Dedication/Off-site Alternatives, and in so doing will seek consultation from the
5 ~~Planning~~ Commission, adjusting levels of inclusionary or affordable housing obligations and
6 income levels ~~up to maximums as defined in Section 415.2~~, based on the feasibility analyses, with
7 the objective of maximizing affordable Inclusionary Housing in market rate housing
8 production, and with guidance from the City's Nexus Study. Any adjustment in income levels
9 shall be adjusted commensurate with the percentage of units required so that the obligation
10 for inclusionary housing is not reduced by any change in income levels. The Board of
11 Supervisors may also utilize the Nexus Study in considering legislative amendments to the
12 Inclusionary Housing requirements. Updates to the City's Inclusionary Housing requirements
13 shall address affordable housing fees, On-site affordable housing and Land Dedication/Off-site
14 affordable housing, as well as the provision of affordable housing available to low-income
15 households at or below 55% of Area Median Income for Rental Units and up to 80% of Area
16 Median Income for Owned Units, and moderate/middle-income households from 80% to
17 120% of Area Median Income.

18 (e) Permitted Modifications to Pipeline Projects Following Legislative Amendments to the
19 Inclusionary Affordable Housing Program. If any of the requirements of Section 415.1 et seq., are
20 amended by the Board of Supervisors following recommendation by the Technical Advisory Committee
21 or otherwise, Pipeline Projects may request a modification of conditions of approval, conditions on a
22 project permit, Notice of Special Restrictions, or other requirements that have been so amended
23 pursuant to requirements of Section 415.1 et seq.. Modifications shall be requested under the process
24 set forth in Planning Code section 415.4(e)(4). In addition to the modifications allowed in Section
25 415.4(e)(2), a Pipeline Project may seek the following additional modifications:

1 (1) A reduction in the Affordable Housing Fee, or On-site Unit, Off-site Unit or Land
2 Dedication percentages or other requirements in effect at the time of the modification request.

3 (2) An extension of up to three years of the performance standards for the Final
4 Approval, including the entitlement validity, expiration, and renewal.

5 (3) Removal of Planning Code requirements no longer applicable to the Pipeline
6 Project at the time of the request for modification.

7
8 **~~SEC. 415A. TEMPORARY REDUCTION OF INCLUSIONARY REQUIREMENTS FOR~~**
9 **~~RESIDENTIAL AND LIVE/WORK DEVELOPMENT PROJECTS APPROVED PRIOR TO~~**
10 **~~NOVEMBER 1, 2023.~~**

11 **~~SEC. 415A.1. PURPOSE.~~**

12 ~~In order to encourage the construction of residential and live/work development projects that~~
13 ~~have been Finally Approved prior to November 1, 2023, but have not procured a First Construction~~
14 ~~Document, the City hereby establishes a temporary program to: (1) reduce certain inclusionary~~
15 ~~affordable housing fees and obligations; (2) extend the time such developments have to obtain a site~~
16 ~~permit after project approval; and (3) allow the modification of certain findings required by Planning~~
17 ~~Code Section 206.6 (“State Density Bonus Program: Individually Requested.”)~~

18 **~~SEC. 415A.2. DEFINITIONS.~~**

19 ~~The following terms shall have the following definitions:~~

20 ~~“Pipeline Project” means a residential or live/work project that (1) is subject to the~~
21 ~~Inclusionary Affordable Housing Ordinance, Planning Code Section 415.1 et seq., and (2) was Finally~~
22 ~~Approved prior to November 1, 2023, and (3) has not been issued a First Construction Document prior~~
23 ~~to November 1, 2023.~~

24 ~~“Finally Approved” or “Final Approval” shall mean (1) approval of a project’s first~~
25 ~~Development Application, unless such approval is appealed; or (2) if a project only requires a building~~

1 ~~permit, planning approval of the first site or building permit, unless such permit is appealed; or (3) if~~
2 ~~the first Development Application or first site or building permit is appealed, then the final decision~~
3 ~~upholding the Development Application, or first site or building permit, on the appeal by the relevant~~
4 ~~City Board or Commission. “Finally Approved” or “Final Approval” shall not include any~~
5 ~~modification of the approval under Section 415A.5.~~

6 **~~SEC 415A.3. APPLICATION.~~**

7 ~~This Section 415A shall apply to Pipeline Projects. This Section 415A shall not apply to (1) any~~
8 ~~mixed-use project that has entered into a development agreement executed pursuant to Chapter 56 of~~
9 ~~the Administrative Code or other similar binding agreement with the City on or before November 1,~~
10 ~~2023, or (2) projects that have chosen to comply with affordable housing requirements by dedicating~~
11 ~~land, including but not limited to projects meeting the requirements set forth in Sections 419.5(a)(2) or~~
12 ~~249.33(b)(16), or (3) projects that have paid development impact fees, including inclusionary impact~~
13 ~~fees, on or before November 1, 2023.~~

14 **~~SEC. 415A.4. MODIFICATION OF PIPELINE PROJECTS.~~**

15 ~~On or before November 1, 2026, project sponsors of Pipeline Projects shall be entitled to~~
16 ~~request a modification under Section 415A.5 to that project’s conditions of approval, conditions on a~~
17 ~~project permit, notice of special restrictions, or other requirements related to: (1) specified~~
18 ~~requirements of the Inclusionary Affordable Housing Program, Planning Code Section 415.1 et seq., or~~
19 ~~other applicable inclusionary housing requirement; (2) conditions that require a project sponsor to~~
20 ~~obtain a site permit within a certain timeframe after project approval; and (3) findings required by~~
21 ~~Planning Code Section 206.6. Except as specifically set forth herein, or as modified under the~~
22 ~~procedure set forth in subsection 415A.5, Pipeline Projects shall comply with all other conditions of~~
23 ~~approval, conditions on a project permit, or notice of special restrictions and any applicable~~
24 ~~requirements of the Planning Code, including the requirements set forth in Sections 415.1 through~~
25 ~~415.11. Project sponsors may request the following modifications:~~

1 ~~(a) **Affordable Housing Fee.** If a project sponsor of a Pipeline Project elected to pay the~~
2 ~~inclusionary housing fee pursuant to Section 415.5, the project shall be entitled to a modification of the~~
3 ~~inclusionary housing requirements set forth in Section 415.5(b)(1)(A), 415.5(b)(1)(B) or~~
4 ~~415.5(b)(1)(C), or if applicable 415.3(b)(2)(A) through (2)(C), as follows:~~

5 ~~(1) For Ownership or Rental Housing Pipeline Projects consisting of 10 units or more,~~
6 ~~the applicable percentage shall be 16.4%.~~

7 ~~(2) For any Pipeline Project consisting of 10 units or more located in an area with a~~
8 ~~specific affordable housing requirement set forth in a Special Use District, Area Plan, or in any other~~
9 ~~section of the Code, including 415.3(d), 419, or 428, the applicable percentage shall be 54.5% of the~~
10 ~~rate for Rental Housing Projects in the specific area, rounded to the nearest tenth of one percent. This~~
11 ~~reduction shall not apply to fees subject to the Temporary Fee Reduction Program set forth in Section~~
12 ~~403.~~

13 ~~(3) Notwithstanding subsection (2), in no case shall a Pipeline Project be entitled to a~~
14 ~~modification of an affordable housing fee that would result in an applicable percentage lower than~~
15 ~~16.4%.~~

16 ~~(b) **On-site Affordable Housing Alternative.** If a project sponsor of a Pipeline Project elected~~
17 ~~to provide on-site affordable units pursuant to Section 415.5(g), the development project shall be~~
18 ~~entitled to the following modifications to the on-site percentages in Sections 415.6(a)(1), 415.6(a)(2),~~
19 ~~or 415.6(a)(3), or if applicable, the on-site percentages set forth in Sections 415.3(b)(1)(A) to~~
20 ~~(b)(1)(D), or Section 206.3:~~

21 ~~(1) For Pipeline Projects consisting of 10 units or more, but less than 25 units, the~~
22 ~~applicable percentage shall be 12%.~~

23 ~~(2) For Pipeline Projects consisting of 25 units or more, the number of Affordable~~
24 ~~Units constructed on-site shall be 12% of all units constructed on the project site. Such projects shall~~
25 ~~ensure that a minimum of 8% of the units are affordable to low-income households, 2% are affordable~~

1 ~~to moderate-income households, and 2% are affordable to middle-income households.~~

2 ~~(3) For any Pipeline Project consisting of 10 units or more that is located in an area~~
3 ~~with a specific affordable housing on-site requirement set forth in a Special Use District, Area Plan, or~~
4 ~~in any other section of the Code, including Sections 415.3(b)(1)(E), 415.3(d), 419, or 428, the~~
5 ~~applicable percentage shall be 54.5% of the rate for Rental Housing Projects in that specific area,~~
6 ~~rounded to the nearest tenth of one percent. For any Pipeline Project consisting of 10 units or more~~
7 ~~that was approved pursuant to Section 206.3, the applicable percentage shall be 54.5% of the rate in~~
8 ~~Section 206.3(f).~~

9 ~~(4) Notwithstanding subsection (3), in no case shall a Pipeline Project be entitled to a~~
10 ~~modification of an on-site affordable housing obligation that would result in an applicable percentage~~
11 ~~lower than 12%.~~

12 ~~(c) Off-Site Affordable Housing Alternative. If a project sponsor of a Pipeline Project elected~~
13 ~~to provide off-site units pursuant to Section 415.5(g), the development project shall be entitled to a~~
14 ~~modification of the requirements in Section 415.7(a) as follows:~~

15 ~~(1) For Pipeline Projects consisting of 25 units or more, the applicable percentage~~
16 ~~shall be 16.4%. Such projects shall ensure that a minimum of 9.4% of the units are affordable to low-~~
17 ~~income households, 4% are affordable to moderate-income households, and 3% are affordable to~~
18 ~~middle-income households.~~

19 ~~(2) For any Pipeline Project consisting of 25 units or more located in an area or~~
20 ~~Special Use District or in any other section of the Code, including Sections 415.3(d), 419, and 428 with~~
21 ~~a specific affordable housing requirement, the applicable percentage shall 54.5% of the rate for Rental~~
22 ~~Housing Projects in the specific area, rounded to the nearest tenth of one percent.~~

23 ~~(3) Notwithstanding subsections (1) and (2), in no case shall a Pipeline Project be~~
24 ~~entitled to a modification of the off-site affordable housing alternative that would result in a percentage~~
25 ~~lower than 16.4%.~~

1 ~~(d) Site Permit and First Construction Document Timing Requirements; Conditions of~~
2 ~~Approval.~~

3 ~~(1) Notwithstanding any contrary provision in this Code, project sponsors of Pipeline~~
4 ~~Projects shall be entitled to a modification under Section 415A.5 of any conditions of approval or~~
5 ~~conditions on a project permit, requiring procurement of a site permit within a specified time, but in no~~
6 ~~event may such a deadline be extended past May 1, 2029.~~

7 ~~(2) Notwithstanding any contrary provision in this Code, any modification under~~
8 ~~Section 415A.5 shall require as a condition that the project sponsor procure a First Construction~~
9 ~~Document on or before May 1, 2029. Failure to meet this condition shall invalidate the modification.~~
10 ~~Pipeline Projects that fail to procure a First Construction Document on or before May 1, 2029 shall be~~
11 ~~subject to the Inclusionary Affordable Housing requirements in effect on May 1, 2029 that are~~
12 ~~applicable to a project at the same location, size, and tenure.~~

13 ~~(e) Density Bonus Projects: Affordability Levels, Concessions, Incentives and Waivers. If a~~
14 ~~Pipeline Project elected to proceed under the State Density Bonus law, Government Code section~~
15 ~~65915 and/or Planning Code section 206.6. (State Density Bonus Program: Individually Requested),~~
16 ~~the project sponsor may request the following modifications to a condition of approval or regulatory~~
17 ~~agreement pursuant to Section 415A.5, provided that the project continues to meet the requirements of~~
18 ~~the State Density Bonus law and/or Section 206.6:~~

19 ~~(1) the number of units to be restricted as affordable units and the affordability levels~~
20 ~~of those units;~~

21 ~~(2) the number and type of concessions, incentives, and waivers granted under~~
22 ~~206.6(e).~~

23 ~~**SEC. 415A.5. PROCESS FOR MODIFICATION OF INCLUSIONARY AFFORDABLE**~~
24 ~~**HOUSING PROGRAM REQUIREMENTS.**~~

25 ~~The purpose of this Section 415A.5 is to provide for the efficient review and approval of~~

1 ~~requests for modifications to conditions of approval, conditions on a project permit, or notice of special~~
2 ~~restrictions, for projects eligible for such modifications under Section 415A. The Planning Commission~~
3 ~~shall be responsible for reviewing and approving such requests, or may delegate those functions to the~~
4 ~~Planning Director.~~

5 ~~(a) Planning Commission Review. Notwithstanding Section 415A.5(b), any modification of the~~
6 ~~conditions of approval, conditions on a project permit, or notice of special restrictions consistent with~~
7 ~~Section 415A that would result in the significant modification of approved plans shall require review~~
8 ~~and approval by the Planning Commission under the modification process otherwise applicable to the~~
9 ~~project, including but not limited to Planning Code Sections 303(e), 309(j) or 329(f)(7)). All~~
10 ~~modifications pursuant to this subsection 415A.5(a), including any appeal of such modifications, shall~~
11 ~~be granted prior to November 1, 2026. A significant modification shall include, but is not limited to:~~

12 ~~(1) a change in the number of Residential or Group Housing units by more than 20%,~~
13 ~~or a change of more than 10% in Gross Floor Area; or,~~

14 ~~(2) a change of use from Dwelling Units to Group Housing.~~

15 ~~(b) Administrative Modifications. Notwithstanding Section 415A.5(a), if the Planning~~
16 ~~Commission has delegated its authority to the Planning Department to review and approve requests for~~
17 ~~modifications consistent with Section 415A.5, the following modifications shall be reviewed and~~
18 ~~approved by the Director of the Planning Department, and the Planning Commission shall not hold a~~
19 ~~public hearing for discretionary review. Modifications under this subsection 415A.5(b) shall not be~~
20 ~~subject to review under Planning Code sections 303(e), 309(f), 309(j) or 329(f)(7). Any modifications~~
21 ~~pursuant to this Section 415A.5(b) must be granted prior to November 1, 2026. If so delegated, the~~
22 ~~Planning Director shall be authorized to modify:~~

23 ~~(1) the applicable inclusionary fee required consistent with Section 415A.4(a).~~

24 ~~(2) the applicable percentage of off-site units required consistent with Section~~
25 ~~415A.4(b).~~

1 ~~(3) the applicable percentage of on-site units required, consistent with Section~~
2 ~~415A.4(e).~~

3 ~~(4) for projects that elected to develop using the State Density Bonus Law, Government~~
4 ~~Code section 65915 or State Density Bonus Program: Individually Requested, under Planning Code~~
5 ~~section 206.6, the number of on-site Affordable Units, and the affordability levels of those units if such~~
6 ~~levels require modification for the project to continue to qualify for the same amount of density bonus~~
7 ~~previously approved, and findings required by Section 206.6(e) related to eligibility for a density~~
8 ~~bonus, concessions and incentives and/or waivers of development standards, consistent with Section~~
9 ~~415A.4(e). Notwithstanding the previous sentence, modifications to a density bonus project that are~~
10 ~~significant as set forth in subsection (a), shall be reviewed by the Planning Commission.~~

11 ~~—— (5) performance standards consistent with Section 415A.4(d), including the time of~~
12 ~~validity, expiration and renewal.~~

13 ~~(e) Additional Conditions. Any modification to conditions of approval under this Section~~
14 ~~415A.5 shall include a condition that a project must secure a First Construction Document on or before~~
15 ~~May 1, 2029 and if a project sponsor fails to secure a First Construction Document on or before May~~
16 ~~1, 2029, the inclusionary requirements applicable to the project shall be those requirements in place at~~
17 ~~the time a First Construction Document is secured applicable to a project of the same size, location,~~
18 ~~and tenure.~~

19 **~~SEC. 415A.6. SUNSET PROVISION.~~**

20 ~~This Section 415A shall expire by operation of law on May 1, 2029, unless extended by an~~
21 ~~ordinance effective on or before that date. Upon expiration of this Section 415A, the City Attorney shall~~
22 ~~cause the section to be removed from the Planning Code.~~

23 **~~SEC. 415B. TEMPORARY REDUCTION IN REQUIREMENTS FOR NEW RESIDENTIAL~~**
24 **~~AND LIVE/WORK DEVELOPMENT PROJECTS.~~**

25 ~~In order to encourage construction of residential and live/work development projects subject to~~

1 ~~the Inclusionary Affordable Housing Program, Planning Code Sections 415.1 et seq, this Section 415B~~
2 ~~shall apply to housing and live/work development projects that are Finally Approved, as defined in~~
3 ~~Planning Code Section 415A.2, between November 1, 2023 and November 1, 2026, provided that such~~
4 ~~projects receive a First Construction Document within 30 months from Final Approval. Such deadline~~
5 ~~shall be extended in the event of any litigation seeking to invalidate the City's approval of such project,~~
6 ~~for the duration of the litigation. Housing development projects that fail to obtain a First Construction~~
7 ~~Document within 30 months of Final Approval shall be subject to the requirements of Section 415.1 et~~
8 ~~seq. in effect on the date a First Construction Document is finally obtained. Except as specifically set~~
9 ~~forth herein, all other Inclusionary Affordable Housing requirements in Sections 415.1 et seq shall~~
10 ~~continue to apply.~~

11 **~~SEC. 415B.1. AFFORDABLE HOUSING FEE.~~**

12 ~~If a project sponsor elects to pay the affordable housing fee under Section 415.5, the project~~
13 ~~shall comply the requirements set forth in Section 415.6(b)(1), except as follows:~~

14 ~~(a) For any housing development consisting of 25 units or more, the applicable percentage~~
15 ~~shall be 20.5%.~~

16 ~~(b) For any housing development located in an area with a specific affordable housing~~
17 ~~requirement set forth in a Special Use District, Area Plan, or in any other section of the Code,~~
18 ~~including 415.3(d), 419, or 428, the percentage shall be 68% of the rate applicable to Rental Housing~~
19 ~~Projects, rounded to the nearest tenth of one percent. This section shall not apply to fees subject to the~~
20 ~~Temporary Fee Reduction Program set forth in Section 403.~~

21 **~~SEC. 415B.2. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.~~**

22 ~~If a project sponsor elects to provide on-site Affordable Units pursuant to Section 415.5(g), the~~
23 ~~housing development shall be subject to the following required percentages rather than the percentage~~
24 ~~of units set forth in Section 415.6(a):~~

25 ~~(a) For any housing development consisting of 25 or more units, the number of Affordable~~

1 ~~Units constructed on-site shall be 15% of all units constructed on the project site. Project sponsors~~
2 ~~shall ensure that a minimum of 10% of the Affordable Units shall be affordable to low-income~~
3 ~~households, 2.5% of the Affordable Units shall be affordable to moderate-income households, and~~
4 ~~2.5% of the Affordable Units shall be affordable to middle-income households.~~

5 ~~(b) For any housing development located in an area with a specific affordable housing~~
6 ~~requirement set forth in a Special Use District, Area Plan, or in any other section of the Code such as~~
7 ~~Section 415.3(d), 419, or 428, the percentage shall be 68% of the rate applicable to Rental Housing~~
8 ~~Projects in such area, rounded to the nearest tenth of one percent.~~

9 **~~SEC. 415B.3. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.~~**

10 ~~If a project sponsor elects to provide off-site units to satisfy the requirements of Section 415.1 et~~
11 ~~seq. pursuant to 415.5(g)(1)(B), the housing development project shall be subject to the requirements of~~
12 ~~Section 415.7(a), except as follows:~~

13 ~~(a) For any housing development consisting of 25 units or more, the applicable percentage~~
14 ~~shall be 20.5%. Project sponsors shall ensure that a minimum of 11.5% of the Affordable Units shall be~~
15 ~~affordable to low-income households, 5% of the Affordable Units shall be affordable to moderate-~~
16 ~~income households, and 4% of the Affordable Units shall be affordable to middle-income households.~~

17 ~~(b) For any housing development that is located in an area with a specific off-site affordable~~
18 ~~housing requirement set forth in a Special Use District, Area Plan, or in any other section of the Code~~
19 ~~including Section 415.3(d), 419, or 428, the percentage shall be 68% of the applicable rate for Rental~~
20 ~~Housing Projects in the area, rounded to the nearest tenth of one percent.~~

21 **~~SEC. 415B.4. INCLUSIONARY FEE ANNUAL FEE UPDATES.~~**

22 ~~Notwithstanding any other provision of the Code, during the period that this Section 415B~~
23 ~~applies:~~

24 ~~(a) the amount of the inclusionary housing fee shall be adjusted consistent with the factors set~~
25 ~~forth in Sections 415.5(b)(2) and 415.5(b)(3), but in no case shall the fee be increased by more than 2%~~

1 *annually; and*

2 *(b) the provisions of 415.6(a)(5) shall not apply.*

3 ***SEC. 415B.5. SUNSET PROVISION.***

4 *This section 415B shall expire by operation of law on November 1, 2026, unless extended by an*
5 *ordinance on or effective before that date. Upon expiration of this Section 415B, the City Attorney shall*
6 *cause the section to be removed from the Planning Code.*

7
8 ***[AFFORDABLE HOUSING: MARKET AND OCTAVIA AREA PLAN;***

9 ***UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT]***

10 ***SEC. 416. MARKET AND OCTAVIA AREA PLAN AND UPPER MARKET***
11 ***NEIGHBORHOOD COMMERCIAL DISTRICT AFFORDABLE HOUSING FEE.***

12 *Sections 416.1 through 416.5, hereafter referred to as Section 416.1 et seq., set forth the*
13 *requirements and procedures for the Market and Octavia Area Plan and Upper Market Neighborhood*
14 *Commercial District Affordable Housing Fee. The effective date of these requirements shall be either*
15 *May 30, 2008, which is the date that the requirements originally became effective, or the date a*
16 *subsequent modification, if any, became effective.*

17 ***SEC. 416.1. FINDINGS.***

18 *The Board of Supervisors hereby finds that:*

19 *A. The additional affordable housing requirements of this Section are supported by the Nexus*
20 *Study performed by Keyser Marston and Associates referenced in Section 415.1(11) and found in*
21 *Board File No. 081152. The Board of Supervisors has reviewed the study and staff analysis and report*
22 *of the study and, on that basis, finds that the study supports the current inclusionary affordable housing*
23 *requirements combined with the additional affordable housing fee. Specifically, the Board finds that the*
24 *study: (1) identifies the purpose of the additional fee to mitigate impacts on the demand for affordable*
25 *housing in the City; (2) identifies the use to which the additional fee is to be put as being to increase the*

1 ~~City's affordable housing supply; and (3) establishes a reasonable relationship between the use of the~~
2 ~~additional fee for affordable housing and the need for affordable housing and the construction of new~~
3 ~~market rate housing. Moreover, the Board finds that the current inclusionary affordable requirements~~
4 ~~combined with the additional fee are less than the cost of mitigation and do not include the costs of~~
5 ~~remediating any existing deficiencies. The Board also finds that the study establishes that the current~~
6 ~~inclusionary affordable requirements and additional fee do not duplicate other City requirements or~~
7 ~~fees.~~

8 ~~B. Furthermore, the Board finds that generally an account has been established, funds~~
9 ~~appropriated, and a construction schedule adopted for affordable housing projects funded through the~~
10 ~~Inclusionary Affordable Housing program. The Affordable Housing Fee will reimburse the City for~~
11 ~~expenditures on affordable housing that have already been made.~~

12 ~~C. A major Market and Octavia Area Plan objective is to direct new market rate housing~~
13 ~~development to the area. That new market rate development will greatly outnumber both the number of~~
14 ~~units and potential new sites within the plan area for permanently affordable housing opportunities.~~
15 ~~The City and County of San Francisco has adopted a policy in its General Plan to meet the affordable~~
16 ~~housing needs of its general population and to require new housing development to produce sufficient~~
17 ~~affordable housing opportunities for all income groups, both of which will not be met by the projected~~
18 ~~housing development in the plan area. In addition, the "Draft Residential Nexus Analysis City and~~
19 ~~County of San Francisco" of December 2006 indicates that market rate housing itself generates~~
20 ~~additional lower income affordable housing needs for the workforce needed to serve the residents of the~~
21 ~~new market rate housing proposed for the plan area. In order to meet the demand created for~~
22 ~~affordable housing by the specific policies of the Plan and to be consistent with the policy of the City~~
23 ~~and County of San Francisco it is found that an additional affordable housing fee need be included on~~
24 ~~all market rate housing development in the Plan Area with priority for its use being given to the Plan~~
25 ~~area.~~

1
2 ~~(b) Other Fee Provisions. This additional affordable housing fee shall be subject to the~~
3 ~~inflation adjustment provisions of Section 409 and the waiver and reduction provisions of Section 406.~~
4 ~~This additional affordable housing fee may not be met through the in-kind provision of community~~
5 ~~improvements or Community Facilities (Mello Roos) financing options of Sections 421.3(d) and (e).~~
6 ~~Pursuant to Section 249.33, in the Van Ness & Market Residential Special Use District this fee may be~~
7 ~~paid in any of the Alternatives set forth in Section 415.5(g).~~

8 ~~(c) Exemption for Affordable Housing. A project applicant shall not pay a supplemental~~
9 ~~affordable housing fee for any square foot of space designated as a below market rate unit under~~
10 ~~Section 415.1 et seq., the Citywide Inclusionary Affordable Housing Program, or any other residential~~
11 ~~unit that is designated as an affordable housing unit under a Federal, State, or local restriction in a~~
12 ~~manner that maintains affordability for a term no less than 50 years.~~

13 ~~(d) Timing of Fee Payments. The Market and Octavia Plan Area and Upper Market NCD~~
14 ~~Affordable Housing Fee shall be paid to DBI for deposit into the Citywide Affordable Housing Fund at~~
15 ~~the time required by Section 402(d).~~

16
17 ~~**SEC. 416.4. IMPOSITION OF AFFORDABLE HOUSING FEE REQUIREMENT.**~~

18 ~~(a) Determination of Requirements. The Department shall determine the applicability of~~
19 ~~Section 416.1 et seq. to any development project requiring a first construction document and, if Section~~
20 ~~416.1 et seq. is applicable, shall impose any such requirements as a condition of approval for issuance~~
21 ~~of the first construction document. The project sponsor shall supply any information necessary to assist~~
22 ~~the Department in this determination.~~

23 ~~(b) Department Notice to Development Fee Collection Unit of Fee Requirements. After the~~
24 ~~Department has made its final determination regarding the application of the affordable housing~~
25 ~~requirements to a development project pursuant to Section 416.1 et seq., it shall immediately notify the~~

1 *Development Fee Collection Unit at DBI of the applicable affordable housing fee amount in addition to*
2 *the other information required by Section 402(b) of this Article.*

3 *(c) Process for Revisions of Determination of Requirements. In the event that the Department*
4 *or the Commission takes action affecting any development project subject to Section 416.1 et seq. and*
5 *such action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the*
6 *Board of Supervisors, or by court action, the procedures of Section 402(c) of this Article shall be*
7 *followed.*

8
9 ***SEC. 416.5. USE OF FUNDS.***

10 *The additional affordable housing requirement specified in this Section 416.5 for the Market*
11 *and Octavia Plan Area and the Upper Market NCT District shall be paid into the Citywide Affordable*
12 *Housing Fund, established in Administrative Code Section 10.100-49, but the funds shall be separately*
13 *accounted for. MOHCD shall expend the funds according to the following priorities: First, to increase*
14 *the supply of housing Affordable to Qualifying Households in the Market and Octavia Plan Area and*
15 *the Upper Market NCT District; second, to increase the supply of housing Affordable to Qualifying*
16 *Households within one mile of the boundaries of the Plan Area and the Upper Market NCT District;*
17 *third, to increase the supply of housing affordable to qualifying households in the City and County of*
18 *San Francisco. The funds may also be used for monitoring and administrative expenses subject to the*
19 *process described in Section 415.5(f)*

20
21 ***[AFFORDABLE HOUSING: EASTERN NEIGHBORHOODS AREA PLAN]***

22 ***SEC. 417. EASTERN NEIGHBORHOODS AREA PLAN AFFORDABLE HOUSING***
23 ***REQUIREMENT.***

24 *(Formerly Section 315.4(a)(1)(ii)).*

25 *Sections 417.1 through 417.5, hereafter referred to as Section 417.1 et seq., set forth the*

1 ~~requirements and procedures for the Eastern Neighborhoods Area Plan Alternate Affordable Housing~~
2 ~~Fee. The effective date of these requirements shall be either January 19, 2009, which is the date that~~
3 ~~the requirements originally became effective, or the date a subsequent modification, if any, became~~
4 ~~effective.~~

5 **~~SEC. 417.1. FINDINGS.~~**

6 ~~The Board of Supervisors hereby finds that:~~

7 ~~A. The fee provisions of this Section are equivalent to or less than the fees for developments of~~
8 ~~over 20 units previously adopted by the Board in Ordinance No. 051685 and 060529 and are also~~
9 ~~supported by the Nexus Study performed by Keyser Marston and Associates referenced in Section~~
10 ~~415.1(11) and found in Board File No. 081152. The Board of Supervisors has reviewed the study and~~
11 ~~staff analysis prepared by the MOH dated July 24, 2008 in Board File No. 081152 and, on that basis,~~
12 ~~finds that the study supports the current proposed changes to the inclusionary housing requirements for~~
13 ~~projects of 20 units or less in the Eastern Neighborhood Area Plan. Specifically, the Board finds that~~
14 ~~the study and staff memo: (1) identifies the purpose of the additional fee to mitigate impacts on the~~
15 ~~demand for affordable housing in the City; (2) identifies the use to which the additional fee is to be put~~
16 ~~as being to increase the City's affordable housing supply; and (3) establishes a reasonable relationship~~
17 ~~between the use of the additional fee for affordable housing and the need for affordable housing and~~
18 ~~the construction of new market rate housing. Moreover, the Board finds that the new inclusionary~~
19 ~~affordable housing requirements are less than the cost of mitigation and do not include the costs of~~
20 ~~remediating any existing deficiencies. The Board also finds that the study establishes that the~~
21 ~~inclusionary requirements do not duplicate other City requirements or fees.~~

22 ~~B. Furthermore, the Board finds that generally an account has been established, funds~~
23 ~~appropriated, and a construction schedule adopted for affordable housing projects funded through the~~
24 ~~Inclusionary Affordable Housing program and the in lieu fees will reimburse the City for expenditures~~
25 ~~on affordable housing that have already been made.~~

1 ~~C. The Board finds that small scale development faces a number of challenges in the current~~
2 ~~development climate, including limited access to credit and often, a higher land cost per unit for the~~
3 ~~small sites on which they develop. Because of these and other variations from larger scale~~
4 ~~development, they operate under a somewhat unique development model which cannot be fully~~
5 ~~encapsulated within the constraints of the Eastern Neighborhoods Financial Analysis, prepared to~~
6 ~~assess the financial feasibility of increasing housing requirements and impact fees in the Plan Areas.~~
7 ~~To address these challenges, the Board finds that a number of slight modifications to the affordable~~
8 ~~housing requirements of the Eastern Neighborhoods, to apply to small projects (defined as 20 units or~~
9 ~~fewer, or less than 25,000 gross square feet) are appropriate.~~

10 ~~**SEC. 417.2. DEFINITIONS.**~~

11 ~~See Section 401 of this Article.~~

12 ~~“Gross Square Footage” shall have the meaning set forth in Section 102.~~

13 ~~“Eastern Neighborhood Controls” shall have the meaning set forth in Section 175.6(c)(1).~~

14 ~~**SEC. 417.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.**~~

15 ~~(a) **Application.** The alternate Affordable Housing Fee described in this Section shall only~~
16 ~~apply to development projects that are subject to the Eastern Neighborhood Controls, consist of 20~~
17 ~~units or less or less than 25,000 gross square feet, and are subject to the requirements of Sections 415~~
18 ~~through 415.9 and 419, and any stated exceptions elsewhere in this Code, including the specific~~
19 ~~provisions in Section 419.~~

20 ~~(b) **Amount of Fee.** Any sponsor of a development projects subject to this Section may choose~~
21 ~~to pay an alternate fee equal to \$40.00 per gross square foot of net new residential development instead~~
22 ~~of the standard Affordable Housing Fee requirements set forth in Section 415.5 as follows.~~

23 ~~(c) **Calculation of Gross Square Feet of Residential Area.** The calculation of gross square feet~~
24 ~~shall not include nonresidential uses, including any retail, commercial, or PDR uses, and all other~~
25 ~~space used only for storage and services necessary to the operation or maintenance of the building~~

1 ~~itself.~~

2 ~~(d) **Timing of Fee Payments.** The Eastern Neighborhoods Alternate Affordable Housing Fee~~
3 ~~shall be paid to DBI for deposit into the Citywide Affordable Housing Fund at the time required by~~
4 ~~Section 402(d).~~

5 ~~**SEC. 417.4. IMPOSITION OF AFFORDABLE HOUSING FEE REQUIREMENT.**~~

6 ~~(a) **Determination of Requirements.** The Department shall determine the applicability of~~
7 ~~Section 417.1 et seq. to any development project requiring a first construction document and, if Section~~
8 ~~417.1 et seq. is applicable, shall impose any such requirements as a condition of approval for issuance~~
9 ~~of the first construction document for the development project. The project sponsor shall supply any~~
10 ~~information necessary to assist the Department in this determination.~~

11 ~~(b) **Department Notice to Development Fee Collection Unit at DBI.** After the Department has~~
12 ~~made its final determination regarding the application of the affordable housing requirements to a~~
13 ~~development project pursuant to Section 417.1 et seq., it shall immediately notify the Development Fee~~
14 ~~Collection Unit at DBI of the applicable affordable housing fee amount in addition to the other~~
15 ~~information required by Section 402(b) of this Article.~~

16 ~~(c) **Process for Revisions of Determination of Requirements.** In the event that the Department~~
17 ~~or the Commission takes action affecting any development project subject to Section 417.1 et seq. and~~
18 ~~such action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the~~
19 ~~Board of Supervisors, or by court action, the procedures of Section 402(e) shall be followed.~~

20 ~~**SEC. 417.5. USE OF FUNDS.**~~

21 ~~The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee shall be paid into the~~
22 ~~Citywide Affordable Housing Fund, but the funds shall be separately accounted for. MOH shall expend~~
23 ~~the funds according to the following priorities: First, to increase the supply of housing Affordable to~~
24 ~~Qualifying Households in the Eastern Neighborhoods Project Areas; second, to increase the supply of~~
25 ~~housing Affordable to Qualifying Households within one mile of the boundaries of the Eastern~~

1 ~~Neighborhoods Project Areas; third, to increase the supply of housing Affordable to Qualifying~~
2 ~~Households in the City and County of San Francisco. The funds may also be used for monitoring and~~
3 ~~administrative expenses subject to the process described in Section 415.5(e). All monies contributed~~
4 ~~pursuant to the Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee and collected~~
5 ~~within the Central SoMa Special Use District shall be paid into the Citywide Affordable Housing Fund,~~
6 ~~but the funds shall be separately accounted for. Such funds shall be expended within the area bounded~~
7 ~~by Market Street, the Embarcadero, King Street, Division Street, and South Van Ness Avenue.~~

8
9 ~~**[HOUSING REQUIREMENTS, UMU ZONING DISTRICTS OF THE EASTERN**~~
10 ~~**NEIGHBORHOODS; LAND DEDICATION ALTERNATIVE IN THE MISSION NCT DISTRICT]**~~

11 ~~**SEC. 419. HOUSING REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT**~~
12 ~~**PROJECTS IN THE UMU ZONING DISTRICTS OF THE EASTERN NEIGHBORHOODS AND**~~
13 ~~**THE LAND DEDICATION ALTERNATIVE IN THE UMU DISTRICT, MISSION NCT**~~
14 ~~**DISTRICT, AND CENTRAL SOMA SPECIAL USE DISTRICT.**~~

15 ~~Sections 419.1 through 419.6, hereafter referred to as Section 419.1 et seq., set forth the~~
16 ~~housing requirements for residential development projects in the UMU Zoning Districts of the Eastern~~
17 ~~Neighborhoods and the Land Dedication Alternative in the UMU District, Mission NCT District, and~~
18 ~~Central SoMa Special Use District. The effective date of these requirements shall be either December~~
19 ~~19, 2008, which is the date that the requirements originally became effective, or the date a subsequent~~
20 ~~modification, if any, became effective.~~

21 ~~**SEC. 419.1. FINDINGS.**~~

22 ~~(a) **Need for New Housing and Other Land Uses.** San Francisco is experiencing a severe~~
23 ~~shortage of housing available to people at all income levels. In addition, San Francisco has an ongoing~~
24 ~~affordable housing crisis. Many future San Francisco workers will be earning below 80% of the area's~~
25 ~~median income, and even those earning moderate or middle incomes, above the City's median, are~~

1 likely to need assistance to continue to live in San Francisco. In 2007, the median income for a family
2 of four in the City was about \$86,000. Yet median home prices suggest that nearly twice that income is
3 needed to be able to afford a dwelling suitable for a family that size. Only an estimated 10% of
4 households in the City can afford a median-priced home.

5 *The Association of Bay Area Governments' (ABAG) Regional Housing Needs Determination*
6 *(RHND) forecasts that San Francisco must produce over 31,000 new units in the next five years, or*
7 *over 6,000 new units of housing annually, to meet projected needs. At least 60%, or over 18,000, of*
8 *these new units should be available to households of very low, low, and moderate incomes. With land in*
9 *short supply in the City, it is increasingly clear that the City's formerly industrial areas offer a critical*
10 *source of land where this great need for housing, particularly affordable housing, can be partially*
11 *addressed.*

12 *(b) Target Area For New Housing.* San Francisco's Housing Element establishes the Eastern
13 Neighborhoods as a target area for development of new housing to meet San Francisco's identified
14 housing targets. The release of some of the area's formerly industrial lands, no longer needed to meet
15 current industrial or PDR needs, offers an opportunity to achieve higher affordability, and meet a
16 greater range of need. The Mission, Showplace Square – Potrero Hill, East SoMa and Central
17 Waterfront Area Plans of the General Plan (Eastern Neighborhoods Plans) thereby call for creation of
18 new zoning intended specifically to meet San Francisco's housing needs, through higher affordability
19 requirements and through greater flexibility in the way those requirements can be met.

20 *New affordable units are currently funded through a variety of sources, including inclusionary*
21 *housing and in lieu fees leveraged by new market rate residential development pursuant to Sections 413*
22 *and 415; as well as City, State, and federal funding. Using these existing sources, the Planning*
23 *Department projects that approximately 1,000 to 1,500 new units of affordable housing will be*
24 *developed in the Eastern Neighborhoods.*

25 *Recognizing that this number of affordable units is not sufficient, the Plans call for further*

1 ~~measures beyond the existing inclusionary requirements and Citywide funding, including new funding~~
2 ~~sources for affordable housing programs such as an impact fee; and new zoning districts in formerly~~
3 ~~industrial areas which require deeper affordability.~~

4 ~~(c) **Requirements for New Development To Contribute Towards Housing Objectives.** A key~~
5 ~~policy goal of the Eastern Neighborhoods Plans is to provide a significant amount of new housing~~
6 ~~affordable to low, moderate, and middle income families and individuals, along with “complete~~
7 ~~neighborhoods” that provide appropriate amenities for these new residents. The Plans obligate all new~~
8 ~~development within the Eastern Neighborhoods to contribute towards these goals, by providing a~~
9 ~~contribution towards affordable housing needs and by paying for a reasonable share of their impact on~~
10 ~~the neighborhood’s infrastructure. They further require new development in transitioning formerly~~
11 ~~industrial areas to contribute a higher share towards the City’s exponentially high affordability needs.~~

12 ~~To address the full range of housing needs of all income categories, including low, moderate,~~
13 ~~and middle income families and individuals, the Plans provide programs which address all of these~~
14 ~~income levels, as follows:~~

15 ~~(1) **Low:** Current housing programs funded by federal and State funds, private equity raised~~
16 ~~through Low Income Housing Tax Credits, and local funds such as inclusionary in-lieu and Jobs-~~
17 ~~Housing Linkage fees and run by MOHCD and the San Francisco Redevelopment Agency fund~~
18 ~~affordable housing primarily at very low and low income levels, to households making below 80% of~~
19 ~~the area median income; but due to the low supply and high costs of land in the City, are at a~~
20 ~~disadvantage for sites upon which to provide such housing. An alternative to the city’s Inclusionary~~
21 ~~Housing Program will allow developers to dedicate sites for very low and low income level units.~~

22 ~~(2) **Moderate:** The City’s Inclusionary Housing Program funds affordable housing primarily at~~
23 ~~the moderate income levels through on-site provision of below market rate units, to households making~~
24 ~~between 80% and 120% of the San Francisco median income. Continuation and expansion of the~~
25 ~~Inclusionary Housing Program will allow provision of these moderate income units to increase.~~

1 ~~(3) **Middle:** The City has no current programs to fund affordable housing to those at “middle”~~
2 ~~income levels, below the 200% area median income level estimated to be required to purchase market~~
3 ~~rate housing yet above the 120% threshold required for the City’s Inclusionary Housing Program. An~~
4 ~~alternative to the city’s Inclusionary Housing Program will allow developers to provide “middle”~~
5 ~~income level units.~~

6 ~~The Eastern Neighborhoods Plans structure requirements and fees by tiers to ensure feasibility.~~
7 ~~This feasibility amount remains below the nexus established in the Residential Nexus Analysis, April~~
8 ~~2007, on file with the Planning Department. Within these districts, new development of market rate~~
9 ~~housing will be required to meet affordable housing requirements above the City’s ordinary affordable~~
10 ~~housing requirements for Residential and Live/Work Development Projects (Section 415), as described~~
11 ~~in Sections 419.2-419.4. These housing requirements may be met through increased inclusionary~~
12 ~~requirements under the City’s traditional Inclusionary Program, or through alternative methods~~
13 ~~contained herein.~~

14 ~~**SEC. 419.2. DEFINITIONS.**~~

15 ~~(a) In addition to the definitions set forth in Section 401 of this Article:~~

16 ~~(1) “Tier A.”~~

17 ~~(i) All development on sites within the UMU District which received a height~~
18 ~~increase of eight feet or less, or received a reduction in height, as part of the Eastern Neighborhoods~~
19 ~~Plan (on file with the Clerk of the Board of Supervisors in File No. 081154), and all sites within the~~
20 ~~Mission NCT District utilizing the land dedication alternative specified in Section 419.5(a)(2).~~

21 ~~(ii) All changes of use within existing structures.~~

22 ~~(2) “Tier B.” All development on sites within the UMU District which received a height~~
23 ~~increase of nine to 28 feet as part of the Eastern Neighborhoods Plan (on file with the Clerk of the~~
24 ~~Board of Supervisors in File No. 081154).~~

25 ~~(3) “Tier C.” All development on sites within the UMU District which received a~~

1 *height increase of 29 feet or more as part of the Eastern Neighborhoods Plan (on file with the Clerk of*
2 *the Board of Supervisors in file No. 081154).*

3 ***SEC. 419.3. APPLICATION OF UMU AFFORDABLE HOUSING REQUIREMENTS.***

4 *(a) Section 419.1 et seq. shall apply to any housing project located in the UMU Zoning*
5 *District of the Eastern Neighborhoods, that is subject to the requirements of Sections 415 et seq.*

6 *(b) Additional UMU Affordable Housing Requirements to the Section 415 Inclusionary*
7 *Affordable Housing Program Requirements. The requirements of Section 415 through 415.9 shall*
8 *apply subject to the following exceptions:*

9 *(1) For all projects sites designated as Tier A, a minimum of 14.4 percent of the total*
10 *units constructed shall be affordable to and occupied by qualifying persons and families as defined*
11 *elsewhere in this Code, so that a project sponsor must construct .144 times the total number of units*
12 *produced in the principal project beginning with the construction of the tenth unit. If the total number*
13 *of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion*
14 *of .5 or above.*

15 *(A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g)*
16 *to build off-site units to satisfy the requirements of this program, the sponsor shall construct 23 percent*
17 *so that a sponsor must construct .23 times the total number of units produced in the principal project*
18 *beginning with the construction of the tenth unit. If the total number of units is not a whole number, the*
19 *sponsor shall round up to the nearest whole number for any portion of .5 or above.*

20 *(B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to*
21 *satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415*
22 *according to the number of units required above if the project applicant were to elect to meet the*
23 *requirements of this Section by off-site housing development. For the purposes of this Section, the City*
24 *shall calculate the fee using the direct fractional result of the total number of units multiplied by the*
25 *percentage of off-site housing required, rather than rounding up the resulting figure.*

1 (2) ~~For all project sites designated Tier B, a minimum of 16 percent of the total units~~
2 ~~constructed shall be affordable to and occupied by qualifying persons and families as defined~~
3 ~~elsewhere in this Code, so that a project sponsor must construct .16 times the total number of units~~
4 ~~produced in the principal project beginning with the construction of the tenth unit. If the total number~~
5 ~~of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion~~
6 ~~of .5 or above.~~

7 (A) ~~If the project sponsor is eligible for and elects pursuant to Section 415.5(g)~~
8 ~~to build off-site units to satisfy the requirements of this program, the sponsor shall construct 25 percent~~
9 ~~so that a sponsor must construct .25 times the total number of units produced in the principal project~~
10 ~~beginning with the construction of the tenth unit. If the total number of units is not a whole number, the~~
11 ~~sponsor shall round up to the nearest whole number for any portion of .5 or above.~~

12 (B) ~~If the project sponsor elects pursuant to Section 415.5(g) to pay the fee to~~
13 ~~satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415~~
14 ~~according to the number of units required above if the sponsor were to elect to meet the requirements~~
15 ~~of this Section by off-site housing development. For the purposes of this Section, the City shall calculate~~
16 ~~the fee using the direct fractional result of the total number of units multiplied by the percentage of off-~~
17 ~~site housing required, rather than rounding up the resulting figure.~~

18 (3) ~~For all project sites designated Tier C, a minimum of 17.6 percent of the total units~~
19 ~~constructed shall be affordable to and occupied by qualifying persons and families as defined~~
20 ~~elsewhere in this Code, so that a project sponsor must construct .176 times the total number of units~~
21 ~~produced in the principal project beginning with the construction of the tenth unit. If the total number~~
22 ~~of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion~~
23 ~~of .5 or above.~~

24 (A) ~~If the project sponsor is eligible for and elects pursuant to Section 415.5(g)~~
25 ~~to build off-site units to satisfy the requirements of this program, the sponsor shall construct 27 percent~~

1 so that a sponsor must construct .27 times the total number of units produced in the principal project
2 beginning with the construction of the tenth unit. If the total number of units is not a whole number, the
3 sponsor shall round up to the nearest whole number for any portion of .5 or above.

4 (B) ~~If the project sponsor elects pursuant to Section 415.5 to pay the fee to
5 satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415
6 according to the number of units required above if the sponsor were to elect to meet the requirements
7 of this Section by off-site housing development. For the purposes of this Section, the City shall calculate
8 the fee using the direct fractional result of the total number of units multiplied by the percentage of off-
9 site housing required, rather than rounding up the resulting figure.~~

10 (c) ~~**Timing of Fee Payments.** Any fee required by Section 419.1 et seq. shall be paid to DBI for
11 deposit into the Citywide Affordable Housing Fund at the time required by Section 402(d).~~

12 **~~SEC. 419.4. IMPOSITION OF UMU AFFORDABLE HOUSING REQUIREMENTS.~~**

13 (a) ~~The Department shall determine the applicability of Section 419.1 et seq. to any
14 development project requiring a first construction document and, if Section 419.1 et seq. is applicable,
15 the additional affordable housing required pursuant to Section 419.1 et seq. and shall impose these
16 requirements as condition on the approval for issuance of the first construction document for the
17 development project. The project sponsor shall supply any information necessary to assist the
18 Department in this determination.~~

19 (b) ~~**Notice to Development Fee Collection Unit at DBI.** After the Department has made its
20 final determination of the additional affordable housing required pursuant to Section 419.1 et seq., it
21 shall immediately notify the Development Fee Collection Unit at DBI of its determination in addition to
22 the other information required by Section 402(b) of this Article.~~

23 (c) ~~**Sponsor's Choice to Fulfill Requirements.** Prior to issuance of a building or site permit
24 for a development project subject to the requirements of Section 419.1 et seq., the sponsor of the
25 development project shall select one of the options described in Section 419.3 above or the Alternatives~~

1 *described in Section 419.5 below to fulfill the affordable housing requirements and notify the*
2 *Department of their choice.*

3 *(d) ~~Department Notice to Development Fee Collection Unit of Sponsor Choice.~~ After the*
4 *sponsor has notified the Department of their choice to fulfill the additional affordable housing*
5 *requirements of Section 419.1 et seq., the Department shall immediately notify the Development Fee*
6 *Collection Unit at DBI of the sponsor's choice.*

7 *(e) ~~The Development Fee Collection Unit Notice to Department Prior to Issuance of the~~*
8 *~~First Certificate of Occupancy.~~ The Development Fee Collection Unit at DBI shall provide notice in*
9 *writing or electronically to the Department prior to issuing the first certificate of occupancy for any*
10 *development project subject to Section 419.1 et seq. that has elected to fulfill its requirement with an*
11 *option other than payment of an in-lieu fee. If the Department notifies the Unit at such time that the*
12 *sponsor has not satisfied the requirements, the Director of DBI shall deny any and all certificates of*
13 *occupancy until the subject project is brought into compliance with the requirements of Section 419.1*
14 *et seq.*

15 *(f) ~~Process for Revisions of Determination of Requirements.~~ In the event that the Department*
16 *or the Commission takes action affecting any development project subject to Section 419.1 et seq. and*
17 *such action is subsequently modified, superseded, vacated, or reversed by the Department or the*
18 *Commission, Board of Appeals, the Board of Supervisors, or by court action, the procedures of Section*
19 *402(c) of this Article shall be followed.*

20
21 **~~SEC. 419.5. ALTERNATIVES TO THE INCLUSIONARY HOUSING COMPONENT.~~**

22 *(a) ~~Alternatives to the Inclusionary Housing Component.~~ In addition to the Alternatives*
23 *specified in Section 415.5(g) the project sponsor may elect to satisfy the requirements of Section 415.5*
24 *by one of the Alternatives specified in this Section. The project sponsor has the choice between the*
25 *Alternatives and the Planning Commission may not require a specific Alternative. The project sponsor*

1 *must elect an Alternative before it receives project approvals from the Planning Commission or*
2 *Planning Department and that Alternative will be a condition of project approval. The Alternatives are*
3 *as follows:*

4 *(1) **Middle Income Alternative.** On sites with less than 50,000 square feet of total*
5 *developable area, applicants may provide units as affordable to qualifying “middle income”*
6 *households as follows:*

7 *(A) A minimum percent of the total units constructed shall be affordable to and*
8 *occupied affordable to qualifying “middle income” households upon initial sale, according the*
9 *schedule in Table 419.5. If the total number of units is not a whole number, the project applicant shall*
10 *round up to the nearest whole number for any portion of .5 or above. Units shall be affordable to*
11 *households between 120% and 150% of the San Francisco Area Median Income, with an average*
12 *affordability level of 135% for all units provided through this Alternative.*

13 *(B) Where market rate sales prices exceed restricted sales prices, the difference*
14 *between the market rate sales prices and the restricted sales prices shall be held by the MOHCD as a*
15 *silent second mortgage according to the Procedures Manual. The City shall hold a deed of trust and*
16 *promissory note for the second mortgage. MOHCD shall hold this mortgage and shall release it when*
17 *the original note and proportional share of the appreciation are paid in full to the City.*

18 *(C) Units shall initially be sold at or below prices to be determined by MOHCD*
19 *in the Conditions of Approval or Notice of Special Restrictions according to the formula specified in*
20 *the Procedures Manual to make them affordable to middle income households. Upon resale, the seller*
21 *shall be permitted to sell the units at their market price. The City will waive its right of first refusal to*
22 *the seller when the promissory note and deed of trust are paid, along with the City’s share of the*
23 *appreciation of the unit. The promissory note shall accrue no interest and shall require no monthly*
24 *payments.*

25 *(D) Upon first resale, the seller shall have a right to keep a percentage of the*

1 ~~total appreciation of the unit proportional to every year the original seller owns the unit as an owner~~
2 ~~occupant. The remainder of the proceeds of the sale, after the first mortgage, the second mortgage, and~~
3 ~~any other subordinate financing is paid off, shall be repaid to MOHCD. Detailed resale procedures~~
4 ~~shall be specified in the Middle Income Housing Procedures Manual published by MOHCD and~~
5 ~~approved by the Planning Commission. The Director of MOHCD shall amend the Procedures Manual~~
6 ~~as needed with the Commission's approval.~~

7 ~~(E) The City shall monitor units provided under this option during the 2- and 5-~~
8 ~~year Monitoring Report specified in Section 342 of this Code and in separate resolution. Should this~~
9 ~~monitoring report indicate that units constructed under this program do not meet the programs~~
10 ~~program's stated goals of providing affordable housing to Middle Income Households, the Planning~~
11 ~~Department and MOHCD shall consider changes to this program, including, but not limited to,~~
12 ~~legislative changes.~~

13 ~~(F) If the project sponsor elects to satisfy the requirements of Section 415.5 and~~
14 ~~of this Section by the Alternative specified above, the dwelling unit mix required by Section 207.6 may~~
15 ~~be waived provided the minimum percent of total units affordable to qualifying "middle income"~~
16 ~~households as required by Table 419.5 is increased by 10%.~~

17 ~~(2) **Land Dedication Alternative.** Applicants may dedicate a portion of the total~~
18 ~~developable area of the principal site to the City and County of San Francisco for the purpose of~~
19 ~~constructing units Affordable to Qualifying Households. A minimum percentage of developable area,~~
20 ~~representing an equivalent percent of total potential units to be constructed, shall be dedicated to the~~
21 ~~City according the schedule in Table 419.5. To meet the requirements of this Alternative, the developer~~
22 ~~must convey title to land in fee simple absolute to MOHCD according to the Procedures Manual,~~
23 ~~provided the dedicated site is deemed of equivalent or greater value to the principal site per those~~
24 ~~procedures and is in line with the following requirements:~~

25 ~~(A) The dedicated site will result in a total amount of inclusionary units not less~~

1 *than 40 units. MOHCD may conditionally approve and accept dedicated sites which result in no less*
2 *than 25 units at its discretion.*

3 *(B) The dedicated site will result in a total amount of inclusionary units that is*
4 *equivalent or greater than the minimum percentage of the units that will be provided on the principal*
5 *site, as required by Table 419.5. MOHCD may also accept dedicated sites that represent the equivalent*
6 *of or greater than the required percentage of units for all units that could be provided on a collective of*
7 *sites within a one-mile radius, provided the total amount of inclusionary units provided on the*
8 *dedicated site is equivalent to or greater than the total requirements for all principal sites participating*
9 *in the collective, according to the requirements of Table 419.5.*

10 *(C) The dedicated site is suitable from the perspective of size, configuration,*
11 *physical characteristics, physical and environmental constraints, access, location, adjacent use, and*
12 *other relevant planning criteria. The site must allow development of affordable housing that is sound,*
13 *safe, and acceptable.*

14 *(D) The dedicated site includes infrastructure necessary to serve the*
15 *inclusionary units, including sewer, utilities, water, light, street access, and sidewalks.*

16 *(E) The developer must submit full environmental clearance for the dedicated*
17 *site before the land can be considered for conveyance, and before a first site or building permit may be*
18 *conferred upon the Principal Project.*

19 *(F) The City may accept dedicated sites that vary from the minimum threshold,*
20 *provided such a dedication is deemed generally equivalent to the original requirement by the MOHCD.*

21 *(G) The City may accept dedicated sites that meet the above requirements in*
22 *accordance with the Procedures Manual, in combination with fees or on-site units, provided such a*
23 *combination is deemed generally equivalent by MOHCD to the original requirement.*

24 *(H) The project applicant has a letter from MOHCD verifying acceptance of*
25 *site before it receives project approvals from the Planning Commission or Planning Department, which*

1 ~~shall be used to verify dedication as a condition of approval.~~

2 ~~(I) If the project sponsor elects to satisfy the requirements of Section 415.5 and~~
 3 ~~of this Section by the Alternative specified above, the dwelling unit mix required by Section 207.6 may~~
 4 ~~be waived.~~

5 ~~(J) The Land Dedication Alternative may be satisfied through the dedication to~~
 6 ~~the City of air space above or adjacent to the project, upon the approval of MOHCD, or a successor~~
 7 ~~entity, and provided the other requirements of subsection (a)(2)(A)-(I) are otherwise satisfied.~~

8
 9 **TABLE 419.5**
 10 **HOUSING REQUIREMENTS FOR THE UMU DISTRICT**

Tier	On Site Housing Requirement	Off Site/In-Lieu Requirement	Middle Income Alternative	Land Dedication Alternative for sites that have less than 30,000 square feet of developable area	Land Dedication Alternative for sites that have at least 30,000 square feet of developable area
A	14.4%	23%	30%	35%	30%
B	16%	25%	35%	40%	35%
C	17.6%	27%	40%	45%	40%

24
 25 **Requirement increases by 5% if dwelling unit mix required by Section 207.6 is waived.*

1 ~~(b) **Adjustments to Requirements for the Inclusionary Housing Component.** This Section is~~
2 ~~intended to incorporate, rather than supersede, any changes made to Planning Code Section 415. In~~
3 ~~the instance that the base requirements of Section 415 are amended, the above noted requirements~~
4 ~~shall be reviewed, and if appropriate, amended and/or increased accordingly.~~

5
6 ~~**SEC. 419.6. LAND DEDICATION ALTERNATIVE IN THE MISSION NCT DISTRICT**~~
7 ~~**AND CENTRAL SOMA SPECIAL USE DISTRICT.**~~

8 ~~(a) **Mission NCT District.** The Land Dedication Alternative is available for any project within~~
9 ~~the Mission NCT District under the same terms and conditions as provided for in Section~~
10 ~~419.5(a)(2)(A)-(J).~~

11 ~~(b) **Central SoMa Special Use District.** The Land Dedication Alternative is available for~~
12 ~~projects within the Central SoMa Special Use District under the same terms and conditions as provided~~
13 ~~for in Section 419.5 (a)(2), except that in lieu of the Land Dedication Alternative requirements of Table~~
14 ~~419.5, projects may satisfy the requirements of Section 415.5 by dedicating land for affordable housing~~
15 ~~if the dedicated site will result in a total amount of dedicated Gross Floor Area that is equal to or~~
16 ~~greater than 45% of the potential Gross Floor Area that could be provided on the principal site, as~~
17 ~~determined by the Planning Department. Land dedicated for affordable housing that results in less than~~
18 ~~45% of such potential Gross Floor Area may be counted in partial satisfaction of the requirements of~~
19 ~~Section 415.5, so long as the land dedicated is at least 10,000 square feet or has a minimum capacity of~~
20 ~~75 units of affordable housing; provided that the project satisfies any remaining obligations under~~
21 ~~Section 415.5 through the alternatives described in Section 415.5(g)(1). Any dedicated land shall be~~
22 ~~within the area bounded by Market Street, the Embarcadero, King Street, Division Street, and South~~
23 ~~Van Ness Avenue.~~

24
25 ~~**IVAN NESS & MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD**~~

1 ***INFRASTRUCTURE]***

2 ***SEC. 424. VAN NESS & MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD***
3 ***INFRASTRUCTURE FEE AND PROGRAM.***

4 *Sections 424.1 through 424.5, hereafter referred to as Section 424.1 et seq., set forth the*
5 *requirements and procedures for the Van Ness and Market Affordable Housing and Neighborhood*
6 *Infrastructure Program. The effective date of these requirements shall be either May 30, 2008, which is*
7 *the date that the requirements original became effective, or the date a subsequent modification, if any,*
8 *became effective.*

9 ***SEC. 424.1. FINDINGS SUPPORTING THE VAN NESS & MARKET AFFORDABLE***
10 ***HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.***

11 *(a) Affordable Housing. The Van Ness and Market Residential Special Use District (“SUD”)*
12 *enables the creation of a very dense residential neighborhood through significant increases in*
13 *development potential. This increase in development potential permits an increase in market rate*
14 *housing development. As described in Section 415.1, affordable housing is a priority for San Francisco*
15 *and additional demand for affordable housing is closely correlated to the development of new market*
16 *rate housing. At the direction of the Board of Supervisors and as part of a larger analysis of*
17 *development impact fees in the City, the City contracted with Keyser Marston Associates to prepare a*
18 *nexus analysis in support of the Inclusionary Housing Program, or an analysis of the impact of*
19 *development of market rate housing on affordable housing supply and demand.*

20 *The City’s Inclusionary Housing Program including the in-lieu fee provision which is offered as*
21 *an alternative to building units within market rate projects, is not subject to the requirements of the*
22 *Mitigation Fee Act, Government Code Sections 66000 et seq. Notwithstanding this policy, as an*
23 *additional support measure, the City prepared a nexus study consistent with the Mitigation Fee Act to*
24 *determine whether the Inclusionary Affordable Housing Program was supported by such analysis. The*
25 *final nexus study can be found in the Board of Supervisors File and is incorporated by reference*

1 *herein. The Board of Supervisors has reviewed the study and the Department's analysis and report of*
2 *the study and, on that basis finds that the nexus study supports the current Inclusionary Affordable*
3 *Housing Program requirements as specified in this Section 424.1 et seq. combined with this Affordable*
4 *Housing Floor Area Ratio ("FAR") Bonus Program. Specifically, the Board finds that the nexus study:*
5 *identifies the purpose of the fee to mitigate impacts on the demand for affordable housing in the City;*
6 *identifies the use to which the fee is to be put as being to increase the City's affordable housing supply;*
7 *and establishes a reasonable relationship between the use of the fee for affordable housing and the*
8 *need for affordable housing and the construction of new market rate housing. Moreover, the Board*
9 *finds that the current inclusionary requirements combined with the Affordable Housing FAR Bonus*
10 *Program are less than the cost of mitigation and do not include the costs of remedying any existing*
11 *deficiencies. The Board also finds that the study establishes that the current inclusionary requirements*
12 *combined with the Affordable Housing FAR Bonus Program do not duplicate other City requirements*
13 *or fees.*

14 *Moreover, according to the study undertaken by Seifel Consulting at the direction of the*
15 *Planning Department, increased development potential in the Van Ness and Market Downtown*
16 *Residential Special Use district through the increased FAR allowance enables an increased*
17 *contribution to the Citywide Affordable Housing Fund without discouraging the development of new*
18 *market rate housing. A copy of said study is on file with the Clerk of the Board of Supervisors.*

19 *(b) **Neighborhood Infrastructure.** The Van Ness & Market Residential SUD enables the*
20 *creation of a very dense residential neighborhood in an area built for back-office and industrial uses.*
21 *Projects that seek the FAR bonus above the maximum cap would introduce a very high localized*
22 *density in an area generally devoid of necessary public infrastructure and amenities, as described in*
23 *the Market and Octavia Area Plan. While envisioned in the Plan, such projects would create localized*
24 *levels of demand for open space, streetscape improvements, and public transit above and beyond the*
25 *levels both existing in the area today and funded by the Market and Octavia Community Improvements*

1 ~~Fee. Such projects also entail construction of relatively taller or bulkier structures in a concentrated~~
2 ~~area, increasing the need for offsetting open space for relief from the physical presence of larger~~
3 ~~buildings. Additionally, the FAR bonus provisions herein are intended to provide an economic incentive~~
4 ~~for project sponsors to provide public infrastructure and amenities that improve the quality of life in~~
5 ~~the area. The bonus allowance is calibrated based on the cost of responding to the intensified demand~~
6 ~~for public infrastructure generated by increased densities available through the FAR density bonus~~
7 ~~program.~~

8 ~~The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis (“Nexus~~
9 ~~Analysis”), and the San Francisco Infrastructure Level of Service Analysis, both on file with the Clerk~~
10 ~~of the Board in File No. 230764 and, under Section 401A, adopts the findings and conclusions of those~~
11 ~~studies and the general and specific findings in that Section, specifically including the Recreation and~~
12 ~~Open Space Findings, Complete Streets Findings, Childcare Findings, and Transit Infrastructure~~
13 ~~Findings, and incorporates those by reference herein to support the imposition of the fees under this~~
14 ~~Section.~~

15 ~~(c) **Public Improvements.** The public improvements acceptable in exchange for granting the~~
16 ~~FAR bonus, and that would be necessary to serve the additional population created by the increased~~
17 ~~density, are listed below. All public improvements shall be consistent with the Market and Octavia Area~~
18 ~~Plan.~~

19 ~~(1) **Open Space Acquisition and Improvement.** Open Spaces (as described in the~~
20 ~~Market and Octavia Area Plan), or other open space of comparable size and performance. Open space~~
21 ~~shall be dedicated for public ownership or permanent easement for unfettered public access and~~
22 ~~improved for public use, including landscaping, seating, lighting, and other amenities.~~

23 ~~(2) **Complete Streets.** Pedestrian and Streetscape improvements and Bicycle~~
24 ~~Infrastructure within the Special Use District as described in the Market and Octavia Area Plan,~~
25 ~~including Van Ness and South Van Ness Avenues, Gough, Mission, McCoppin, Market, Otis, Oak, Fell,~~

1 *Valencia, 11th, 12th, and 13th Streets, along with adjacent alleys. Improvements include sidewalk*
2 *widening, landscaping and trees, lighting, seating and other street furniture (e.g., newsracks, kiosks,*
3 *bicycle racks), signage, transit stop and subway station enhancements (e.g., shelters, signage, boarding*
4 *platforms), roadway and sidewalk paving, public art and living alleys.*

5 *(3) **Affordable Housing.** The type of affordable housing needed in San Francisco is*
6 *documented in the City's Consolidated Plan and the Housing Element of the General Plan. New*
7 *affordable rental housing and ownership housing affordable to households earning less than the*
8 *median income is greatly needed in San Francisco.*

9
10 ***SEC. 424.2. DEFINITIONS.***

11 *See Section 401 of this Article.*

12
13 ***SEC. 424.3. APPLICATION OF VAN NESS & MARKET AFFORDABLE HOUSING AND***
14 ***NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.***

15 *(a) **Application and Timing of Fee Payments.** Section 424.1 et seq. shall apply to any*
16 *development project located in the Van Ness & Market Residential Special Use District, as established*
17 *in Section 249.33 of this Code, except as provided under Section 406(k) of this Code. The Fee shall be*
18 *paid to DBI for deposit into either the Van Ness and Market Downtown Residential Special Use*
19 *District Affordable Housing Fund or the Van Ness and Market Downtown Residential Special Use*
20 *District Infrastructure Fund, as applicable, at the time required by Section 402(d) of this Code.*

21 *(b) **Amount of Fee.***

22 *(1) All uses in any development project within the Van Ness & Market Residential*
23 *Special Use District shall pay \$30.00 per net additional gross square foot of floor area in any portion*
24 *of building area exceeding the base development site FAR of 6:1 up to a base development site FAR of*
25 *9:1.*

1 (2) ~~All uses in any development project within the Van Ness & Market Residential~~
2 ~~Special Use District shall pay \$15.00 per net additional gross square foot of floor area in any portion~~
3 ~~of building area exceeding the base development site FAR of 9:1.~~

4 (c) ~~Option for In-Kind Provision of Infrastructure Improvements and Fee Credits. Project~~
5 ~~sponsors may propose to directly provide community improvements to the City. In such a case, the City~~
6 ~~may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver from the~~
7 ~~neighborhood infrastructure portion (\$15.00 per net additional gross square foot of floor area) of the~~
8 ~~Van Ness & Market Residential Special Use District Affordable Housing and Neighborhood~~
9 ~~Infrastructure Fee from the Planning Commission, subject to the following rules and requirements:~~

10 (1) ~~Approval Criteria. The City shall not enter into an In-Kind Agreement unless the~~
11 ~~proposed in-kind improvements meet an identified community need as analyzed in the Van Ness &~~
12 ~~Market Affordable Housing and Neighborhood Infrastructure Program and where they substitute for~~
13 ~~improvements that could be provided by the Van Ness & Market Residential Special Use District~~
14 ~~Infrastructure Fee Fund (as described in Section 424.5). The City may reject in-kind improvements if~~
15 ~~they are not consistent with the priorities identified in the Van Ness & Market Affordable Housing and~~
16 ~~Neighborhood Infrastructure Program. No physical improvement or provision of space otherwise~~
17 ~~required by the Planning Code or any other City Code shall be eligible for consideration as part of this~~
18 ~~In-Kind Improvements Agreement.~~

19 (2) ~~Valuation. The Director of Planning shall determine the appropriate value of the~~
20 ~~proposed in-kind improvements. For the purposes of calculating the total value, the project sponsor~~
21 ~~shall provide the Planning Department with a cost estimate for the proposed in-kind improvement(s)~~
22 ~~from two independent sources or, if relevant, real estate appraisers. If the City has completed a~~
23 ~~detailed site-specific cost estimate for a planned improvement this may serve as one of the cost~~
24 ~~estimates provided it is indexed to current cost of construction.~~

25 (3) ~~Content of the In-Kind Improvements Agreement. The In-Kind Improvements~~

1 ~~Agreement shall include at least the following items:~~

2 ~~(i) A description of the type and timeline of the proposed in-kind improvements.~~

3 ~~(ii) The appropriate value of the proposed in-kind improvement, as determined~~
4 ~~in subsection (2) above.~~

5 ~~(iii) The legal remedies in the case of failure by the project sponsor to provide~~
6 ~~the in-kind improvements according to the specified timeline and terms in the agreement. Such~~
7 ~~remedies shall include the method by which the City will calculate accrued interest.~~

8 ~~(4) **Approval Process.** The Planning Commission must approve the material terms of an~~
9 ~~In-Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the~~
10 ~~agreement as to form and to substance. The Director of Planning is authorized to execute the~~
11 ~~Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall~~
12 ~~waive the amount of the neighborhood infrastructure portion of the Van Ness & Market Residential~~
13 ~~Special Use District Affordable Housing and Neighborhood Infrastructure Fee by the value of the~~
14 ~~proposed In-Kind Improvements Agreement as determined by the Director of Planning. No credit shall~~
15 ~~be made for land value unless ownership of the land is transferred to the City or a permanent public~~
16 ~~easement is granted, the acceptance of which is at the sole discretion of the City. The maximum value~~
17 ~~of the In-Kind Improvements Agreement shall not exceed the required neighborhood infrastructure~~
18 ~~portion of the Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee.~~

19 ~~(5) **Administrative Costs.** Project sponsors that pursue an In-Kind Improvements~~
20 ~~Agreement will be billed time and materials for any administrative costs that the Planning Department~~
21 ~~or any other City entity incurs in negotiating, drafting, and monitoring compliance with the In-Kind~~
22 ~~Improvement Agreement.~~

23
24 ~~**SEC. 424.4. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT AFFORDABLE**~~
25 ~~**HOUSING FUND.**~~

1 (a) ~~That portion of gross floor area subject to the \$30 per gross square foot fee referenced in~~
2 ~~Section 424.3(b)(1) above shall be deposited into the special fund maintained by the Controller called~~
3 ~~the Citywide Affordable Housing Fund established by Section 413.9. Except as specifically provided in~~
4 ~~this Section, collection, management, enforcement, and expenditure of funds shall conform to the~~
5 ~~requirements related to in-lieu fees in Planning Code Section 415.1 et seq., specifically including, but~~
6 ~~not limited to, the provisions of Section 415.7.~~

7 (b) ~~Priorities for SUD Affordable Housing Fees Implementation. In order to increase the~~
8 ~~supply of housing Affordable to Qualifying Households in the Market and Octavia Plan Area, the~~
9 ~~Upper Market NCT District, and to the City, the following is the prioritization of the use of these fees;~~

10 (1) ~~First, to increase the supply of housing Affordable to Qualifying Households in the~~
11 ~~Van Ness & Market Residential Special Use District;~~

12 (2) ~~Second, to increase the supply of housing Affordable to Qualifying Households~~
13 ~~within one mile of the boundaries of the Market and Octavia Area Plan;~~

14 (3) ~~Third, to increase the supply of housing Affordable to Qualifying Households in the~~
15 ~~City and County of San Francisco.~~

16
17 **SEC. 424.5. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT**
18 **INFRASTRUCTURE FUND.**

19 (a) **Purpose.** There is ~~hereby established~~ a separate fund set aside for a special
20 purpose entitled the Van Ness and Market Neighborhood Infrastructure Fund (“Fund”).~~That~~
21 ~~portion of Gross Floor Area subject to the \$15.00 per gross square foot fee referenced in~~
22 ~~Section 424.3(b)(ii) above shall be deposited into the Fund,~~ maintained by the Controller. The
23 receipts of the Fund are ~~hereby~~ appropriated in accordance with law through the normal
24 budgetary process to fund public infrastructure and other allowable improvements subject to
25 the conditions of this Section.

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Table 424.5A. Breakdown of Use of Van Ness and Market Neighborhood Infrastructure Fund by Infrastructure Type		
Infrastructure Type	Dollars Received From Residential Development	Dollars Received From Non-Residential Development
Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Facilities	44%	30%
Transit	22%	45%
Recreation and Open Space	21%	20%
Childcare	8%	Not applicable
Program Administration	5%	5%

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(1) **Infrastructure.** All monies deposited in the Fund, plus accrued interest, shall be used solely to design, engineer, acquire and develop neighborhood recreation and open space, pedestrian amenities and streetscape improvements, and bicycle infrastructure that result in new publicly-accessible facilities. First priority should be given to projects within the Van Ness & Market Residential Special Use District. Second Priority should be given to projects within the Market and Octavia Plan Area or within 1,250 feet of the Plan Area. These improvements shall be consistent with the Market and Octavia Area Plan of the General Plan and any Plan that is approved by the Board of Supervisors in the future for the area covered by the Van Ness & Market Residential Special Use District, except that monies from the Fund may be used by the Planning Commission to commission studies to revise the fee above, or to commission landscape, architectural or other planning, design and engineering services in support of the proposed public improvements.

23

24

(2) No portion of the Fund may be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any public entity.

25

~~(3) At the close of a fiscal year in which the Market and Octavia Community~~

1 ~~Improvements Program has generated funding for no less than \$211 million of expenditures in the plan~~
2 ~~area, including revenue generated through this Section 424.1 et seq., Section 421 fee payments, in-kind~~
3 ~~improvements, public grants, San Francisco general funds, assessment districts, and other sources~~
4 ~~which contribute to the overall programming, all future funds generated through Section 424.1 et~~
5 ~~seq. shall be redirected 100% to the Citywide Affordable Housing Fund.~~

6 (43) Expenditure of funds shall be coordinated with appropriate City agencies as
7 detailed in Section 421.5.

8 (54) The Director shall have the authority to prescribe rules and regulations
9 governing the Fund, which are consistent with Section ~~424.5~~ 424.1 et seq. The Director of
10 ~~Planning~~, as the head of the Interagency Plan Implementation Committee (IPIC), shall make
11 recommendations to the Board regarding allocation of funds.

12 (b) The Van Ness and Market Neighborhood Infrastructure Fee was repealed by the ordinance
13 in Board File No. 260538. This Section 424.5 shall expire by operation of law upon certification by the
14 Controller, with notice to the Board of Supervisors, Mayor, and City Attorney, that all monies in the
15 Fund have been expended. Thereafter, the City Attorney is authorized to cause the removal of this
16 Section 424.5 from the Planning Code.

17
18 ~~**[VAN NESS & MARKET COMMUNITY FACILITIES FEE AND FUND]**~~

19 ~~**SEC. 425. VAN NESS & MARKET COMMUNITY FACILITIES FEE AND FUND.**~~

20 ~~Sections 425.1 through 425.4 set forth the requirements and procedures for the Van Ness &~~
21 ~~Market Community Facilities Fee and Fund.~~

22 ~~**SEC. 425.1. PURPOSE AND FINDINGS.**~~

23 ~~(a) Purpose. New development in the Van Ness & Market Residential Special Use District will~~
24 ~~increase the resident populations, generating new demand for use of community facilities, such as~~
25 ~~cultural facilities, health clinics, services for people with disabilities, and job training centers. New~~

1 revenues to fund investments in community services are necessary to maintain the existing level of
2 service. This fee will generate revenue that will be used to ensure an expansion in community service
3 facilities as new development occurs in the Van Ness & Market Residential Special Use District area.

4 (b) Findings. In adopting the amendments to the Market and Octavia Area Plan (Ordinance
5 No. 125-20), on file with the Clerk of the Board of Supervisors in File No. 200557, and corresponding
6 amendments to the Planning Code (Ordinance No. 126-20 on file with the Clerk of the Board of
7 Supervisors in File No. 200559), the Board of Supervisors reviewed the Central SoMa Community
8 Facilities Nexus Study, prepared by Economic & Planning Systems and dated March 2016, as well as
9 the Hub Community Facilities Nexus Memo, prepared by the Planning Department and dated June 29,
10 2020 (collectively the "Nexus Study" for the purposes of Sections 425 et seq.). The Board of
11 Supervisors reaffirms the findings and conclusions of the Nexus Study as they relate to the impact of
12 new development in the Van Ness & Market Special Use District on community services facilities and
13 hereby adopts the findings contained in the Nexus Study.

14 **SEC. 425.2. APPLICATION OF FEES.**

15 (a) **Applicable Projects.** Except as provided under Section 406(k) of this Code, the Van Ness &
16 Market Community Facilities Fee is applicable to any development project within the Van Ness &
17 Market Residential Special Use District, described in Section 249.33 of this Code, that:

18 (1) Includes new construction, or an addition of space, in excess of 800 gross square
19 feet of residential use; or

20 (2) Converts 800 gross square feet or more of existing structure(s) from non-residential
21 to residential use.

22 (b) **Fee Calculation.** For applicable projects, the fee is \$1.16 per net additional gross square
23 foot of residential use or gross square foot of space converted from non-residential to residential use.

24 (c) **Option for In-Kind Provision of Community Improvements and Fee Credits.** Project
25 sponsors may propose to provide community improvements directly to the City. In such a case, the City

1 ~~may enter into an In-Kind Improvements Agreement with the sponsor and issue a partial or total fee~~
2 ~~waiver for the Van Ness & Market Community Facilities Fund from the Planning Commission, subject~~
3 ~~to the following rules and requirements:~~

4 ~~(1) Approval Criteria. The City shall not enter into an In-Kind Improvements~~
5 ~~Agreement unless the proposed in-kind improvements meet an identified community need for~~
6 ~~cultural/arts facilities, social welfare facilities, or community health facilities, as described in the~~
7 ~~Nexus Study. In addition, the City may reject in-kind improvements if they are not consistent with the~~
8 ~~priorities identified in the Market & Octavia Area Plan; the priorities identified by the Interagency~~
9 ~~Plan Implementation Committee (see Section 36 of the Administrative Code), or the Market & Octavia~~
10 ~~Citizens Advisory Committee; or other prioritization processes related to the Market & Octavia Area~~
11 ~~Plan community improvements programming. No physical improvement or provision of space~~
12 ~~otherwise required by the Planning Code or any other City Code shall be eligible for consideration as~~
13 ~~part of an In-Kind Improvements Agreement.~~

14 ~~(2) Valuation, Content, Approval Process, and Administrative Costs. The valuation,~~
15 ~~content, approval process, and administrative costs shall be undertaken pursuant to the requirements of~~
16 ~~subsections 421.3(d)(2) through 421.3(d)(5).~~

17 ~~(d) Timing of Fee Payments. The fee shall be due and payable to the Development Fee~~
18 ~~Collection Unit at DBI consistent with the timing set forth in Section 107A.13.3 of the San Francisco~~
19 ~~Building Code.~~

20 ~~(e) Waiver or Reduction of Fees. Development projects may be eligible for a waiver or~~
21 ~~reduction of impact fees, pursuant to Section 406.~~

22 **~~SEC. 425.3. IMPOSITION OF VAN NESS & MARKET COMMUNITY FACILITIES FEE.~~**

23 ~~(a) Determination of Requirements. The Department shall determine the applicability of~~
24 ~~Section 425 et seq. to any residential development project requiring a first construction document and,~~
25 ~~if Section 425 et seq. is applicable, the Department shall determine the amount of the Van Ness &~~

1 ~~Market Community Facilities Fees required and shall impose these requirements as a condition of~~
2 ~~approval for issuance of the first construction document for the development project. The project~~
3 ~~sponsor shall supply any information necessary to assist the Department in this determination.~~

4 ~~(b) Department Notice to Development Fee Collection Unit at DBI. Prior to the issuance of a~~
5 ~~building or site permit for a development project subject to the requirements of Section 425 et seq., the~~
6 ~~Department shall notify the Development Fee Collection Unit at DBI of its final determination of the~~
7 ~~amount of the Van Ness & Market Community Facilities Fees required, including any reductions~~
8 ~~calculated for an In-Kind Improvements Agreement, in addition to the other information required by~~
9 ~~Section 402(b) of this Article.~~

10 ~~(c) Development Fee Collection Unit Notice to Department Prior to Issuance of the First~~
11 ~~Certificate of Occupancy. The Development Fee Collection Unit at DBI shall provide notice in writing~~
12 ~~or electronically to the Department prior to issuing the first certificate of occupancy for any~~
13 ~~development project subject to Section 425 et seq. that has elected to fulfill all or part of its Van Ness &~~
14 ~~Market Community Facilities Fee requirement with an In-Kind Improvements Agreement. If the~~
15 ~~Department notifies the Unit at such time that the sponsor has not fully satisfied all of the terms of the~~
16 ~~In-Kind Improvements Agreement, the Director of DBI shall deny any and all certificates of occupancy~~
17 ~~until the project complies with the requirements of Section 425 et seq., either through conformance with~~
18 ~~the In-Kind Improvements Agreement or payment of the remainder of the Van Ness & Market~~
19 ~~Community Facilities Fee that would otherwise have been required, plus a deferral surcharge as set~~
20 ~~forth in Section 107A.13.3.1 of the San Francisco Building Code.~~

21 ~~(d) Process for Revisions of Determination of Requirements. In the event that the Department~~
22 ~~or the Commission takes action affecting any development project subject to Section 425 et seq. and~~
23 ~~such action is subsequently modified, superseded, vacated, or reversed by the Department or the~~
24 ~~Commission, Board of Appeals, the Board of Supervisors, or by court action, the procedures of Section~~
25 ~~402(c) of this Article shall be followed.~~

1
2 **SEC. 425.4. THE VAN NESS & MARKET COMMUNITY FACILITIES ~~FEES~~FUND**

3 (a) There is ~~hereby established~~ a separate fund set aside for a special purpose entitled
4 the Van Ness & Market Community Facilities Fund (“Fund”). ~~All monies collected by the~~
5 ~~Development Fee Collection Unit at DBI pursuant to this Section 425 shall be deposited in a special~~
6 ~~fund~~ maintained by the Controller. The receipts in the Fund are to be used solely to fund
7 community facilities subject to the conditions of this Section 425.4. ~~et seq.~~

8 (b) Expenditures from the Fund shall be administered by the Mayor’s Office of Housing
9 and Community Development, or its successor. The Mayor’s Office of Housing and
10 Community Development or its successor shall have the authority to prescribe rules and
11 regulations governing the Fund.

12 (1) All monies deposited in the Fund shall be used to design, engineer, and
13 develop community facilities as described in the Nexus Study, including cultural/arts facilities,
14 social welfare facilities, and community health facilities, in the Market and Octavia Plan Area
15 or within 1,250 feet of the Plan Area.

16 (2) Funds may be used for administration and accounting of fund assets, for
17 additional studies related to community facilities identified in the Market & Octavia Area Plan
18 or Market & Octavia Area Plan Implementation Document, or by the Interagency Plan
19 Implementation Committee or the Market & Octavia Citizens Advisory Committee, and to
20 defend the Van Ness & Market Community Facilities Fee against legal challenge, including
21 the legal costs and attorney’s fees incurred in the defense. Administration of this fund includes
22 time and materials associated with reporting requirements, facilitating any necessary or
23 required public meetings aside from Planning Commission hearings, and maintenance of the
24 fund. Monies from the Fund may be used by the Planning Commission to commission
25 economic analyses for the purpose of revising the fee, and/or to complete an updated nexus

1 study to demonstrate the relationship between development and the need for public facilities
2 and services if this is deemed necessary. Monies used for the purposes consistent with this
3 subsection 425.4(b)(2) shall not exceed five percent of the total fees collected. All interest
4 earned on this account shall be credited to the Van Ness & Market Community Facilities
5 Fund.

6 (3) The Planning Department shall report quarterly to the Planning Commission
7 on the current status of the fund, as well as annually as part of the Annual Progress Reports
8 required by Administrative Code Section 36.4.

9 (4) All funds are justified and supported by the Nexus Study, adopted as part of
10 the Market & Octavia Area Plan Amendments (Ordinance No. 125-20, on file with the Clerk of
11 the Board of Supervisors in File No. 200557) and corresponding Planning Code Amendments
12 (Ordinance No. 126-20 on file with the Clerk of the Board of Supervisors in File No. 200559).
13 Implementation of the Fee and Fund shall be monitored according to the Market and Octavia
14 Area Plan Monitoring Program required by Planning Code Section 341.

15 (c) The Van Ness and Market Neighborhood Community Facilities Fee was repealed by the
16 ordinance in Board File No. 260538. This Section 425.4 shall expire by operation of law upon
17 certification by the Controller, with notice to the Board of Supervisors, Mayor, and City Attorney, that
18 all monies in the Fund have been expended. Thereafter, the City Attorney is authorized to cause the
19 removal of this Section 425.4 from the Planning Code.

20 ~~**[DIVISADERO STREET NCT AFFORDABLE HOUSING FEE]**~~

21 ~~**SEC. 428. DIVISADERO STREET NCT AFFORDABLE HOUSING FEE AND**~~
22 ~~**REQUIREMENTS.**~~

23 ~~Sections 428.1 through 428.5, hereafter referred to as Sections 428.1 et seq., set forth the~~
24 ~~requirements and procedures for the Divisadero Street Neighborhood Commercial Transit District~~
25 ~~Affordable Housing Fee.~~

1 ***SEC. 428.1. FINDINGS.***

2 *The Board of Supervisors hereby finds that:*

3 *(a) The additional affordable housing fee requirement of Sections 428.1 et seq. is supported by*
4 *the November 2016 Nexus Study performed by Keyser Marston and Associates. The Board of*
5 *Supervisors has reviewed the Nexus Study and other documents and, on that basis, finds that the Study*
6 *supports the inclusionary affordable housing requirements combined with the additional affordable*
7 *housing fee and requirements set forth in Sections 428.1 et seq. Specifically, the Board finds that the*
8 *Study: (1) identifies the purpose of the additional fee and requirements to mitigate impacts on the*
9 *demand for affordable housing in the City; (2) identifies the use of the additional fee to increase the*
10 *City's affordable housing supply; and (3) establishes a reasonable relationship between the use of the*
11 *additional fee for affordable housing and the need for affordable housing and the construction of new*
12 *market rate housing. Further, the affordable housing fee and requirements do not include the costs of*
13 *remediating any existing deficiencies and do not duplicate other City requirements or fees.*

14 *(b) An account has been established, funds appropriated, and a construction schedule adopted*
15 *for affordable housing projects funded through the Inclusionary Affordable Housing Program. The*
16 *Affordable Housing Fee will reimburse the City for expenditures on affordable housing that have*
17 *already been made and that will be made in the future.*

18 *(c) A major objective of the Divisadero Street NCT, set forth in Planning Code Section 759, is*
19 *to encourage and promote development that enhances the walkable, mixed-use character of the*
20 *corridor and surrounding neighborhood and to encourage housing development in new buildings*
21 *above the ground floor. New market rate housing development could outnumber both the number of*
22 *units and potential new sites within the area for permanently affordable housing opportunities. The*
23 *City has adopted a policy in its General Plan to meet the affordable housing needs of its general*
24 *population and to require new housing developments to produce sufficient affordable housing*
25 *opportunities for all income groups, both of which goals are not likely to be met by the potential*

1 ~~housing development in the area. In addition, the Nexus Study indicates that market rate housing itself~~
2 ~~generates additional lower income affordable housing needs for the workforce needed to serve the~~
3 ~~residents of the new market rate housing proposed for the area. To meet the demand created for~~
4 ~~affordable housing by the Divisadero Street NCT zoning and to be consistent with the policy of the City,~~
5 ~~additional affordable housing requirements should be included for all market rate housing development~~
6 ~~in this NCT.~~

7 ~~(d) The Divisadero Street NCT rezoning set forth in Ordinance No. 127-15 allows greater~~
8 ~~residential development on certain sites within the NCT, and such residential development will create a~~
9 ~~greater need for affordable housing, and should provide more affordable housing. The higher densities~~
10 ~~will also make provision of higher levels of affordable housing feasible for such sites.~~

11 ~~(e) If a site located in the Divisadero Street NCT received an increase in density of 50% or~~
12 ~~more from the 2015 rezoning set forth in Ordinance No. 127-15, a higher inclusionary affordable~~
13 ~~housing requirement should apply. The density for the previously existing Divisadero Street~~
14 ~~Neighborhood Commercial District was one unit per 800 square feet of lot area.~~

15 **~~SEC. 428.2. DEFINITIONS.~~**

16 ~~See Section 401 of this Article 4.~~

17 **~~SEC. 428.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.~~**

18 ~~(a) For any project for which a complete development application has been submitted before~~
19 ~~October 1, 2018, the Inclusionary Affordable Housing Program set forth in Planning Code Sections~~
20 ~~415.1 et seq. shall apply in the Divisadero Street NCT, except the temporary provisions of Planning~~
21 ~~Code Section 415.3(b) shall not apply and except as set forth in Section 428.3(a). For any development~~
22 ~~site for which the Planning Department determines that the residential development potential within the~~
23 ~~Divisadero Street NCT has been increased through the adoption of the NCT rezoning set forth in~~
24 ~~Ordinance No. 127-15, as detailed in Section 428.1(e) herein, the requirements of Sections 415.1 et seq~~
25 ~~of the Planning Code shall apply, except as set forth in subsections (a)(1), (a)(2), and (a)(3), below,~~

1 *and the temporary provisions of Planning Code Section 415.3(b) shall not apply.*

2 ~~(1) **Fee.** For a development project of 10 or more dwelling units that is subject to the~~
3 ~~Inclusionary Affordable Housing Program, the development project shall pay an affordable housing fee~~
4 ~~equivalent to a requirement to provide 33% of the units in the Principal Project as affordable units if~~
5 ~~those units are Owned Units, or 30% of the units if the project is a Rental Housing Project, using the~~
6 ~~method of fee calculation set forth in Section 415.5(b).~~

7 ~~(2) **On-site.** For a development project of 10 or more units that is subject to the~~
8 ~~Inclusionary Affordable Housing Program that elects to construct units Affordable to Qualifying~~
9 ~~Households on-site of the Principal Project as set forth in Planning Code Section 415.5(g), the~~
10 ~~development project shall comply with all otherwise applicable requirements of Section 415.6, except~~
11 ~~that for all housing development projects consisting of 10 or more units, the following requirements~~
12 ~~shall apply.~~

13 ~~(A) For an Ownership Housing Project, the number of affordable units~~
14 ~~constructed on site shall be 23% of all units constructed on the site. A minimum of 12% of the units~~
15 ~~shall be affordable to low-income households, 5.5% of the units shall be affordable to moderate-income~~
16 ~~households, and 5.5% of the units shall be affordable to middle-income households. In no case shall the~~
17 ~~total number of affordable units required exceed the number required as determined by the application~~
18 ~~of the applicable on-site requirement rate to the total project units. Owned Units for low-income~~
19 ~~households shall have an affordable purchase price set at 80% of Area Median Income or less, with~~
20 ~~households earning up to 100% of Area Median Income eligible to apply for low-income units. Owned~~
21 ~~Units for moderate-income households shall have an affordable purchase price set at 105% of Area~~
22 ~~Median Income or less, with households earning from 95% to 120% of Area Median Income eligible to~~
23 ~~apply for moderate-income units. Owned Units for middle-income households shall have an affordable~~
24 ~~purchase price set at 130% of Area Median Income or less, with households earning from 120% to~~
25 ~~150% of Area Median Income eligible to apply for middle-income units.~~

1 (B) ~~For a Rental Housing Project, the number of affordable units constructed on~~
2 ~~site shall be 20% of all units constructed on the site. A minimum of 12% of the units shall be affordable~~
3 ~~to low-income households, 4% of the units shall be affordable to moderate-income households, and 4%~~
4 ~~of the units shall be affordable to middle-income households. In no case shall the total number of~~
5 ~~affordable units required exceed the number required as determined by the application of the~~
6 ~~applicable on-site requirement rate to the total project units. Rental Units for low-income households~~
7 ~~shall have an affordable rent set at 55% of Area Median Income or less, with households earning up to~~
8 ~~65% of Area Median Income eligible to apply for low-income units. Rental Units for moderate-income~~
9 ~~households shall have an affordable rent set at 80% of Area Median Income or less, with households~~
10 ~~earning from 65% to 90% of Area Median Income eligible to apply for moderate-income units. Rental~~
11 ~~Units for middle-income households shall have an affordable rent set at 110% of Area Median Income~~
12 ~~or less, with households earning from 90% to 130% of Area Median Income eligible to apply for~~
13 ~~middle-income units.~~

14 (3) ~~Off-site. If the project sponsor of a housing development project of 10 or more units~~
15 ~~that is subject to the Inclusionary Affordable Housing Program elects to provide units Affordable to~~
16 ~~Qualifying Households off-site of the Principal Project as set forth in Section 415.5(g), the project~~
17 ~~sponsor shall construct or cause to be constructed affordable housing equal to 33% of all units~~
18 ~~constructed on the Principal Project site as affordable housing if the units in the Principal Project are~~
19 ~~owned units, and 30% if the project is a Rental Housing Project.~~

20 (b) ~~For any project for which a complete development application has been submitted on or~~
21 ~~after October 1, 2018, the Inclusionary Affordable Housing Program set forth in Planning Code~~
22 ~~Sections 415.1 et seq. shall apply in the Divisadero Street NCT except as set forth in this subsection (b).~~
23 ~~For any development site for which the Planning Department has determined that the residential~~
24 ~~development potential has been increased through the adoption of the NCT rezoning set forth in~~
25 ~~Ordinance No. 127-15, as detailed in Section 428.1(e) herein, the requirements of Planning Code~~

1 ~~Sections 415.1 et seq. shall apply, except that the following affordable housing requirements shall be~~
2 ~~applied to residential development on such sites:~~

3 ~~(1) **Fee.** For a development project of 10 or more dwelling units that is subject to the~~
4 ~~Inclusionary Affordable Housing Program, the development project shall pay an affordable housing fee~~
5 ~~equivalent to a requirement to provide 33% of the units in the Principal Project as Affordable Units if~~
6 ~~those units are Owned Units, or 30% of the units if the project is a Rental Housing Project, using the~~
7 ~~method of fee calculation set forth in Section 415.5(b).~~

8 ~~(2) **On-site.** If the housing development project of 10 or more dwelling units that is~~
9 ~~subject to the Inclusionary Affordable Housing Program elects to construct units Affordable to~~
10 ~~Qualifying Households on-site of the Principal Project as set forth in Planning Code Section 415.5(g),~~
11 ~~the project sponsor shall comply with all otherwise applicable requirements of Section 415.6, except~~
12 ~~that for all housing development projects consisting of 10 or more units, the number of Affordable~~
13 ~~Units constructed on-site shall be provided as follows.~~

14 ~~(A) A project that consists of Owned Units shall provide 23% of units as~~
15 ~~Affordable Units at the following levels: 10% shall have an average affordable purchase price set at~~
16 ~~80% of Area Median Income; 8% shall have an average affordable purchase price set at 105% of Area~~
17 ~~Median Income; and 5% shall have an average affordable purchase price set at 130% of Area Median~~
18 ~~Income.~~

19 ~~(B) A project that consists of Rental Units shall provide 23% of units as~~
20 ~~Affordable Units at the following levels: 10% shall have an average affordable rent set at 55% of Area~~
21 ~~Median Income; 8% shall have an average affordable rent set at 80% of Area Median Income; and 5%~~
22 ~~shall have an average affordable rent set at 110% of Area Median Income.~~

23 ~~(C) Notwithstanding subsections (b)(2)(A) and (b)(2)(B), the percentage and~~
24 ~~affordability levels of Affordable Units constructed on-site as set forth in subsections (b)(2)(A) and~~
25 ~~(b)(2)(B) shall be the same percentage and affordability levels as set forth in Section 206.3(f)(2)(A), as~~

1 ~~it may be amended from time to time, and in no case shall the percentage of Affordable Units~~
2 ~~constructed on-site pursuant to this subsection (b)(2) be less than the percentage required by Section~~
3 ~~415.6 for projects consisting of 25 or more units. If the percentage of Affordable Units constructed on-~~
4 ~~site pursuant to this subsection (b)(2) would be less than the percentage set forth in Section 415.6 for~~
5 ~~projects consisting of 25 or more units, the percentage of Affordable Units set forth in Section 415.6 for~~
6 ~~projects consisting of 25 or more units shall apply.~~

7 ~~(3) **Off-site.** If the project sponsor of a housing development project of 10 or more units~~
8 ~~is eligible and elects to provide units Affordable to Qualifying Households off-site of the Principal~~
9 ~~Project as set forth in Section 415.5(g), the project sponsor shall construct or cause to be constructed~~
10 ~~affordable housing equal to 33% of all units constructed on the Principal Project site as affordable~~
11 ~~housing if the units in the Principal Project are owned units, and 30% if the project is a Rental Housing~~
12 ~~Project.~~

13 ~~**SEC. 428.4. IMPOSITION OF AFFORDABLE HOUSING REQUIREMENTS.**~~

14 ~~(a) **Determination of Requirements.** The Planning Department shall determine the~~
15 ~~applicability of Sections 428.1 et seq. to any development project requiring a first construction~~
16 ~~document and, if Sections 428.1 et seq. applies, shall impose any such requirements as a condition of~~
17 ~~approval for issuance of the first construction document. The project sponsor shall supply any~~
18 ~~information necessary to assist the Department in this determination.~~

19 ~~(b) **Department Notice to Development Fee Collection Unit of Fee Requirements.** After the~~
20 ~~Department has made its final determination regarding the application of the affordable housing~~
21 ~~requirements to a development project pursuant to Sections 428.1 et seq., it shall immediately notify the~~
22 ~~Development Fee Collection Unit at DBI of the applicable affordable housing fee amount in addition to~~
23 ~~the other information required by Planning Code Section 402(b).~~

24 ~~(c) **Process for Revisions of Determination of Requirements.** If the Department or the~~
25 ~~Commission takes action affecting any development project subject to Sections 428.1 et seq. and such~~

1 *action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the Board*
2 *of Supervisors, or a court, the procedures of Planning Code Section 402(c) shall be followed.*

3 ***SEC. 428.5. USE OF FUNDS.***

4 *The affordable housing fee specified in Sections 428.1 et seq. for the Divisadero Street NCT*
5 *shall be paid into the Citywide Affordable Housing Fund, established in Administrative Code Section*
6 *10.100-49, and the funds shall be separately accounted for. The Mayor's Office of Housing and*
7 *Community Development shall expend the funds to increase the supply of housing Affordable to*
8 *Qualifying Households in the City. The funds may also be used for monitoring and administrative*
9 *expenses subject to the process described in Planning Code Section 415.5(f).*

10
11 **SEC. 436. WELL-RESOURCED NEIGHBORHOODS INCLUSIONARY HOUSING**
12 **ORDINANCE WAIVER OPTION ~~AND ADDITIONAL INCLUSIONARY HOUSING OPTIONS.~~**

13 This Section 436 provides for a waiver of the requirements in the Inclusionary Housing
14 Ordinance, Section 415 et seq., for specified Housing Projects in certain districts in Well-
15 Resourced Neighborhoods. *This Section 436 also allows Housing Projects in those districts to*
16 *comply with the Inclusionary Housing Ordinance through a land dedication.* As used in this Section
17 436, Well-Resourced Neighborhoods means those areas outside the Priority Equities
18 Geographies Special Use District (SUD), Section 249.97.

19 (a) **Eligibility.** This Section 436 shall apply to Housing Projects in Residential – House
20 (RH), Residential Mixed (RM), Residential Transit Oriented (RTO), Neighborhood Commercial,
21 or ~~Named~~ Neighborhood Commercial Districts with a height limit of 65 feet or less located in
22 Well-Resourced Neighborhoods.

23 (b) ~~Additional Inclusionary Housing Options~~ **Rent Control In Lieu of Inclusionary Housing.**

24 ~~(1) Rent Control.~~ If an eligible Housing Project is a Rental Housing Project and
25 agrees to subject all units in the project to the San Francisco Rent Stabilization and Arbitration

1 Ordinance (Chapter 37 of the Administrative Code) for the Life of the Project, the project shall
2 not be subject to the Inclusionary Housing Ordinance, Planning Code Section 415 et seq.,
3 pursuant to this Section 436.

4 (A) **Regulatory Agreement.** Project Sponsors of Housing Projects that
5 agree to subject all units in the Housing Project to the San Francisco Rent Stabilization and
6 Arbitration Ordinance (Chapter 37 of the Administrative Code) pursuant to this subsection (ab)
7 shall enter into a regulatory agreement with the City, as a condition of approval of the project
8 (“Regulatory Agreement”). At a minimum, the Regulatory Agreement shall contain the
9 following: (A) a statement that none of the units in the project are subject to the Costa-
10 Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et seq.) because,
11 consistent with California Civil Code Section 1954.52(b), the property owner has entered into
12 and agreed to the terms of an agreement with the City in consideration for a direct financial
13 contribution or other form of assistance specified in California Government Code Sections
14 65915 et seq.; (B) a statement that the units will be rented for the Life of the Project because,
15 consistent with Government Code Section 7060.1(a), the property owner has entered into and
16 agreed to the terms of an agreement with the City, in consideration for a direct financial
17 contribution specified in Section 7060.1(a); (C) a statement that all units subject to the
18 Regulatory Agreement shall be held as an undivided ownership and will not be subdivided;
19 (D) a calculation of the direct financial contribution or form of assistance provided to the
20 property owner in the form of the fee waiver; and (E) a description of the remedies for breach
21 of the agreement and other provisions to ensure implementation and compliance with the
22 agreement. The property owner and the Planning Director or the Director’s designee, on
23 behalf of the City, may execute the Regulatory Agreement, which shall be reviewed and
24 approved as to form by the City Attorney’s Office. The Regulatory Agreement shall be
25 executed prior to the City’s issuance of the First Construction Document for the project, as

1 defined in Section 107A.13.1 of the San Francisco Building Code. Following execution of the
2 Regulatory Agreement by all parties, the Regulatory Agreement or a memorandum thereof
3 shall be recorded to the title records in the Office of the Assessor-Recorder against the
4 property and shall be binding on all future owners and successors in interest.

5 (B2) **Procedures Manual.** If a Housing Project subject to this Section
6 436 includes Rental Units subject to a recorded covenant, ordinance, or law that restricts
7 rents to levels affordable to persons and families of lower income in compliance with any state
8 law, those units shall comply with the timing, type, and marketing requirements of Section
9 415.6(~~eb~~), (~~fc~~), and (~~gd~~), and the Procedures Manual, as amended from time to time.

10 ~~(2) **Land Dedication Alternative.** In lieu of Section 415 et seq., the Project Sponsor of~~
11 ~~any Housing Project outside the Priority Equity Geographies SUD, may comply with the Land~~
12 ~~Dedication Alternative requirements in Section 419.5(a)(2), except that in lieu of the Land Dedication~~
13 ~~Alternative requirements of Table 419.5, projects may satisfy the requirements of Section 415.5 by~~
14 ~~dedicating land for affordable housing if the dedicated land could accommodate a total amount of units~~
15 ~~that is equal to or greater than 35% of the units that are being provided on the principal development~~
16 ~~site, as determined by the Planning Department. Any land dedicated pursuant to this Section 436 shall~~
17 ~~be provided outside the Priority Equity Geographies SUD.~~

18
19 Section 5. Articles 2, 2.5, 3, and 7 of the Planning Code are amended by revising
20 Sections 206.3, 206.10, 207, 243, 249.20, 249.22, 249.33, 249.38, 249.39, 249.40, 249.78,
21 329, 343, and 759, and deleting Section 263.7, to read as follows:

22
23 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

24 * * * *

25 (c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations

1 under this Section 207 shall be made in the following circumstances:

2 (1) **Affordable Units in Projects with 20% or More Affordable Units.** For

3 projects that are not located in any RH-1 or RH-2 zoning district, or are not seeking and
4 receiving a density bonus under the provisions of California Government Code Section 65915,
5 where 20% or more of the Dwelling Units on-site are "Affordable Units," the on-site Affordable
6 Units shall not count towards the calculation of dwelling unit density. This Planning Code
7 Section does not provide exceptions to any other Planning Code requirements such as height
8 or bulk. For purposes of this Section 207, "Affordable Units" shall be defined as meeting (A)
9 the criteria of Section 406(b); (B) the requirements of Section 415 et seq. for on-site units; or
10 (C) restricted units in a project using California Debt Limit Allocation Committee (CDLAC) tax-
11 exempt bond financing and 4% tax credits under the Tax Credit Allocation Committee (TCAC).
12 If a project sponsor proposes to provide "Affordable Units" that are not restricted by any other
13 program, in order to receive the benefit of the additional density permitted under this
14 Subsection (c)(1) or Subsection (c)(2), the project sponsor shall elect and the Planning
15 Department and MOHCD shall be authorized to enforce, restricting the units as affordable
16 under Planning Code Section 415.6 up to a maximum of 25% of the units in the Principal
17 Project. The project sponsor shall make such election through the procedures described in
18 Section 415.5(~~g~~) including submitting an Affidavit of Compliance indicating the project
19 sponsor's election to pursue the benefits of Subsection (c)(1) or (c)(2) and committing to up to
20 25% on-site units restricted under Section 415.6 prior to approval by the Planning
21 Commission or Planning Department staff. If a project sponsor obtains the exemption from the
22 density calculation for Affordable Units provided in this subsection, the exemption shall be
23 documented and recorded against the property under the terms of a Regulatory Agreement as
24 defined under Section 206.2 and consistent with the provisions set forth in Section 206.6(f)(4).
25 Any later request to decrease the number of Affordable Units shall require the project to go

1 back to the Planning Commission or Planning Department, whichever entity approved the
2 project as a whole.

3 * * * *

4
5 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**
6 **PROGRAM.**

7 (a) **Purpose.** This Section 206.3 sets forth the HOME-SF Program. The HOME-SF
8 Program or “HOME-SF” provides benefits to project sponsors of housing projects that either
9 (1) set aside residential units onsite at below market rate rent or sales price in an amount
10 higher than the amount required by the Inclusionary Housing Ordinance, or (2) agree to
11 subject all units in the project, except for units required by the Inclusionary Housing
12 Ordinance, to the San Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of
13 the Administrative Code). The purpose of HOME-SF is to expand the number of below market
14 rate units produced in San Francisco and provide housing opportunities to a wider range of
15 incomes than traditional affordable housing programs, such as the City’s Inclusionary
16 Affordable Housing Program, Planning Code Sections 415 et seq., which typically provide
17 housing only for very low, low or moderate income households, and to expand the number of
18 units in San Francisco that are subject to rent control. For projects that elect to provide
19 additional on-site below market rate units, HOME-SF also provides an alternative method of
20 complying with the on-site inclusionary option set forth in Section 415.6. HOME-SF allows
21 market-rate projects to match the City’s Proposition K (November 2014) housing goals that
22 50% of new housing constructed or rehabilitated in the City by 2020 be within the reach of
23 working middle class San Franciscans, and that at least 33% be affordable for low and
24 moderate income households, and the Housing Element of the General Plan’s finding that
25 rent control has been critical to protecting low- and moderate-income residents from being at

1 risk of eviction and displacement.-

2 * * * *

3 (ix) For projects that elect to proceed under Section 206.3(c)(1)(B), a statement
4 that the units included in such project, except for any Affordable Units as defined in Planning
5 Code Section 401, are not subject to the Costa-Hawkins Rental Housing Act (California Civil
6 Code Sections 1954.50 et seq.) because under Section 1954.52(b), the property owner has
7 entered into and agreed to the terms of the agreement with the City in consideration for
8 additional density and modifications to the Planning Code, or other direct financial contribution
9 or forms of assistance specified in California Government Code Sections 65915 et seq.; and

10 (x) For projects that elect to proceed under Section 206.3(c)(1)(B), an
11 agreement that any lease, sublease, or other agreement regarding tenancy of units not
12 subject to the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et
13 seq.) shall ~~shall~~ include the following text: “This unit is a rental unit subject to the San
14 Francisco ~~Residential~~ Residential Rent Stabilization and Arbitration Ordinance.”

15 (f) ~~Temporary provisions~~ HOME-SF Eligibility Tiers. To facilitate the construction of
16 HOME-SF projects that elect to include HOME SF Units under subsection (c)(1)(A) of this
17 Section 206.3, and based on information from the inclusionary housing study prepared for the
18 Divisadero and Fillmore Neighborhood Commercial Transit District, in Board of Supervisors
19 File No. 151258, and the Office of the Controller’s Inclusionary Housing Working Group final
20 report (February 2016), the HOME-SF program shall include temporary development
21 incentives as specified in this subsection (f) based on the amount and level of affordability
22 provided in this subsection (f). For any development project that has submitted a complete
23 Development Application prior to January 1, 2020, subsections (c)(1)(A) and (d)(1), (d)(2), and
24 (d)(3) shall not apply, and the provisions in this subsection (f) shall apply. For any
25 development project that submits a complete Development Application on or after January 1,

1 2020, this subsection (f) shall apply until such time as it may be amended based on the
2 Triennial Economic Feasibility Analysis established in Section 415.10. This subsection (f) shall
3 not apply to HOME-SF projects that elect to proceed under subsection (c)(1)(B).

4 (1) **HOME-SF Project Eligibility Requirements.** To receive the development
5 bonuses granted under this Section 206.3, a HOME-SF Project must provide a percentage of
6 units, in the amounts set forth in ~~§~~Section 206.3(f)(2)(A), (B), or (C), as HOME-SF Units, as
7 defined in Section 206.2. The HOME-SF Units shall be restricted for the Life of the Project
8 and shall comply with all of the requirements of the Procedures Manual authorized in Section
9 415 except as otherwise provided in this Section 206.3. All HOME-SF Units must be marketed
10 at a price that is at least 20% less than the current market rate for that unit size and
11 neighborhood, and MOHCD shall reduce the Area Median Income levels set forth in this
12 Section 206.3 in order to maintain such pricing. As provided for in subsection (e), the Planning
13 Department and MOHCD shall amend the Procedures Manual to provide policies and
14 procedures for the implementation, including monitoring and enforcement, of the HOME-SF
15 Units;

16 (2) **Development Bonuses.** Any HOME-SF Project shall at the project
17 sponsor's request receive the following:

18 (A) **Tier One:** ~~A Tier One HOME-SF Project that consists of fewer than 25~~
19 ~~units and are Owned Units shall provide 20% of units in the HOME-SF Project as HOME-SF Units at~~
20 ~~the following levels: ten percent shall have an average affordable purchase price set at 80% of Area~~
21 ~~Median Income; 5% shall have an average affordable purchase price set at 105% of Area Median~~
22 ~~Income; and 5% shall have an average affordable purchase price set at 130% of Area Median Income.~~
23 ~~A Tier One HOME-SF Project that consists of fewer than 25 units and are rental units shall provide~~
24 ~~20% of units in the HOME-SF Project as HOME-SF Units at the following levels: ten percent shall~~
25 ~~have an average affordable rent set at 55% of Area Median Income; 5% shall have an average~~

1 ~~affordable rent set at 80% of Area Median Income; and 5% shall have an average affordable rent set at~~
2 ~~110% of Area Median Income.~~ A Tier One HOME-SF Project that consists of ~~25 or more units and~~
3 ~~are~~ Owned Units shall provide ~~23%~~ 7% of units in the HOME-SF Project as HOME-SF Units at
4 the following levels: ~~ten 5% percent~~ shall have an average affordable purchase price set at 80%
5 of Area Median Income, with households earning up to 100% of Area Median Income eligible to
6 apply; and 8% 2% shall have an average affordable purchase price set at ~~105%~~ 100% of Area
7 Median Income, with households earning more than 100% to 120% of Area Median Income eligible
8 to apply; and 5% shall have an average affordable purchase price set at 130% of Area Median Income.

9 A Tier One HOME-SF Project that consists of ~~25 or more units and are~~ Rental Units shall
10 provide ~~23%~~ 7% of units in the HOME-SF Project as HOME-SF Units at the following levels:
11 ~~ten 5% percent~~ shall have an average affordable rent set at 55% of Area Median Income, with
12 households earning up to 65% of Area Median Income eligible to apply; 8% and 2% shall have an
13 average affordable rent set at 80% of Area Median Income, with households earning up to 90%
14 of Area Median Income eligible to apply; and 5% shall have an average affordable rent set at 110% of
15 Area Median Income.

16 * * * *

17 (B) **Tier Two:** A Tier Two HOME-SF Project shall provide ~~25%~~ 8% of units in the
18 HOME-SF Project as HOME-SF Units. ~~Ten percent of For~~ Tier Two HOME-SF Units that are
19 Owned Units, 6% shall have an average affordable purchase price set at 80% of Area Median
20 Income, with households earning up to 100% of Area Median Income eligible to apply; 8% and 2%
21 shall have an average affordable purchase price set at ~~105%~~ 100% of Area Median Income,
22 with households earning more than 100% and up to 120% of Area Median Income eligible to apply;
23 ~~and 7% shall have an average affordable purchase price set at 130% of Area Median Income. Ten~~
24 ~~percent of For~~ HOME-SF Units that are rental units, 6% shall have an average affordable rent
25 set at 55% of Area Median Income, with households earning up to 65% of Area Median Income

1 eligible to apply; 8% and 2% shall have an average affordable rent set at 80% of Area Median
2 Income, with households earning up to 90% of Area Median Income eligible to apply; ~~and 7% shall~~
3 ~~have an average affordable rent set at 110% of Area Median Income.~~

4 * * * *

5 (C) **Tier Three:** A Tier Three HOME-SF Project shall provide ~~30%~~ 10% of units
6 in the HOME-SF Project as HOME-SF Units. ~~Ten percent of For~~ Tier Three HOME-SF Units
7 that are Owned Units, 8% shall have an average affordable purchase price set at 80% of Area
8 Median Income, with households earning up to 100% of Area Median Income eligible to apply; ~~10%~~
9 and 2% shall have an average affordable purchase price set at ~~105%~~ 100% of Area Median
10 Income, with households earning more than 100% and up to 120% of Area Median Income eligible to
11 apply; ~~and 10% shall have an average affordable purchase price set at 130% of Area Median Income.~~
12 ~~Ten percent of For~~ Tier Three HOME-SF Units that are rental units, 8% shall have an average
13 affordable rent set at 55% of Area Median Income, with households earning up to 65% of Area
14 Median Income eligible to apply; ~~10% and 2%~~ shall have an average affordable rent set at 80% of
15 Area Median Income, with households earning up to 90% of Area Median Income eligible to apply;
16 ~~and 10% shall have an average affordable rent set at 110% of Area Median Income.~~

17 * * * *

18
19 **SEC 206.10. HOUSING CHOICE-SAN FRANCISCO PROGRAM**

20 (a) **Purpose.** This Section 206.10 sets forth the Housing Choice-San Francisco
21 Program (HC-SF Program). The HC-SF Program provides additional residential development
22 capacity, additional options for complying with the Inclusionary Housing Ordinance,
23 modifications to certain Planning Code and design standards, and an administrative or
24 discretionary review process for eligible residential projects that comply with the program.
25 Except as provided in this Section 206.10, all HC-SF projects shall comply with Article 4 of the

1 Planning Code.

2 (b) **Applicability.** An HC-SF Project under this Section 206.10 shall be a project that
3 complies with all of the following requirements:

4 * * * *

5 (8) is not located in a Special Use District that implements a Development
6 Agreement adopted under California Government Code 65864 et seq. and/or Administrative
7 Code Chapter 56;

8 * * * *

9 (c) **Inclusionary Housing Ordinance Alternatives and Requirements.** HC-SF Projects
10 ~~of 10 or more units~~ shall comply with Section 415 et seq. ~~when applicable, and if applicable~~
11 ~~Section 419 et seq.,~~ except as allowed by, ~~or modified by,~~ this subsection (c). ~~Projects that elect the~~
12 ~~off-site alternative in Section 415.5(g)(1)(B) or the Land Dedication Alternative in Section~~
13 ~~419.5(a)(2) 415.7 allowed in subsection (c)(2), shall provide the required units within the R-4 Height~~
14 ~~and Bulk District, or within one-half mile of the project. In addition to the alternatives set forth in~~
15 ~~Section 415.3(g), HC-SF Projects may satisfy the requirements of Section 415 et seq. by choosing one~~
16 ~~of the following options:~~

17 (1) In addition to the Alternatives set forth in Section 415.5(e), Rental Housing Projects
18 that are less than 65 feet in height, including any additional height allowed by this Section 206.10, may
19 satisfy the requirements of Section 415.1 et seq. by if the project is a Rental Project with 24 or fewer
20 units, including any additional units allowed by this Section 206.10, a project sponsor shall subject
21 subjecting all units in the project to the San Francisco Rent Stabilization and Arbitration
22 Ordinance (Chapter 37 of the Administrative Code) for the Life of the Project, ~~or~~

23 (2) Notwithstanding Section 415.7(a)(2), projects that elect the Off-site or the Land
24 Dedication Alternative in Section 415.7, shall provide the required units within the R-4 Height and
25 Bulk District, or within one mile of the Principal Project. applicants shall comply with the Land

1 ~~Dedication Alternative requirements of Section 419.5(a)(2), regardless of project location.~~

2 * * * *

3 (e) **Additional Height, Square Footage, and Other Bonuses.** HC-SF Projects that
4 contain certain uses, amenities, or other building features are eligible for additional bonuses
5 and code modifications, as described below.

6 * * * *

7 (7) **Limits on Bonuses.** Except as provided below, an HC-SF Project can
8 combine the heights, square footage, and additional bonuses in subsections (e)(1) through
9 (e)(6).

10 (~~1A~~) **Height.** A project may combine the bonuses in subsections (e)(1)
11 through (e)(5) provided that any height bonus is limited to 10 feet above the Housing Choice-
12 SF height limit. A project may combine the bonuses in subsections (e)(1) through (e)(6)
13 provided that any height bonus is limited to 30 feet above the Housing Choice-SF height limit.

14 (~~2B~~) **Rear Yard.** A project cannot reduce the required rear yard beyond
15 the lowest of the limits set forth in subsections (e)(3)-(e)(6).

16
17 **SEC. 243. VAN NESS SPECIAL USE DISTRICT.**

18 (a) **General.** A Special Use District entitled the Van Ness Special Use District, the
19 boundaries of which are shown on Sectional Map No. SU02 of the Zoning Map of the City and
20 County of San Francisco, is hereby established for the purposes set forth below.

21 * * * *

22 (c) **Controls.** All provisions of the Planning Code applicable to an RC-4 District shall
23 apply except as otherwise provided in this Section 243.

24 * * * *

25 (8) **Limitation of Nonresidential Uses.**

1 (A) **Residential Uses; Ratio Established.** In newly constructed
2 structures, nonresidential uses shall only be permitted if the ratio between the amount of net
3 additional occupied floor area for residential uses, as defined in this paragraph below, to the
4 amount of occupied floor area for nonresidential uses in excess of the occupied floor area of
5 structures existing on the site at the time the project is approved is 3 to 1 or greater. In
6 additions to existing structures that exceed 20% of the gross floor area of the existing
7 structure, nonresidential uses shall be permitted in the addition in excess of 20% only if the
8 ratio between the amount of occupied floor area for residential use, as defined in this
9 paragraph below, to the area of occupied floor area for nonresidential use is 3 to 1 or greater.
10 This residential use ratio shall not apply to (i) development sites in the Van Ness Special Use
11 District that have less than 60 feet of street frontage on Van Ness Avenue and have no street
12 frontage other than the Van Ness Avenue frontage, or (ii) development consisting of new
13 construction proposed for an Institutional Community Use at 1750 Van Ness Avenue,
14 Assessor's Parcel Block 0622, Lot 019. For purposes of this Section, "nonresidential uses"
15 shall mean any use not defined as a Residential Use in Section 102 and principally or
16 conditionally permitted in the Van Ness Special Use District.

17 (B) **Reduction of Ratio of Residential Uses for Affordable Housing.**
18 The ~~Planning~~ Commission may modify the Van Ness Special Use District residential to
19 nonresidential use ratio between Golden Gate Avenue and California Street, or may modify the
20 timing and location requirements of linked projects, as a with eConditional Use authorization
21 provided that, in one of the following ways: in addition to the findings required by Section 303(c), the
22 Commission finds that:

23 (i) ~~In-Lieu Fee. By conditional use, the developer may elect to fulfill the~~
24 ~~obligation to build housing by paying an in-lieu fee to the Affordable Housing Fund as provided in~~
25 ~~Section 413 of this Code. No more than a 50 percent reduction of the required housing for a specific~~

1 ~~project can be fulfilled by paying an in-lieu fee. Use of these funds shall provide affordable housing~~
2 ~~within 2,000 feet of the Van Ness Special Use District. The in-lieu fee shall be determined by the~~
3 ~~following formula:~~

4 ~~(1) $(\text{Lot Area} \times \text{FAR})/4 \times 3 = \text{Residential SQ. FT. Requirement}$~~

5 ~~(2) $\text{Residential SQ. FT. Requirement} - \text{Residential SQ. FT.}$~~

6 ~~$\text{Developed} = \text{LOSS}$~~

7 ~~(3) $\text{LOSS} \times \$15 = \text{In-Lieu Fee}$~~

8 ~~(ii) **Providing Affordable Housing.** By conditional use, the developer~~
9 ~~may reduce up to 50 percent of the required amount of on-site housing by maintaining a portion of that~~
10 ~~housing as permanently affordable for the life of the project. Affordable units shall be managed by a~~
11 ~~nonprofit housing agency through a duly executed agreement between the project sponsor, the~~
12 ~~nonprofit agency, and the Planning Department. The mix of affordable units retained in the project~~
13 ~~shall conform to the overall dwelling unit size mix of the project. The portion of retained residential~~
14 ~~that shall be affordable will be determined by calculating the number of market rate units that could be~~
15 ~~subsidized by the amount of "in-lieu fee" calculated in Paragraph (i) above. The number of square feet~~
16 ~~of affordable housing shall be calculated in the following manner:~~

17 ~~(1) $\text{In-Lieu Fee} / \$30/\text{square foot subsidy} = \text{Square Feet of}$~~
18 ~~**Affordable Housing Retained in the Project**~~

19 ~~(iii) **Annual Reporting, Evaluation, and Adjustments to Affordability**~~
20 ~~**and Fee Calculations.** The Department shall report annually to the Planning Commission on the~~
21 ~~activity and utilization of Section 243(e)(8)(B). Based on an evaluation of this report, the Planning~~
22 ~~Commission may initiate a modification or deletion of Section 243(e)(8)(B). The dollar amounts used in~~
23 ~~the calculation for Paragraphs (i) and (ii) of this Subsection shall be subject to annual adjustments in~~
24 ~~accord with Section 409 of this Code. Affordability shall be defined by rents or sale prices affordable~~
25 ~~by households with no more than 80 percent of median income standards developed by HUD.~~

1 the City and County of San Francisco, is hereby established for the purpose set out
2 ~~below~~below.

3 (b) **Purpose.** In order to provide for a mixed use development project with ground floor
4 retail, ~~and a combination of very low income, low income, moderate income, middle income, and~~
5 ~~market rate residential units~~, at densities higher than what otherwise would be permitted in the
6 NC-3 zoning district and 80 foot height district, in an area well-served by transit, there shall be
7 a Geary-Masonic Special Use District consisting of Assessor's Block 1071, Lot 003 as
8 designated on Sectional Map SU03 of the Zoning Maps of the City and County of San
9 Francisco.

10 * * * *

11 (d) ~~**Inclusionary Housing.** Compliance with Section 415 et seq. shall be by payment of the~~
12 ~~affordable housing fee, or provision of on-site units, as follows:~~

13 (1) ~~**Affordable Housing Fee.** Payment of the Affordable Housing Fee pursuant to~~
14 ~~Section 415.5 and subject to the following provisions:~~

15 (A) ~~For a project providing Owned Units, the applicable percentage shall be~~
16 ~~33% of the Gross Floor Area of residential use.~~

17 (B) ~~For a project providing Rental Units, the applicable percentage shall be~~
18 ~~30% of the Gross Floor Area of residential use.~~

19 (C) ~~**Use of Fees.** Fees shall be payable to the Development Fee Collection Unit~~
20 ~~at DBI for deposit into the Citywide Affordable Housing Fund. MOHCD shall designate and separately~~
21 ~~account for all fees that it receives under this subsection (d)(1). The funds shall be used exclusively to~~
22 ~~acquire and construct a 100% affordable housing project on a site located within one and one-half mile~~
23 ~~of the boundaries of the SUD. If such funds have not been allocated for the acquisition or~~
24 ~~predevelopment of a project on a site within one and one-half mile of the boundaries of the SUD within~~
25 ~~five years of deposit into the Citywide Affordable Housing Fund, such funds may be used anywhere in~~

1 ~~the City and for any size project.~~

2 ~~(2) **On-Site Inclusionary Units.** On-site Units pursuant to Section 415.6 in the~~
3 ~~following amounts and income levels:~~

4 ~~(A) In a rental project, at least 10% of units must be affordable to very low-~~
5 ~~income households, at least 4% must be affordable to low-income households, at least 4% must be~~
6 ~~affordable to moderate-income households and at least 5% must be affordable to middle-income~~
7 ~~households. For purposes of this section, rental units for very low-income households shall have an~~
8 ~~affordable rent set at 55% of Area Median Income or less, with households earning up to 65% of Area~~
9 ~~Median Income eligible to apply for very low-income units. For purposes of this section, rental units~~
10 ~~for low-income households shall have an affordable rent set at 80% of Area Median Income or less,~~
11 ~~with households earning up from 65% to 90% of Area Median Income eligible to apply for low-income~~
12 ~~units. For purposes of this section, rental units for moderate-income households shall have an~~
13 ~~affordable rent set at 110% of Area Median Income or less, with households earning from 90% to~~
14 ~~120% of Area Median Income eligible to apply for moderate-income units. For purposes of this section,~~
15 ~~rental units for middle-income households shall have an affordable rent set at 120% of Area Median~~
16 ~~Income or less, with households earning from 120% to 140% of Area Median Income eligible to apply~~
17 ~~for middle-income units. For any affordable units with rental rates set at 110% of Area Median Income~~
18 ~~or above, the units shall have a minimum occupancy of two persons.~~

19 ~~(B) In an ownership project, at least 11% of units must be affordable to very~~
20 ~~low-income households, at least 5% must be affordable to low-income households, at least 5% must be~~
21 ~~affordable to moderate-income households and at least 5% must be affordable to middle-income~~
22 ~~households. For purposes of this section, ownership units for very low-income households shall have~~
23 ~~an affordable sales price set at 80% of Area Median Income or less, with households earning up to~~
24 ~~100% of Area Median Income eligible to apply for very low-income units. For purposes of this section,~~
25 ~~ownership units for low-income households shall have an affordable sales price set at 105% of Area~~

1 ~~Median Income or less, with households earning up from 95% to 120% of Area Median Income eligible~~
2 ~~to apply for low-income units. For purposes of this section, ownership units for moderate-income~~
3 ~~households shall have an affordable sales price set at 130% of Area Median Income or less, with~~
4 ~~households earning from 120% to 140% of Area Median Income eligible to apply for moderate-income~~
5 ~~units. For purposes of this section, ownership units for middle-income households shall have an~~
6 ~~affordable sales price set at 150% of Area Median Income or less, with households earning from 140%~~
7 ~~to 160% of Area Median Income eligible to apply for middle-income units. For any affordable units~~
8 ~~with sales prices set at 130% of Area Median Income or above, the units shall have a minimum~~
9 ~~occupancy of two persons.~~

10 ~~(3) The grandfathering provisions in Section 415.3(b) shall not apply. Except as~~
11 ~~expressly provided in this subsection (d), all other provisions of Section 415 shall apply.~~

12
13 **SEC. 249.22. NON-CONTIGUOUS SAN FRANCISCO MUNICIPAL**
14 **TRANSPORTATION AGENCY SITES SPECIAL USE DISTRICT.**

15 (a) **Purpose.** There shall be a non-contiguous Special Use District (“SUD”) for sites
16 owned by the City and County of San Francisco and under the jurisdiction of the San
17 Francisco Municipal Transportation Agency (SFMTA) to enable SFMTA to use the sites for
18 transportation and other Public uses as well as uses permitted by the underlying zoning
19 district. This SUD also enables mixed-use residential development with characteristics not
20 accommodated by underlying zoning.

21 * * * *

22 (c) **General Controls.**

23 * * * * *

24 (6) **Development Impact Fees.** For a development project on land subject to
25 the SUD:

1 (A) With the recommendation of the SFMTA Board of Directors, the
2 Board of Supervisors may waive all or a portion of any applicable Transportation Sustainability
3 Fee under Section 411A, and all or a portion of any applicable Jobs-Housing Linkage
4 Program requirements under Section 413.

5 (B) The provisions of Section 415 et seq., as amended or replaced from
6 time to time, shall apply. Notwithstanding Section 415.6(~~he~~)(1), a development project may
7 receive development subsidies if the development provides the same number of on-site
8 affordable units as required by the applicable on-site affordable housing requirement in
9 Section 415 et seq., ~~or any temporary reduction as set forth in Sections 415A et seq. or 415B et seq.,~~
10 plus an additional number of on-site affordable units equal to 25% of the applicable on-site
11 affordable units. Additional units shall be provided as affordable to households at or below
12 80% of Area Median Income. Any units required to be affordable to ~~middle- or~~ moderate-
13 income households under Sections 415.6(a), ~~415A, or 415B, as applicable,~~ or this subsection
14 249.22(c)(6)(B), may instead be affordable to moderate- or low-income households.
15 Notwithstanding Section 415.6(~~f~~)(1), ~~the moderate and low income~~ On-site units may be located
16 anywhere in the project.

17
18 **SEC. 249.33. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT.**

19 * * * *

20 (b) **Use Controls.**

21 * * * *

22 (6) **Accessory Parking.** ~~For projects that provide 25% or more on-site affordable~~
23 ~~housing units as defined in Section 415, accessory~~ Accessory non-residential parking may be used
24 jointly as accessory residential parking for residential uses within the same project, so long as
25 the following criteria are met:

1 (A) the total number of independently accessible parking stalls (whether
2 residential or non-residential) provided in such project shall not exceed the sum of the
3 maximum amount of accessory residential and accessory non-residential parking spaces
4 permitted by the Planning Code, and;

5 (B) the total number of parking spaces used as residential accessory
6 parking shall not exceed 0.4 spaces per each Dwelling Unit.

7 * * * *

8 ~~(10) Option for Dedication of Land.~~

9 ~~(A) Development projects in this District may opt to fulfill the Inclusionary
10 Housing requirement of Section 415 through the Land Dedication alternative in Section 419.6. The
11 Land Dedication alternative is available for development projects within the District under the same
12 terms and conditions as provided for in Section 419.5(a)(2), except that in lieu of the Land Dedication
13 Alternative requirements of Table 419.5, projects may satisfy the requirements of Section 415.5 by
14 dedicating land for affordable housing if the dedicated land could accommodate a total amount of units
15 that is equal to or greater than 35% of the units that are being provided on the principal development
16 project site, as determined by the Planning Department. Any dedicated land shall be at least partly
17 located within one mile of the boundaries of either the Market and Octavia Plan Area or the Upper
18 Market NCT District.~~

19 ~~(B) Notwithstanding the requirements of Section 419.5(a)(2)(H), development
20 projects dedicating land shall obtain the required letter from the Mayor's Office of Housing and
21 Community Development verifying acceptance of the dedicated land no later than 180 days following
22 Planning Commission or Planning Department approval of the development project. The Director of
23 the Mayor's Office of Housing and Community Development may waive application of Section
24 419.5(a)(2)(G).~~

25 ~~(H10) Required Minimum Dwelling Unit Mix.~~ Development projects in this

1 District shall comply with Section 207.6.

2 (~~1211~~) **Active Uses.** For purposes of this Section 249.33, Arts Activities and
3 Institutional Community Uses are considered to be “active uses,” as defined in Section 145.4
4 of this Code.

5 (~~1312~~) Projects with on-site affordable housing units provided pursuant to a
6 Purchase and Sale Agreement with the City that are in excess of the amount required by
7 Planning Code Section 415 may deviate from the building floor distribution requirements of
8 Section 415.6(~~fc~~)(1) by up to 15%.

9 * * * *

10

11 **SEC. 249.38. SOMA YOUTH AND FAMILY SPECIAL USE DISTRICT.**

12 (a) **Purpose.** The South of Market (SoMa) Youth and Family Special Use District is
13 intended to expand the provision of affordable housing in the area defined below. In addition,
14 this zoning is intended to protect and enhance the health and environment of youth and
15 families by adopting policies that focus on certain lower density areas of this District for the
16 expansion of affordable housing opportunities. *The findings of Planning Code Section 419.1*
17 *concerning the provision of affordable housing are incorporated herein by reference.*

18 (b) **Geography.** The general boundaries of the SoMa Youth and Family Special Use
19 District are Natoma Street on the north, Harrison Street on the south, 4th Street on the east,
20 and 7th Street on the west. The Special Use District is more particularly identified in the
21 Zoning Map.

22 (c) **Controls.**

23 (1) For the entire Special Use District, all provisions of the Planning Code shall
24 continue to apply, except for the following:

25 (A) The following uses, as defined in Section 102, shall require a

1 Conditional Use authorization, pursuant to Section 303, unless the underlying zoning is more
2 restrictive:

3 * * * *

4 (B) The Land Dedication alternative is available for any project *of 55 feet*
5 *or more* under the same terms and conditions as provided for in Section 415.7(a). ~~419 et seq.~~

6 ~~(C) In addition to the controls above, the following provisions shall apply to all~~
7 ~~properties that are not tangent to the following streets: Howard Street, Harrison Street, Folsom Street,~~
8 ~~4th, 5th, 6th and 7th Streets: Any project subject to Section 415 et seq. in excess of 45 feet in height~~
9 ~~within this Special Use District shall be subject to the Tier C affordable housing requirements of~~
10 ~~Sections 419 et seq.~~

11
12 **SEC. 249.39. WESTERN SOMA SPECIAL USE DISTRICT.**

13 (a) The Western SoMa Special Use District, as shown on Section Maps 1SU, 7SU,
14 and 8SU of the Zoning Map, is governed by Section 303-~~7~~ of this Code, and Board of
15 Supervisors Resolution No. 731-04.

16 * * * *

17 (c) **Controls.** All provisions of the Planning Code shall apply except as otherwise
18 provided in this subsection (c).

19 * * * *

20 (9) **Major Developments Requesting Height Bonuses.**

21 * * * *

22 (B) **Controls.** The project shall require conditional use authorization from
23 the Planning Commission pursuant to Section 303 of this Code, and shall not require a Large
24 Project Authorization if otherwise required under Section 329, and shall be subject to the
25 following criteria:

1 (i) As a component of such conditional use authorization, the
2 project may seek specific exceptions to the provisions of this Code as provided under Section
3 329;

4 * * * *

5 ~~(vi) Projects on development sites greater than .5 acre, but less than 3~~
6 ~~acres, shall be subject to the Tier B affordable housing requirements of Section 419.3(b)(2) of this~~
7 ~~Code.~~

8
9 **SEC. 249.40. POTRERO CENTER MIXED-USE SPECIAL USE DISTRICT.**

10 (a) **Purpose.** The Potrero Center Mixed-Use Special Use District is intended to
11 facilitate the continued operation of the shopping center located at 2300 16th Street, which is
12 characterized by large formula retail sales and services, while providing an appropriate
13 regulatory scheme for a potential phased mixed-use redevelopment of the shopping center in
14 the future.

15 * * * *

16 (c) **Controls.** All provisions of the Planning Code shall continue to apply, except for
17 the following:

18 * * * *

19 (4) **Housing Requirements.** The Potrero Center is one of the largest properties
20 in the UMU zoning district that provides a unique opportunity for a mixed-use project with the
21 provision of a significant amount of affordable housing, through either on-site inclusionary
22 units, a dedication of a portion of the land or the air rights of the property to the City. This
23 would enable the City (or another affordable housing developer) to develop affordable housing
24 on such dedicated portion or provide for a combination of both on-site inclusionary housing
25 and land dedication. The City supports such affordable housing production in this location,

1 rather than in an off-site location or locations. ~~The provisions of Table 419.5 shall be modified to~~
2 ~~increase the~~ The off-site affordable unit election and in lieu fee election requirements ~~from 27~~
3 ~~percent to 30 percent~~ shall be 15% of the total number of units produced in the principal project.
4 ~~The findings of Section Section 419.5(a)(2) concerning the provision of affordable housing are~~
5 ~~incorporated herein by reference.~~

6 (5) **Land Dedication Election.** The Land Dedication Alternative for the provision of
7 inclusionary housing units specified in Section ~~419.5(a)(2)~~ 415.7(a) may be satisfied
8 incrementally over time in the event that portions of the SUD are redeveloped in phases and
9 may be satisfied through the dedication to the City of air space parcels above or adjacent to
10 retail, parking or other uses, as well as through dedications of land, upon the approval of the
11 ~~Mayor's Office of Housing~~ MOHCD or a successor entity, and provided the requirements of
12 Section ~~419.5(a)(2)~~ 414.7(a) are otherwise satisfied.

13

14 **SEC. 249.78. CENTRAL SOMA SPECIAL USE DISTRICT.**

15 (a) **Purpose.** To implement the goals, objectives, and policies of the Central SoMa
16 Plan (Ordinance No. 280-18, on file with the Clerk of the Board of Supervisors in File No.
17 180185), the Central SoMa Special Use District (SUD) is hereby established.

18 * * * *

19 (c) **Land Use Controls.**

20 * * * *

21 (6) **Use on Large Development Sites.**

22 * * * *

23 (C) **Residential Bonus Program.** Projects on large development sites
24 identified in subsection 249.78(c)(6)(A) shall be eligible for an exception from the use
25 requirement in subsection 249.78(c)(6)(B), provided that the projects satisfy all of the

1 following:

2 * * * *

3 (v) **Land Dedication for 100% Affordable Housing.** For
 4 purposes of this Section 249.78 (c)(6), “Land Dedication for 100% Affordable Housing” as
 5 applied to projects on the Key Sites identified in this section means fully or partially satisfying
 6 the project’s affordable housing requirements of Sections 413 et seq. and 415 et seq. under
 7 Sections 413.6 and ~~419.5 415.7(a). by providing no less than 10,000 square feet or a minimum~~
 8 ~~capacity of 75 units of affordable housing, provided that if the combined full requirements of Section~~
 9 ~~413 et seq. and Section 415 et seq. as applied to the proposed project would not result in a land~~
 10 ~~dedication site of at least 10,000 square feet or a minimum capacity of 75 units of affordable housing,~~
 11 ~~then the proposed project on the Key Site may instead meet the requirements of Sections 413 et seq. and~~
 12 ~~415 et seq. as otherwise provided for in this Code.~~

13 * * * *

14 (e) **Community Development Controls.**

15 ~~(1) Affordable Housing Funds.~~ *Affordable Housing Fees for projects within the*
 16 *Central SoMa Special Use District shall be subject to Section 415.5(f)(1)(D).*

17 ~~(2) Land Dedication.~~

18 ~~(A) Residential projects in this SUD may opt to fulfill the Inclusionary Housing~~
 19 ~~requirement of Section 415 through the Land Dedication alternative contained in Section 419.6.~~

20 ~~(B) Non-Residential projects in this Special Use District may opt to fulfill their~~
 21 ~~Jobs-Housing Linkage Fee requirement of Section 413 through the Land Dedication alternative~~
 22 ~~contained in Section 413.6.~~

23 ~~(3) TDR Requirements for Large Development Sites.~~ The transfer and use
 24 of TDR by Large Development Sites in the Central SoMa SUD is subject to the controls of
 25 Section 128.1.

1 ~~(B)~~ **Requirement.**

2 (iA) A project subject to this subsection (~~31~~) will be considered a
3 “Development Lot,” pursuant to Section 128.1;

4 (iiB) To exceed a Floor Area Ratio of 3:1, a Development Lot shall
5 acquire one Unit of TDR from a Transfer Lot, as defined in Sections 128 and 128.1, per
6 square foot of development up to a Floor Area Ratio of 4.25:1. Above 4.25:1, the acquisition
7 of additional TDR is not required.

8 (~~42~~) **Onsite Childcare Facilities.** Prior to issuance of a building or site permit
9 for a development project subject to the requirements of Section 414.4, the sponsor of an
10 Office or Hotel project on a Key Site, as defined in Section 329(e), shall elect its choice of the
11 options described in subsection (A), (B) and (E) of Section 414.4(c)(1) to fulfill any
12 requirements imposed pursuant to Section 414.4 as a condition of approval. The Planning
13 Commission shall review the project for compliance with Section 414.4. In addition, the
14 following process shall apply:

15 * * * *

16
17 ~~**SEC. 263.7. SPECIAL HEIGHT EXCEPTIONS: NORTH OF MARKET RESIDENTIAL**~~
18 ~~**SPECIAL USE DISTRICT.**~~

19 (~~a~~) ~~**General.**~~ ~~In the 80-120-T and 80-130-T Height and Bulk Districts, as designated on~~
20 ~~Sectional Maps No. 1H and No. 2H of the Zoning Map, located within the boundaries of the North of~~
21 ~~Market Residential Special Use District, as designated on Sectional Map No. 1Sub of the Zoning Map,~~
22 ~~height exceptions may be approved by the City Planning Commission, pursuant to the provisions set~~
23 ~~forth below, from the base height of 80 feet up to 120 feet in the 80-120-T District and up to 130 feet in~~
24 ~~the 80-130-T District.~~

25 (~~b~~) ~~**Findings and Purposes.**~~ ~~In the 80-120-T and 80-130-T Height and Bulk Districts located~~

1 ~~within the North of Market Residential Special Use District (NOMRSUD), heights higher than 80 feet~~
2 ~~would be appropriate in order to effect a transition from the higher downtown heights to the generally~~
3 ~~lower heights of the existing buildings in the NOMRSUD core area and the Civic Center area and to~~
4 ~~make more feasible the construction of new housing, provided that development of the site is also~~
5 ~~consistent with the general purposes of the NOMRSUD as set forth in Section 249.5(b). Because~~
6 ~~development at heights greater than 80 feet may create pressures on existing affordable housing in the~~
7 ~~area, it is desirable to ameliorate such pressures by requiring that a portion of the value added to the~~
8 ~~new development resulting from the granting of a height exception be contributed to a fund established~~
9 ~~for the purpose of stabilizing, rehabilitating, and retaining existing affordable units in the area.~~

10 ~~The amount of contribution shall be a reasonable proportion of the value added to the~~
11 ~~development as a result of the extra building area enabled by the height exception.~~

12 ~~(c) **Procedures.** Exceptions from the base height of 80 feet shall be permitted, up to 120 feet in~~
13 ~~the 80-120-T Height and Bulk District, and up to 130 feet in the 80-130-T Height and Bulk District,~~
14 ~~only upon approval by the City Planning Commission, according to the procedures for conditional use~~
15 ~~approval set forth in Section 303 of this Code.~~

16 ~~(d) **Conditions.** The Planning Commission shall impose conditions on the approval of~~
17 ~~applications for conditional use authorization, required pursuant to Section 253 for buildings which~~
18 ~~exceed 40 feet in height in an R District, if such authorization includes a grant of an exception to the~~
19 ~~80-foot base height limit, in order to mitigate the impact that such height exception is likely to have on~~
20 ~~the existing supply of affordable housing in the area. The condition shall require that the applicant pay~~
21 ~~a fee to the Controller which shall be deposited in the Citywide Affordable Housing Fund established in~~
22 ~~Administrative Code Section 10.100-49 (the "Fund").~~

23 ~~(e) **Fee.** The fee required pursuant to subsection (d) above shall be equal to the sum of \$5 times~~
24 ~~the total gross square footage of floor space located above 80 feet in height as determined by the~~
25 ~~Zoning Administrator, as shown on the building plans. The fee shall be due and payable prior to the~~

1 issuance of a temporary certificate of occupancy, unless the project sponsor agrees to and qualifies for
2 participation in an amortized payment program, to be established by the Director of the Mayor's Office
3 of Housing and Community Development (MOHCD) and the Director of City Planning, such program
4 to be subject to subsequent review and approval by the City Planning Commission and the Board of
5 Supervisors, which program would result in the City receiving an amount equivalent to the value of the
6 contribution at the time the temporary certificate of occupancy is issued.

7 ~~(f) Procedure Regarding Temporary Permit of Occupancy.~~ The Superintendent of the Bureau
8 of Building Inspection shall provide notice in writing to the Zoning Administrator at least two business
9 days prior to issuing a temporary permit of occupancy for any building subject to the provisions of this
10 Section. If the Zoning Administrator notifies the Superintendent of the Bureau of Building Inspection
11 within such time that the provisions of this Section have not been complied with, the Superintendent
12 shall deny the temporary permit. If the Zoning Administrator notifies the Superintendent that the
13 provisions of this Section have been complied with or fails to respond within two business days, the
14 temporary permit of occupancy shall not be disapproved pursuant to this Section.

15 ~~(g) Citywide Affordable Housing Fund.~~ All fees collected by the Controller pursuant to this
16 Section 263.7 shall be deposited in the Fund, but the fees shall be separately accounted for and
17 expended by MOHCD as provided in this Section. All fees collected under this Section and deposited in
18 the Fund shall be used solely to stabilize, rehabilitate, and retain affordable housing in the North of
19 Market Residential Special Use District. No fees collected under this Section may be used, by way of
20 loan or otherwise, to pay any administrative, general overhead, or similar expense of any entity except
21 for servicing cost related to participation in the amortized payment program.

22 ~~(h) Rules and Regulations for Implementation.~~ The Director of MOHCD and the Director of
23 City Planning shall prepare and submit to the Planning Commission and the Board of Supervisors for
24 review and approval such rules and regulations as may be necessary for the implementation of this
25 Section. The Director of MOHCD and the Director of City Planning shall further propose such

1 ~~amendments or additions to the rules and regulations that he or she determines to be necessary. Such~~
2 ~~amendments and additions shall include periodic revision of the fee to reflect current conditions.~~

3
4 **SEC. 329. LARGE PROJECT AUTHORIZATION IN EASTERN NEIGHBORHOODS**
5 **MIXED USE DISTRICTS.**

6 (a) **Purpose.** The purpose of this Section is to ensure that all large projects proposed
7 in the Eastern Neighborhoods Mixed Use Districts are reviewed by the Planning Commission,
8 in an effort to achieve the objectives and policies of the General Plan, the applicable Design
9 Guidelines, and the purposes of this Code.

10 * * * *

11 (e) **Exceptions for Key Sites in Central SoMa.**

12 (1) **Purpose.** The Central SoMa Plan Area contains a number of large,
13 underutilized development sites. By providing greater flexibility in the development of these
14 sites, the City has an opportunity to achieve key objectives of the Central SoMa Plan and to
15 locate important public assets that would otherwise be difficult to locate in a highly developed
16 neighborhood like SoMa.

17 * * * *

18 (3) **Controls.** Pursuant to this Section 329(e) and the Key Site Guidelines
19 adopted as part of the Central SoMa Area Plan, the Planning Commission may grant
20 exceptions to the provisions of this Code as set forth in subsection (d) above and may also
21 grant the exceptions listed below for projects that provide qualified amenities in excess of
22 what is required by the Code.

23 (A) **Qualified Amenities.** Qualified additional amenities that may be
24 provided by these Key Sites include: affordable housing beyond what is required under
25 Section 415 et seq.; land dedication pursuant to Section 413.6 by non-residential projects for

1 construction of affordable housing in partial or full satisfaction of the Jobs-Housing linkage
2 Fee, or in excess of that required to satisfy the Jobs-Housing linkage Fee, provided that if the
3 land dedication is in partial satisfaction of that Fee, the balance of the Fee shall be paid with
4 the land value calculated as set forth in Section 413.6; land dedication pursuant to Section
5 413.6 by residential projects for construction of affordable housing in partial or full satisfaction
6 of the Alternatives to the Inclusionary Housing Fee, or in excess of that required to satisfy the
7 Alternatives to the Inclusionary Housing Fee, pursuant to Section ~~419.5~~415.7(a), to the extent
8 permitted by state law, provided that if the land dedication is in partial satisfaction of that Fee,
9 the balance of the Fee shall be paid with the land value calculated as set forth in Section
10 413.6; PDR at a greater amount and/or lower rent than is otherwise required under Sections
11 202.8 or 249.78(c)(5); public parks, recreation centers, or plazas; and improved pedestrian
12 networks.

13 * * * *

14
15 **SEC. 343. CENTRAL SOMA HOUSING SUSTAINABILITY DISTRICT.**

16 * * * *

17 (d) **Eligibility.** Projects seeking approval pursuant to this Section 343 shall
18 meet all of the following requirements:

19 * * * *

20 (7) The project complies with the following affordability requirements, as
21 applicable:

22 (A) Projects subject to Section 415 shall comply with Section 415
23 by choosing the On-Site Affordable Housing Alternative under Section 415.5(~~g~~e)(~~H~~)(A), and
24 shall provide no less than 10% of dwelling units as units affordable to very low or low income
25 families.

1 * * * *

2
3 **SEC. 759. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT**
4 **DISTRICT.**

5 The Divisadero Street Neighborhood Commercial Transit District (“Divisadero Street
6 NCT”) extends along Divisadero Street between Haight and O’Farrell Streets. Divisadero
7 Street’s dense mixed-use character consists of buildings with residential units above ground-
8 story commercial use. The District has an active and continuous commercial frontage along
9 Divisadero Street for most of its length. Divisadero Street is an important public transit corridor
10 and throughway street. The commercial district provides convenience goods and services to
11 the surrounding neighborhoods as well as limited comparison shopping goods for a wider
12 market.

13 * * * *

14 *If the Planning Department determines that any site proposed for residential development and*
15 *located within the Divisadero Street NCT has received a 50% or greater increase in residential*
16 *densities over prior zoning through the adoption of Ordinance No. 127-15, any development project*
17 *that is subject to the Inclusionary Affordable Housing Program on such site shall pay the Affordable*
18 *Housing Fee, or provide one of the Alternatives to Payment of the Affordable Housing Fee, set forth in*
19 *Planning Code Sections 415 et seq., except that the amount of the Affordable Housing Fee or*
20 *Alternatives to Payment of the Affordable Housing Fee shall be modified as set forth in Planning Code*
21 *Sections 428 et seq.*

22 * * * *

23
24 Section 6. Article 4 of the Planning Code is hereby amended by revising Sections 402,
25 403, 406, and 409 as follows:

1 **SEC. 402. PROCEDURE FOR ASSESSMENT, PAYMENT, AND COLLECTION OF**
2 **DEVELOPMENT FEES.**

3 * * * *

4 **(b) Required Department Notice to Development Fee Collection Unit; Request to**
5 **Record Notice of Fee.**

6 (1) **Required Notice.** When the Planning Department determines that a
7 development project is subject to one or more development fees or development impact
8 requirements as set forth in Section 402(e), the Department shall send written or electronic
9 notification to the Development Fee Collection Unit at DBI, and also to MOHCD, SFMTA or
10 other applicable agency that administers an applicable development fee or development
11 impact requirement, that:

12 (i) identifies the development project,

13 (ii) lists which specific development fees and/or development impact
14 requirements are applicable and the legal authorization for their application,

15 (iii) specifies the dollar amount of the development fee or fees that the
16 Department calculates is owed to the City or that the project sponsor has elected to satisfy a
17 development impact requirement through the provision of physical or “in-kind” improvements,
18 and

19 (iv) lists the name and contact information for the staff person at each
20 agency or department responsible for calculating the development fee or monitoring
21 compliance with the development impact requirement for physical or in-kind improvements.

22 * * * *

23 **(e) Amount and Applicability of Impact Fees.** When the Planning Department
24 determines that a project is subject to development impact fees established in the Planning
25 Code, with the exception of the Inclusionary Housing Fee as set forth in Section 415 et seq.,

1 the assessment shall be based on the types of fees ~~and the rates of those fees~~ in effect at the
2 time the Department determines that the Development Application is complete, or the Department
3 received a preliminary application, as applicable, and the Department shall not impose any
4 subsequently established development impact fees. The amount of development impact fees shall be
5 assessed at ~~of~~ Final Approval, based on the rates published in the Development Impact Fee Register in
6 effect at the time of Final Approval. After Final Approval, the City shall not ~~impose subsequently~~
7 ~~established development impact fees or~~ increase the rate of existing fees on the development
8 project, including annual inflation adjustments pursuant to Section 409, except as provided in
9 subsections (e)(1)-(e)(2) of this Section 402. The Planning Department shall transmit the fee
10 assessment to the Development Fee Collection Unit at DBI in accordance with this Section
11 402.

12 (1) **Modification, Renewal, Extension for Projects.** After the Final Approval, if
13 a development project requires a modification to, renewal, or extension of a previously
14 approved Development Application, the Planning Department shall reassess development
15 impact fees pursuant to subsection (e)(2). For the purposes of this subsection (e)(1), a
16 “modification” shall not include a legislatively-authorized reduction or waiver of fees, including
17 any waivers pursuant to Section 406.

18 (2) **Amount of Reassessment.** For any development project that requires a
19 modification to, renewal, or extension pursuant to subsection (e)(1), the Planning Department
20 shall reassess fees as follows:

21 (A) **Modified Projects.** For projects increasing Gross Floor Area of any
22 ~~Use by 20% or less,~~ the Planning Department shall assess the new or increased Gross Floor
23 Area by applying the types of impact fees in effect at the time ~~of the Department determined that~~
24 the application was complete, Final Approval at the rates in effect at the time of Final
25 Approval. ~~modification.~~ For projects increasing Gross Floor Area by more than 20%, the Department

1 shall apply the types of impact fees in effect at the time the new Development Application is deemed
2 complete, and the rate in effect at the time the new Development Application is Finally Approved. For
3 projects reducing Gross Floor Area, the Planning Department shall assess the types of fees in
4 effect at the time the Department determined the Development Application was complete, and the rates
5 of fees in effect at the time of Final Approval only on the remaining Gross Floor Area. ~~If the~~
6 ~~modified project would result in a new type of fee or a different rate based on applicable thresholds in~~
7 ~~effect at the time of Final Approval, the entire project square footage is subject to the new type of fee or~~
8 ~~different rate in effect at the time of modification. The City shall refund fees, if any, without interest,~~
9 ~~based on the fees in effect at the time of Final Approval.~~

10 (B) **Renewal and Extended Projects.** For projects receiving a renewal
11 or extension, the Planning Department shall reassess fees for the entire project's Gross Floor
12 Area based on the type of fees and rates of those fees in effect at the time of renewal or
13 extension.

14 (3) **Permitted Modifications to Projects Following Legislated Amendments to**
15 **Development Impact Fees.**

16 (A) **Projects Approved Prior to Effective Date of Ordinance in Board**
17 **File No. 230764.** For projects that have obtained a Final Approval, but that have not yet
18 obtained a first site or building permit prior to the effective date of the ordinance in Board File
19 No. 230764, the assessed types and rates of impact fees shall not be increased after that
20 effective date, unless such project requires a modification, extension, or renewal pursuant to
21 subsection (e)(1)-(2) of this Section 402. For projects that have obtained a Final Approval and
22 a site or building permit prior to the effective date of the ordinance in Board File No. 230764,
23 the types and rate of fees are those assessed at the time of site or building permit issuance,
24 subject to legislative reduction or waiver of fees, unless such project requires a modification,
25 extension, or renewal pursuant to subsection (e)(1)-(2) of this Section 402.

1 (B) Modifications to Pipeline Projects and Certain Approved Projects

2 Following Legislative Amendments to Development Impact Fee Requirements.

3 (i) For Pipeline Projects, if the Board of Supervisors reduces or deletes
4 an applicable development impact fee imposed by this Article 4, the project shall be entitled to modify
5 the types and/or rates of the impact fees reduced or deleted to those in effect as of the effective date of
6 the ordinance adopting the legislative amendment or deletion. All other fees shall continue to be
7 assessed as provided in Section 403(e).

8 (ii) For Projects that have been issued a First Construction Document
9 prior to the effective date of legislation reducing or deleting an applicable development impact fee
10 imposed by this Article 4, the project shall be entitled to a waiver of the reduced or deleted
11 development impact fee only for the portion of the fee that has been deferred and not yet paid pursuant
12 to Building Code Section 107A.13.3. All other fees shall continue to be assessed as provided in Section
13 403(e).

14 ~~(4) Applicability to Development Agreements.~~

15 ~~(A) For projects subject to development agreements executed prior to the~~
16 ~~effective date of the ordinance in Board File No. 230764, the Planning Department shall assess the~~
17 ~~applicable fees pursuant to the development agreement and no later than the earlier of site or building~~
18 ~~permit issuance.~~

19 ~~(B) Except as may otherwise be agreed to by the parties, for a project subject to~~
20 ~~a development agreement executed on or after the effective date of the ordinance in Board File No.~~
21 ~~230764, the Planning Department shall assess the applicable fees at the earlier of site or building~~
22 ~~permit issuance.~~

23 ~~(C) The procedures set forth in subsection (e)(1)-(2) shall govern the~~
24 ~~modification, renewal, or extension of a project subject to a development agreement.~~

25 ~~(D) In the event of a conflict between this Section 402(e) and the terms of a~~

1 ~~development agreement, the terms of the development agreement shall apply, unless the development~~
2 ~~agreement is modified pursuant to the terms of that agreement.~~

3
4 **SEC. 403. PAYMENT OF DEVELOPMENT FEE(S) OR SATISFACTION OF**
5 **DEVELOPMENT IMPACT REQUIREMENT(S) AS A CONDITION OF APPROVAL;**
6 **~~TEMPORARY~~ FEE REDUCTION PROGRAM.**

7 In addition to any other condition of approval that may otherwise be applicable, the
8 Department or Commission shall require as a condition of approval of a development project
9 subject to a development fee or development impact requirement under this Article 4 that
10 such development fee or fees be paid consistent with the timing set forth in California
11 Government Code section 66007, or in Building Code Section 107A.13.3, in proportion to the
12 amount required for each building if there are multiple buildings, with an option for the project
13 sponsor to defer payment of 85% of the fees, ~~or 80% of the fees if the project is subject to a~~
14 ~~neighborhood infrastructure impact development fee,~~ to prior to issuance of the first certificate of
15 occupancy, as provided by Section 107A.13.3.1 of the San Francisco Building Code (“Fee
16 Deferral Program”). ~~The Fee Deferral Program shall not apply to fees that must be deposited in the~~
17 ~~Citywide Affordable Housing Fund (Administrative Code Section 10.100-49).~~ Projects subject to
18 development agreements executed pursuant to Chapter 56 of the Administrative Code shall
19 be eligible for the Fee Deferral Program, except as may otherwise be agreed to by the parties
20 to the development agreement. The Department or Commission shall also require as a
21 condition of approval that any development impact requirement imposed on a development
22 project under this Article shall be satisfied prior to issuance of the first certificate of occupancy
23 for any building or buildings within the development project, in proportion to the amount
24 required for each building if there are multiple buildings.

25 (a) ~~Temporary~~ Fee Reduction Program. Except for the Inclusionary Housing Fee as set

1 forth in Section 415.1 et seq., all ~~The following~~ development impact fees imposed by this Article 4
2 assessed on or before November 1, 2026 shall be reduced by 33% at the time of collection by the
3 Development Fee Collection Unit at DBI by 67% from the amount assessed for the project pursuant to
4 Section 402(e).; for (1) projects that receive a First Construction Document, as defined in Building
5 Code Section 107A.13.1, within 30 months of Final Approval, as defined in Section 415A.2; and (2) for
6 Pipeline Projects as defined in Section 415A.2, if such Pipeline Projects receive a First Construction
7 Document on or before May 1, 2029. Projects approved pursuant to a development agreement under
8 Chapter 56 of the Administrative Code shall not be eligible for a fee reduction under this Section 403.
9 Upon receipt of a First Construction Document, the Planning Department shall determine whether the
10 project is eligible for the Temporary Fee Reduction Program, and update the fees assessment as
11 applicable. If the project is found eligible, the following fees shall be reduced:

12 ~~(1) The Transportation Sustainability Fee (Section 411A);~~

13 ~~(2) The Downtown Park Fee (Section 412);~~

14 ~~(3) The Jobs Housing Linkage Program (Section 413);~~

15 ~~(4) The Childcare Requirement for Office and Hotel Development Projects (Section 414);~~

16 ~~(5) The Childcare Requirements for Residential Projects (Section 414A);~~

17 ~~(6) Market and Octavia Area Plan and Upper Market Neighborhood Commercial District~~
18 ~~Affordable Housing Fee (Section 416);~~

19 ~~(7) Eastern Neighborhoods Area Plan Affordable Housing Requirement (Section 417);~~

20 ~~(8) Rincon Hill Community Improvements Fund and SOMA Community Stabilization Fund~~
21 ~~(Section 418);~~

22 ~~(9) Visitation Valley Community Facilities and Infrastructure Fee and Fund (Section 420);~~

23 ~~10 The Market and Octavia Community Improvements Fund (Section 421);~~

24 ~~11 Balboa Park Community Improvements Fund (Section 422);~~

25 ~~12 Eastern Neighborhood Impact Fees and Public Benefits Fund (Section 423);~~

1 ~~13 Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee and Program~~
2 ~~(Section 424);~~

3 ~~14 Transit Center District Open Space Impact Fee and Fund (Section 424.6) and~~
4 ~~Transportation and Street Improvement Impact Fee (Section 424.7);~~

5 ~~15 Van Ness and Market Community Facilities Fee and Fund (Section 425);~~

6 ~~16 Open Space requirements (Sections 426 and 427);~~

7 ~~17 Public Art Fee (Section 429);~~

8 ~~18 Bicycle Parking fee (Section 430);~~

9 ~~19 Central SOMA Community Services Facilities Fees and Fund (Section 432);~~

10 ~~20 Central SOMA Infrastructure Fee and Fund (Section 433);~~

11 ~~21 Union Square Park, Recreation, and Open Space Fee (Section 435);~~

12 Fees eligible for reduction under this section, including the amount with a reduction,
13 shall be included in the Controller's Citywide Development Fee and Development Impact
14 Requirements Report described in Section 409(a).

15 **(b) Modifications to Pipeline Projects and Certain Approved Projects.**

16 (1) Pipeline Projects shall be entitled to receive the impact fee reduction provided in
17 Section 403(a).

18 (2) Projects that have been issued a First Construction Document and that have
19 deferred a portion of the impact fee amount owed pursuant to Building Code Section 107A.13.3 shall
20 be entitled to receive an adjustment to the remaining unpaid balance such that the project receives the
21 percentage reduction set forth in Section 403(a) from the project's original assessment under Section
22 402(e). However, there shall be no refund issued for any portion of the impact fee amount already
23 paid.

24
25 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**

1 **PROJECT REQUIREMENTS.**

2 * * * *

3 (h) **Waiver for Projects in the C-2 and C-3 Districts.** In the C-2 and C-3 Districts, a
4 development project that meets the eligibility criteria in subsection (h)(1) of this Section 406
5 shall receive a waiver from any development impact fee or development impact requirement
6 imposed by this Article.

7 (1) **Eligibility.** To be eligible for the waiver in this subsection (h), the project
8 shall:

9 (A) be located in a C-2 or C-3 District; and

10 (B) contain ~~any of the following uses: Hotel, Restaurant, Bar, Outdoor Activity,~~
11 a Retail Sales and Service, or Entertainment, Arts and Recreation Use;

12 ~~(C) submit a complete Development Application on or before December 31,~~
13 ~~2026, including any projects that have obtained Final Approval prior to the effective date of the~~
14 ~~ordinance in Board File No. 230764 that have not already paid development impact fees.~~

15 (2) **Extent of Waiver.** The waiver in this subsection (h) shall be limited to
16 development impact fees or development impact requirements for the establishment of any
17 new Gross Floor Area of the Uses in subsection (h)(1)(B).~~Hotel, Restaurant, Bar, Outdoor Activity,~~
18 ~~or Entertainment Use.~~

19 (3) **Modification of Previously Approved Projects.** Projects that received a Final
20 Approval before November 1, 2023, have not been issued a First Construction Document, and have not
21 paid development impact fees, shall be entitled to the waiver provided in this subsection 406(h).

22 ~~(34)~~ **Sunset.** This subsection (h) shall expire by operation of law on December
23 31, ~~2026~~2029, unless the duration of the subsection has been extended by ordinance effective
24 on or before that date. Upon expiration, the City Attorney shall cause subsection (h) to be
25 removed from the Planning Code.

1 * * * *

2
3 **SEC. 409. CITYWIDE DEVELOPMENT FEE REPORTING REQUIREMENTS AND**
4 **COST INFLATION FEE ADJUSTMENTS.**

5 * * * *

6 (b) **Annual Development Fee Inflation Adjustments and Development Impact Fee**
7 **Register**. Prior to issuance of the Citywide Development Fee and Development Impact
8 Requirements Report referenced in subsection (a) above, the Controller shall review the
9 amount of each development fee established in the Planning Code and, with the exception of
10 the Inclusionary Affordable Housing Fee in Section 415 et seq., shall adjust the dollar amount
11 of any development fee by ~~two percent~~ 2% on an annual basis every January 1 in order to
12 maintain a reasonably conservative connection between construction costs and development
13 fees for the next calendar year for a mix of public infrastructure and facilities in San Francisco.
14 MOHCD shall adjust the Inclusionary Affordable Housing Fee consistent with the procedures
15 established in Section 415.5(b)(3). The Planning Department shall publish the fee adjustments from
16 the Controller and MOHCD in an annual Development Impact Fee Register, and along with the
17 Development Fee Collection Unit at DBI shall provide notice of the Controller's development
18 fee adjustments, and MOHCD's separate adjustment of the Inclusionary Affordable Housing
19 Fee on the Planning Department and DBI websites and to any interested party who has
20 requested such notice at least 30 days prior to the adjustment taking effect each January 1.
21 ~~The Inclusionary Affordable Housing Fee shall be adjusted under the procedures established in Section~~
22 ~~415.5(b)(3).~~

23
24 Section 8. Section 107A of the Building Code is hereby amended by revising Section
25 107A.13 (including Sections 107A.13.1, 107A.13.3.1, and 107A.13.3.1.1, and adding Section

1 107A.13.3.1.2), to read as follows:

2
3 **107A.13 Development impact and in-lieu fees.**

4 **107A.13.1 Definitions.**

5 (a) The following definitions shall govern interpretation of this Section:

6 * * * *

7 (8) "First construction document" shall mean the first building permit issued for a
8 development project or, in the case of a site permit, the first building permit addendum issued
9 or other document that authorizes construction of the development project. Construction
10 document shall not include permits or addenda for demolition, grading, shoring, pile driving, or
11 site preparation work. For a development project with multiple buildings, including projects
12 approved pursuant to Administrative Code Chapter 56, First construction document shall mean the
13 building permit, or in the case of a site permit, the first building permit addendum, for each building.

14 (9) "In-lieu fee" is a fee paid by the project sponsor in lieu of complying with a
15 City requirement that is not a development impact fee within the meaning of the Mitigation Fee
16 Act.

17 (10) "Neighborhood Infrastructure Seed Fund" shall mean the fund or funds
18 established by the Controller's Office for the purpose of collecting the ~~20 percent~~ pre-paid
19 portion of the development fees intended to fund pre-development work on any neighborhood
20 infrastructure project funded by any of the neighborhood infrastructure impact development
21 fees listed below. in Subsection 107A.13.3.1.1. In addition, third-party grant monies or loans may
22 also be deposited into this fund for the purpose of funding pre-development or capital
23 expenses to accelerate the construction start times of any neighborhood infrastructure project
24 funded by any of the neighborhood infrastructure impact development fees listed below:in
25 Subsection 107A.13.3.1.1.

- 1 (A) Rincon Hill Community Infrastructure Impact Fee, as set forth in Planning
- 2 Code Section 418.3(b)(1);
- 3 (B) Visitacion Valley Community Facilities and Infrastructure Fee, as set forth
- 4 in Planning Code Section 420.3(b);
- 5 (C) Market and Octavia Community Infrastructure Fee, as set forth in Planning
- 6 Code Section 421.3(b);
- 7 (D) Balboa Park Community Infrastructure Impact Fee, as set forth in Planning
- 8 Code Section 422.3(b);
- 9 (E) Eastern Neighborhoods Infrastructure Impact Fee, as set forth in Planning
- 10 Code Section 423.3(b);
- 11 (F) Van Ness and Market Neighborhood Infrastructure Impact Fee, as set forth
- 12 in former Planning Code Section 424.3(b)(ii); and
- 13 (G) Central SoMa Infrastructure Impact Fee, as set forth in Planning Code
- 14 Section 433.

15 * * * *

16

17 **Sec. 107A.13.3.1. Fee deferral program.** A project sponsor may elect to defer

18 payment of any development impact or in-lieu fee imposed by Article 4 of the Planning Code and;

19 excluding any fees that must be deposited into the Citywide Affordable Housing Fund (Administrative

20 Code Section 10.100-49); collected by the Department to a due date prior to issuance by the

21 Department of the first certificate of occupancy; provided, however, that the project sponsor

22 shall pay 15% ~~percent~~ of the total amount of the development fees owed, ~~excluding any fees that~~

23 ~~must be deposited into the Citywide Affordable Housing Fund (Administrative Code Section 10.100-~~

24 ~~49);~~ prior to issuance of the first construction document. ~~If a project is subject to one of the~~

25 ~~neighborhood infrastructure impact development fees listed in Subsection 107A.13.3.1.1, the project~~

1 ~~sponsor shall pay 20 percent of the total amount of the development fees owed prior to issuance of the~~
2 ~~first construction document. These pre-paid funds shall be deposited as provided in Subsection~~
3 ~~107A.13.3.1.1 below. A project sponsor that has not obtained its First Construction Document prior to~~
4 ~~the Effective Date of the ordinance in Board File No. 230764 and has Pipeline Projects, as defined in~~
5 ~~Planning Code Section 401, that have not yet paid ~~a~~any development impact or in-lieu fee~~
6 ~~imposed by Article 4 of the Planning Code may elect to defer payment under the provisions of this~~
7 ~~Section notwithstanding a condition of approval that required the fee to be paid prior to~~
8 ~~issuance of the First Construction Document. This option to defer payment may be exercised by~~
9 ~~submitting a deferral request to the Department on a form provided by the Department prior to~~
10 ~~issuance of the first construction document.~~

11 ~~This option to defer payment may be exercised by submitting a deferral request to the~~
12 ~~Department on a form provided by the Department prior to issuance of the first construction document.~~
13 ~~This deferral option shall not be available to a project sponsor who paid the fee prior to the Effective~~
14 ~~Date date of the ordinance in Board File No. 230764; the project sponsor's reapplication for a~~
15 ~~building or site permit after expiration of the original permit and refund of the development fees paid~~
16 ~~shall not authorize the project sponsor to elect the deferral option.~~

17 **Sec. 107A.13.3.1.1 Deposit of pre-paid portion of deferred development fees.** ~~If a~~
18 ~~development project is not subject to one of the neighborhood infrastructure impact fees listed below,~~
19 ~~the The pre-paid portion of ~~the~~ any development impact fees imposed by Article 4 of the Planning~~
20 ~~Code shall be deposited into the appropriate fee account for each fee. If there is more than one~~
21 ~~fee account for any given fee, the pre-paid portion of the fees shall be apportioned to each~~
22 ~~account in proportion to the percentage imposed under Article 4. equally.~~

23 ~~If a development project is subject to one of the neighborhood infrastructure impact~~
24 ~~development fees listed below, the entire 20 percent development fee pre-payment shall be deposited in~~
25 ~~the appropriate neighborhood infrastructure impact fee account. These pre-paid funds shall be~~

1 *dedicated solely to replenishing the Neighborhood Infrastructure Seed Fund for that specific*
2 *neighborhood infrastructure impact fee account. In no event shall a neighborhood infrastructure*
3 *impact fee specific to one Area Plan be mixed with neighborhood infrastructure impact fees specific to*
4 *a different Area Plan. If the 20 percent development fee pre-payment exceeds the total amount owed for*
5 *the neighborhood infrastructure impact fee account, the remaining pre-paid portion of the 20 percent*
6 *development fee pre-payment shall be apportioned equally among the remaining applicable*
7 *development fees.*

8 *The neighborhood infrastructure development fees subject to the 20 percent pre-payment*
9 *provision of this Subsection 107A.13.3.1.1 are as follows: (1) the Rincon Hill Community Infrastructure*
10 *Impact Fee, as set forth in Planning Code Section 418.3(b)(1); (2) the Visitacion Valley Community*
11 *Facilities and Infrastructure Fee, as set forth in Planning Code Section 420.3(b); (3) the Market and*
12 *Octavia Community Infrastructure Fee, as set forth in Planning Code Section 421.3(b); (4) the Balboa*
13 *Park Community Infrastructure Impact Fee, as set forth in Planning Code Section 422.3(b); (5) the*
14 *Eastern Neighborhoods Infrastructure Impact Fee, as set forth in Planning Code Section 423.3(b); (6)*
15 *the Van Ness and Market Neighborhood Infrastructure Impact Fee, as set forth in Planning Code*
16 *Section 424.3(b)(ii); and (7) the Central SoMa Infrastructure Impact Fee, as set forth in Planning Code*
17 *Section 433.*

18 **Sec. 107A.13.3.1.2 Prior deposit of pre-paid portion of deferred development impact fees into**
19 **Neighborhood Infrastructure Seed Funds. For a project that has been issued a first construction**
20 **document, but has not been issued a first certificate of occupancy, any portion of a non-neighborhood**
21 **infrastructure development impact fee that has been paid into a Neighborhood Infrastructure Seed**
22 **Fund under Section 107A.13.3.1.1 shall be reallocated and deposited into the applicable fee account.**

23
24 Section 8. Chapter 5, Article XXIX, and Chapter 10, Article XIII, of the Administrative
25 Code are hereby amended by revising sections 5.29-6, and 10.100-49 respectively, to read as

1 follows:

2 **CHAPTER 5: COMMITTEES**

3 * * * *

4 **ARTICLE XXIX. INCLUSIONARY HOUSING TECHNICAL ADVISORY COMMITTEE**

5 * * * *

6 **SEC. 5.29-6. MEETINGS AND PROCEDURES.**

7 The Advisory Committee shall hold a regular meeting not less than once every four
8 months until the sunset date set forth in Section 5.29-7. Notwithstanding any other provision
9 of this Section 5.29 or Planning Code section 415.10, the Advisory Committee shall convene
10 no later than ~~January 1, 2026~~ April 1, 2029, and every 36 months thereafter.

11
12 **CHAPTER 10: FINANCE, TAXATION, AND OTHER FISCAL MATTERS.**

13
14 **ARTICLE XIII: FUNDS**

15 * * * *

16 **SEC. 10.100-49. CITYWIDE AFFORDABLE HOUSING FUND.**

17 (a) **Establishment of Fund.** The Citywide Affordable Housing Fund is established as
18 a category eight fund to receive fee revenue dedicated to affordable housing and other
19 contributions to the fund. The fund receives, or received, money from, among other sources:

- 20 (1) The North of Market Residential Special Use District, former Planning Code
21 Section 263.7;
- 22 (2) The Jobs Housing Linkage Program, Planning Code Sections 413 et seq.;
- 23 (3) The Inclusionary Affordable Housing Program, Planning Code Sections 415
24 et seq.;
- 25 (4) The Market and Octavia Affordable Housing Program, former Planning Code

1 Section 416.5;

2 (5) The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee,
3 former Planning Code Section 417.5;

4 (6) The Eastern Neighborhoods Housing Fund, Planning Code Section 423.5;

5 (7) The Expedited Condominium Conversion Program, Subdivision Code
6 Section 1396.4; and,

7 (8) Repayments of loans and other program income associated with
8 investments initially made with monies from the fund.

9 (b) **Use of Fund.** The fund is to be used exclusively by the Mayor's Office of Housing
10 and Community Development ("MOHCD"), or its successor, for the purpose of supporting
11 affordable housing in San Francisco. Specific eligible uses of the fund are delineated for each
12 fee in the code where the fee is or was established, or as set forth in subsection (e). Within the
13 fund, all fees, repayments, and program income shall be separately accounted for as required
14 by each fee.

15 (c) **Exceptions to Fund Category.** The Director of ~~the Mayor's Office of Housing and~~
16 ~~Community Development~~ MOHCD shall approve all expenditures from the fund.

17 (d) **Administration of Fund.** ~~The Mayor's Office of Housing and Community Development,~~
18 ~~or its successor,~~ MOHCD shall administer the fund and shall report annually to the Board of
19 Supervisors on the current status of the fund, the amounts approved for disbursement, and
20 the number and types of housing units or households assisted. ~~The Mayor's Office of Housing~~
21 ~~and Community Development~~ MOHCD shall have the authority to prescribe rules and regulations
22 governing the Fund.

23 (e) The following fees were deleted in the ordinance in Board File No. 260538. Fees deposited
24 into those funds prior to the effective date of the ordinance in Board File No. 260538 shall continue to
25 be separately accounted for and expended according to the following priorities:

1 (1) Funds from the North of Market Residential Special Use District, former Planning
2 Code Section 263.7, shall be used solely to stabilize, rehabilitate, and retain affordable housing in the
3 North of Market Residential Special Use District. No fees collected under Section 263.7 may be used,
4 by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any
5 entity except for servicing cost related to participation in the amortized payment program.

6 (2) Funds from the Market and Octavia Affordable Housing program, former Planning
7 Code Section 416 et seq., shall be expended according to the following priorities: (a) to increase the
8 supply of housing Affordable to Qualifying Households in the Market and Octavia Plan Area and the
9 Upper Market Neighborhood Commercial Transit District (NCT); (b) to increase the supply of housing
10 Affordable to Qualifying Households within one mile of the boundaries of the Plan Area and the Upper
11 Market NCT District; and (c) to increase the supply of housing affordable to qualifying households in
12 the City and County of San Francisco.

13 (3) Funds from The Eastern Neighborhoods Area Plan Alternate Affordable Housing
14 Fee, former Planning Code Section 417 et seq., shall be expended according to the following priorities:
15 (a) to increase the supply of housing Affordable to Qualifying Households in the Eastern
16 Neighborhoods Project Areas; (b) to increase the supply of housing Affordable to Qualifying
17 Households within one mile of the boundaries of the Eastern Neighborhoods Project Areas; and (c) to
18 increase the supply of housing Affordable to Qualifying Households in the City and County of San
19 Francisco. No funds were collected within the Central SoMa Special Use District, thus the restrictions
20 on the use of those funds in former Planning Code Section 417.5 do not apply to the existing fund
21 balance.

22 (4) Funds from the Van Ness and Market Downtown Residential Special Use District
23 Affordable Housing Fund, former Planning Code Section 424.4, shall be prioritized as follows: (a) to
24 increase the supply of housing Affordable to Qualifying Households in the Van Ness & Market
25 Residential Special Use District; (b) to increase the supply of housing Affordable to Qualifying

1 Households within one mile of the boundaries of the Market and Octavia Area Plan; and (c) to increase
2 the supply of housing Affordable to Qualifying Households in the City and County of San Francisco.

3 (5) Funds from the Housing Requirements, UMU Zoning Districts of the Eastern
4 Neighborhoods, former Planning Code Section 419, shall be spent to increase the supply of housing
5 Affordable to Qualifying Households in the City and County of San Francisco.

6
7 Section 9: Deletion of “Significant increase in residential development potential.” This
8 ordinance, in Section 3, deletes the definition of “Significant increase in residential
9 development potential” in Planning Code Section 401. That definition was first adopted by the
10 Board of Supervisors in Motion M13-097, pursuant to then Charter Section
11 16.110(h)(1)(B)(iv), enacted by Proposition C, adopted by the voters in November 2012. That
12 Section required the City to “adopt a standard for determining what constitutes ‘a significant
13 increase in residential development potential.’” Charter Section 16.110(h), including the
14 requirement for defining a “significant increase in residential development potential,” was later
15 deleted by Proposition C, adopted by the voters in June 2016. Because Charter Section
16 16.110(h) has been deleted, the Charter requirement for a definition of “significant increase in
17 residential development potential” no longer exists and the definition may be deleted by
18 ordinance, as provided herein.

19
20 Section 10. This ordinance includes amendments to Section 415.3, 415.5, 415.6, and
21 415.7, and deletes Sections 419.3, 419.5, 428, and 428.3 in their entirety. Section 7 of
22 Ordinance 201-23, adopted November 12, 2023, amends those same sections, with an
23 operative date of November 21, 2026. This ordinance supersedes any amendments included
24 in Section 7 of Ordinance 201-23, and the Board hereby rescinds the amendments to those
25 sections made in Ordinance 201-23. Accordingly, the amendments to those sections made in

1 Ordinance 201-23 shall not become effective on November 21, 2026 or any other date, unless
2 re-enacted by the Board in a subsequent ordinance.

3
4 Section 11. Severability. If any section, subsection, sentence, clause, phrase, or word
5 of this ordinance, or any application thereof to any person or circumstance is held to be invalid
6 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
7 affect the validity of the remaining portions or application of the ordinance; provided that if the
8 amendments to Planning Code Section 206.10 are held invalid or unconstitutional by decision
9 of a court of competent jurisdiction, all of Section 206.10 shall become inoperative and have
10 no legal effect. Except as stated regarding Section 206.10, the Board of Supervisors hereby
11 declares that it would have passed this ordinance and each and every section, subsection,
12 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
13 whether any other portion of this ordinance or application thereof would be subsequently
14 declared invalid or unconstitutional.

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

22
23 Section 13. Effective Date. This ordinance shall become effective on the 31st day
24 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
25 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the

